

ASSEMBLY BILL

No. 26

Introduced by Assembly Member Jones-Sawyer

December 1, 2014

An act to 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 add Section 23028 to the Government Code, and to amend Section 11362.7 of, and to amend and repeal Section 11362.775 of, the Health and Safety Code, relating to medical cannabis, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 26, as introduced, Jones-Sawyer. Medical cannabis.

(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 power to register persons for the cultivation, manufacture, testing, transportation, storage, distribution, and sale of medical cannabis within the state provided that the authority of a city or county to adopt ordinances inconsistent with the requirements of the act that ban, regulate, or tax medical cannabis activities, and to enforce those ordinances, would not be affected by the act. 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 state 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, 2017, to issue regulations as necessary for the implementation and enforcement of mandatory commercial medical cannabis registration, as specified, including requirements analogous to statutory environmental, agricultural, consumer protection, and food and product safety requirements. The bill would require the department to administer and

enforce these requirements. The bill would prescribe requirements for provisional registrations to be operative January 1, 2016. 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 prohibit a registrant from holding a registration in more than one class of medical cannabis activities.

The bill would require a registrant to keep various records in connections with medical cannabis activities and would prescribe requirements for making records available to the department and any state or local agency. The bill would provide that certain patient and caregiver information is excluded from disclosure to the public. The bill would provide that the act does not apply to the protections granted to a patient or primary caregiver acting pursuant to the Compassionate Use Act of 1996 and would exempt these parties from the application of the act, provided they act consistently with specified requirements. 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 under state law, as specified. The bill would provide a similar state law 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, 2017, 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 prevent specified city or county actions, including zoning ordinances banning or regulating the location, operation, or establishment of a commercial registrant. 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 or recommending marijuana for nonmedical purposes is unprofessional conduct. 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 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 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 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 authorize the board of supervisors of a county to impose, by ordinance, a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products, including a transactions and use tax at any rate specified by the board. 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.

(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: 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 by
12 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.

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

29 (5) Despite the passage of the Compassionate Use Act of 1996
30 and the MMPA, because of the lack of an effective statewide
31 system for regulating and controlling medical marijuana, local law
32 enforcement officials have been confronted with uncertainty about
33 the legality of some medical marijuana cultivation and distribution
34 activities. The current system of collectives and cooperatives makes
35 law enforcement difficult and endangers patient safety because of
36 an inability to monitor the supply of medical marijuana in the state
37 and the lack of quality control, testing, and labeling requirements.

1 (6) For the protection of all Californians, the state must act to
2 regulate and control medical marijuana and not preempt local
3 government ordinances. Cities and counties should be allowed to
4 impose local taxes and enact zoning regulations and other
5 restrictions, including bans, applicable to the commercial
6 cultivation and distribution of medical marijuana based on a local
7 governing body's determination of local needs. In order to provide
8 patients with access to safe medical marijuana products, while at
9 the same time preventing diversion of marijuana to nonmedical
10 uses and protecting the public, it is necessary to amend the MMPA
11 and to establish a comprehensive structure for regulating the
12 cultivation, production, and distribution of medical marijuana
13 products.

14 (7) A state entity shall be created to regulate and control the
15 mandatory registration of all entities involved in the commercial
16 cultivation, processing, manufacturing, testing, transportation,
17 distribution, provision, donation, and sale of medical marijuana
18 in this state. Patients and their primary caregivers who cultivate
19 medical marijuana for the personal medical purposes of individual
20 patients shall not be subject to the statewide system of regulation
21 established by this act but only medical marijuana produced in
22 compliance with this act may be sold or commercially distributed.

23 (8) This act is not intended to prevent cities and counties from
24 imposing local taxes and enacting zoning regulations and other
25 restrictions, including bans, applicable to the commercial
26 cultivation and distribution of medical marijuana based on a local
27 governing body's determination of local needs.

28 (9) It is the intent of the Legislature that the state entity created
29 to regulate and control medical marijuana solicit input from cities
30 and counties in the process of promulgating standards and
31 regulations pursuant to this act.

32 (10) It is the intent of the Legislature that entities provided
33 immunity under Measure D, approved by the voters of the City of
34 Los Angeles at the May 21, 2013, general election, shall be
35 considered the equivalent of entities that are registered, permitted,
36 or licensed as a medical marijuana business, dispensary, or other
37 entity involved in providing medical marijuana to patients under
38 a local ordinance and shall be considered in compliance with a
39 local ordinance for the purposes of the implementation of this act

1 and any regulations promulgated by the Department of Alcoholic
2 Beverage Control.

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

6 (12) Nothing in this act is intended to require any individual or
7 entity to engage in any conduct that violates federal law or to
8 exempt anyone from any requirement of federal law or to pose
9 any obstacle to federal enforcement of federal law.

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

12 (1) To establish a statewide system for regulating and controlling
13 commercial medical cannabis activities by creating a state entity
14 to enact and enforce regulations governing the cultivation,
15 processing, manufacturing, testing, transportation, distribution,
16 provision, donation, and sale of commercial medical cannabis.

17 (2) To allow cities and counties to enact zoning regulations or
18 other restrictions, including bans, applicable to the cultivation,
19 processing, manufacturing, testing, and distribution of commercial
20 medical cannabis based on a local governing body's determination
21 of local needs.

22 (3) To establish the Division of Medical Cannabis Regulation
23 and Enforcement to be located within the Department of Alcoholic
24 Beverage Control to provide a governmental agency that will
25 ensure the strict, honest, impartial, and uniform administration and
26 enforcement of the statewide regulatory system established by this
27 act throughout the state.

28 (4) To enact legislation in furtherance of the Compassionate
29 Use Act of 1996, which provides for the Legislature to "implement
30 a plan for the safe and affordable distribution of marijuana to all
31 patients in medical need of marijuana."

32 (5) To establish a statewide registration process for commercial
33 medical cannabis activities to identify for law enforcement which
34 entities are exempt from state criminal penalties for the cultivation,
35 processing, manufacturing, testing, transportation, distribution,
36 provision, donation, and sale of medical cannabis solely on the
37 basis of their activities conducted in compliance with this act.

38 (6) To reduce the cost of commercial medical cannabis
39 enforcement by controlling commercial medical cannabis
40 production and distribution through comprehensive statewide

1 regulation and providing law enforcement guidelines to more easily
2 determine whether or not a person is acting in conformance with
3 the state's medical cannabis laws.

4 SEC. 3. Section 2220.05 of the Business and Professions Code
5 is amended to read:

6 2220.05. (a) In order to ensure that its resources are maximized
7 for the protection of the public, the Medical Board of California
8 shall prioritize its investigative and prosecutorial resources to
9 ensure that physicians and surgeons representing the greatest threat
10 of harm are identified and disciplined expeditiously. Cases
11 involving any of the following allegations shall be handled on a
12 priority basis, as follows, with the highest priority being given to
13 cases in the first paragraph:

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

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

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

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

35 (5) Practicing medicine while under the influence of drugs or
36 alcohol.

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

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

6 SEC. 4. Section 2242 of the Business and Professions Code is
7 amended to read:

8 2242. (a) Prescribing, dispensing, or furnishing dangerous
9 drugs as defined in Section ~~4022~~ 4022, *or recommending*
10 *marijuana to a patient for a medical purpose*, without an
11 appropriate prior examination and a medical indication, *including*
12 *an in-person examination when recommending marijuana, or*
13 *recommending marijuana for a nonmedical purpose*, constitutes
14 unprofessional conduct.

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

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

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

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

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

33 (3) The licensee was a designated practitioner serving in the
34 absence of the patient's physician and surgeon or podiatrist, as the
35 case may be, and was in possession of or had utilized the patient's
36 records and ordered the renewal of a medically indicated
37 prescription for an amount not exceeding the original prescription
38 in strength or amount or for more than one refill.

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

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

3 2264. The employing, directly or indirectly, the aiding, or the
4 abetting of any unlicensed person or any suspended, revoked, or
5 unlicensed practitioner to engage in the practice of ~~medicine~~
6 *medicine, including employment by, other agreement with, a*
7 *mandatory commercial registrant acting pursuant to the Medical*
8 *Cannabis Regulation and Control Act or a dispensary to provide*
9 *recommendations for medical marijuana, or any other mode of*
10 *treating the sick or afflicted which requires a license to practice*
11 *constitutes unprofessional conduct.*

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

14
15 CHAPTER 18. MEDICAL CANNABIS REGULATION

16
17 Article 1. General Provisions

18
19 26000. (a) It is the intent of the Legislature in enacting this
20 chapter to provide for the comprehensive regulation of the
21 commercial cultivation, manufacturing, testing, transportation,
22 distribution, provision, donation, and sale of medical cannabis and
23 the enforcement of laws relating to commercial medical cannabis
24 activities without preempting city or county ordinances regulating
25 or banning these activities.

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

29 26001. Without limiting the authority of a city or county
30 pursuant to Section 7 of Article XI of the California Constitution
31 or any other provision of law, and subject to that authority, the
32 state shall have the right and power to regulate and register persons
33 for the cultivation, manufacture, testing, transportation, storage,
34 distribution, provision, donation, sale, purchase, and possession
35 of medical cannabis within the state. In the exercise of these rights
36 and powers, the Legislature shall not constitute the state or any of
37 its agencies as a cultivator, manufacturer, transporter, tester, or
38 seller of medical cannabis.

39 26002. For the purpose of this chapter:

1 (a) “Cannabis” means all parts of the plant *Cannabis sativa*,
2 *cannabis indica*, or *cannabis ruderalis*, whether growing or not;
3 the seeds thereof; the resin, whether crude or purified, extracted
4 from any part of the plant; and every compound, manufacture, salt,
5 derivative, mixture, or preparation of the plant, its seeds, or resin.
6 It does not include the mature stalks of the plant, fiber produced
7 from the stalks, oil or cake made from the seeds of the plant, any
8 other compound, manufacture, salt, derivative, mixture, or
9 preparation of the mature stalks (except the resin extracted
10 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
11 which is incapable of germination. “Cannabis” also means
12 marijuana as defined by Section 11018 of the Health and Safety
13 Code as enacted by Chapter 1407 of the Statutes of 1972.

14 (b) “Commercial” means any cultivation, processing, possession,
15 storage, manufacturing, testing, transportation, distribution,
16 provision, donation, or sale of cannabis or cannabis product,
17 whether or not gratuitous, except as provided in subdivision (b)
18 of Section 26052.

19 (c) “Department” means the Department of Alcoholic Beverage
20 Control.

21 (d) “Dispensary” means a mandatory commercial registrant that
22 dispenses cannabis or medical cannabis products through a retail
23 storefront.

24 (e) “Division” means the Division of Medical Cannabis
25 Regulation and Enforcement.

26 (f) “Edible cannabis product” means a cannabis product that is
27 used or intended for use in whole or in part for human consumption
28 and includes chewing gum.

29 (g) “Fund” means the Medical Cannabis Regulation Fund
30 established pursuant to Section 26028.

31 (h) “Identification program” means the universal identification
32 certificate program for mandatory commercial registrants.

33 (i) “Mandatory commercial registrant” or “registrant” means
34 any individual, partnership, joint venture, association, limited
35 liability company, corporation, estate, trust, receiver, syndicate,
36 or any other group or combination thereof acting as a unit to
37 cultivate, process, possess, store, manufacture, test, transport,
38 distribute, provide, donate, or sell medical cannabis in compliance
39 with this chapter, other than a patient or a patient’s primary
40 caregiver, as defined by the Compassionate Use Act of 1996,

1 growing, possessing, storing, manufacturing, transporting, or
2 providing medical cannabis exclusively for the personal medical
3 purposes of individual patients as defined in subdivision (b) of
4 Section 26052.

5 (j) “Medical cannabis product” or “cannabis product” means
6 any product containing cannabis, including concentrates and
7 extractions, that is cultivated, manufactured, processed, packaged,
8 and distributed in full compliance with the requirements of this
9 chapter and with any regulations adopted by the department
10 pursuant to its rulemaking authority. “Medical cannabis product”
11 includes products that contain medical cannabis and are intended
12 for oral or topical consumption by a qualified patient.

13 (k) “Person” includes any individual, firm, copartnership, joint
14 venture, association, corporation, estate, trust, business trust,
15 receiver, syndicate, or any other group or combination acting as a
16 unit and includes the plural as well as the singular number.

17 (l) “Testing and labeling” means mandatory labeling and a
18 quality assurance plan in place that addresses all of the following:

19 (1) Potency.

20 (2) Chemical residue.

21 (3) Microbiological contaminants.

22 (4) Random sample testing of medical cannabis and medical
23 cannabis products.

24 (5) Handling, care, and storage.

25 (6) Date and location of production and manufacturing.

26 26010. This chapter and Article 2 (commencing with Section
27 11357) and Article 2.5 (commencing with Section 11362.7) of
28 Chapter 6 of Division 10 of the Health and Safety Code do not
29 prevent a city or county from doing any of the following:

30 (a) Adopting local ordinances inconsistent with this chapter that
31 ban or regulate the location, operation, or establishment of a
32 mandatory commercial registrant or other individual, partnership,
33 joint venture, association, limited liability company, corporation,
34 estate, trust, receiver, syndicate, or any other group or combination
35 thereof acting as a unit, that cultivates, processes, possesses, stores,
36 manufactures, tests, transports, distributes, provides, donates, or
37 sells medical cannabis.

38 (b) The civil or criminal enforcement of the ordinances described
39 in subdivision (a).

1 (c) Establishing a fee or tax for the operation of a mandatory
2 commercial registrant within its jurisdiction.

3 (d) Enacting and enforcing other laws or ordinances pursuant
4 to the authority granted by Section 7 of Article XI of the California
5 Constitution.

6
7 Article 2. Administration
8

9 26020. (a) There is hereby created in the Department of
10 Alcoholic Beverage Control the Division of Medical Cannabis
11 Regulation and Enforcement. The division shall be administered
12 by a person exempt from the civil service who is appointed by the
13 director.

14 (b) The department shall have the power, consistent with the
15 provisions of this chapter, to register persons for the cultivation,
16 manufacture, testing, transportation, storage, distribution, and sale
17 of medical cannabis within the state and to collect registration fees
18 in connection with these actions.

19 26022. The department shall have all power necessary for
20 administration of this chapter, including, but not limited to, the
21 following:

22 (a) Establishing statewide minimum standards for the
23 commercial cultivation, manufacturing, testing, transportation,
24 storage, distribution, provision, donation, and sale of medical
25 cannabis and medical cannabis products and procedures for the
26 issuance, renewal, suspension, and revocation of registrations of
27 mandatory commercial registrants.

28 (b) Establishing a scale of application, registration, and renewal
29 fees, to be imposed by the state, for mandatory commercial
30 registrants for the cultivation, manufacturing, testing,
31 transportation, distribution, and sale of medical cannabis and
32 medical cannabis products. The department may charge separate
33 fees for each mandatory commercial registration application for
34 cultivation, manufacturing, transportation, distribution, and sale.
35 The total fees imposed pursuant to this chapter shall be based on
36 the actual costs of administering and enforcing this chapter.

37 (c) The department shall make and prescribe those rules as may
38 be necessary or proper to carry out the purposes and intent of this
39 chapter and to enable it to exercise the powers and perform the
40 duties conferred upon it by this chapter and in accordance with

1 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
2 3 of Title 2 of the Government Code. For the performance of its
3 duties, the department has the powers as set forth in Article 2
4 (commencing with Section 11180) of Chapter 2 of Part 1 of
5 Division 3 of Title 2 of the Government Code.

6 (d) Approving or denying mandatory commercial registration
7 applications for cultivation, manufacturing, testing and labeling,
8 transportation, distribution, provision, donation, and sale of medical
9 cannabis pursuant to this chapter.

10 (e) The department shall have the power, in its discretion, to
11 deny, suspend, revoke, or fine any registration issued pursuant to
12 this chapter if the department determines that the granting or
13 continuance of the registration would be contrary to public welfare
14 or morals or that a person holding or seeking a registration has
15 violated any law prohibiting conduct involving moral turpitude or
16 an applicable local ordinance.

17 (f) Imposing any penalty authorized by this chapter or any rule
18 or regulation adopted pursuant to this chapter.

19 (g) Taking any action with respect to a mandatory commercial
20 registration application in accordance with procedures established
21 pursuant to this chapter.

22 (h) Upon the denial of any application for a registration, the
23 department shall notify the applicant in writing. After service of
24 the notice and within the time prescribed by the department, the
25 applicant may present his or her written petition for a registration
26 to the department. Upon receipt by the department of a petition
27 for a registration in proper form, the petition shall be set for
28 hearing.

29 (i) (1) For any hearing held pursuant to this chapter, the
30 department may delegate the power to hear and decide to an
31 administrative law judge appointed by the director. Any hearing
32 before an administrative law judge shall be pursuant to the
33 procedures, rules, and limitations prescribed in Chapter 5
34 (commencing with Section 11500) of Part 1 of Division 3 of Title
35 2 of the Government Code.

36 (2) Prior to suspending, revoking, or fining any registration, the
37 department shall file an accusation as provided for in Section 11503
38 of the Government Code, and the registrant may request a hearing.
39 If the department determines that the public interest requires that
40 a registration be summarily suspended pending hearing on charges

1 of misconduct that include any of the causes for suspension or
2 revocation specified in this chapter, or if the department has
3 information that leads it to believe that a registrant has violated
4 any law prohibiting conduct involving moral turpitude or any
5 applicable local ordinance, the department may, without hearing,
6 temporarily suspend the registration for a period not exceeding 60
7 days pending a hearing and decision on the charges.

8 (j) Developing any forms, identification certificates, and
9 applications that are necessary or convenient in the discretion of
10 the department for the administration of this chapter or any of the
11 rules or regulations adopted pursuant to this chapter.

12 (k) Overseeing the operation of the Medical Cannabis Regulation
13 Fund established pursuant to Section 26028.

14 (l) Establishing fees for processing all applications, registrations,
15 notices, or reports required to be submitted to the department. The
16 amount of the fees shall reflect, but shall not exceed, the direct
17 and indirect costs of the department for the administration of this
18 chapter and the rules or regulations adopted pursuant to this
19 chapter.

20 (m) The department may consult with other state agencies,
21 departments, or public or private entities for the purposes of
22 establishing statewide standards and regulations.

23 26024. (a) The department may assist state taxation authorities
24 in the development of uniform policies for the state taxation of
25 mandatory commercial registrants.

26 (b) The department shall assist the Division of Occupational
27 Safety and Health in the Department of Industrial Relations in the
28 development of industry-specific regulations related to commercial
29 medical cannabis activities.

30 26028. (a) The Medical Cannabis Regulation Fund is hereby
31 established within the State Treasury. Notwithstanding Section
32 16305.7 of the Government Code, the fund shall include any
33 interest and dividends earned on the money in the fund.

34 (b) All fees collected pursuant to this chapter shall be deposited
35 into the Medical Cannabis Regulation Fund. Notwithstanding
36 Section 13340 of the Government Code, all moneys within the
37 fund are hereby continuously appropriated, without regard to fiscal
38 year, to the department solely for the purposes of fully funding
39 and administering this chapter, including, but not limited to, the
40 costs incurred by the department for its administrative expenses.

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

4 (d) The department may establish and administer a grant
5 program to allocate moneys from the Medical Cannabis Regulation
6 Fund to state and local entities for the purpose of assisting with
7 medical cannabis regulation and the enforcement of this chapter
8 and other state and local laws applicable to registrants.

9 26030. (a) The director and the persons employed by the
10 department for the administration and enforcement of this chapter
11 are peace officers in the enforcement of the penal provisions of
12 this chapter, the rules of the department adopted under the
13 provisions of this chapter, and any other penal provisions of law
14 of this state prohibiting or regulating the cultivation, processing,
15 storing, manufacturing, testing, transporting, or selling of medical
16 cannabis, and these persons are authorized, while acting as peace
17 officers, to enforce any penal provisions of law while in the course
18 of their employment.

19 (b) The director, the persons employed by the department for
20 the administration and enforcement of this chapter, peace officers
21 listed in Section 830.1 of the Penal Code, and those officers listed
22 in Section 830.6 of the Penal Code while acting in the course and
23 scope of their employment as peace officers may, in enforcing the
24 provisions of this chapter, visit and inspect the premises of any
25 mandatory commercial registrant at any time during which the
26 registrant is acting pursuant to the registration.

27 (c) Peace officers of the Department of the California Highway
28 Patrol, members of the University of California and California
29 State University police departments, and peace officers of the
30 Department of Parks and Recreation, as defined in subdivisions
31 (a), (b), (c), and (f) of Section 830.2 of the Penal Code, may, in
32 enforcing this chapter, visit and inspect the premises of any
33 mandatory commercial registrant located on state property at any
34 time during which the registrant is acting pursuant to the
35 registration.

36 26034. (a) Information identifying the names of patients, their
37 medical conditions, or the names of their primary caregivers
38 received and contained in records kept by the department for the
39 purposes of administering this chapter are confidential and exempt
40 from the California Public Records Act (Chapter 3.5 (commencing

1 with Section 6250) of Division 7 of Title 1 of the Government
2 Code) and are not subject to disclosure to any individual or private
3 entity, except as necessary for authorized employees of the State
4 of California to perform official duties pursuant to this chapter:

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

6 (A) Division employees notifying state or local agencies about
7 information submitted to the division that the employee suspects
8 is falsified or fraudulent.

9 (B) Notifications from the division to state or local agencies
10 about apparent violations of this chapter or any applicable local
11 ordinance.

12 (C) Verification of requests by state or local agencies to confirm
13 registrants and certificates issued by the division or other state
14 agency.

15 (D) Provision of information requested pursuant to a court order
16 or subpoena issued by a court or an administrative agency or local
17 governing body authorized by law to issue subpoenas.

18 (2) Information shall not be disclosed beyond what is necessary
19 to achieve the goals of a specific investigation or notification or
20 the parameters of a specific court order or subpoena.

21

22 Article 3. Mandatory Commercial Registration

23

24 26040. (a) On or before January 1, 2017, the department shall
25 promulgate regulations necessary for the implementation and
26 enforcement of this chapter. These regulations shall include:

27 (1) Procedures for the issuance, renewal, suspension, and
28 revocation of mandatory commercial registrations.

29 (2) Application, registration, and renewal forms and fees
30 consistent with this act.

31 (3) Time periods, not to exceed 90 days, by which the
32 department shall approve or deny an application for medical
33 cannabis registration.

34 (4) Qualifications for registrants.

35 (5) Security requirements, including, but not limited to,
36 procedures for limiting access to facilities and for the screening
37 of employees. The department shall require all registrants to
38 maintain an accurate roster of any employee's name, date of birth,
39 and relevant personally identifying information, which shall be

1 available for inspection by the department or state or local law
2 enforcement upon demand.

3 (6) Testing and labeling requirements, including, but not limited
4 to, disclosure of the active cannabinoid profile, constituent
5 elements, active ingredients, and results of testing for contaminants.

6 (7) Health and safety requirements, including, but not limited
7 to, prohibitions on shipping or distribution of products containing
8 microbiological, bacterial, pathogenic yeast or mold counts, or
9 any adulterant or contaminant, that exceed levels to be determined
10 by the department.

11 (8) Inspection and tracking requirements, including, but not
12 limited to, an electronic production and inventory tracking system
13 that will allow the department to monitor inventory data at every
14 level of the cultivation, processing, and distribution system through
15 a secure, Internet Web site-based portal.

16 (9) Storage, packaging, and transportation procedures and
17 protocols.

18 (10) Advertising restrictions and requirements.

19 (11) Requirements to ensure conformance with standards
20 analogous to state statutory environmental, agricultural, consumer
21 protection, and food and product safety requirements. These
22 standards shall be administered and enforced by the department
23 and shall be in addition to, and not limit, any other state
24 requirements. At a minimum, these standards shall:

25 (A) Prescribe sanitation standards analogous to the California
26 Retail Food Code for food preparation, storage, and handling and
27 sale of edible cannabis products.

28 (B) Require that edible cannabis products produced, distributed,
29 provided, donated, or sold by mandatory commercial registrants
30 shall be limited to nonpotentially hazardous food as established
31 by the State Department of Public Health pursuant to Section
32 114365.5 of Health and Safety Code.

33 (C) Provide standards for labeling edible cannabis products to
34 ensure that the products cannot be mistaken as food not containing
35 cannabis.

36 (D) Require that facilities where edible cannabis products are
37 prepared shall be constructed in accordance with applicable
38 building standards, health and safety standards, and other state
39 laws.

1 (E) Ensure that edible products distributed or sold by
2 dispensaries are not produced or stored in private homes.

3 (F) Provide that any weighing or measuring devices used in
4 connection with the sale or distribution of cannabis are required
5 to meet standards analogous to Division 5 (commencing with
6 Section 12001).

7 (G) Require that any application of pesticides or other pest
8 control in connection with the indoor or outdoor cultivation of
9 cannabis shall meet standards analogous to Division 6
10 (commencing with Section 11401) of the Food and Agricultural
11 Code and its implementing regulations.

12 (H) Protect the state's clean water and environment, including,
13 but not limited to, protections related to land conversion, grading,
14 water diversion and pond development, and agricultural discharges.

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

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

20 (b) A mandatory commercial registration application or renewal
21 shall not be approved if the department determines any of the
22 following:

23 (1) The applicant fails to meet the requirements of this chapter
24 or any regulation adopted pursuant to this chapter or any applicable
25 city or county ordinance or regulation.

26 (2) The applicant, or any of its officers, directors, owners,
27 members, or shareholders is under 21 years of age.

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

31 (4) The applicant, or any of its officers, directors, owners,
32 members, or shareholders has been convicted in the previous five
33 years of a violent felony, as specified in subdivision (c) of Section
34 667.5 of the Penal Code, a serious felony as specified in
35 subdivision (c) of Section 1192.7 of the Penal Code, a felony
36 offense involving fraud or deceit, or any other felony that, in the
37 department's estimation, would impair the applicant's ability to
38 appropriately operate as a mandatory commercial registrant.

1 (5) The applicant, or any of its officers, directors, owners,
2 members, or shareholders is a licensed physician making patient
3 recommendations for medical cannabis.

4 (6) The applicant, or any of its officers, directors, owners,
5 members, or shareholders has been sanctioned by the department,
6 a city, or a county for cannabis activities conducted in violation
7 of this chapter or any applicable local ordinance or has had a
8 mandatory commercial registration revoked in the previous three
9 years.

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

14 (8) The proposed cultivation, processing, possession, storage,
15 manufacturing, testing, transporting, distribution, provision,
16 donation, or sale of medical cannabis will violate any applicable
17 local law or ordinance.

18 (c) (1) In order to protect the public safety and provide patients
19 with prompt, safe access to medical cannabis during
20 implementation of this chapter, within 180 days of January 1, 2016,
21 the department shall issue emergency regulations consistent with
22 this chapter that allow a qualified applicant for mandatory
23 commercial registration to apply, be reviewed, and be registered
24 to cultivate, process, manufacture, store, and transport medical
25 cannabis so as to ensure an adequate supply of medical cannabis
26 upon full implementation of this chapter.

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

29 26042. For the purpose of regulating the commercial
30 cultivation, manufacturing, testing, transportation, distribution,
31 provision, donation, and sale of medical cannabis, the department
32 shall establish various classes or types of registration for specific
33 commercial medical cannabis-related activities, as set forth in this
34 chapter. At a minimum, registrants engaged in the cultivation and
35 processing of cannabis shall be in a different class from those
36 registrants operating dispensaries.

37 26043. (a) Each mandatory commercial registration application
38 approved by the department pursuant to this chapter is separate
39 and distinct. A registrant shall not hold a mandatory commercial
40 registration in more than one class of specified medical cannabis

1 activities. A registrant shall not be an officer, director, member,
2 owner, or shareholder registrant in another class. The officers,
3 directors, owners, members, or shareholders of a registrant in one
4 class may not hold a registration in another class, shall not be an
5 officer, director, member, owner, or shareholder of a registrant in
6 another class.

7 (b) A mandatory commercial registration application approved
8 by the department pursuant to this chapter shall be valid for a
9 period not to exceed one year from the date of approval unless
10 revoked or suspended earlier than that date pursuant to this chapter
11 or the rules or regulations adopted pursuant to this chapter.

12 26044. (a) The department shall limit the number of
13 registrations statewide for the cultivation, processing, extraction,
14 packaging, and transportation of medical cannabis to a number no
15 greater than what is necessary to meet statewide need. In
16 determining the appropriate number of registrations, the department
17 may take into account information obtained from sources that
18 include, but need not be limited to, municipalities, patients, and
19 registrants.

20 (b) The department shall ensure that the number of registrations
21 that it approves does not exceed the ability of the department to
22 enforce the provisions of this chapter, particularly with respect to
23 ensuring patient safety and preventing illegal diversion of cannabis.

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

26 (1) The purposes and intent of the Compassionate Use Act of
27 1996 to ensure an adequate supply of medical cannabis while
28 endeavoring to prevent an oversupply of cannabis that may result
29 in diversion.

30 (2) The number of applicants for mandatory commercial
31 registrations whose application demonstrates that they will be able
32 to produce consistent products with strict quality controls, in full
33 compliance with this chapter and with all applicable state and local
34 regulations, and the amount of medical cannabis those applicants
35 will be able to provide.

36 26045. Every mandatory commercial registration is renewable
37 unless the registration has been revoked if the renewal registration
38 is made and the fee for it is paid. A registration that has been
39 suspended, but not revoked, may be renewed under this section,
40 provided that the suspension shall remain in effect upon renewal.

1 All registrations expire at 12 midnight on the last day of the month
2 posted on the registration. All registrations issued shall be renewed
3 as follows:

4 (a) The application to renew the registration may be filed before
5 the registration expires upon payment of the annual fee.

6 (b) For 60 days after the registration expires, the registration
7 may be renewed upon payment of the annual renewal fee plus a
8 penalty fee that shall be equal to 50 percent of the annual fee.

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

14 (d) A registration that has been canceled pursuant to subdivision
15 (c) may be reinstated during the 30 days immediately following
16 cancellation upon payment by cashier's check or money order of
17 the annual renewal fee, plus a penalty fee that shall be equal to
18 100 percent of the annual fee. A registration that has been canceled
19 pursuant to subdivision (c) and that has not been reinstated within
20 30 days pursuant to this subdivision is automatically revoked on
21 the 31st day after the registration has been canceled.

22 (e) A renewal application shall not be deemed filed within the
23 meaning of this section unless the document itself has been actually
24 delivered to, and the required renewal fee has been paid at, any
25 office of the department during office hours, or unless both the
26 document and fee have been filed and remitted pursuant to Section
27 11003 of the Government Code.

28 26046. An application for mandatory commercial registration
29 shall include, but shall not be limited to, all of the following:

30 (a) For all applicants:

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

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

35 (3) Operating and inventory control procedures to ensure
36 security and prevent diversion.

37 (4) Detailed operating procedures for the proposed facility,
38 which shall include, but not be limited to, provisions for facility
39 and operational security, prevention of diversion, employee

1 screening, storage of medical cannabis, personnel policies, and
2 recordkeeping procedures.

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

6 (6) Evidence of the legal right to occupy and use an established
7 location, or an immunity from prosecution for that occupancy or
8 use pursuant to a local ordinance or ordinances, including, but not
9 limited to, Measure D, approved by the voters of the City of Los
10 Angeles at the May 21, 2013, general election, for the activities
11 to be conducted if the desired registration is granted consistent
12 with the provisions of this chapter and the regulations developed
13 by the department.

14 (7) Documentation that the applicant will be in compliance with
15 all local ordinances and regulations, including an entity granted
16 immunity under Measure D, approved by the voters of the City of
17 Los Angeles at the May 21, 2013, general election.

18 (8) Evidence that officers and owners of the applicant
19 organization are citizens of the United States and residents of the
20 State of California.

21 (b) For applications for cultivation and processing, in addition
22 to the requirements of subdivision (a), the application shall also
23 include detailed operating procedures for cultivation, extraction
24 and infusion methods, transportation of products, inventory
25 procedures, procedures for quality control, and onsite testing of
26 product for potential contaminants.

27 26047. Upon receipt of an application for a registration and
28 the applicable fee, the department shall make a thorough
29 investigation to determine whether the applicant and the premises
30 for which a registration is applied qualify for the registration and
31 whether the provisions of this chapter have been complied with,
32 and shall investigate all matters connected therewith which may
33 affect the public welfare and morals. The department shall deny
34 an application for a registration if either the applicant or the
35 premises for which a registration is applied do not qualify for a
36 registration under this chapter. The department further shall deny
37 an application for a registration if the department finds that issuance
38 of that registration would create a law enforcement problem. The
39 department may place conditions upon registrations if grounds
40 exist for denial of the registration, and the department finds those

1 grounds may be removed by the imposition of those conditions,
2 provided that the requirements set forth in paragraphs (6) and (8)
3 of subdivision (b) of Section 26040 shall not be waived.

4 26048. A physician shall not recommend medical cannabis to
5 a patient while the physician is a mandatory commercial registrant,
6 or an officer, director, owner, member, shareholder, employee, or
7 financial beneficiary of a mandatory commercial registrant.

8 26049. (a) The actions of a mandatory commercial registrant
9 or provisional registrant, its employees, and its agents, permitted
10 pursuant to a mandatory commercial registration or provisional
11 registration issued by the department or otherwise permitted by
12 this chapter, that are conducted in accordance to the requirements
13 of this chapter and regulations adopted pursuant to the authority
14 granted by this chapter, are not unlawful under state law and shall
15 not be an offense subject to arrest, prosecution, or other sanction
16 under state law, or be subject to a civil fine or be a basis for seizure
17 or forfeiture of assets under state law.

18 (b) The actions of a person who, in good faith and upon
19 investigation, allows his or her property to be used by a mandatory
20 commercial registrant or provisional registrant, its employees, and
21 its agents, as permitted pursuant to a mandatory commercial
22 registration or provisional registration issued by the department
23 or otherwise permitted by this chapter, are not unlawful under state
24 law and shall not be an offense subject to arrest, prosecution, or
25 other sanction under state law, or be subject to a civil fine or be a
26 basis for seizure or forfeiture of assets under state law.

27 (c) This section shall not be deemed to limit the authority or
28 remedies of a city or county under any provision of law, including,
29 without limitation, Section 26010 or 26060 of this code or Section
30 7 of Article XI of the California Constitution.

31 26050. (a) A registrant shall not cultivate, process, store,
32 manufacture, test, transport, or sell medical cannabis in the state
33 unless accurate records are kept at the registered premises of the
34 growing, processing, storing, manufacturing, testing, transporting,
35 or selling by the registrant in the state. These records shall include
36 the name and address of the supplier of any cannabis or cannabis
37 products received or possessed by the registrant, the location at
38 which the cannabis was cultivated, the amount of cannabis
39 received, the form in which it is received, the name of the employee
40 receiving it, and the date of receipt. These records shall further

1 include receipts for all expenditures incurred by the registrant and
2 banking records, if any, for all funds obtained or expended in the
3 performance of any activity under the authority of the registration,
4 provided that a registrant registered to act at more than one
5 premises may keep all records at one of the registered premises.
6 Required records shall be kept for a period of seven years from
7 the date of the transaction.

8 (b) The department and any state or local agency may make any
9 examination of the books and records of any registrant and may
10 visit and inspect the premises of any registrant that the department
11 may deem necessary to perform its duties under this chapter.

12 (c) Any books or records requested by the department or any
13 state or local agency shall be provided by the registrant no later
14 than at the end of the next business day after the request is made.

15 (d) The department or any state or local agency may enter and
16 inspect the premises of any facility operated by a registrant between
17 the hours of 8 a.m. and 8 p.m. on any day that the facility is open,
18 or at any reasonable time, to ensure compliance and enforcement
19 of the provisions of this chapter or any local ordinance.

20 (e) In the event that the registrant or any employee of the
21 registrant refuses, impedes, obstructs, or interferes with an
22 inspection pursuant to this chapter or local ordinance, or if the
23 registrant fails to maintain or provide the books and records
24 required by this section, the registration may be summarily
25 suspended pursuant to paragraph (2) of subdivision (i) of Section
26 26022 and the department shall directly commence proceedings
27 for the revocation of the registration in accordance with this
28 chapter.

29 26052. (a) This chapter shall not apply to, and shall have no
30 diminishing effect on, the rights and protections granted to a patient
31 or a primary caregiver pursuant to the Compassionate Use Act of
32 1996.

33 (b) (1) A patient who cultivates, possesses, stores, manufactures,
34 or transports cannabis exclusively for his or her personal medical
35 use and who does not sell, distribute, donate, or provide cannabis
36 to any other person is not considered a commercial registrant and
37 is exempt from mandatory commercial registration under this
38 chapter.

39 (2) A primary caregiver who cultivates, possesses, stores,
40 manufactures, transports, or provides cannabis exclusively for the

1 personal medical purposes of a specified qualified patient for whom
2 he or she is the primary caregiver within the meaning of Section
3 11362.7 of the Health and Safety Code and who does not receive
4 remuneration for these activities except for compensation in full
5 compliance with subdivision (c) of Section 11362.765 of the Health
6 and Safety Code is not considered a commercial registrant and is
7 exempt from mandatory commercial registration under this chapter.

8 26054. Beginning January 1, 2015, the department shall provide
9 for provisional registrations as follows:

10 (a) The department shall request that every city or county
11 provide the department with a list of approved entities providing
12 medical cannabis to qualified patients and caregivers within the
13 city or county's jurisdiction, if any, the location at which the entity
14 is operating, and the names of the persons who operate the entity.
15 If the jurisdiction represents that the entity has been operating in
16 compliance with local laws and regulations, or has limited
17 immunity under local laws, including, but not limited to, Measure
18 D, approved by the voters of the City of Los Angeles at the May
19 21, 2013, general election, the department shall issue a provisional
20 registration to the entity until the time that the entity's application
21 for mandatory commercial registration has been approved or denied
22 under this chapter, but no later than 90 days after the department
23 begins accepting applications for mandatory commercial
24 registration.

25 (b) The department shall issue a provisional registration to
26 individuals and entities that the department determines were, during
27 the six months prior to January 1, 2016, regularly cultivating or
28 distributing medical cannabis collectively or cooperatively in full
29 compliance with paragraphs A and B of Section IV of the
30 Guidelines for Security and Non-Diversion of Marijuana Grown
31 for Medical Use, issued by the Department of Justice in August
32 2008, and any applicable local ordinance, to continue to do so until
33 such time as the registrant's application for mandatory commercial
34 registration has been approved or denied under this chapter, but
35 no later than 90 days after the department begins accepting
36 applications for mandatory commercial registration. To qualify,
37 provisional registrants shall be required to disclose to the
38 department the following information in writing on or before
39 January 20, 2016, in order to obtain provisional registration:

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

3 (2) The common street address and assessor's parcel number
4 of the property at which the registrant conducts any activity under
5 the authority of the registration.

6 (3) The common street address and assessor's parcel number
7 of the property at which any cultivation activity was or is to be
8 conducted.

9 (4) For the six months prior to January 1, 2016, the quantity of
10 cannabis cultivated at a location and the quantity expected to be
11 cultivated from January 1, 2016, to June 30, 2016, inclusive. The
12 registrant shall make its records of current activity and activity for
13 the six months prior to January 1, 2016, available to the department
14 upon request.

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

17 (d) Notwithstanding any other provision of this section, the
18 department shall not issue a provisional registration to any
19 individual or entity, or for any premises, against whom there are
20 pending state or local administrative or judicial proceedings or
21 actions initiated by a city or county under any applicable local
22 ordinance or who has been determined through those proceedings
23 to have violated any applicable local ordinance.

24 26055. Entities that are provided immunity under Measure D,
25 approved by the voters of the City of Los Angeles at the May 21,
26 2013, general election, shall be considered the equivalent of entities
27 that are registered, permitted, or licensed as a medical marijuana
28 business, dispensary, or other entity involved in providing medical
29 marijuana to patients under a local ordinance and shall be
30 considered in compliance with a local ordinance for the purposes
31 of the implementation of the act adding this section and any
32 regulations promulgated by the department.

33 26056. In addition to other regulations adopted by the
34 department pertaining to mandatory commercial registrants and
35 without limiting the authority of a city or a county pursuant to
36 Section 7 of Article XI of the California Constitution or any other
37 law, the department shall adopt regulations regarding the minimum
38 standards for the operation of dispensaries that establish all of the
39 following:

1 (a) Standards for labeling of products, including the name of
2 the mandatory commercial registrant from which the product was
3 obtained, and a requirement that dispensaries provide patients with
4 detailed written information about the contents of the cannabis
5 and medical cannabis products they obtain.

6 (b) Requirements for inventory control and reporting that require
7 all dispensaries to be able to demonstrate the present location,
8 amounts, and descriptions of all medical cannabis products from
9 the time of delivery to the dispensary until purchase by a qualified
10 patient or primary caregiver.

11 (c) The maximum number of dispensaries that may operate in
12 a city or county or the unincorporated areas of a county based on
13 population, taking into consideration the distances that patients in
14 rural areas may need to travel in order to reach a dispensary and
15 the availability of public transportation in both rural and urban
16 areas. The number established by the department for any city or
17 county may not exceed the number of dispensaries allowed by any
18 applicable local ordinance.

19 (d) Minimum educational and testing requirements for
20 dispensary staff, including background checks, and a requirement
21 that every dispensary maintain dedicated, licensed security staff
22 both inside and outside the dispensary.

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

24 (f) Minimum standards governing signage and advertising for
25 dispensaries.

26 26057. The department shall make recommendations to the
27 Legislature pertaining to the establishment of an appeals and
28 judicial review process for persons aggrieved by a final decision
29 of the department.

30

31

Article 4. Enforcement

32

33 26060. (a) The department shall work in conjunction with law
34 enforcement entities throughout the state for the purpose of
35 implementing and enforcing the rules and regulations regarding
36 commercial medical cannabis and taking appropriate action against
37 businesses and individuals who fail to comply with the law.

38 (b) Nothing in this chapter or in Article 2 (commencing with
39 Section 11357) or Article 2.5 (commencing with Section 11362.7)
40 of Chapter 6 of Division 10 of the Health and Safety Code shall

1 prevent a city, county, or city and county from adopting or
2 enforcing a zoning ordinance or other law, ordinance, or regulation
3 that bans or regulates the location, operation, or establishment of
4 a mandatory commercial registrant or other individual, partnership,
5 joint venture, association, limited liability company, corporation,
6 estate, trust, receiver, syndicate, or any other group or combination
7 thereof acting as a unit, that cultivates, processes, possesses, stores,
8 manufactures, tests, transports, distributes, provides, donates, or
9 sells medical cannabis.

10 26062. Except for a person identified in Section 26052, a person
11 shall not exercise the privilege or perform any act that a registrant
12 may exercise or perform under the authority of a registration unless
13 the person is acting pursuant to a registration, including a
14 provisional registration, issued pursuant to this chapter.

15 26063. (a) Commencing January 1, 2017, any product
16 containing cannabis that is distributed, except in the case of a
17 primary caregiver distributing to a qualified patient, or offered for
18 sale shall comply with the testing, labeling, and food safety
19 requirements established through regulation by the department.

20 (b) No person shall steal or fraudulently use a mandatory
21 commercial registrant identification certificate or registration or
22 other registrant's identification card or registration issued by the
23 department to acquire, cultivate, transport, produce, possess for
24 sale, sell, provide, donate, or distribute cannabis.

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

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

30 (1) For the first offense, imprisonment in a county jail for no
31 more than six months or a fine not to exceed five thousand dollars
32 (\$5,000), or both.

33 (2) For a second or subsequent offense, imprisonment in a
34 county jail for no more than one year or a fine not to exceed eight
35 thousand dollars (\$8,000), or both.

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

1 26064. Any person operating an unregistered facility, building,
2 structure, or location where cannabis is being commercially
3 cultivated, manufactured, or possessed for sale in violation of this
4 chapter may be subject to civil penalties of up to twenty-five
5 thousand dollars (\$25,000) for each violation, and the department
6 may order the destruction of any cannabis associated with that
7 violation. Each day of operation shall constitute a separate violation
8 of this section. Any civil fines collected pursuant to this section
9 shall be deposited into the General Fund pursuant to Section 26028.

10 26066. The director or any district attorney, county counsel,
11 city attorney, or city prosecutor may bring an action in the name
12 of the people of the State of California to enjoin a violation or the
13 threatened violation of any provision of this chapter, including,
14 but not limited to, a registrant's failure to correct objectionable
15 conditions following notice or as a result of any rule promulgated
16 pursuant to this chapter. The action shall be brought in the county
17 in which the violation occurred or is threatened to occur. Any
18 proceeding brought pursuant to this chapter shall conform to the
19 requirements of Chapter 3 (commencing with Section 525) of Title
20 7 of Part 2 of the Code of Civil Procedure.

21 26068. A state or local law enforcement agency shall
22 immediately notify the department of any arrests made for
23 violations over which the department has jurisdiction which involve
24 a registrant or registered premises. Notice shall be given within
25 10 days of the arrest. The department shall promptly cause an
26 investigation to be made as to whether grounds exist for suspension
27 or revocation of a registration of the registrant.

28 26070. This chapter shall not be construed to limit a law
29 enforcement agency's ability to investigate unlawful activity in
30 relation to a mandatory commercial registrant.

31 26072. The department shall create and maintain a searchable
32 database that will allow state and local law enforcement to verify
33 a mandatory commercial registration.

34

35 Article 5. Transportation of Medical Cannabis

36

37 26100. To claim the protections of this chapter and to maintain
38 a valid mandatory commercial registration, a registrant shall
39 transport medical cannabis products only to the registered facilities

1 of a mandatory commercial registrant and only in response to a
2 request for a specific quantity and variety from that registrant.

3 26102. (a) Prior to transporting any medical cannabis product,
4 a mandatory commercial registrant shall do the following:

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

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

10 (b) The mandatory commercial registrant shipping and the
11 registrant receiving shall maintain each shipping manifest and
12 make it available to the department upon request.

13 26104. (a) Transported medical cannabis products shall:

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

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

18 (b) Any vehicle transporting medical cannabis products shall
19 travel directly from the facilities of the mandatory commercial
20 registrant to the registered facilities of the registrant authorized to
21 receive the shipment.

22 26106. (a) A mandatory commercial registrant shall staff all
23 transport vehicles with a minimum of two employees. At least one
24 delivery team member shall remain with the vehicle at all times
25 that the vehicle contains medical cannabis.

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

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

35 26107. This chapter shall not be construed to authorize or
36 permit any registrant to transport, or cause to be transported,
37 cannabis or cannabis products outside the state.

38 SEC. 7. Section 23028 is added to the Government Code, to
39 read:

1 23028. (a) (1) In addition to any authority otherwise provided
2 by law, the board of supervisors of any county may impose, by
3 ordinance, a tax on the privilege of cultivating, dispensing,
4 producing, processing, preparing, storing, providing, donating,
5 selling, or distributing cannabis or cannabis products by a
6 mandatory commercial registrant operating pursuant to Chapter
7 18 (commencing with Section 26000) of Division 9 of the Business
8 and Professions Code. The tax may be imposed for general
9 governmental purposes or for purposes specified in the ordinance
10 by the board of supervisors.

11 (2) The board of supervisors shall specify in the ordinance
12 proposing the tax the activities subject to the tax, the applicable
13 rate or rates, the method of apportionment, and the manner of
14 collection of the tax. A tax imposed pursuant to this section is a
15 tax and not a fee or special assessment, and the tax is not required
16 to be apportioned on the basis of benefit to any person or property
17 or be applied uniformly to all taxpayers or all real property.

18 (3) A tax imposed by a county pursuant to this section by a
19 county may include a transactions and use tax imposed solely for
20 cannabis or cannabis products, which shall otherwise conform to
21 Part 1.6 (commencing with Section 7251) of Division 2 of the
22 Revenue and Taxation Code. Notwithstanding Section 7251.1 of
23 the Revenue and Taxation Code, the tax may be imposed at any
24 rate specified by the board of supervisors, and the tax rate
25 authorized by this section shall not be considered for purposes of
26 the combined tax rate limitation established by that section.

27 (4) The tax authorized by this section may be imposed upon
28 any or all of the activities set forth in paragraph (1), regardless of
29 whether the activity is undertaken individually, collectively, or
30 cooperatively, and regardless of whether the activity is for
31 compensation or gratuitously, as determined by the board of
32 supervisors.

33 (5) The board of supervisors shall specify whether the tax applies
34 throughout the entire county or within the unincorporated area of
35 the county.

36 (b) In addition to any other method of collection authorized by
37 law, the board of supervisors may provide for collection of the tax
38 imposed pursuant to this section in the same manner, and subject
39 to the same penalties and priority of lien, as other charges and
40 taxes fixed and collected by the county.

1 (c) Any tax imposed pursuant to this section shall be subject to
2 applicable voter approval requirements imposed by any other law.

3 (d) For purposes of this section, “cannabis” and “cannabis
4 products” shall have the meanings set forth in Section 26001 of
5 the Business and Professions Code.

6 (e) This section does not limit or prohibit the levy or collection
7 or any other fee, charge, or tax, or any license or service fee or
8 charge upon, or related to, the activities set forth in subdivision
9 (a) as otherwise provided by law. This section shall not be
10 construed as a limitation upon the taxing authority of any county
11 as provided by other law.

12 SEC. 8. Section 11362.7 of the Health and Safety Code is
13 amended to read:

14 11362.7. For purposes of this article, the following definitions
15 shall apply:

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

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

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

33 (d) “Primary caregiver” means the individual, designated by a
34 qualified patient or by a person with an identification card, who
35 has consistently assumed responsibility for the housing, health, or
36 safety of that patient or person, and may include any of the
37 following:

38 (1) In any case in which a qualified patient or person with an
39 identification card receives medical care or supportive services,
40 or both, from a clinic licensed pursuant to Chapter 1 (commencing

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

13 (2) An individual who has been designated as a primary
14 caregiver by more than one qualified patient or person with an
15 identification card, if every qualified patient or person with an
16 identification card who has designated that individual as a primary
17 caregiver resides in the same city or county as the primary
18 caregiver.

19 (3) An individual who has been designated as a primary
20 caregiver by a qualified patient or person with an identification
21 card who resides in a city or county other than that of the primary
22 caregiver, if the individual has not been designated as a primary
23 caregiver by any other qualified patient or person with an
24 identification card.

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

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

34 (g) “Identification card” means a document issued by the State
35 Department of *Public Health Services* that document identifies a
36 person authorized to engage in the medical use of marijuana and
37 the person’s designated primary caregiver, if any.

38 (h) “Serious medical condition” means all of the following
39 medical conditions:

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

- 1 (2) Anorexia.
- 2 (3) Arthritis.
- 3 (4) Cachexia.
- 4 (5) Cancer.
- 5 (6) Chronic pain.
- 6 (7) Glaucoma.
- 7 (8) Migraine.
- 8 (9) Persistent muscle spasms, including, but not limited to,
- 9 spasms associated with multiple sclerosis.
- 10 (10) Seizures, including, but not limited to, seizures associated
- 11 with epilepsy.
- 12 (11) Severe nausea.
- 13 (12) Any other chronic or persistent medical symptom that
- 14 either:
 - 15 (A) Substantially limits the ability of the person to conduct one
 - 16 or more major life activities as defined in the Americans with
 - 17 Disabilities Act of 1990 (Public Law 101-336).
 - 18 (B) If not alleviated, may cause serious harm to the patient's
 - 19 safety or physical or mental health.
 - 20 (i) "Written documentation" means accurate reproductions of
 - 21 those portions of a patient's medical records that have been created
 - 22 by the attending physician, that contain the information required
 - 23 by paragraph (2) of subdivision (a) of Section 11362.715, and that
 - 24 the patient may submit to a county health department or the
 - 25 county's designee as part of an application for an identification
 - 26 card.
- 27 SEC. 9. Section 11362.775 of the Health and Safety Code is
- 28 amended to read:
 - 29 11362.775. (a) Qualified patients, persons with valid
 - 30 identification cards, and the designated primary caregivers of
 - 31 qualified patients and persons with identification cards, who
 - 32 associate within the State of California in order collectively or
 - 33 cooperatively to cultivate marijuana for medical purposes, shall
 - 34 not solely on the basis of that fact be subject to state criminal
 - 35 sanctions under Section 11357, 11358, 11359, 11360, 11366,
 - 36 11366.5, or 11570.
 - 37 (b) *This section shall remain in effect only until 90 days after*
 - 38 *the Department of Alcoholic Beverage Control posts a notice on*
 - 39 *its Internet Web site that it began accepting applications for*
 - 40 *mandatory commercial registration pursuant to Article 3*

1 *(commencing with Section 26040) of Chapter 18 of Division 9 of*
2 *the Business and Professions Code, and as of that date is repealed.*

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

7 SEC. 11. The Legislature finds and declares that Section 3 of
8 this act imposes a limitation on the public’s right of access to
9 documents in the possession of a public agency within the meaning
10 of Section 3 of Article I of the California Constitution. Pursuant
11 to that constitutional provision, the Legislature makes the following
12 finding to demonstrate the interest protected by this limitation and
13 the need for protecting that interest:

14 It is necessary to maintain the confidentiality of patient and
15 physician information provided to the Division of Medical
16 Cannabis Regulation and Enforcement in order to protect the
17 private medical information of patients who use medical cannabis
18 and to preserve the essential confidentiality of the physician and
19 patient relationship.

20 SEC. 12. No reimbursement is required by this act pursuant
21 to Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

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