

AMENDED IN SENATE JUNE 29, 2016  
AMENDED IN SENATE JUNE 15, 2016  
AMENDED IN ASSEMBLY JUNE 2, 2016  
AMENDED IN ASSEMBLY MAY 31, 2016  
AMENDED IN ASSEMBLY MAY 3, 2016  
AMENDED IN ASSEMBLY APRIL 26, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2243**

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**Introduced by Assembly Member Wood**  
(Coauthor: Senator Runner)

February 18, 2016

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An act to add and repeal Part 13.5 (commencing with Section 31001) of Division 2 of the Revenue and Taxation Code, relating to medical cannabis, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2243, as amended, Wood. Medical cannabis: taxation: cannabis production and environment mitigation.

The Medical Marijuana Regulation and Safety Act, administered by the director of the Bureau of Medical Marijuana Regulation, provides for the licensure of persons engaged in specified activities relating to medical cannabis, including cultivation and distribution.

The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose a tax in specified amounts upon the distribution of medical cannabis ~~flowers~~, *flower*, immature medical cannabis ~~plants~~, *plant*, and medical cannabis product. The bill would require the State Board of Equalization to administer and collect the tax pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would require a distributor to register for a permit with the board and would allow the board to suspend or revoke a permit. The bill would authorize the board to prescribe by regulation a method and manner for payment of the tax that utilizes tax stamps or state-issued product bags. The bill would require all moneys, less refunds and costs of administration, to be deposited into the Cannabis Production and Environment Mitigation Fund, which this bill would establish in the State Treasury.

This bill would continuously appropriate the moneys in that fund in specified percentages to, among other things, fund competitive grants for local law enforcement-related activities pertaining to illegal cannabis cultivation; to fund environmental cleanup restoration and protection of public and private lands that have been damaged by illegal cannabis cultivation; to address the environmental impacts of cannabis cultivation on public and private lands in California and fund other state enforcement-related activities pertaining to illegal cannabis cultivation; and to fund Regional Marijuana Enforcement Officers.

This bill, except as provided, would become inoperative on January 1, 2018, if the Secretary of State Initiative Number 1762, also known as the Control, Regulate and Tax Adult Use of Marijuana Act, is approved by the voters at the November 8, 2016, statewide general election and takes effect. This bill would repeal all of its provisions as of January 1, 2025.

By expanding the application of the Fee Collection Procedures Law, which imposes criminal penalties for various acts, this bill would impose a state-mandated local program.

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.

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

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Part 13.5 (commencing with Section 31001) is  
2 added to Division 2 of the Revenue and Taxation Code, to read:

3  
4 PART 13.5. MEDICAL CANNABIS TAX LAW

5  
6 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

7  
8 31001. This part shall be known and may be cited as the  
9 Medical Cannabis Tax Law.

10 31002. As used in this part, the following terms have the  
11 following definitions:

12 (a) “Board” means the State Board of Equalization.

13 (b) “Cannabis” has the same meaning as that term is defined in  
14 Section 19300.5 of the Business and Professions Code.

15 (c) “Cultivator” means a person subject to licensing as a  
16 cultivator for purposes of the Medical Marijuana Regulation and  
17 Safety Act (Chapter 3.5 (commencing with Section 19300) of  
18 Division 8 of the Business and Professions Code).

19 (d) “Distribution” means both of the following:

20 (1) The sale of untaxed medical cannabis—~~flowers, flower,~~  
21 immature medical cannabis—~~plants, plant,~~ and medical cannabis  
22 product in this state.

23 (2) The use or consumption of untaxed medical cannabis  
24 ~~flowers, flower,~~ immature medical cannabis—~~plants, plant,~~ and  
25 medical cannabis product in this state.

26 (e) “Distributor” has the same meaning as that term is defined  
27 in Section 19300.5 of the Business and Professions Code.

28 (f) “Immature medical cannabis plant” means a plant described  
29 in subdivision (b) with no observable flowers or buds, that is  
30 intended to be sold for use by medical cannabis patients in  
31 California pursuant to the Compassionate Use Act of 1996  
32 (Proposition 215), found in Section 11362.5 of the Health and  
33 Safety Code.

34 (g) “Medical cannabis—~~flowers~~” *flower*” means the—~~flowers~~  
35 *flower* of a plant described in subdivision (b), which excludes the  
36 leaves and stems, that are intended to be sold for use by medical  
37 cannabis patients in California pursuant to the Compassionate Use

1 Act of 1996 (Proposition 215), found in Section 11362.5 of the  
 2 Health and Safety Code.

3 (h) “Medical cannabis product” means “medical cannabis” as  
 4 defined in Section 19300.5 of the Business and Professions Code.

5 (i) “Qualified nonprofit organization” means an organization  
 6 exempt from tax as an organization described in Section 501(c)(3)  
 7 of the Internal Revenue Code.

8 (j) “Person” includes any individual, firm, partnership, joint  
 9 venture, limited liability company, association, social club, fraternal  
 10 organization, corporation, estate, trust, business trust, receiver,  
 11 assignee for the benefit of creditors, trustee, trustee in bankruptcy,  
 12 syndicate, or any other group or combination acting as a unit.

13 (k) “Sale” means the transfer of title or possession for  
 14 consideration in any manner or by any means whatever.

15 (l) “Use” includes the exercise of any right or power over  
 16 medical cannabis ~~flowers~~, *flower*, immature medical cannabis  
 17 ~~plants~~, *plant*, and medical cannabis product except that it does not  
 18 include the sale of medical cannabis ~~flowers~~, *flower*, immature  
 19 medical cannabis ~~plants~~, *plant*, and medical cannabis product in  
 20 the regular course of business. “Use” includes a withdrawal of  
 21 medical cannabis ~~flowers~~ *flower* and immature medical cannabis  
 22 ~~plants~~ *plant* from inventory and use in the manufacture of a medical  
 23 cannabis product.

24  
 25 CHAPTER 2. IMPOSITION OF TAX  
 26

27 31005. (a) On and after the operative date set forth in Section  
 28 31030, for the privilege of distributing medical cannabis ~~flowers~~,  
 29 *flower*, immature medical cannabis ~~plants~~, *plant*, and medical  
 30 cannabis product every distributor shall pay a tax upon any  
 31 distribution of medical cannabis ~~flowers~~, *flower*, immature medical  
 32 cannabis ~~plants~~, *plant*, and medical cannabis product at the  
 33 following rates:

34 (1) \_\_\_\_ dollars (\$\_\_\_\_) per ounce of medical cannabis ~~flowers~~  
 35 *flower* cultivated by a licensee with a Type 1, Type 1A, or Type  
 36 1B classification as described in Section 19300.7 of the Business  
 37 and Professions Code.

38 (2) Nine dollars and twenty-five cents (\$9.25) per ounce of  
 39 medical cannabis ~~flowers~~ *flower* cultivated by a licensee with a

1 Type 2, Type 2A, or Type 2B classification as described in Section  
2 19300.7 of the Business and Professions Code.

3 (3) \_\_\_\_ dollars (\$\_\_\_\_) per ounce of medical cannabis ~~flowers~~  
4 *flower* cultivated by a licensee with a Type 3, Type 3A, or Type  
5 3B classification as described in Section 19300.7 of the Business  
6 and Professions Code.

7 (4) One dollar and twenty-five cents (\$1.25) per immature  
8 medical cannabis plant.

9 (5) At the rate equivalent to the combined rate of taxes on the  
10 privilege of selling tangible personal property at retail in this state  
11 that are imposed by the Sales and Use Tax Law (Part 1  
12 (commencing with Section 6001) and the California Constitution,  
13 upon the wholesale cost of any medical cannabis product  
14 manufactured by a licensee with a Type 6 or Type 7 classification  
15 as described in Section 19300.7 of the Business and Professions  
16 Code.

17 (b) The rates of tax imposed by this section shall apply  
18 proportionately to quantities of less than one ounce.

19 (c) The tax imposed by this part shall not apply to the sale of  
20 medical cannabis ~~flowers~~ *flower* and immature medical cannabis  
21 ~~plants~~ *plant* by a cultivator to the distributor.

22 31005.3. The board may prescribe by regulation a method and  
23 manner for payment of the tax imposed by this part that utilizes  
24 tax stamps or state-issued product bags that indicate that all  
25 required tax has been paid on the distribution of the medical  
26 cannabis ~~flowers~~, *flower*, immature medical cannabis ~~plants~~, *plant*,  
27 and medical cannabis product to which the tax stamp is affixed or  
28 in which the medical cannabis ~~flowers~~, *flower*, immature medical  
29 cannabis ~~plants~~, *plant*, and medical cannabis product are packaged.

30 31006. The Legislative Analyst’s Office shall regularly review  
31 the tax levels established under this part, at a minimum of every  
32 other year, beginning in 2020, and make recommendations to the  
33 Legislature, as appropriate, regarding adjustments that would  
34 further the goal of addressing public safety and the environmental  
35 impacts caused by the proliferation of cannabis cultivation.

36

37 CHAPTER 3. ADMINISTRATION

38

39 31010. The board shall administer and collect the tax imposed  
40 by this part pursuant to the Fee Collection Procedures Law (Part

1 30 (commencing with Section 55001)), except that Article 1.1  
2 (commencing with Section 55050) of Chapter 3 of Part 30 shall  
3 not apply. For purposes of this part, the references in the Fee  
4 Collection Procedures Law to “fee” shall include the tax imposed  
5 by this part, and references to “feepayer” shall include a person  
6 required to pay the tax imposed by this part.

7 31011. (a) The board may prescribe, adopt, and enforce  
8 regulations relating to the implementation, administration, and  
9 enforcement of this part, including, but not limited to, applicant  
10 requirements, collections, reporting, refunds, and appeals.

11 (b) The board may prescribe, adopt, and enforce any emergency  
12 regulations as necessary to implement this part. Any emergency  
13 regulation prescribed, adopted, or enforced pursuant to this section  
14 shall be adopted in accordance with Chapter 3.5 (commencing  
15 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
16 Government Code, and, for purposes of that chapter, including  
17 Section 11349.6 of the Government Code, the adoption of the  
18 regulation is an emergency and shall be considered by the Office  
19 of Administrative Law as necessary for the immediate preservation  
20 of the public peace, health and safety, and general welfare.

21 31012. (a) The tax is due and payable to the board quarterly  
22 on or before the last day of the month following each calendar  
23 quarter.

24 (b) On or before the last day of the month following each  
25 calendar quarter, a return for the preceding calendar quarter shall  
26 be filed with the board using electronic media.

27 (c) Returns shall be authenticated in a form or pursuant to  
28 methods as may be prescribed by the board.

29 31012.1. (a) A distributor required to pay the tax imposed  
30 under this part shall register for a permit with the board. Every  
31 application for registration shall be made in a form prescribed by  
32 the board and shall set forth the name under which the applicant  
33 transacts or intends to transact business, the location of the  
34 distributor’s place or places of business, and any other information  
35 that the board may require. An application for registration shall  
36 be authenticated in a form or pursuant to methods as may be  
37 prescribed by the board.

38 (b) The board shall grant and issue to each applicant that  
39 complies with subdivision (a) a separate permit for each place of  
40 business within the state.

1 (c) A permit issued pursuant to this section is not assignable  
2 and is valid only for the person in whose name it is issued and for  
3 the transaction of business at the place designated therein. It shall  
4 at all times be conspicuously displayed at the place for which it is  
5 issued.

6 31012.3. Whenever any distributor fails to comply with any  
7 provision of this part or any rule or regulation of the board  
8 prescribed and adopted under this part, the board upon hearing,  
9 after giving the distributor at least 10 days' notice in writing  
10 specifying the time and place of the hearing and requiring the  
11 distributor to show cause why the permit should not be suspended  
12 or revoked, may suspend or revoke the permit held by the  
13 distributor. The board shall give to the distributor written notice  
14 of the suspension or revocation of any of the distributor's permits.  
15 The notices herein required may be served personally or by mail  
16 in the manner prescribed for service of notice of a deficiency  
17 determination. The board shall not issue a new permit after the  
18 revocation of a permit unless it is satisfied that the former holder  
19 of the permit will comply with the provisions of this part and the  
20 regulations of the board prescribed and adopted under this part.

21 31013. (a) The Cannabis Production and Environment  
22 Mitigation Fund is hereby created in the State Treasury. All taxes,  
23 interest, penalties, and other amounts collected and paid to the  
24 board pursuant to this part, less payments of refunds and costs of  
25 administration, shall be deposited in the fund.

26 (b) Notwithstanding Section 13340 of the Government Code,  
27 all moneys deposited in the Cannabis Production and Environment  
28 Mitigation Fund are hereby continuously appropriated, without  
29 regard to fiscal years, in the following manner:

30 (1) Thirty percent to the Board of State and Community  
31 Corrections for disbursement for local law enforcement-related  
32 activities pertaining to illegal cannabis cultivation. The Board of  
33 State and Community Corrections shall give priority of funds to  
34 applicants that demonstrate that the area within the applicant's  
35 jurisdiction has a high rate of criminal activity from organized  
36 crime as defined by Section 186.2 of the Penal Code related to  
37 illegal cannabis cultivation. Funds allocated pursuant to this  
38 paragraph shall be allocated on a competitive grant application  
39 process administered by the Board of State and Community  
40 Corrections. Applicants may include local entities that support

1 enforcement activities related to unpermitted activity. The Board  
2 of State and Community Corrections shall promulgate guidelines  
3 for the grant process as soon as administratively possible.

4 (2) Two percent to the Department of Justice to fund and create  
5 Regional Marijuana Enforcement Officers who shall coordinate  
6 enforcement efforts, related to illegal cannabis cultivation, between  
7 the Department of Fish and Wildlife's Marijuana Enforcement  
8 Team, the Department of Justice's Bureau of Narcotic  
9 Enforcement, the United States Drug Enforcement Administration,  
10 and local law enforcement. The Department of Justice shall  
11 prioritize creation of Regional Marijuana Enforcement Officers  
12 in counties that have demonstrated that the area within the county's  
13 jurisdiction has a high rate of criminal activity from organized  
14 crime, as defined by Section 186.2 of the Penal Code, related to  
15 illegal cannabis cultivation.

16 (3) Thirty percent to the Natural Resources Agency for  
17 environmental cleanup restoration and protection of public and  
18 private lands that have been damaged by illegal cannabis  
19 cultivation. Where appropriate, the agency may administer funds  
20 using competitive grant programs established pursuant to Chapter  
21 3.8 (commencing with Section 5750) of Division 5 of the Public  
22 Resources Code and described in subdivision (a) and paragraph  
23 (1) of subdivision (l) of Section 75050 of the Public Resources  
24 Code. Funds allocated pursuant to this paragraph shall be  
25 prioritized to restoration and cleanup projects, on public or private  
26 lands, based on the level of damages that have occurred. Not less  
27 than 35 percent of the funds shall be used for these purposes related  
28 to public lands, including, but not limited to, parks managed by  
29 the Department of Parks and Recreation, and not less than 20  
30 percent of the funds shall be used for these purposes related to  
31 private lands. The agency shall consult and partner with counties,  
32 cities, or cities and counties and may partner with qualified  
33 nonprofit organizations, other appropriate state agencies, and the  
34 appropriate federal entities, including, but not limited to, the United  
35 States Department of Agriculture and the United States Department  
36 of the Interior, for the purposes of awarding grants to state or local  
37 government entities and qualified nonprofit organizations that  
38 engage in environmental cleanup and restoration. The agency shall  
39 promulgate guidelines for the grant process as soon as  
40 administratively possible. All funds appropriated pursuant to this



1 paragraph shall only be used for purposes that directly correlate  
2 to cleanup of damage caused by illegal cannabis cultivation and  
3 the restoration and protection of public or private lands by illegal  
4 cannabis cultivation.

5 (4) Eight percent to the Open Space Subvention Payment  
6 Account of the California Land Conservation Act of 1965 (Chapter  
7 7 (commencing with Section 51200) of Part 1 of Division 1 of  
8 Title 5 of the Government Code). Administrative costs to the  
9 Department of Conservation shall be no more than the reasonable  
10 costs to administer the program and shall be no more than 0.5  
11 percent of the 8 percent.

12 (5) Thirty percent to ~~the multiagency task force~~, the Department  
13 of Fish and ~~Wildlife~~ *Wildlife's* and the State Water Resources  
14 Control ~~Board~~, *Board's multiagency task force, the Watershed*  
15 *Enforcement Team*, to address the environmental impacts of  
16 cannabis cultivation on public and private lands in California and  
17 fund other state enforcement-related activities pertaining to illegal  
18 cannabis cultivation.

19  
20 CHAPTER 4. REPORT TO THE LEGISLATURE

21  
22 31025. (a) The board shall submit a report to the Legislature  
23 on the total amount of revenue that was collected for the two-year  
24 period commencing on the operative date of this part. The report  
25 is due to the Legislature on or before the last day of the month  
26 commencing 180 days after the two-year period commencing on  
27 the operative date of this part.

28 (b) The report required by this section shall be submitted in  
29 compliance with Section 9795 of the Government Code.

30  
31 CHAPTER 5. OPERATIVE DATE AND FUNDING

32  
33 31030. This part shall become operative on or after the first  
34 day of the first calendar quarter commencing more than 270 days  
35 after adequate funding has been received by the board to implement  
36 and administer this part. The board shall post a notice on its Internet  
37 Web site when this condition has been satisfied.

38 31031. Funds for the establishment and support of the activities  
39 required pursuant to this part shall be advanced as a General Fund  
40 or special fund loan, and shall be repaid by the board from the

1 initial proceeds from taxes collected pursuant to this part, no later  
2 than six months after the operative date specified in Section 31030.

3 31032. (a) Except as provided in subdivision (b), this part shall  
4 become inoperative on January 1, 2018, if the Secretary of State  
5 Initiative Number 1762, also known as the Control, Regulate and  
6 Tax Adult Use of Marijuana Act, is approved by the voters at the  
7 November 8, 2016, statewide general election and takes effect.

8 (b) The provisions of this part relating to the collection of the  
9 tax, refunds, allowance for credits, disposition of moneys deposited  
10 into the Cannabis Production and Environment Mitigation Fund,  
11 and the commencement of an action or proceeding shall remain  
12 operative with respect to taxes for which the liability accrued before  
13 January 1, 2018.

14 (c) This part shall remain in effect only until January 1, 2025,  
15 and as of that date is repealed.

16

17 CHAPTER 6. NO PREEMPTION OF LOCAL TAXATION AUTHORITY

18

19 31035. The tax shall be in addition to, and shall not limit, any  
20 taxes or fees imposed by a county or city and county.

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

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

34 In order to address the damage done by illegal cannabis  
35 cultivation at the earliest time possible, it is necessary that this act  
36 take effect immediately.