

AMENDED IN SENATE SEPTEMBER 11, 2015

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN SENATE AUGUST 17, 2015

AMENDED IN SENATE JULY 2, 2015

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 243

Introduced by Assembly Member Wood
(Coauthors: ~~Assembly Members Rendon and Williams~~)
(Principal coauthor: Assembly Member Rendon)
(Coauthor: Assembly Member Williams)

February 5, 2015

An act to ~~amend Section 2220.05 of~~ *add Article 6 (commencing with Section 19331), Article 13 (commencing with Section 19350), and Article 17 (commencing with Section 19360) to Chapter 3.5 of Division 8 of the Business and Professions Code, to add Section 12029 to the Fish and Game Code, to add Sections 11362.769 and 11362.777 to the Health and Safety Code, and to add Section 13276 to the Water Code, relating to medical marijuana, and declaring the urgency thereof, to take effect immediately. marijuana, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 243, as amended, Wood. Medical Board of California: medical marijuana.

~~Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use and cultivation of marijuana for medical purposes. Existing law requires the Medical Board of California to prioritize its investigative and prosecutorial resources to ensure that the most harmful physicians and surgeons are identified and disciplined expeditiously, and provides a list of allegations that shall be prioritized.~~

~~This bill would add repeatedly recommending excessive cannabis to patients for medical purposes, and repeatedly recommending cannabis to patients without a good faith examination and a medical reason, to the list of prioritized allegations.~~

Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by boards or bureaus within the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would require the Department of Food and Agriculture, the Department of Pesticide Regulation, the State Department of Public Health, the Department of Fish and Wildlife, and the State Water Resources Control Board to promulgate regulations or standards relating to medical marijuana and its cultivation, as specified. The bill would also require various state agencies to take specified actions to mitigate the impact that marijuana cultivation has on the environment. By requiring cities, counties, and their local law enforcement agencies to coordinate with state agencies to enforce laws addressing the environmental impacts of medical marijuana cultivation, and by including medical marijuana within the Sherman Act, the bill would impose a state-mandated local program.

This bill would require a state licensing authority to charge each licensee under the act a licensure and renewal fee, as applicable, and would further require the deposit of those collected fees into an account specific to that licensing authority in the Medical Marijuana Regulation and Safety Act Fund, which this bill would establish. This bill would impose certain fines and civil penalties for specified violations of the Medical Marijuana Regulation and Safety Act, and would require moneys collected as a result of these fines and civil penalties to be deposited into the Medical Cannabis Fines and Penalties Account, which this bill would establish within the fund. Moneys in the fund and each account of the fund would be available upon appropriation of the Legislature.

This bill would authorize the Director of Finance to provide an initial operating loan from the General Fund to the Medical Marijuana Regulation and Safety Act Fund of up to \$10,000,000, and would appropriate \$10,000,000 from the Medical Marijuana Regulation and Safety Act Fund to the Department of Consumer Affairs to begin the activities of the bureau.

This bill would provide that its provisions are severable.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would become operative only if AB 266 and SB 643 of the 2015–16 Regular Session is are enacted and ~~takes~~ take effect on or before January 1, 2016.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~no~~yes. Fiscal committee: yes. State-mandated local program: ~~no~~yes.

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

- 1 ~~SECTION 1.— Section 2220.05 of the Business and Professions~~
2 ~~Code is amended to read:~~
3 ~~2220.05.— (a) In order to ensure that its resources are maximized~~
4 ~~for the protection of the public, the Medical Board of California~~
5 ~~shall prioritize its investigative and prosecutorial resources to~~
6 ~~ensure that physicians and surgeons representing the greatest threat~~
7 ~~of harm are identified and disciplined expeditiously. Cases~~
8 ~~involving any of the following allegations shall be handled on a~~
9 ~~priority basis, as follows, with the highest priority being given to~~
10 ~~cases in the first paragraph:~~
11 ~~(1) Gross negligence, incompetence, or repeated negligent acts~~
12 ~~that involve death or serious bodily injury to one or more patients,~~
13 ~~such that the physician and surgeon represents a danger to the~~
14 ~~public.~~
15 ~~(2) Drug or alcohol abuse by a physician and surgeon involving~~
16 ~~death or serious bodily injury to a patient.~~
17 ~~(3) Repeated acts of clearly excessive prescribing, furnishing,~~
18 ~~or administering of controlled substances, or repeated acts of~~
19 ~~prescribing, dispensing, or furnishing of controlled substances~~
20 ~~without a good faith prior examination of the patient and medical~~
21 ~~reason therefor. However, in no event shall a physician and surgeon~~
22 ~~prescribing, furnishing, or administering controlled substances for~~
23 ~~intractable pain consistent with lawful prescribing, including, but~~
24 ~~not limited to, Sections 725, 2241.5, and 2241.6 of this code and~~
25 ~~Sections 11159.2 and 124961 of the Health and Safety Code, be~~
26 ~~prosecuted for excessive prescribing and prompt review of the~~
27 ~~applicability of these provisions shall be made in any complaint~~
28 ~~that may implicate these provisions.~~
29 ~~(4) Repeated acts of clearly excessive recommending of cannabis~~
30 ~~to patients for medical purposes, or repeated acts of recommending~~
31 ~~cannabis to patients for medical purposes without a good faith~~
32 ~~prior examination of the patient and a medical reason for the~~
33 ~~recommendation.~~
34 ~~(5) Sexual misconduct with one or more patients during a course~~
35 ~~of treatment or an examination.~~
36 ~~(6) Practicing medicine while under the influence of drugs or~~
37 ~~alcohol.~~

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

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

10 *SECTION 1. Article 6 (commencing with Section 19331) is*
11 *added to Chapter 3.5 of Division 8 of the Business and Professions*
12 *Code, to read:*

13
14 *Article 6. Licensed Cultivation Sites*

15
16 *19331. The Legislature finds and declares all of the following:*

17 *(a) The United States Environmental Protection Agency has not*
18 *established appropriate pesticide tolerances for, or permitted the*
19 *registration and lawful use of, pesticides on cannabis crops*
20 *intended for human consumption pursuant to the Federal*
21 *Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).*

22 *(b) The use of pesticides is not adequately regulated due to the*
23 *omissions in federal law, and cannabis cultivated in California*
24 *for California patients can and often does contain pesticide*
25 *residues.*

26 *(c) Lawful California medical cannabis growers and caregivers*
27 *urge the Department of Pesticide Regulation to provide guidance,*
28 *in absence of federal guidance, on whether the pesticides currently*
29 *used at most cannabis cultivation sites are actually safe for use*
30 *on cannabis intended for human consumption.*

31 *19332. (a) The Department of Food and Agriculture shall*
32 *promulgate regulations governing the licensing of indoor and*
33 *outdoor cultivation sites.*

34 *(b) The Department of Pesticide Regulation, in consultation*
35 *with the Department of Food and Agriculture, shall develop*
36 *standards for the use of pesticides in cultivation, and maximum*
37 *tolerances for pesticides and other foreign object residue in*
38 *harvested cannabis.*

1 (c) *The State Department of Public Health shall develop*
2 *standards for the production and labeling of all edible medical*
3 *cannabis products.*

4 (d) *The Department of Food and Agriculture, in consultation*
5 *with the Department of Fish and Wildlife and the State Water*
6 *Resources Control Board, shall ensure that individual and*
7 *cumulative effects of water diversion and discharge associated*
8 *with cultivation do not affect the instream flows needed for fish*
9 *spawning, migration, and rearing, and the flows needed to maintain*
10 *natural flow variability.*

11 (e) *The Department of Food and Agriculture shall have the*
12 *authority necessary for the implementation of the regulations it*
13 *adopts pursuant to this chapter. The regulations shall do all of the*
14 *following:*

15 (1) *Provide that weighing or measuring devices used in*
16 *connection with the sale or distribution of medical cannabis are*
17 *required to meet standards equivalent to Division 5 (commencing*
18 *with Section 12001).*

19 (2) *Require that cannabis cultivation by licensees is conducted*
20 *in accordance with state and local laws related to land conversion,*
21 *grading, electricity usage, water usage, agricultural discharges,*
22 *and similar matters. Nothing in this chapter, and no regulation*
23 *adopted by the department, shall be construed to supersede or*
24 *limit the authority of the State Water Resources Control Board,*
25 *regional water quality control boards, or the Department of Fish*
26 *and Wildlife to implement and enforce their statutory obligations*
27 *or to adopt regulations to protect water quality, water supply, and*
28 *natural resources.*

29 (3) *Establish procedures for the issuance and revocation of*
30 *unique identifiers for activities associated with a cannabis*
31 *cultivation license, pursuant to Article 8 (commencing with Section*
32 *19337). All cannabis shall be labeled with the unique identifier*
33 *issued by the Department of Food and Agriculture.*

34 (4) *Prescribe standards, in consultation with the bureau, for*
35 *the reporting of information as necessary related to unique*
36 *identifiers, pursuant to Article 8 (commencing with Section 19337).*

37 (f) *The Department of Pesticide Regulation, in consultation with*
38 *the State Water Resources Control Board, shall promulgate*
39 *regulations that require that the application of pesticides or other*
40 *pest control in connection with the indoor or outdoor cultivation*

1 of medical cannabis meets standards equivalent to Division 6
2 (commencing with Section 11401) of the Food and Agricultural
3 Code and its implementing regulations.

4 (g) State cultivator license types issued by the Department of
5 Food and Agriculture include:

6 (1) Type 1, or “specialty outdoor,” for outdoor cultivation using
7 no artificial lighting of less than or equal to 5,000 square feet of
8 total canopy size on one premises, or up to 50 mature plants on
9 noncontiguous plots.

10 (2) Type 1A, or “specialty indoor,” for indoor cultivation using
11 exclusively artificial lighting of less than or equal to 5,000 square
12 feet of total canopy size on one premises.

13 (3) Type 1B, or “specialty mixed-light,” for cultivation using
14 a combination of natural and supplemental artificial lighting at a
15 maximum threshold to be determined by the licensing authority,
16 of less than or equal to 5,000 square feet of total canopy size on
17 one premises.

18 (4) Type 2, or “small outdoor,” for outdoor cultivation using
19 no artificial lighting between 5,001 and 10,000 square feet,
20 inclusive, of total canopy size on one premises.

21 (5) Type 2A, or “small indoor,” for indoor cultivation using
22 exclusively artificial lighting between 5,001 and 10,000 square
23 feet, inclusive, of total canopy size on one premises.

24 (6) Type 2B, or “small mixed-light,” for cultivation using a
25 combination of natural and supplemental artificial lighting at a
26 maximum threshold to be determined by the licensing authority,
27 between 5,001 and 10,000 square feet, inclusive, of total canopy
28 size on one premises.

29 (7) Type 3, or “outdoor,” for outdoor cultivation using no
30 artificial lighting from 10,001 square feet to one acre, inclusive,
31 of total canopy size on one premises. The Department of Food and
32 Agriculture shall limit the number of licenses allowed of this type.

33 (8) Type 3A, or “indoor,” for indoor cultivation using
34 exclusively artificial lighting between 10,001 and 22,000 square
35 feet, inclusive, of total canopy size on one premises. The
36 Department of Food and Agriculture shall limit the number of
37 licenses allowed of this type.

38 (9) Type 3B, or “mixed-light,” for cultivation using a
39 combination of natural and supplemental artificial lighting at a
40 maximum threshold to be determined by the licensing authority,

1 *between 10,001 and 22,000 square feet, inclusive, of total canopy*
2 *size on one premises. The Department of Food and Agriculture*
3 *shall limit the number of licenses allowed of this type.*

4 *(10) Type 4, or “nursery,” for cultivation of medical cannabis*
5 *solely as a nursery. Type 4 licensees may transport live plants.*

6 *19333. An employee engaged in commercial cannabis*
7 *cultivation activity shall be subject to Wage Order 4-2001 of the*
8 *Industrial Welfare Commission.*

9 *SEC. 2. Article 13 (commencing with Section 19350) is added*
10 *to Chapter 3.5 of Division 8 of the Business and Professions Code,*
11 *to read:*

12

13

Article 13. Funding

14

15 *19350. Each licensing authority shall establish a scale of*
16 *application, licensing, and renewal fees, based upon the cost of*
17 *enforcing this chapter, as follows:*

18 *(a) Each licensing authority shall charge each licensee a*
19 *licensure and renewal fee, as applicable. The licensure and*
20 *renewal fee shall be calculated to cover the costs of administering*
21 *this chapter. The licensure fee may vary depending upon the*
22 *varying costs associated with administering the various regulatory*
23 *requirements of this chapter as they relate to the nature and scope*
24 *of the different licensure activities, including, but not limited to,*
25 *the track and trace program required pursuant to Section 19335,*
26 *but shall not exceed the reasonable regulatory costs to the licensing*
27 *authority.*

28 *(b) The total fees assessed pursuant to this chapter shall be set*
29 *at an amount that will fairly and proportionately generate sufficient*
30 *total revenue to fully cover the total costs of administering this*
31 *chapter.*

32 *(c) All license fees shall be set on a scaled basis by the licensing*
33 *authority, dependent on the size of the business.*

34 *(d) The licensing authority shall deposit all fees collected in a*
35 *fee account specific to that licensing authority, to be established*
36 *in the Medical Marijuana Regulation and Safety Act Fund. Moneys*
37 *in the licensing authority fee accounts shall be used, upon*
38 *appropriation of the Legislature, by the designated licensing*
39 *authority for the administration of this chapter.*

1 19351. (a) *The Medical Marijuana Regulation and Safety Act*
2 *Fund is hereby established within the State Treasury. Moneys in*
3 *the fund shall be available upon appropriation by the Legislature.*
4 *Notwithstanding Section 16305.7 of the Government Code, the*
5 *fund shall include any interest and dividends earned on the moneys*
6 *in the fund.*

7 (b) (1) *Funds for the establishment and support of the*
8 *regulatory activities pursuant to this chapter shall be advanced*
9 *as a General Fund or special fund loan, and shall be repaid by*
10 *the initial proceeds from fees collected pursuant to this chapter*
11 *or any rule or regulation adopted pursuant to this chapter, by*
12 *January 1, 2022. Should the initial proceeds from fees not be*
13 *sufficient to repay the loan, moneys from the Medical Cannabis*
14 *Fines and Penalties Account shall be made available to the bureau,*
15 *by appropriation of the Legislature, to repay the loan.*

16 (2) *Funds advanced pursuant to this subdivision shall be*
17 *appropriated to the bureau, which shall distribute the moneys to*
18 *the appropriate licensing authorities, as necessary to implement*
19 *the provisions of this chapter.*

20 (3) *The Director of Finance may provide an initial operating*
21 *loan from the General Fund to the Medical Marijuana Regulation*
22 *and Safety Act Fund that does not exceed ten million dollars*
23 *(\$10,000,000).*

24 (c) *Except as otherwise provided, all moneys collected pursuant*
25 *to this chapter as a result of fines or penalties imposed under this*
26 *chapter shall be deposited directly into the Medical Marijuana*
27 *Fines and Penalties Account, which is hereby established within*
28 *the fund, and shall be available, upon appropriation by the*
29 *Legislature to the bureau, for the purposes of funding the*
30 *enforcement grant program pursuant to subdivision (d).*

31 (d) (1) *The bureau shall establish a grant program to allocate*
32 *moneys from the Medical Cannabis Fines and Penalties Account*
33 *to state and local entities for the following purposes:*

34 (A) *To assist with medical cannabis regulation and the*
35 *enforcement of this chapter and other state and local laws*
36 *applicable to cannabis activities.*

37 (B) *For allocation to state and local agencies and law*
38 *enforcement to remedy the environmental impacts of cannabis*
39 *cultivation.*

1 (2) *The costs of the grant program under this subdivision shall,*
2 *upon appropriation by the Legislature, be paid for with moneys*
3 *in the Medical Cannabis Fines and Penalties Account.*

4 (3) *The grant program established by this subdivision shall only*
5 *be implemented after the loan specified in this section is repaid.*

6 19352. *The sum of ten million dollars (\$10,000,000) is hereby*
7 *appropriated from the Medical Marijuana Regulation and Safety*
8 *Act Fund to the Department of Consumer Affairs to begin the*
9 *activities of the Bureau of Medical Marijuana Regulation. Funds*
10 *appropriated pursuant to this section shall not include moneys*
11 *received from fines or penalties.*

12 SEC. 3. *Article 17 (commencing with Section 19360) is added*
13 *to Chapter 3.5 of Division 8 of the Business and Professions Code,*
14 *to read:*

15
16 *Article 17. Penalties and Violations*
17

18 19360. (a) *A person engaging in cannabis activity without a*
19 *license and associated unique identifiers required by this chapter*
20 *shall be subject to civil penalties of up to twice the amount of the*
21 *license fee for each violation, and the department, state or local*
22 *authority, or court may order the destruction of medical cannabis*
23 *associated with that violation. Each day of operation shall*
24 *constitute a separate violation of this section. All civil penalties*
25 *imposed and collected pursuant to this section shall be deposited*
26 *into the Marijuana Production and Environment Mitigation Fund*
27 *established pursuant to Section 31013 of the Revenue and Taxation*
28 *Code.*

29 (b) *If an action for civil penalties is brought against a licensee*
30 *pursuant to this chapter by the Attorney General, the penalty*
31 *collected shall be deposited into the General Fund. If the action*
32 *is brought by a district attorney or county counsel, the penalty*
33 *collected shall be paid to the treasurer of the county in which the*
34 *judgment was entered. If the action is brought by a city attorney*
35 *or city prosecutor, the penalty collected shall be paid to the*
36 *treasurer of the city or city and county in which the judgment was*
37 *entered. If the action is brought by a city attorney and is*
38 *adjudicated in a superior court located in the unincorporated area*
39 *or another city in the same county, the penalty shall be paid*
40 *one-half to the treasurer of the city in which the complaining*

1 attorney has jurisdiction and one-half to the treasurer of the county
2 in which the judgment is entered.

3 (c) Notwithstanding subdivision (a), criminal penalties shall
4 continue to apply to an unlicensed person or entity engaging in
5 cannabis activity in violation of this chapter, including, but not
6 limited to, those individuals covered under Section 11362.7 of the
7 Health and Safety Code.

8 SEC. 4. Section 12029 is added to the Fish and Game Code,
9 to read:

10 12029. (a) The Legislature finds and declares all of the
11 following:

12 (1) The environmental impacts associated with marijuana
13 cultivation have increased, and unlawful water diversions for
14 marijuana irrigation have a detrimental effect on fish and wildlife
15 and their habitat, which are held in trust by the state for the benefit
16 of the people of the state.

17 (2) The remediation of existing marijuana cultivation sites is
18 often complex and the permitting of these sites requires greater
19 department staff time and personnel expenditures. The potential
20 for marijuana cultivation sites to significantly impact the state's
21 fish and wildlife resources requires immediate action on the part
22 of the department's lake and streambed alteration permitting staff.

23 (b) In order to address unlawful water diversions and other
24 violations of the Fish and Game Code associated with marijuana
25 cultivation, the department shall establish the watershed
26 enforcement program to facilitate the investigation, enforcement,
27 and prosecution of these offenses.

28 (c) The department, in coordination with the State Water
29 Resources Control Board, shall establish a permanent multiagency
30 task force to address the environmental impacts of marijuana
31 cultivation. The multiagency task force, to the extent feasible and
32 subject to available Resources, shall expand its enforcement efforts
33 on a statewide level to ensure the reduction of adverse impacts of
34 marijuana cultivation on fish and wildlife and their habitats
35 throughout the state.

36 (d) In order to facilitate the remediation and permitting of
37 marijuana cultivation sites, the department shall adopt regulations
38 to enhance the fees on any entity subject to Section 1602 for
39 marijuana cultivation sites that require remediation. The fee

1 *schedule established pursuant to this subdivision shall not exceed*
2 *the fee limits in Section 1609.*

3 *SEC. 5. Section 11362.769 is added to the Health and Safety*
4 *Code, to read:*

5 *11362.769. Indoor and outdoor medical marijuana cultivation*
6 *shall be conducted in accordance with state and local laws related*
7 *to land conversion, grading, electricity usage, water usage, water*
8 *quality, woodland and riparian habitat protection, agricultural*
9 *discharges, and similar matters. State agencies, including, but not*
10 *limited to, the State Board of Forestry and Fire Protection, the*
11 *Department of Fish and Wildlife, the State Water Resources*
12 *Control Board, the California regional water quality control*
13 *boards, and traditional state law enforcement agencies shall*
14 *address environmental impacts of medical marijuana cultivation*
15 *and shall coordinate, when appropriate, with cities and counties*
16 *and their law enforcement agencies in enforcement efforts.*

17 *SEC. 6. Section 11362.777 is added to the Health and Safety*
18 *Code, to read:*

19 *11362.777. (a) The Department of Food and Agriculture shall*
20 *establish a Medical Cannabis Cultivation Program to be*
21 *administered by the secretary, except as specified in subdivision*
22 *(c), shall administer this section as it pertains to the cultivation*
23 *of medical marijuana. For purposes of this section and Chapter*
24 *3.5 (commencing with Section 19300) of the Business and*
25 *Professions Code, medical cannabis is an agricultural product.*

26 *(b) (1) A person or entity shall not cultivate medical marijuana*
27 *without first obtaining both of the following:*

28 *(A) A license, permit, or other entitlement, specifically*
29 *permitting cultivation pursuant to these provisions, from the city,*
30 *county, or city and county in which the cultivation will occur.*

31 *(B) A state license issued by the department pursuant to this*
32 *section.*

33 *(2) A person or entity shall not submit an application for a state*
34 *license issued by the department pursuant to this section unless*
35 *that person or entity has received a license, permit, or other*
36 *entitlement, specifically permitting cultivation pursuant to these*
37 *provisions, from the city, county, or city and county in which the*
38 *cultivation will occur.*

39 *(3) A person or entity shall not submit an application for a state*
40 *license issued by the department pursuant to this section if the*

1 *proposed cultivation of marijuana will violate the provisions of*
2 *any local ordinance or regulation, or if medical marijuana is*
3 *prohibited by the city, county, or city and county in which the*
4 *cultivation is proposed to occur, either expressly or otherwise*
5 *under principles of permissive zoning.*

6 *(c) (1) Except as otherwise specified in this subdivision, and*
7 *without limiting any other local regulation, a city, county, or city*
8 *and county, through its current or future land use regulations or*
9 *ordinance, may issue or deny a permit to cultivate medical*
10 *marijuana pursuant to this section. A city, county, or city and*
11 *county may inspect the intended cultivation site for suitability prior*
12 *to issuing a permit. After the city, county, or city and county has*
13 *approved a permit, the applicant shall apply for a state medical*
14 *marijuana cultivation license from the department. A locally issued*
15 *cultivation permit shall only become active upon licensing by the*
16 *department and receiving final local approval. A person shall not*
17 *cultivate medical marijuana prior to obtaining both a permit from*
18 *the city, county, or city and county and a state medical marijuana*
19 *cultivation license from the department.*

20 *(2) A city, county, or city and county that issues or denies*
21 *conditional licenses to cultivate medical marijuana pursuant to*
22 *this section shall notify the department in a manner prescribed by*
23 *the secretary.*

24 *(3) A city, county, or city and county's locally issued conditional*
25 *permit requirements must be at least as stringent as the*
26 *department's state licensing requirements.*

27 *(4) If a city, county, or city and county does not have land use*
28 *regulations or ordinances regulating or prohibiting the cultivation*
29 *of marijuana, either expressly or otherwise under principles of*
30 *permissive zoning, or chooses not to administer a conditional*
31 *permit program pursuant to this section, then commencing March*
32 *1, 2016, the division shall be the sole licensing authority for*
33 *medical marijuana cultivation applicants in that city, county, or*
34 *city and county.*

35 *(d) (1) The secretary may prescribe, adopt, and enforce*
36 *regulations relating to the implementation, administration, and*
37 *enforcement of this part, including, but not limited to, applicant*
38 *requirements, collections, reporting, refunds, and appeals.*

39 *(2) The secretary may prescribe, adopt, and enforce any*
40 *emergency regulations as necessary to implement this part. Any*

1 *emergency regulation prescribed, adopted, or enforced pursuant*
2 *to this section shall be adopted in accordance with Chapter 3.5*
3 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
4 *2 of the Government Code, and, for purposes of that chapter,*
5 *including Section 11349.6 of the Government Code, the adoption*
6 *of the regulation is an emergency and shall be considered by the*
7 *Office of Administrative Law as necessary for the immediate*
8 *preservation of the public peace, health and safety, and general*
9 *welfare.*

10 *(3) The secretary may enter into a cooperative agreement with*
11 *a county agricultural commissioner to carry out the provisions of*
12 *this chapter, including, but not limited to, administration,*
13 *investigations, inspections, licensing and assistance pertaining to*
14 *the cultivation of medical marijuana. Compensation under the*
15 *cooperative agreement shall be paid from assessments and fees*
16 *collected and deposited pursuant to this chapter and shall provide*
17 *reimbursement to the county agricultural commissioner for*
18 *associated costs.*

19 *(e) (1) The department, in consultation with, but not limited to,*
20 *the Bureau of Medical Marijuana Regulation, the State Water*
21 *Resources Control Board, and the Department of Fish and Wildlife,*
22 *shall implement a unique identification program for medical*
23 *marijuana. In implementing the program, the department shall*
24 *consider issues, including, but not limited to, water use and*
25 *environmental impacts. In implementing the program, the*
26 *department shall ensure that:*

27 *(A) Individual and cumulative effects of water diversion and*
28 *discharge associated with cultivation do not affect the instream*
29 *flows needed for fish spawning, migration, and rearing, and the*
30 *flows needed to maintain natural flow variability.*

31 *(B) Cultivation will not negatively impact springs, riparian*
32 *wetlands, and aquatic habitats.*

33 *(2) The department shall establish a program for the*
34 *identification of permitted medical marijuana plants at a cultivation*
35 *site during the cultivation period. The unique identifier shall be*
36 *attached at the base of each plant. A unique identifier, such as,*
37 *but not limited to, a zip tie, shall be issued for each medical*
38 *marijuana plant.*

39 *(A) Unique identifiers will only be issued to those persons*
40 *appropriately licensed by this section.*

1 (B) Information associated with the assigned unique identifier
2 and licensee shall be included in the trace and track program
3 specified in Section 19335 of the Business and Professions Code.

4 (C) The department may charge a fee to cover the reasonable
5 costs of issuing the unique identifier and monitoring, tracking,
6 and inspecting each medical marijuana plant.

7 (D) The department may promulgate regulations to implement
8 this section.

9 (3) The department shall take adequate steps to establish
10 protections against fraudulent unique identifiers and limit illegal
11 diversion of unique identifiers to unlicensed persons.

12 (f) (1) A city, county, or city and county that issues or denies
13 licenses to cultivate medical marijuana pursuant to this section
14 shall notify the department in a manner prescribed by the secretary.

15 (2) Unique identifiers and associated identifying information
16 administered by a city or county shall adhere to the requirements
17 set by the department and be the equivalent to those administered
18 by the department.

19 (g) This section does not apply to a qualified patient cultivating
20 marijuana pursuant to Section 11362.5 if the area he or she uses
21 to cultivate marijuana does not exceed 100 square feet and he or
22 she cultivates marijuana for his or her personal medical use and
23 does not sell, distribute, donate, or provide marijuana to any other
24 person or entity. This section does not apply to a primary caregiver
25 cultivating marijuana pursuant to Section 11362.5 if the area he
26 or she uses to cultivate marijuana does not exceed 500 square feet
27 and he or she cultivates marijuana exclusively for the personal
28 medical use of no more than five specified qualified patients for
29 whom he or she is the primary caregiver within the meaning of
30 Section 11362.7 and does not receive remuneration for these
31 activities, except for compensation provided in full compliance
32 with subdivision (c) of Section 11362.765. For purposes of this
33 section, the area used to cultivate marijuana shall be measured
34 by the aggregate area of vegetative growth of live marijuana plants
35 on the premises. Exemption from the requirements of this section
36 does not limit or prevent a city, county, or city and county from
37 regulating or banning the cultivation, storage, manufacture,
38 transport, provision, or other activity by the exempt person, or
39 impair the enforcement of that regulation or ban.

40 SEC. 7. Section 13276 is added to the Water Code, to read:

1 13276. (a) *The multiagency task force, the Department of Fish
2 and Wildlife and State Water Resources Control Board pilot project
3 to address the Environmental Impacts of Cannabis Cultivation,
4 assigned to respond to the damages caused by marijuana
5 cultivation on public and private lands in California, shall continue
6 its enforcement efforts on a permanent basis and expand them to
7 a statewide level to ensure the reduction of adverse impacts of
8 marijuana cultivation on water quality and on fish and wildlife
9 throughout the state.*

10 (b) *Each regional board shall, and the State Water Resources
11 Control Board may, address discharges of waste resulting from
12 medical marijuana cultivation and associated activities, including
13 by adopting a general permit, establishing waste discharge
14 requirements, or taking action pursuant to Section 13269. In
15 addressing these discharges, each regional board shall include
16 conditions to address items that include, but are not limited to, all
17 of the following:*

18 (1) *Site development and maintenance, erosion control, and
19 drainage features.*

20 (2) *Stream crossing installation and maintenance.*

21 (3) *Riparian and wetland protection and management.*

22 (4) *Soil disposal.*

23 (5) *Water storage and use.*

24 (6) *Irrigation runoff.*

25 (7) *Fertilizers and soil.*

26 (8) *Pesticides and herbicides.*

27 (9) *Petroleum products and other chemicals.*

28 (10) *Cultivation-related waste.*

29 (11) *Refuse and human waste.*

30 (12) *Cleanup, restoration, and mitigation.*

31 SEC. 8. *The provisions of this act are severable. If any
32 provision of this act or its application is held invalid, that invalidity
33 shall not affect other provisions or applications that can be given
34 effect without the invalid provision or application.*

35 SEC. 9. *No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution for certain
37 costs that may be incurred by a local agency or school district
38 because, in that regard, this act creates a new crime or infraction,
39 eliminates a crime or infraction, or changes the penalty for a crime
40 or infraction, within the meaning of Section 17556 of the*

1 *Government Code, or changes the definition of a crime within the*
2 *meaning of Section 6 of Article XIII B of the California*
3 *Constitution.*

4 *However, if the Commission on State Mandates determines that*
5 *this act contains other costs mandated by the state, reimbursement*
6 *to local agencies and school districts for those costs shall be made*
7 *pursuant to Part 7 (commencing with Section 17500) of Division*
8 *4 of Title 2 of the Government Code.*

9 ~~SEC. 2.~~

10 *SEC. 10.* This measure shall become operative only if both
11 Assembly Bill 266 and Senate Bill 643 of the 2015–16 Regular
12 Session are enacted and become operative.

13 ~~SEC. 3.~~ ~~This act is an urgency statute necessary for the~~
14 ~~immediate preservation of the public peace, health, or safety within~~
15 ~~the meaning of Article IV of the Constitution and shall go into~~
16 ~~immediate effect. The facts constituting the necessity are:~~

17 ~~In order to address the damage done by illegal marijuana~~
18 ~~cultivation at the earliest time possible, it is necessary that this act~~
19 ~~take effect immediately.~~