

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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. An act to amend Sections 19322 and 19323 of, and to add Section 19326.5 to, the Business and Professions Code, relating to medical cannabis.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 26, as amended, 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, 5, 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. Existing law, the Medical Marijuana Regulation and Safety Act (MMRSA), enacted by the Legislature, establishes within the Department of Consumer Affairs the Bureau of Medical Marijuana Regulation, and provides for the state licensure and regulation of certain commercial medical marijuana~~

activities by the Department of Consumer Affairs, the Department of Food and Agriculture, or the State Department of Public Health, as specified. MMRSA requires an applicant for state licensure to provide specified information and a statement, signed by the applicant under penalty of perjury, that the information is complete, true, and accurate. MMRSA authorizes a state licensing authority to deny an application if specified conditions are met, and requires a state licensee, among other things, to obtain applicable local licenses prior to commencing commercial cannabis activity and to keep accurate records of commercial cannabis activity.

This bill would require a state licensee to institute and maintain a training program for the licensee's agents and employees regarding compliance with MMRSA, as specified, and would require that an application for state licensure include a detailed description of the applicant's program, thereby modifying the crime of perjury and imposing a state-mandated local program. The bill would make the bureau the sole state agency responsible for approving and regulating the programs and would prohibit the bureau from approving a program provided by or through certain apprenticeship programs. The bill would require a state licensing authority to deny the application of an applicant that does not have, or revoke the license of a state licensee that fails to institute or maintain, a program approved by the bureau.

~~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)~~

~~(2) 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-no*. Fiscal committee: *yes*. State-mandated local program: *yes*.~~

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

1 *SECTION 1. Section 19322 of the Business and Professions*

2 *Code is amended to read:*

3 19322. (a) A person or entity shall not submit an application
 4 for a state license issued by the department pursuant to this chapter
 5 unless that person or entity has received a license, permit, or
 6 authorization by a local jurisdiction. An applicant for any type of

1 state license issued pursuant to this chapter shall do all of the
2 following:

3 (1) Electronically submit to the Department of Justice fingerprint
4 images and related information required by the Department of
5 Justice for the purpose of obtaining information as to the existence
6 and content of a record of state or federal convictions and arrests,
7 and information as to the existence and content of a record of state
8 or federal convictions and arrests for which the Department of
9 Justice establishes that the person is free on bail or on his or her
10 own recognizance, pending trial or appeal.

11 (A) The Department of Justice shall provide a response to the
12 licensing authority pursuant to paragraph (1) of subdivision (p) of
13 Section 11105 of the Penal Code.

14 (B) The licensing authority shall request from the Department
15 of Justice subsequent notification service, as provided pursuant to
16 Section 11105.2 of the Penal Code, for applicants.

17 (C) The Department of Justice shall charge the applicant a fee
18 sufficient to cover the reasonable cost of processing the requests
19 described in this paragraph.

20 (2) Provide documentation issued by the local jurisdiction in
21 which the proposed business is operating certifying that the
22 applicant is or will be in compliance with all local ordinances and
23 regulations.

24 (3) Provide evidence of the legal right to occupy and use the
25 proposed location. For an applicant seeking a cultivator, distributor,
26 manufacturing, or dispensary license, provide a statement from
27 the owner of real property or their agent where the cultivation,
28 distribution, manufacturing, or dispensing commercial medical
29 cannabis activities will occur, as proof to demonstrate the
30 landowner has acknowledged and consented to permit cultivation,
31 distribution, manufacturing, or dispensary activities to be conducted
32 on the property by the tenant applicant.

33 (4) If the application is for a cultivator or a dispensary, provide
34 evidence that the proposed location is located beyond at least a
35 600-foot radius from a school, as required by Section 11362.768
36 of the Health and Safety Code.

37 (5) Provide a statement, signed by the applicant under penalty
38 of perjury, that the information provided is complete, true, and
39 accurate.

1 (6) (A) For an applicant with 20 or more employees, provide
2 a statement that the applicant will enter into, or demonstrate that
3 it has already entered into, and abide by the terms of a labor peace
4 agreement.

5 (B) For the purposes of this paragraph, “employee” does not
6 include a supervisor.

7 (C) For purposes of this paragraph, “supervisor” means an
8 individual having authority, in the interest of the licensee, to hire,
9 transfer, suspend, lay off, recall, promote, discharge, assign,
10 reward, or discipline other employees, or responsibility to direct
11 them or to adjust their grievances, or effectively to recommend
12 such action, if, in connection with the foregoing, the exercise of
13 that authority is not of a merely routine or clerical nature, but
14 requires the use of independent judgment.

15 (7) Provide the applicant’s seller’s permit number issued
16 pursuant to Part 1 (commencing with Section 6001) of Division 2
17 of the Revenue and Taxation Code or indicate that the applicant
18 is currently applying for a seller’s permit.

19 (8) Provide any other information required by the licensing
20 authority.

21 (9) For an applicant seeking a cultivation license, provide a
22 statement declaring the applicant is an “agricultural employer,” as
23 defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural
24 Labor Relations Act of 1975 (Part 3.5 (commencing with Section
25 1140) of Division 2 of the Labor Code), to the extent not prohibited
26 by law.

27 (10) For an applicant seeking licensure as a testing laboratory,
28 register with the State Department of Public Health and provide
29 any information required by the State Department of Public Health.

30 (11) Pay all applicable fees required for licensure by the
31 licensing authority.

32 (b) For applicants seeking licensure to cultivate, distribute, or
33 manufacture medical cannabis, the application shall also include
34 a detailed description of the applicant’s operating procedures for
35 all of the following, as required by the licensing authority:

- 36 (1) Cultivation.
- 37 (2) Extraction and infusion methods.
- 38 (3) The transportation process.
- 39 (4) Inventory procedures.
- 40 (5) Quality control procedures.

1 (c) For all applicants, the application shall also include a
2 detailed description of the agent and employee training program
3 that the applicant has instituted, or will institute, pursuant to
4 Section 19326.5. A licensing authority shall not approve an
5 application unless the applicant's training program is approved
6 by the bureau. The bureau shall not approve a training program
7 provided, or proposed to be provided, by or through an
8 apprenticeship program approved by the Chief of the Division of
9 Apprenticeship Standards.

10 SEC. 2. Section 19323 of the Business and Professions Code
11 is amended to read:

12 19323. (a) The licensing authority shall deny an application
13 if either the applicant or the premises for which a state license is
14 applied do not qualify for licensure under this chapter.

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

18 (1) Failure to comply with the provisions of this chapter or any
19 rule or regulation adopted pursuant to this chapter, including but
20 not limited to, any requirement imposed to protect natural
21 resources, instream flow, and water quality pursuant to subdivision
22 (a) of Section 19332.

23 (2) Conduct that constitutes grounds for denial of licensure
24 pursuant to Chapter 2 (commencing with Section 480) of Division
25 1.5.

26 (3) A local agency has notified the licensing authority that a
27 licensee or applicant within its jurisdiction is in violation of state
28 rules and regulation relating to commercial cannabis activities,
29 and the licensing authority, through an investigation, has
30 determined that the violation is grounds for termination or
31 revocation of the license. The licensing authority shall have the
32 authority to collect reasonable costs, as determined by the licensing
33 authority, for investigation from the licensee or applicant.

34 (4) The applicant has failed to provide information required by
35 the licensing authority.

36 (5) The applicant or licensee has been convicted of an offense
37 that is substantially related to the qualifications, functions, or duties
38 of the business or profession for which the application is made,
39 except that if the licensing authority determines that the applicant
40 or licensee is otherwise suitable to be issued a license and granting

1 the license would not compromise public safety, the licensing
2 authority shall conduct a thorough review of the nature of the
3 crime, conviction, circumstances, and evidence of rehabilitation
4 of the applicant, and shall evaluate the suitability of the applicant
5 or licensee to be issued a license based on the evidence found
6 through the review. In determining which offenses are substantially
7 related to the qualifications, functions, or duties of the business or
8 profession for which the application is made, the licensing authority
9 shall include, but not be limited to, the following:

10 (A) A felony conviction for the illegal possession for sale, sale,
11 manufacture, transportation, or cultivation of a controlled
12 substance.

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

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

17 (D) A felony conviction involving fraud, deceit, or
18 embezzlement.

19 (6) The applicant, or any of its officers, directors, or owners, is
20 a licensed physician making patient recommendations for medical
21 cannabis pursuant to Section 11362.7 of the Health and Safety
22 Code.

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

27 (8) The applicant, or any of its officers, directors, or owners,
28 has been sanctioned by a licensing authority or a city, county, or
29 city and county for unlicensed commercial medical cannabis
30 activities or has had a license revoked under this chapter in the
31 three years immediately preceding the date the application is filed
32 with the licensing authority.

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

36 (c) *The licensing authority shall deny an application unless the*
37 *applicant's agent and employee training program is approved by*
38 *the bureau pursuant to subdivision (c) of Section 19322.*

39 *SEC. 3. Section 19326.5 is added to the Business and*
40 *Professions Code, to read:*

1 19326.5. (a) A licensee shall institute and maintain a training
2 program to educate, inform, and train the licensee's agents and
3 employees on compliance with this chapter. The training program
4 must be approved by the bureau and must include, but is not limited
5 to, training on applicable substantive legal requirements, industry
6 best practices, occupational health and safety standards, and
7 individual organizational or company policies.

8 (b) (1) The bureau shall adopt standards for the approval of
9 training programs and shall be the sole state agency responsible
10 for approving and regulating the training programs.

11 (2) The bureau shall not approve a training program provided,
12 or proposed to be provided, by or through an apprenticeship
13 program approved by the Chief of the Division of Apprenticeship
14 Standards.

15 (c) A state licensing authority shall revoke the license of any
16 licensee that fails to institute or maintain a training program
17 approved by the bureau pursuant to this section.

18 SEC. 4. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

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

29 SEC. 2. (a) The Legislature finds and declares all of the
30 following:

31 (1) In 1996, the people of the State of California enacted the
32 Compassionate Use Act of 1996, codified in Section 11362.5 of
33 the Health and Safety Code. The people of the State of California
34 declared that their purpose in enacting the measure was, among
35 other things, "to ensure that seriously ill Californians have the
36 right to obtain and use marijuana for medical purposes where that
37 medical use is deemed appropriate and has been recommended by
38 a physician who has determined that the person's health would
39 benefit from the use of marijuana in the treatment of cancer;

1 anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis,
2 migraine, or any other illness for which marijuana provides relief.”

3 (2) The Compassionate Use Act of 1996 called on state
4 government to implement a plan for the safe and affordable
5 distribution of marijuana to all patients in medical need of
6 marijuana.

7 (3) In 2003, the Legislature enacted the Medical Marijuana
8 Program Act (MMPA), codified in Article 2.5 (commencing with
9 Section 11362.7) of Chapter 6 of Division 10 of the Health and
10 Safety Code.

11 (4) Greater certainty and minimum statewide standards are
12 urgently needed regarding the obligations of medical marijuana
13 facilities and for the imposition and enforcement of regulations to
14 prevent unlawful cultivation and the diversion of marijuana to
15 nonmedical use.

16 (5) Despite the passage of the Compassionate Use Act of 1996
17 and the MMPA, because of the lack of an effective statewide
18 system for regulating and controlling medical marijuana, local law
19 enforcement officials have been confronted with uncertainty about
20 the legality of some medical marijuana cultivation and distribution
21 activities. The current system of collectives and cooperatives makes
22 law enforcement difficult and endangers patient safety because of
23 an inability to monitor the supply of medical marijuana in the state
24 and the lack of quality control, testing, and labeling requirements.

25 (6) For the protection of all Californians, the state must act to
26 regulate and control medical marijuana and not preempt local
27 government ordinances. Cities and counties should be allowed to
28 impose local taxes and enact zoning regulations and other
29 restrictions, including bans, applicable to the commercial
30 cultivation and distribution of medical marijuana based on a local
31 governing body’s determination of local needs. In order to provide
32 patients with access to safe medical marijuana products, while at
33 the same time preventing diversion of marijuana to nonmedical
34 uses and protecting the public, it is necessary to amend the MMPA
35 and to establish a comprehensive structure for regulating the
36 cultivation, production, and distribution of medical marijuana
37 products.

38 (7) A state entity shall be created to regulate and control the
39 mandatory registration of all entities involved in the commercial
40 cultivation, processing, manufacturing, testing, transportation,

1 ~~distribution, provision, donation, and sale of medical marijuana~~
2 ~~in this state. Patients and their primary caregivers who cultivate~~
3 ~~medical marijuana for the personal medical purposes of individual~~
4 ~~patients shall not be subject to the statewide system of regulation~~
5 ~~established by this act but only medical marijuana produced in~~
6 ~~compliance with this act may be sold or commercially distributed.~~

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

12 ~~(9) It is the intent of the Legislature that the state entity created~~
13 ~~to regulate and control medical marijuana solicit input from cities~~
14 ~~and counties in the process of promulgating standards and~~
15 ~~regulations pursuant to this act.~~

16 ~~(10) It is the intent of the Legislature that entities provided~~
17 ~~immunity under Measure D, approved by the voters of the City of~~
18 ~~Los Angeles at the May 21, 2013, general election, shall be~~
19 ~~considered the equivalent of entities that are registered, permitted,~~
20 ~~or licensed as a medical marijuana business, dispensary, or other~~
21 ~~entity involved in providing medical marijuana to patients under~~
22 ~~a local ordinance and shall be considered in compliance with a~~
23 ~~local ordinance for the purposes of the implementation of this act~~
24 ~~and any regulations promulgated by the Department of Alcoholic~~
25 ~~Beverage Control.~~

26 ~~(11) The provisions of this act are enacted pursuant to the~~
27 ~~powers reserved to the State of California and its people under the~~
28 ~~Tenth Amendment to the United States Constitution.~~

29 ~~(12) Nothing in this act is intended to require any individual or~~
30 ~~entity to engage in any conduct that violates federal law or to~~
31 ~~exempt anyone from any requirement of federal law or to pose~~
32 ~~any obstacle to federal enforcement of federal law.~~

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

35 ~~(1) To establish a statewide system for regulating and controlling~~
36 ~~commercial medical cannabis activities by creating a state entity~~
37 ~~to enact and enforce regulations governing the cultivation,~~
38 ~~processing, manufacturing, testing, transportation, distribution,~~
39 ~~provision, donation, and sale of commercial medical cannabis.~~

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

6 ~~(3) To establish the Division of Medical Cannabis Regulation~~
7 ~~and Enforcement to be located within the Department of Alcoholic~~
8 ~~Beverage Control to provide a governmental agency that will~~
9 ~~ensure the strict, honest, impartial, and uniform administration and~~
10 ~~enforcement of the statewide regulatory system established by this~~
11 ~~act throughout the state.~~

12 ~~(4) To enact legislation in furtherance of the Compassionate~~
13 ~~Use Act of 1996, which provides for the Legislature to "implement~~
14 ~~a plan for the safe and affordable distribution of marijuana to all~~
15 ~~patients in medical need of marijuana."~~

16 ~~(5) To establish a statewide registration process for commercial~~
17 ~~medical cannabis activities to identify for law enforcement which~~
18 ~~entities are exempt from state criminal penalties for the cultivation,~~
19 ~~processing, manufacturing, testing, transportation, distribution,~~
20 ~~provision, donation, and sale of medical cannabis solely on the~~
21 ~~basis of their activities conducted in compliance with this act.~~

22 ~~(6) To reduce the cost of commercial medical cannabis~~
23 ~~enforcement by controlling commercial medical cannabis~~
24 ~~production and distribution through comprehensive statewide~~
25 ~~regulation and providing law enforcement guidelines to more easily~~
26 ~~determine whether or not a person is acting in conformance with~~
27 ~~the state's medical cannabis laws.~~

28 ~~SEC. 3. Section 2220.05 of the Business and Professions Code~~
29 ~~is amended to read:~~

30 ~~2220.05. (a) In order to ensure that its resources are maximized~~
31 ~~for the protection of the public, the Medical Board of California~~
32 ~~shall prioritize its investigative and prosecutorial resources to~~
33 ~~ensure that physicians and surgeons representing the greatest threat~~
34 ~~of harm are identified and disciplined expeditiously. Cases~~
35 ~~involving any of the following allegations shall be handled on a~~
36 ~~priority basis, as follows, with the highest priority being given to~~
37 ~~cases in the first paragraph:~~

38 ~~(1) Gross negligence, incompetence, or repeated negligent acts~~
39 ~~that involve death or serious bodily injury to one or more patients,~~

1 such that the physician and surgeon represents a danger to the
2 public.

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

5 (3) ~~Repeated acts of clearly excessive prescribing, furnishing,~~
6 ~~or administering of controlled substances, or repeated acts of~~
7 ~~prescribing, dispensing, or furnishing of controlled substances, or~~
8 ~~recommending marijuana to patients for medical purposes, without~~
9 ~~a good faith prior examination of the patient and medical reason~~
10 ~~therefor. However, in no event shall a physician and surgeon~~
11 ~~prescribing, furnishing, or administering controlled substances for~~
12 ~~intractable pain consistent with lawful prescribing, including, but~~
13 ~~not limited to, Sections 725, 2241.5, and 2241.6 of this code and~~
14 ~~Sections 11159.2 and 124961 of the Health and Safety Code, be~~
15 ~~prosecuted for excessive prescribing and prompt review of the~~
16 ~~applicability of these provisions shall be made in any complaint~~
17 ~~that may implicate these provisions.~~

18 (4) ~~Sexual misconduct with one or more patients during a course~~
19 ~~of treatment or an examination.~~

20 (5) ~~Practicing medicine while under the influence of drugs or~~
21 ~~alcohol.~~

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

26 (c) ~~The Medical Board of California shall indicate in its annual~~
27 ~~report mandated by Section 2312 the number of temporary~~
28 ~~restraining orders, interim suspension orders, and disciplinary~~
29 ~~actions that are taken in each priority category specified in~~
30 ~~subdivisions (a) and (b).~~

31 SEC. 4. ~~Section 2242 of the Business and Professions Code is~~
32 ~~amended to read:~~

33 2242. (a) ~~Prescribing, dispensing, or furnishing dangerous~~
34 ~~drugs as defined in Section 4022, or recommending marijuana to~~
35 ~~a patient for a medical purpose, without an appropriate prior~~
36 ~~examination and a medical indication, including an in-person~~
37 ~~examination when recommending marijuana, or recommending~~
38 ~~marijuana for a nonmedical purpose, constitutes unprofessional~~
39 ~~conduct.~~

1 ~~(b) No licensee shall be found to have committed unprofessional~~
2 ~~conduct within the meaning of this section if, at the time the drugs~~
3 ~~were prescribed, dispensed, or furnished, any of the following~~
4 ~~applies:~~

5 ~~(1) The licensee was a designated physician and surgeon or~~
6 ~~podiatrist serving in the absence of the patient's physician and~~
7 ~~surgeon or podiatrist, as the case may be, and if the drugs were~~
8 ~~prescribed, dispensed, or furnished only as necessary to maintain~~
9 ~~the patient until the return of his or her practitioner, but in any case~~
10 ~~no longer than 72 hours.~~

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

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

16 ~~(B) The practitioner was designated as the practitioner to serve~~
17 ~~in the absence of the patient's physician and surgeon or podiatrist,~~
18 ~~as the case may be.~~

19 ~~(3) The licensee was a designated practitioner serving in the~~
20 ~~absence of the patient's physician and surgeon or podiatrist, as the~~
21 ~~case may be, and was in possession of or had utilized the patient's~~
22 ~~records and ordered the renewal of a medically indicated~~
23 ~~prescription for an amount not exceeding the original prescription~~
24 ~~in strength or amount or for more than one refill.~~

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

27 ~~SEC. 5. Section 2264 of the Business and Professions Code is~~
28 ~~amended to read:~~

29 ~~2264. The employing, directly or indirectly, the aiding, or the~~
30 ~~abetting of any unlicensed person or any suspended, revoked, or~~
31 ~~unlicensed practitioner to engage in the practice of medicine,~~
32 ~~including employment by, other agreement with, a mandatory~~
33 ~~commercial registrant acting pursuant to the Medical Cannabis~~
34 ~~Regulation and Control Act or a dispensary to provide~~
35 ~~recommendations for medical marijuana, or any other mode of~~
36 ~~treating the sick or afflicted which requires a license to practice~~
37 ~~constitutes unprofessional conduct.~~

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

CHAPTER 18. MEDICAL CANNABIS REGULATION

Article 1. General Provisions

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

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

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

26002. For the purpose of this chapter:

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

(b) "Commercial" means any cultivation, processing, possession, storage, manufacturing, testing, transportation, distribution,

1 ~~provision, donation, or sale of cannabis or cannabis product,~~
2 ~~whether or not gratuitous, except as provided in subdivision (b)~~
3 ~~of Section 26052.~~

4 (e) ~~“Department” means the Department of Alcoholic Beverage~~
5 ~~Control.~~

6 (d) ~~“Dispensary” means a mandatory commercial registrant that~~
7 ~~dispenses cannabis or medical cannabis products through a retail~~
8 ~~storefront.~~

9 (e) ~~“Division” means the Division of Medical Cannabis~~
10 ~~Regulation and Enforcement.~~

11 (f) ~~“Edible cannabis product” means a cannabis product that is~~
12 ~~used or intended for use in whole or in part for human consumption~~
13 ~~and includes chewing gum.~~

14 (g) ~~“Fund” means the Medical Cannabis Regulation Fund~~
15 ~~established pursuant to Section 26028.~~

16 (h) ~~“Identification program” means the universal identification~~
17 ~~certificate program for mandatory commercial registrants.~~

18 (i) ~~“Mandatory commercial registrant” or “registrant” means~~
19 ~~any individual, partnership, joint venture, association, limited~~
20 ~~liability company, corporation, estate, trust, receiver, syndicate,~~
21 ~~or any other group or combination thereof acting as a unit to~~
22 ~~cultivate, process, possess, store, manufacture, test, transport,~~
23 ~~distribute, provide, donate, or sell medical cannabis in compliance~~
24 ~~with this chapter, other than a patient or a patient’s primary~~
25 ~~caregiver, as defined by the Compassionate Use Act of 1996,~~
26 ~~growing, possessing, storing, manufacturing, transporting, or~~
27 ~~providing medical cannabis exclusively for the personal medical~~
28 ~~purposes of individual patients as defined in subdivision (b) of~~
29 ~~Section 26052.~~

30 (j) ~~“Medical cannabis product” or “cannabis product” means~~
31 ~~any product containing cannabis, including concentrates and~~
32 ~~extractions, that is cultivated, manufactured, processed, packaged,~~
33 ~~and distributed in full compliance with the requirements of this~~
34 ~~chapter and with any regulations adopted by the department~~
35 ~~pursuant to its rulemaking authority. “Medical cannabis product”~~
36 ~~includes products that contain medical cannabis and are intended~~
37 ~~for oral or topical consumption by a qualified patient.~~

38 (k) ~~“Person” includes any individual, firm, copartnership, joint~~
39 ~~venture, association, corporation, estate, trust, business trust,~~

1 receiver, syndicate, or any other group or combination acting as a
2 unit and includes the plural as well as the singular number.

3 (f) ~~“Testing and labeling” means mandatory labeling and a~~
4 ~~quality assurance plan in place that addresses all of the following:~~

- 5 (1) ~~Potency.~~
- 6 (2) ~~Chemical residue.~~
- 7 (3) ~~Microbiological contaminants.~~
- 8 (4) ~~Random sample testing of medical cannabis and medical~~
9 ~~cannabis products.~~
- 10 (5) ~~Handling, care, and storage.~~
- 11 (6) ~~Date and location of production and manufacturing.~~

12 26010. ~~This chapter and Article 2 (commencing with Section~~
13 ~~11357) and Article 2.5 (commencing with Section 11362.7) of~~
14 ~~Chapter 6 of Division 10 of the Health and Safety Code do not~~
15 ~~prevent a city or county from doing any of the following:~~

16 (a) ~~Adopting local ordinances inconsistent with this chapter that~~
17 ~~ban or regulate the location, operation, or establishment of a~~
18 ~~mandatory commercial registrant or other individual, partnership,~~
19 ~~joint venture, association, limited liability company, corporation,~~
20 ~~estate, trust, receiver, syndicate, or any other group or combination~~
21 ~~thereof acting as a unit, that cultivates, processes, possesses, stores,~~
22 ~~manufactures, tests, transports, distributes, provides, donates, or~~
23 ~~sells medical cannabis.~~

24 (b) ~~The civil or criminal enforcement of the ordinances described~~
25 ~~in subdivision (a).~~

26 (c) ~~Establishing a fee or tax for the operation of a mandatory~~
27 ~~commercial registrant within its jurisdiction.~~

28 (d) ~~Enacting and enforcing other laws or ordinances pursuant~~
29 ~~to the authority granted by Section 7 of Article XI of the California~~
30 ~~Constitution.~~

31

32 ~~Article 2. Administration~~

33

34 26020. (a) ~~There is hereby created in the Department of~~
35 ~~Alcoholic Beverage Control the Division of Medical Cannabis~~
36 ~~Regulation and Enforcement. The division shall be administered~~
37 ~~by a person exempt from the civil service who is appointed by the~~
38 ~~director.~~

39 (b) ~~The department shall have the power, consistent with the~~
40 ~~provisions of this chapter, to register persons for the cultivation,~~

1 manufacture, testing, transportation, storage, distribution, and sale
2 of medical cannabis within the state and to collect registration fees
3 in connection with these actions.

4 26022. The department shall have all power necessary for
5 administration of this chapter, including, but not limited to, the
6 following:

7 (a) ~~Establishing statewide minimum standards for the~~
8 ~~commercial cultivation, manufacturing, testing, transportation,~~
9 ~~storage, distribution, provision, donation, and sale of medical~~
10 ~~cannabis and medical cannabis products and procedures for the~~
11 ~~issuance, renewal, suspension, and revocation of registrations of~~
12 ~~mandatory commercial registrants.~~

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

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

31 (d) ~~Approving or denying mandatory commercial registration~~
32 ~~applications for cultivation, manufacturing, testing and labeling,~~
33 ~~transportation, distribution, provision, donation, and sale of medical~~
34 ~~cannabis pursuant to this chapter.~~

35 (e) ~~The department shall have the power, in its discretion, to~~
36 ~~deny, suspend, revoke, or fine any registration issued pursuant to~~
37 ~~this chapter if the department determines that the granting or~~
38 ~~continuance of the registration would be contrary to public welfare~~
39 ~~or morals or that a person holding or seeking a registration has~~

1 ~~violated any law prohibiting conduct involving moral turpitude or~~
2 ~~an applicable local ordinance.~~

3 ~~(f) Imposing any penalty authorized by this chapter or any rule~~
4 ~~or regulation adopted pursuant to this chapter.~~

5 ~~(g) Taking any action with respect to a mandatory commercial~~
6 ~~registration application in accordance with procedures established~~
7 ~~pursuant to this chapter.~~

8 ~~(h) Upon the denial of any application for a registration, the~~
9 ~~department shall notify the applicant in writing. After service of~~
10 ~~the notice and within the time prescribed by the department, the~~
11 ~~applicant may present his or her written petition for a registration~~
12 ~~to the department. Upon receipt by the department of a petition~~
13 ~~for a registration in proper form, the petition shall be set for~~
14 ~~hearing.~~

15 ~~(i) (1) For any hearing held pursuant to this chapter, the~~
16 ~~department may delegate the power to hear and decide to an~~
17 ~~administrative law judge appointed by the director. Any hearing~~
18 ~~before an administrative law judge shall be pursuant to the~~
19 ~~procedures, rules, and limitations prescribed in Chapter 5~~
20 ~~(commencing with Section 11500) of Part 1 of Division 3 of Title~~
21 ~~2 of the Government Code.~~

22 ~~(2) Prior to suspending, revoking, or fining any registration, the~~
23 ~~department shall file an accusation as provided for in Section 11503~~
24 ~~of the Government Code, and the registrant may request a hearing.~~
25 ~~If the department determines that the public interest requires that~~
26 ~~a registration be summarily suspended pending hearing on charges~~
27 ~~of misconduct that include any of the causes for suspension or~~
28 ~~revocation specified in this chapter, or if the department has~~
29 ~~information that leads it to believe that a registrant has violated~~
30 ~~any law prohibiting conduct involving moral turpitude or any~~
31 ~~applicable local ordinance, the department may, without hearing,~~
32 ~~temporarily suspend the registration for a period not exceeding 60~~
33 ~~days pending a hearing and decision on the charges.~~

34 ~~(j) Developing any forms, identification certificates, and~~
35 ~~applications that are necessary or convenient in the discretion of~~
36 ~~the department for the administration of this chapter or any of the~~
37 ~~rules or regulations adopted pursuant to this chapter.~~

38 ~~(k) Overseeing the operation of the Medical Cannabis Regulation~~
39 ~~Fund established pursuant to Section 26028.~~

1 ~~(l) Establishing fees for processing all applications, registrations,~~
2 ~~notices, or reports required to be submitted to the department. The~~
3 ~~amount of the fees shall reflect, but shall not exceed, the direct~~
4 ~~and indirect costs of the department for the administration of this~~
5 ~~chapter and the rules or regulations adopted pursuant to this~~
6 ~~chapter.~~

7 ~~(m) The department may consult with other state agencies,~~
8 ~~departments, or public or private entities for the purposes of~~
9 ~~establishing statewide standards and regulations.~~

10 26024. ~~(a) The department may assist state taxation authorities~~
11 ~~in the development of uniform policies for the state taxation of~~
12 ~~mandatory commercial registrants.~~

13 ~~(b) The department shall assist the Division of Occupational~~
14 ~~Safety and Health in the Department of Industrial Relations in the~~
15 ~~development of industry-specific regulations related to commercial~~
16 ~~medical cannabis activities.~~

17 26028. ~~(a) The Medical Cannabis Regulation Fund is hereby~~
18 ~~established within the State Treasury. Notwithstanding Section~~
19 ~~16305.7 of the Government Code, the fund shall include any~~
20 ~~interest and dividends earned on the money in the fund.~~

21 ~~(b) All fees collected pursuant to this chapter shall be deposited~~
22 ~~into the Medical Cannabis Regulation Fund. Notwithstanding~~
23 ~~Section 13340 of the Government Code, all moneys within the~~
24 ~~fund are hereby continuously appropriated, without regard to fiscal~~
25 ~~year, to the department solely for the purposes of fully funding~~
26 ~~and administering this chapter, including, but not limited to, the~~
27 ~~costs incurred by the department for its administrative expenses.~~

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

31 ~~(d) The department may establish and administer a grant~~
32 ~~program to allocate moneys from the Medical Cannabis Regulation~~
33 ~~Fund to state and local entities for the purpose of assisting with~~
34 ~~medical cannabis regulation and the enforcement of this chapter~~
35 ~~and other state and local laws applicable to registrants.~~

36 26030. ~~(a) The director and the persons employed by the~~
37 ~~department for the administration and enforcement of this chapter~~
38 ~~are peace officers in the enforcement of the penal provisions of~~
39 ~~this chapter, the rules of the department adopted under the~~
40 ~~provisions of this chapter, and any other penal provisions of law~~

1 of this state prohibiting or regulating the cultivation, processing,
2 storing, manufacturing, testing, transporting, or selling of medical
3 cannabis, and these persons are authorized, while acting as peace
4 officers, to enforce any penal provisions of law while in the course
5 of their employment.

6 ~~(b) The director, the persons employed by the department for
7 the administration and enforcement of this chapter, peace officers
8 listed in Section 830.1 of the Penal Code, and those officers listed
9 in Section 830.6 of the Penal Code while acting in the course and
10 scope of their employment as peace officers may, in enforcing the
11 provisions of this chapter, visit and inspect the premises of any
12 mandatory commercial registrant at any time during which the
13 registrant is acting pursuant to the registration.~~

14 ~~(c) Peace officers of the Department of the California Highway
15 Patrol, members of the University of California and California
16 State University police departments, and peace officers of the
17 Department of Parks and Recreation, as defined in subdivisions
18 (a), (b), (c), and (f) of Section 830.2 of the Penal Code, may, in
19 enforcing this chapter, visit and inspect the premises of any
20 mandatory commercial registrant located on state property at any
21 time during which the registrant is acting pursuant to the
22 registration.~~

23 ~~26034. (a) Information identifying the names of patients, their
24 medical conditions, or the names of their primary caregivers
25 received and contained in records kept by the department for the
26 purposes of administering this chapter are confidential and exempt
27 from the California Public Records Act (Chapter 3.5 (commencing
28 with Section 6250) of Division 7 of Title 1 of the Government
29 Code) and are not subject to disclosure to any individual or private
30 entity, except as necessary for authorized employees of the State
31 of California to perform official duties pursuant to this chapter:~~

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

33 ~~(A) Division employees notifying state or local agencies about
34 information submitted to the division that the employee suspects
35 is falsified or fraudulent.~~

36 ~~(B) Notifications from the division to state or local agencies
37 about apparent violations of this chapter or any applicable local
38 ordinance.~~

1 ~~(C) Verification of requests by state or local agencies to confirm~~
2 ~~registrants and certificates issued by the division or other state~~
3 ~~agency.~~

4 ~~(D) Provision of information requested pursuant to a court order~~
5 ~~or subpoena issued by a court or an administrative agency or local~~
6 ~~governing body authorized by law to issue subpoenas.~~

7 ~~(2) Information shall not be disclosed beyond what is necessary~~
8 ~~to achieve the goals of a specific investigation or notification or~~
9 ~~the parameters of a specific court order or subpoena.~~

10
11 ~~Article 3. Mandatory Commercial Registration~~
12

13 ~~26040. (a) On or before January 1, 2017, the department shall~~
14 ~~promulgate regulations necessary for the implementation and~~
15 ~~enforcement of this chapter. These regulations shall include:~~

16 ~~(1) Procedures for the issuance, renewal, suspension, and~~
17 ~~revocation of mandatory commercial registrations.~~

18 ~~(2) Application, registration, and renewal forms and fees~~
19 ~~consistent with this act.~~

20 ~~(3) Time periods, not to exceed 90 days, by which the~~
21 ~~department shall approve or deny an application for medical~~
22 ~~cannabis registration.~~

23 ~~(4) Qualifications for registrants.~~

24 ~~(5) Security requirements, including, but not limited to,~~
25 ~~procedures for limiting access to facilities and for the screening~~
26 ~~of employees. The department shall require all registrants to~~
27 ~~maintain an accurate roster of any employee's name, date of birth,~~
28 ~~and relevant personally identifying information, which shall be~~
29 ~~available for inspection by the department or state or local law~~
30 ~~enforcement upon demand.~~

31 ~~(6) Testing and labeling requirements, including, but not limited~~
32 ~~to, disclosure of the active cannabinoid profile, constituent~~
33 ~~elements, active ingredients, and results of testing for contaminants.~~

34 ~~(7) Health and safety requirements, including, but not limited~~
35 ~~to, prohibitions on shipping or distribution of products containing~~
36 ~~microbiological, bacterial, pathogenic yeast or mold counts, or~~
37 ~~any adulterant or contaminant, that exceed levels to be determined~~
38 ~~by the department.~~

39 ~~(8) Inspection and tracking requirements, including, but not~~
40 ~~limited to, an electronic production and inventory tracking system~~

1 that will allow the department to monitor inventory data at every
2 level of the cultivation, processing, and distribution system through
3 a secure, Internet Web site-based portal.

4 ~~(9) Storage, packaging, and transportation procedures and~~
5 ~~protocols.~~

6 ~~(10) Advertising restrictions and requirements.~~

7 ~~(11) Requirements to ensure conformance with standards~~
8 ~~analogous to state statutory environmental, agricultural, consumer~~
9 ~~protection, and food and product safety requirements. These~~
10 ~~standards shall be administered and enforced by the department~~
11 ~~and shall be in addition to, and not limit, any other state~~
12 ~~requirements. At a minimum, these standards shall:~~

13 ~~(A) Prescribe sanitation standards analogous to the California~~
14 ~~Retail Food Code for food preparation, storage, and handling and~~
15 ~~sale of edible cannabis products.~~

16 ~~(B) Require that edible cannabis products produced, distributed,~~
17 ~~provided, donated, or sold by mandatory commercial registrants~~
18 ~~shall be limited to nonpotentially hazardous food as established~~
19 ~~by the State Department of Public Health pursuant to Section~~
20 ~~114365.5 of Health and Safety Code.~~

21 ~~(C) Provide standards for labeling edible cannabis products to~~
22 ~~ensure that the products cannot be mistaken as food not containing~~
23 ~~cannabis.~~

24 ~~(D) Require that facilities where edible cannabis products are~~
25 ~~prepared shall be constructed in accordance with applicable~~
26 ~~building standards, health and safety standards, and other state~~
27 ~~laws.~~

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

30 ~~(F) Provide that any weighing or measuring devices used in~~
31 ~~connection with the sale or distribution of cannabis are required~~
32 ~~to meet standards analogous to Division 5 (commencing with~~
33 ~~Section 12001).~~

34 ~~(G) Require that any application of pesticides or other pest~~
35 ~~control in connection with the indoor or outdoor cultivation of~~
36 ~~cannabis shall meet standards analogous to Division 6~~
37 ~~(commencing with Section 11401) of the Food and Agricultural~~
38 ~~Code and its implementing regulations.~~

1 (H) ~~Protect the state’s clean water and environment, including,~~
2 ~~but not limited to, protections related to land conversion, grading,~~
3 ~~water diversion and pond development, and agricultural discharges.~~

4 ~~(12) Requirements to prevent the diversion of cannabis to~~
5 ~~nonmedical use, including procedures and protocols for disposal~~
6 ~~of excess, contaminated, adulterated, or deteriorated products.~~

7 ~~(13) Civil penalties for the failure to comply with regulations~~
8 ~~adopted pursuant to this chapter.~~

9 ~~(b) A mandatory commercial registration application or renewal~~
10 ~~shall not be approved if the department determines any of the~~
11 ~~following:~~

12 ~~(1) The applicant fails to meet the requirements of this chapter~~
13 ~~or any regulation adopted pursuant to this chapter or any applicable~~
14 ~~city or county ordinance or regulation.~~

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

17 ~~(3) The applicant has knowingly answered a question or request~~
18 ~~for information falsely on the application form or failed to provide~~
19 ~~information requested.~~

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

28 ~~(5) The applicant, or any of its officers, directors, owners,~~
29 ~~members, or shareholders is a licensed physician making patient~~
30 ~~recommendations for medical cannabis.~~

31 ~~(6) The applicant, or any of its officers, directors, owners,~~
32 ~~members, or shareholders has been sanctioned by the department,~~
33 ~~a city, or a county for cannabis activities conducted in violation~~
34 ~~of this chapter or any applicable local ordinance or has had a~~
35 ~~mandatory commercial registration revoked in the previous three~~
36 ~~years.~~

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

1 ~~(8) The proposed cultivation, processing, possession, storage,~~
2 ~~manufacturing, testing, transporting, distribution, provision,~~
3 ~~donation, or sale of medical cannabis will violate any applicable~~
4 ~~local law or ordinance.~~

5 ~~(e) (1) In order to protect the public safety and provide patients~~
6 ~~with prompt, safe access to medical cannabis during~~
7 ~~implementation of this chapter, within 180 days of January 1, 2016,~~
8 ~~the department shall issue emergency regulations consistent with~~
9 ~~this chapter that allow a qualified applicant for mandatory~~
10 ~~commercial registration to apply, be reviewed, and be registered~~
11 ~~to cultivate, process, manufacture, store, and transport medical~~
12 ~~cannabis so as to ensure an adequate supply of medical cannabis~~
13 ~~upon full implementation of this chapter.~~

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

16 ~~26042. For the purpose of regulating the commercial~~
17 ~~cultivation, manufacturing, testing, transportation, distribution,~~
18 ~~provision, donation, and sale of medical cannabis, the department~~
19 ~~shall establish various classes or types of registration for specific~~
20 ~~commercial medical cannabis-related activities, as set forth in this~~
21 ~~chapter. At a minimum, registrants engaged in the cultivation and~~
22 ~~processing of cannabis shall be in a different class from those~~
23 ~~registrants operating dispensaries.~~

24 ~~26043. (a) Each mandatory commercial registration application~~
25 ~~approved by the department pursuant to this chapter is separate~~
26 ~~and distinct. A registrant shall not hold a mandatory commercial~~
27 ~~registration in more than one class of specified medical cannabis~~
28 ~~activities. A registrant shall not be an officer, director, member,~~
29 ~~owner, or shareholder registrant in another class. The officers,~~
30 ~~directors, owners, members, or shareholders of a registrant in one~~
31 ~~class may not hold a registration in another class, shall not be an~~
32 ~~officer, director, member, owner, or shareholder of a registrant in~~
33 ~~another class.~~

34 ~~(b) A mandatory commercial registration application approved~~
35 ~~by the department pursuant to this chapter shall be valid for a~~
36 ~~period not to exceed one year from the date of approval unless~~
37 ~~revoked or suspended earlier than that date pursuant to this chapter~~
38 ~~or the rules or regulations adopted pursuant to this chapter.~~

39 ~~26044. (a) The department shall limit the number of~~
40 ~~registrations statewide for the cultivation, processing, extraction,~~

1 packaging, and transportation of medical cannabis to a number no
2 greater than what is necessary to meet statewide need. In
3 determining the appropriate number of registrations, the department
4 may take into account information obtained from sources that
5 include, but need not be limited to, municipalities, patients, and
6 registrants.

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

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

13 (1) The purposes and intent of the Compassionate Use Act of
14 1996 to ensure an adequate supply of medical cannabis while
15 endeavoring to prevent an oversupply of cannabis that may result
16 in diversion.

17 (2) The number of applicants for mandatory commercial
18 registrations whose application demonstrates that they will be able
19 to produce consistent products with strict quality controls, in full
20 compliance with this chapter and with all applicable state and local
21 regulations, and the amount of medical cannabis those applicants
22 will be able to provide.

23 26045. Every mandatory commercial registration is renewable
24 unless the registration has been revoked if the renewal registration
25 is made and the fee for it is paid. A registration that has been
26 suspended, but not revoked, may be renewed under this section,
27 provided that the suspension shall remain in effect upon renewal.
28 All registrations expire at 12 midnight on the last day of the month
29 posted on the registration. All registrations issued shall be renewed
30 as follows:

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

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

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

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

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

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

17 ~~(a) For all applicants:~~

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

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

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

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

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

32 ~~(6) Evidence of the legal right to occupy and use an established~~
33 ~~location, or an immunity from prosecution for that occupancy or~~
34 ~~use pursuant to a local ordinance or ordinances, including, but not~~
35 ~~limited to, Measure D, approved by the voters of the City of Los~~
36 ~~Angeles at the May 21, 2013, general election, for the activities~~
37 ~~to be conducted if the desired registration is granted consistent~~
38 ~~with the provisions of this chapter and the regulations developed~~
39 ~~by the department.~~

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

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

8 ~~(b) For applications for cultivation and processing, in addition~~
9 ~~to the requirements of subdivision (a), the application shall also~~
10 ~~include detailed operating procedures for cultivation, extraction~~
11 ~~and infusion methods, transportation of products, inventory~~
12 ~~procedures, procedures for quality control, and onsite testing of~~
13 ~~product for potential contaminants.~~

14 ~~26047. Upon receipt of an application for a registration and~~
15 ~~the applicable fee, the department shall make a thorough~~
16 ~~investigation to determine whether the applicant and the premises~~
17 ~~for which a registration is applied qualify for the registration and~~
18 ~~whether the provisions of this chapter have been complied with,~~
19 ~~and shall investigate all matters connected therewith which may~~
20 ~~affect the public welfare and morals. The department shall deny~~
21 ~~an application for a registration if either the applicant or the~~
22 ~~premises for which a registration is applied do not qualify for a~~
23 ~~registration under this chapter. The department further shall deny~~
24 ~~an application for a registration if the department finds that issuance~~
25 ~~of that registration would create a law enforcement problem. The~~
26 ~~department may place conditions upon registrations if grounds~~
27 ~~exist for denial of the registration, and the department finds those~~
28 ~~grounds may be removed by the imposition of those conditions,~~
29 ~~provided that the requirements set forth in paragraphs (6) and (8)~~
30 ~~of subdivision (b) of Section 26040 shall not be waived.~~

31 ~~26048. A physician shall not recommend medical cannabis to~~
32 ~~a patient while the physician is a mandatory commercial registrant,~~
33 ~~or an officer, director, owner, member, shareholder, employee, or~~
34 ~~financial beneficiary of a mandatory commercial registrant.~~

35 ~~26049. (a) The actions of a mandatory commercial registrant~~
36 ~~or provisional registrant, its employees, and its agents, permitted~~
37 ~~pursuant to a mandatory commercial registration or provisional~~
38 ~~registration issued by the department or otherwise permitted by~~
39 ~~this chapter, that are conducted in accordance to the requirements~~
40 ~~of this chapter and regulations adopted pursuant to the authority~~

1 granted by this chapter, are not unlawful under state law and shall
2 not be an offense subject to arrest, prosecution, or other sanction
3 under state law, or be subject to a civil fine or be a basis for seizure
4 or forfeiture of assets under state law.

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

14 (c) This section shall not be deemed to limit the authority or
15 remedies of a city or county under any provision of law, including,
16 without limitation, Section 26010 or 26060 of this code or Section
17 7 of Article XI of the California Constitution.

18 26050. (a) A registrant shall not cultivate, process, store,
19 manufacture, test, transport, or sell medical cannabis in the state
20 unless accurate records are kept at the registered premises of the
21 growing, processing, storing, manufacturing, testing, transporting,
22 or selling by the registrant in the state. These records shall include
23 the name and address of the supplier of any cannabis or cannabis
24 products received or possessed by the registrant, the location at
25 which the cannabis was cultivated, the amount of cannabis
26 received, the form in which it is received, the name of the employee
27 receiving it, and the date of receipt. These records shall further
28 include receipts for all expenditures incurred by the registrant and
29 banking records, if any, for all funds obtained or expended in the
30 performance of any activity under the authority of the registration,
31 provided that a registrant registered to act at more than one
32 premises may keep all records at one of the registered premises.
33 Required records shall be kept for a period of seven years from
34 the date of the transaction.

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

1 ~~(e) Any books or records requested by the department or any~~
2 ~~state or local agency shall be provided by the registrant no later~~
3 ~~than at the end of the next business day after the request is made.~~

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

9 ~~(e) In the event that the registrant or any employee of the~~
10 ~~registrant refuses, impedes, obstructs, or interferes with an~~
11 ~~inspection pursuant to this chapter or local ordinance, or if the~~
12 ~~registrant fails to maintain or provide the books and records~~
13 ~~required by this section, the registration may be summarily~~
14 ~~suspended pursuant to paragraph (2) of subdivision (i) of Section~~
15 ~~26022 and the department shall directly commence proceedings~~
16 ~~for the revocation of the registration in accordance with this~~
17 ~~chapter.~~

18 ~~26052. (a) This chapter shall not apply to, and shall have no~~
19 ~~diminishing effect on, the rights and protections granted to a patient~~
20 ~~or a primary caregiver pursuant to the Compassionate Use Act of~~
21 ~~1996.~~

22 ~~(b) (1) A patient who cultivates, possesses, stores, manufactures,~~
23 ~~or transports cannabis exclusively for his or her personal medical~~
24 ~~use and who does not sell, distribute, donate, or provide cannabis~~
25 ~~to any other person is not considered a commercial registrant and~~
26 ~~is exempt from mandatory commercial registration under this~~
27 ~~chapter.~~

28 ~~(2) A primary caregiver who cultivates, possesses, stores,~~
29 ~~manufactures, transports, or provides cannabis exclusively for the~~
30 ~~personal medical purposes of a specified qualified patient for whom~~
31 ~~he or she is the primary caregiver within the meaning of Section~~
32 ~~11362.7 of the Health and Safety Code and who does not receive~~
33 ~~remuneration for these activities except for compensation in full~~
34 ~~compliance with subdivision (c) of Section 11362.765 of the Health~~
35 ~~and Safety Code is not considered a commercial registrant and is~~
36 ~~exempt from mandatory commercial registration under this chapter.~~

37 ~~26054. Beginning January 1, 2015, the department shall provide~~
38 ~~for provisional registrations as follows:~~

39 ~~(a) The department shall request that every city or county~~
40 ~~provide the department with a list of approved entities providing~~

1 medical cannabis to qualified patients and caregivers within the
2 city or county's jurisdiction, if any, the location at which the entity
3 is operating, and the names of the persons who operate the entity.
4 If the jurisdiction represents that the entity has been operating in
5 compliance with local laws and regulations, or has limited
6 immunity under local laws, including, but not limited to, Measure
7 D, approved by the voters of the City of Los Angeles at the May
8 21, 2013, general election, the department shall issue a provisional
9 registration to the entity until the time that the entity's application
10 for mandatory commercial registration has been approved or denied
11 under this chapter, but no later than 90 days after the department
12 begins accepting applications for mandatory commercial
13 registration.

14 (b) The department shall issue a provisional registration to
15 individuals and entities that the department determines were, during
16 the six months prior to January 1, 2016, regularly cultivating or
17 distributing medical cannabis collectively or cooperatively in full
18 compliance with paragraphs A and B of Section IV of the
19 Guidelines for Security and Non-Diversion of Marijuana Grown
20 for Medical Use, issued by the Department of Justice in August
21 2008, and any applicable local ordinance, to continue to do so until
22 such time as the registrant's application for mandatory commercial
23 registration has been approved or denied under this chapter, but
24 no later than 90 days after the department begins accepting
25 applications for mandatory commercial registration. To qualify,
26 provisional registrants shall be required to disclose to the
27 department the following information in writing on or before
28 January 20, 2016, in order to obtain provisional registration:

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

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

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

37 (4) For the six months prior to January 1, 2016, the quantity of
38 cannabis cultivated at a location and the quantity expected to be
39 cultivated from January 1, 2016, to June 30, 2016, inclusive. The
40 registrant shall make its records of current activity and activity for

1 the six months prior to January 1, 2016, available to the department
2 upon request.

3 ~~(e) The department shall charge an application fee of five
4 thousand dollars (\$5,000) for each provisional registration.~~

5 ~~(d) Notwithstanding any other provision of this section, the
6 department shall not issue a provisional registration to any
7 individual or entity, or for any premises, against whom there are
8 pending state or local administrative or judicial proceedings or
9 actions initiated by a city or county under any applicable local
10 ordinance or who has been determined through those proceedings
11 to have violated any applicable local ordinance.~~

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

21 ~~26056. In addition to other regulations adopted by the
22 department pertaining to mandatory commercial registrants and
23 without limiting the authority of a city or a county pursuant to
24 Section 7 of Article XI of the California Constitution or any other
25 law, the department shall adopt regulations regarding the minimum
26 standards for the operation of dispensaries that establish all of the
27 following:~~

28 ~~(a) Standards for labeling of products, including the name of
29 the mandatory commercial registrant from which the product was
30 obtained, and a requirement that dispensaries provide patients with
31 detailed written information about the contents of the cannabis
32 and medical cannabis products they obtain.~~

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

38 ~~(c) The maximum number of dispensaries that may operate in
39 a city or county or the unincorporated areas of a county based on
40 population, taking into consideration the distances that patients in~~

1 rural areas may need to travel in order to reach a dispensary and
2 the availability of public transportation in both rural and urban
3 areas. The number established by the department for any city or
4 county may not exceed the number of dispensaries allowed by any
5 applicable local ordinance.

6 (d) ~~Minimum educational and testing requirements for~~
7 ~~dispensary staff, including background checks, and a requirement~~
8 ~~that every dispensary maintain dedicated, licensed security staff~~
9 ~~both inside and outside the dispensary.~~

10 (e) ~~Maximum hours of operation for every dispensary.~~

11 (f) ~~Minimum standards governing signage and advertising for~~
12 ~~dispensaries.~~

13 26057. ~~The department shall make recommendations to the~~
14 ~~Legislature pertaining to the establishment of an appeals and~~
15 ~~judicial review process for persons aggrieved by a final decision~~
16 ~~of the department.~~

17

18

Article 4. ~~Enforcement~~

19

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

25 (b) ~~Nothing in this chapter or in Article 2 (commencing with~~
26 ~~Section 11357) or Article 2.5 (commencing with Section 11362.7)~~
27 ~~of Chapter 6 of Division 10 of the Health and Safety Code shall~~
28 ~~prevent a city, county, or city and county from adopting or~~
29 ~~enforcing a zoning ordinance or other law, ordinance, or regulation~~
30 ~~that bans or regulates the location, operation, or establishment of~~
31 ~~a mandatory commercial registrant or other individual, partnership,~~
32 ~~joint venture, association, limited liability company, corporation,~~
33 ~~estate, trust, receiver, syndicate, or any other group or combination~~
34 ~~thereof acting as a unit, that cultivates, processes, possesses, stores,~~
35 ~~manufactures, tests, transports, distributes, provides, donates, or~~
36 ~~sells medical cannabis.~~

37 26062. ~~Except for a person identified in Section 26052, a person~~
38 ~~shall not exercise the privilege or perform any act that a registrant~~
39 ~~may exercise or perform under the authority of a registration unless~~

1 ~~the person is acting pursuant to a registration, including a~~
2 ~~provisional registration, issued pursuant to this chapter.~~

3 ~~26063. (a) Commencing January 1, 2017, any product~~
4 ~~containing cannabis that is distributed, except in the case of a~~
5 ~~primary caregiver distributing to a qualified patient, or offered for~~
6 ~~sale shall comply with the testing, labeling, and food safety~~
7 ~~requirements established through regulation by the department.~~

8 ~~(b) No person shall steal or fraudulently use a mandatory~~
9 ~~commercial registrant identification certificate or registration or~~
10 ~~other registrant's identification card or registration issued by the~~
11 ~~department to acquire, cultivate, transport, produce, possess for~~
12 ~~sale, sell, provide, donate, or distribute cannabis.~~

13 ~~(c) No person shall counterfeit, tamper with, or fraudulently~~
14 ~~produce an identification card or registration status.~~

15 ~~(d) Any person who violates this section, or Section 26062, is~~
16 ~~guilty of a misdemeanor and shall be subject to the following~~
17 ~~penalties:~~

18 ~~(1) For the first offense, imprisonment in a county jail for no~~
19 ~~more than six months or a fine not to exceed five thousand dollars~~
20 ~~(\$5,000), or both.~~

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

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

28 ~~26064. Any person operating an unregistered facility, building,~~
29 ~~structure, or location where cannabis is being commercially~~
30 ~~cultivated, manufactured, or possessed for sale in violation of this~~
31 ~~chapter may be subject to civil penalties of up to twenty-five~~
32 ~~thousand dollars (\$25,000) for each violation, and the department~~
33 ~~may order the destruction of any cannabis associated with that~~
34 ~~violation. Each day of operation shall constitute a separate violation~~
35 ~~of this section. Any civil fines collected pursuant to this section~~
36 ~~shall be deposited into the General Fund pursuant to Section 26028.~~

37 ~~26066. The director or any district attorney, county counsel,~~
38 ~~city attorney, or city prosecutor may bring an action in the name~~
39 ~~of the people of the State of California to enjoin a violation or the~~
40 ~~threatened violation of any provision of this chapter, including,~~

1 but not limited to, a registrant’s failure to correct objectionable
 2 conditions following notice or as a result of any rule promulgated
 3 pursuant to this chapter. The action shall be brought in the county
 4 in which the violation occurred or is threatened to occur. Any
 5 proceeding brought pursuant to this chapter shall conform to the
 6 requirements of Chapter 3 (commencing with Section 525) of Title
 7 7 of Part 2 of the Code of Civil Procedure.

8 26068. — A state or local law enforcement agency shall
 9 immediately notify the department of any arrests made for
 10 violations over which the department has jurisdiction which involve
 11 a registrant or registered premises. Notice shall be given within
 12 10 days of the arrest. The department shall promptly cause an
 13 investigation to be made as to whether grounds exist for suspension
 14 or revocation of a registration of the registrant.

15 26070. — This chapter shall not be construed to limit a law
 16 enforcement agency’s ability to investigate unlawful activity in
 17 relation to a mandatory commercial registrant.

18 26072. — The department shall create and maintain a searchable
 19 database that will allow state and local law enforcement to verify
 20 a mandatory commercial registration.

21

22 Article 5. Transportation of Medical Cannabis

23

24 26100. — To claim the protections of this chapter and to maintain
 25 a valid mandatory commercial registration, a registrant shall
 26 transport medical cannabis products only to the registered facilities
 27 of a mandatory commercial registrant and only in response to a
 28 request for a specific quantity and variety from that registrant.

29 26102. (a) Prior to transporting any medical cannabis product,
 30 a mandatory commercial registrant shall do the following:

31 (1) Complete a shipping manifest using a form prescribed by
 32 the department.

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

36 (b) The mandatory commercial registrant shipping and the
 37 registrant receiving shall maintain each shipping manifest and
 38 make it available to the department upon request.

39 26104. (a) Transported medical cannabis products shall:

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

4 ~~(2) Not be visible from outside the vehicle.~~

5 ~~(b) Any vehicle transporting medical cannabis products shall~~
6 ~~travel directly from the facilities of the mandatory commercial~~
7 ~~registrant to the registered facilities of the registrant authorized to~~
8 ~~receive the shipment.~~

9 ~~26106. (a) A mandatory commercial registrant shall staff all~~
10 ~~transport vehicles with a minimum of two employees. At least one~~
11 ~~delivery team member shall remain with the vehicle at all times~~
12 ~~that the vehicle contains medical cannabis.~~

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

17 ~~(c) Each delivery team member shall possess documentation of~~
18 ~~mandatory commercial registration and a government-issued~~
19 ~~identification card at all times when transporting or delivering~~
20 ~~medical cannabis and shall produce it to any representative of the~~
21 ~~department or law enforcement official upon request.~~

22 ~~26107. This chapter shall not be construed to authorize or~~
23 ~~permit any registrant to transport, or cause to be transported,~~
24 ~~cannabis or cannabis products outside the state.~~

25 ~~SEC. 7. Section 23028 is added to the Government Code, to~~
26 ~~read:~~

27 ~~23028. (a) (1) In addition to any authority otherwise provided~~
28 ~~by law, the board of supervisors of any county may impose, by~~
29 ~~ordinance, a tax on the privilege of cultivating, dispensing,~~
30 ~~producing, processing, preparing, storing, providing, donating,~~
31 ~~selling, or distributing cannabis or cannabis products by a~~
32 ~~mandatory commercial registrant operating pursuant to Chapter~~
33 ~~18 (commencing with Section 26000) of Division 9 of the Business~~
34 ~~and Professions Code. The tax may be imposed for general~~
35 ~~governmental purposes or for purposes specified in the ordinance~~
36 ~~by the board of supervisors.~~

37 ~~(2) The board of supervisors shall specify in the ordinance~~
38 ~~proposing the tax the activities subject to the tax, the applicable~~
39 ~~rate or rates, the method of apportionment, and the manner of~~
40 ~~collection of the tax. A tax imposed pursuant to this section is a~~

1 tax and not a fee or special assessment, and the tax is not required
2 to be apportioned on the basis of benefit to any person or property
3 or be applied uniformly to all taxpayers or all real property.

4 (3) A tax imposed by a county pursuant to this section by a
5 county may include a transactions and use tax imposed solely for
6 cannabis or cannabis products, which shall otherwise conform to
7 Part 1.6 (commencing with Section 7251) of Division 2 of the
8 Revenue and Taxation Code. Notwithstanding Section 7251.1 of
9 the Revenue and Taxation Code, the tax may be imposed at any
10 rate specified by the board of supervisors, and the tax rate
11 authorized by this section shall not be considered for purposes of
12 the combined tax rate limitation established by that section.

13 (4) The tax authorized by this section may be imposed upon
14 any or all of the activities set forth in paragraph (1), regardless of
15 whether the activity is undertaken individually, collectively, or
16 cooperatively, and regardless of whether the activity is for
17 compensation or gratuitously, as determined by the board of
18 supervisors.

19 (5) The board of supervisors shall specify whether the tax applies
20 throughout the entire county or within the unincorporated area of
21 the county.

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

27 (e) Any tax imposed pursuant to this section shall be subject to
28 applicable voter approval requirements imposed by any other law.

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

32 (e) This section does not limit or prohibit the levy or collection
33 or any other fee, charge, or tax, or any license or service fee or
34 charge upon, or related to, the activities set forth in subdivision

35 (a) as otherwise provided by law. This section shall not be
36 construed as a limitation upon the taxing authority of any county
37 as provided by other law.

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

1 11362.7. For purposes of this article, the following definitions
2 shall apply:

3 (a) ~~“Attending physician” means an individual who possesses~~
4 ~~a license in good standing to practice medicine or osteopathy issued~~
5 ~~by the Medical Board of California or the Osteopathic Medical~~
6 ~~Board of California and who has taken responsibility for an aspect~~
7 ~~of the medical care, treatment, diagnosis, counseling, or referral~~
8 ~~of a patient and who has performed an appropriate prior~~
9 ~~examination, found that the patient has a medical indication, and~~
10 ~~recommends marijuana for medical purposes to treat a serious~~
11 ~~medical condition.~~

12 (b) ~~“Department” means the State Department of Public Health.~~

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

16 (d) ~~“Primary caregiver” means the individual, designated by a~~
17 ~~qualified patient or by a person with an identification card, who~~
18 ~~has consistently assumed responsibility for the housing, health, or~~
19 ~~safety of that patient or person, and may include any of the~~
20 ~~following:~~

21 (1) ~~In any case in which a qualified patient or person with an~~
22 ~~identification card receives medical care or supportive services,~~
23 ~~or both, from a clinic licensed pursuant to Chapter 1 (commencing~~
24 ~~with Section 1200) of Division 2, a health care facility licensed~~
25 ~~pursuant to Chapter 2 (commencing with Section 1250) of Division~~
26 ~~2, a residential care facility for persons with chronic life-threatening~~
27 ~~illness licensed pursuant to Chapter 3.01 (commencing with Section~~
28 ~~1568.01) of Division 2, a residential care facility for the elderly~~
29 ~~licensed pursuant to Chapter 3.2 (commencing with Section 1569)~~
30 ~~of Division 2, a hospice, or a home health agency licensed pursuant~~
31 ~~to Chapter 8 (commencing with Section 1725) of Division 2, the~~
32 ~~owner or operator, or no more than three employees who are~~
33 ~~designated by the owner or operator, of the clinic, facility, hospice,~~
34 ~~or home health agency, if designated as a primary caregiver by~~
35 ~~that qualified patient or person with an identification card.~~

36 (2) ~~An individual who has been designated as a primary~~
37 ~~caregiver by more than one qualified patient or person with an~~
38 ~~identification card, if every qualified patient or person with an~~
39 ~~identification card who has designated that individual as a primary~~

1 caregiver resides in the same city or county as the primary
2 caregiver.

3 ~~(3) An individual who has been designated as a primary~~
4 ~~caregiver by a qualified patient or person with an identification~~
5 ~~card who resides in a city or county other than that of the primary~~
6 ~~caregiver, if the individual has not been designated as a primary~~
7 ~~caregiver by any other qualified patient or person with an~~
8 ~~identification card.~~

9 ~~(e) A primary caregiver shall be at least 18 years of age, unless~~
10 ~~the primary caregiver is the parent of a minor child who is a~~
11 ~~qualified patient or a person with an identification card or the~~
12 ~~primary caregiver is a person otherwise entitled to make medical~~
13 ~~decisions under state law pursuant to Sections 6922, 7002, 7050,~~
14 ~~or 7120 of the Family Code.~~

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

18 ~~(g) “Identification card” means a document issued by the State~~
19 ~~Department of Public Health that document identifies a person~~
20 ~~authorized to engage in the medical use of marijuana and the~~
21 ~~person’s designated primary caregiver, if any.~~

22 ~~(h) “Serious medical condition” means all of the following~~
23 ~~medical conditions:~~

24 ~~(1) Acquired immune deficiency syndrome (AIDS).~~

25 ~~(2) Anorexia.~~

26 ~~(3) Arthritis.~~

27 ~~(4) Cachexia.~~

28 ~~(5) Cancer.~~

29 ~~(6) Chronic pain.~~

30 ~~(7) Glaucoma.~~

31 ~~(8) Migraine.~~

32 ~~(9) Persistent muscle spasms, including, but not limited to,~~
33 ~~spasms associated with multiple sclerosis.~~

34 ~~(10) Seizures, including, but not limited to, seizures associated~~
35 ~~with epilepsy.~~

36 ~~(11) Severe nausea.~~

37 ~~(12) Any other chronic or persistent medical symptom that~~
38 ~~either:~~

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

4 (B) If not alleviated, may cause serious harm to the patient's
5 safety or physical or mental health.

6 (i) "Written documentation" means accurate reproductions of
7 those portions of a patient's medical records that have been created
8 by the attending physician, that contain the information required
9 by paragraph (2) of subdivision (a) of Section 11362.715, and that
10 the patient may submit to a county health department or the
11 county's designee as part of an application for an identification
12 card.

13 SEC. 9. Section 11362.775 of the Health and Safety Code is
14 amended to read:

15 11362.775. (a) Qualified patients, persons with valid
16 identification cards, and the designated primary caregivers of
17 qualified patients and persons with identification cards, who
18 associate within the State of California in order collectively or
19 cooperatively to cultivate marijuana for medical purposes, shall
20 not solely on the basis of that fact be subject to state criminal
21 sanctions under Section 11357, 11358, 11359, 11360, 11366,
22 11366.5, or 11570.

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

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

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

1 It is necessary to maintain the confidentiality of patient and
2 physician information provided to the Division of Medical
3 Cannabis Regulation and Enforcement in order to protect the
4 private medical information of patients who use medical cannabis
5 and to preserve the essential confidentiality of the physician and
6 patient relationship.

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