

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN SENATE JUNE 3, 2015

AMENDED IN SENATE MAY 6, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 643**

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**Introduced by Senator McGuire**

February 27, 2015

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An act to amend Section 2220.05 of, to add Article 25 (commencing with Section 2525) to Chapter 5 of Division 2 of, and to add Part 5 (commencing with Section 18100) to Division 7 of, the Business and Professions Code, to add Section 23028 to the Government Code, and to amend Section 11362.775 of, and to add Article 8 (commencing with Section 111658) to Chapter 6 of Part 5 of Division 104 of, the Health and Safety Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

SB 643, as amended, McGuire. Medical marijuana.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law,

provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would establish within the Business, Consumer Services, and Housing Agency the Office of Medical Marijuana Regulation, under the supervision and control of the Chief of the Office of Medical Marijuana Regulation, and, beginning no later than July 1, 2018, would require the office to license and regulate dispensing facilities, cultivation sites, transporters, and manufacturers of medical marijuana and medical marijuana products, subject to local ordinances. The bill would require a background check of applicants for licensure, as defined, to be administered by the Department of Justice, and submission of a statement signed by an applicant, under penalty of perjury, that the information on his or her application is true, thereby creating a crime and imposing a state-mandated local program. Violation of the provisions related to applying for a conditional license would be punishable by a civil fine of up to \$35,000 for each individual violation, or as otherwise specified.

The bill would make conditional licenses subject to the restrictions of the local jurisdiction in which the facility operates or proposes to operate. The bill would authorize a facility or entity that is operating in conformance with local zoning ordinances and other state and local requirements on January 1, 2016, to continue its operations until its application for conditional licensure is approved or denied. The bill would set forth provisions related to the transportation, testing, and distribution of medical marijuana *and medical marijuana products*. The bill would prohibit the distribution of any form of advertising for physician recommendations for medical marijuana, unless the advertisement bears a specified notice and requires that the advertisement meet specified requirements and not be fraudulent, deceitful, or misleading.

The bill would establish the Medical Marijuana Regulation Fund and would require the deposit of specified fees collected pursuant to this act into the fund. The bill would make moneys from the fund available upon appropriation to the office for the purposes of administering this act. The bill would also establish the Special Account for Environmental Enforcement within the Medical Marijuana *Regulation* Fund. This account would contain money from fees assessed against licensed cultivation sites and would be available upon appropriation for the enforcement of environmental regulations relating to licensed cultivation

sites. The bill would require the deposit of penalty moneys collected pursuant to this bill into the General Fund.

The bill would require, among other things, that all marijuana grown, produced, distributed, and sold in the ~~state meet the certified organic standards~~ *state*, by January 1, 2022, *meet standards equivalent to those for certified organic crops* and that the ~~bureau~~ *office* establish “appellations of origin” for marijuana grown in the state.

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

The bill would establish enforcement procedures and would authorize a city, county, or city and county to administer and enforce these provisions. The bill, by July 1, 2017, would require the office to report to the Legislature on the ~~feasibility~~ *feasibility* of developing a program to certify laboratories for the testing of medical marijuana and related products and the ~~feasibility~~ *feasibility* of developing a labeling requirement for edible marijuana products, as specified. The bill would further set forth provisions regulating edible medical marijuana products, as specified. By adding these provisions to the Sherman Food, Drug, and Cosmetic Law, a violation of which is a crime, the bill would impose a state-mandated local program.

(2) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to prioritize investigations and prosecutions of physicians and surgeons representing the greatest threat of harm, as specified. Existing law identifies the cases that are to be given priority, which include cases of repeated acts of excessively prescribing, furnishing, or administering controlled substances without a good faith prior examination of the patient. Existing law provides that a violation of the Medical Practice Act is a crime.

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

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

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

(3) Existing law authorizes the legislative body of a city or county to impose various taxes, including a transactions and use tax at a rate of 0.25%, or a multiple thereof, if approved by the required vote of the legislative body and the required vote of qualified voters, and limits the combined rate of transactions and use taxes within a city or county to 2%.

This bill would authorize ~~a city, county, or city and county~~, *county* by ordinance, to impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing *medical* marijuana by an entity issued a conditional license. 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.

(4) Existing law exempts qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards from certain crimes, including possession of concentrated cannabis and marijuana, cultivation of marijuana, and possession of marijuana for sale.

This bill, after July 1, ~~2017~~, *2018*, would also exempt from those crimes an employee, officer, or board member of a licensed cultivation site or a licensed dispensing facility, except as specified.

(5) Existing law imposes sales and use taxes, as specified, to be collected by the State Board of Equalization.

This bill would require the State Board of Equalization, on or before July 1, 2016, to compile a report that includes the actual tax collected on the sale of medical marijuana, using the most current data available, and the expected tax revenues, under the existing tax structure, for the years 2016 to 2021, inclusive, and to submit that report to the Legislature and Governor's Office.

(6) This bill would provide that its provisions are severable.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. This act shall be known, and may be cited, as the  
2 Medical Marijuana Public Safety and Environmental Protection  
3 Act.

4 SEC. 2. The Legislature finds and declares all of the following:

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

16 (b) The Compassionate Use Act of 1996 called on state  
17 government to implement a plan for the safe and affordable  
18 distribution of marijuana to all patients in medical need of  
19 marijuana, while ensuring that nothing in that act would be  
20 construed to condone the diversion of marijuana for nonmedical  
21 purposes.

22 (c) In 2003, the Legislature enacted the Medical Marijuana  
23 Program Act (MMPA), codified in Article 2.5 (commencing with

1 Section 11362.7) of Chapter 6 of Division 10 of the Health and  
2 Safety Code.

3 (d) Greater certainty and minimum statewide standards are  
4 urgently needed regarding the obligations of medical marijuana  
5 facilities, and for the imposition and enforcement of regulations  
6 to prevent unlawful cultivation and the diversion of marijuana to  
7 nonmedical use.

8 (e) Despite the passage of the Compassionate Use Act of 1996  
9 and the MMPA, because of the lack of an effective statewide  
10 system for regulating and controlling medical marijuana, cities,  
11 counties, and local law enforcement officials have been confronted  
12 with uncertainty about the legality of some medical marijuana  
13 cultivation and distribution activities. The current state of affairs  
14 makes law enforcement difficult and endangers patient safety  
15 because of an inability to monitor the supply of medical marijuana  
16 in the state and the lack of quality control, testing, and labeling  
17 requirements.

18 (f) The California Constitution grants cities and counties the  
19 authority to make and enforce, within their borders, “all local  
20 police, sanitary, and other ordinances and regulations not in conflict  
21 with the general laws.” This inherent local police power includes  
22 broad authority to determine, for purposes of public health, safety,  
23 and welfare, the appropriate uses of land within the local  
24 jurisdiction’s borders. The police power, therefore, allows each  
25 city and county to determine whether or not a medical marijuana  
26 dispensary or other facility that makes medical marijuana available  
27 may operate within its borders. This authority has been upheld by  
28 *City of Riverside v. Inland Empire Patients Health and Wellness*  
29 *Center, Inc.* (2013) 56 Cal.4th 729 and *County of Los Angeles v.*  
30 *Hill* (2011) 192 Cal.App.4th 861. Nothing in this act shall diminish,  
31 erode, or modify that authority.

32 (g) If a city or county determines that a dispensary or other  
33 facility that makes medical marijuana available may operate within  
34 its borders, then there is a need for the state and local governments  
35 to license these dispensaries and other facilities for the purpose of  
36 adopting and enforcing protocols for security standards at  
37 dispensaries and in the transportation of medical marijuana, as  
38 well as health and safety standards to ensure patient safety. This  
39 licensing requirement is not intended in any way nor shall it be  
40 construed to preempt local ordinances, regulations, or enforcement

1 actions regarding the sale and use of medical marijuana, including,  
2 but not limited to, security, signage, lighting, and inspections.

3 (h) Greater oversight, uniformity, and enforcement are urgently  
4 needed regarding the obligations and rights of medical marijuana  
5 cultivators, transporters, and distribution facilities.

6 (i) Marijuana has widely accepted medical applications that  
7 make it inappropriate to be classified as a Schedule I controlled  
8 substance in the State of California.

9 (j) For the protection of Californians, the state must act to  
10 regulate and control commercial medical marijuana and not  
11 preempt local government ordinances. Counties should be allowed  
12 to impose local taxes and enact zoning regulations and other  
13 restrictions applicable to the cultivation, transportation, and  
14 distribution of medical marijuana based on local needs.

15 (k) For the protection of California's environment and its natural  
16 resources, all efforts must be made to prevent and mitigate the  
17 harmful environmental impacts that can be associated with some  
18 marijuana cultivation.

19 (l) Illegal trespass grows on private and public property pose a  
20 threat to public safety and the environment.

21 (m) The North Coast Regional Water Quality Control Board is  
22 currently in the process of promulgating regulations that would  
23 create a 3-tiered system for cultivator wastewater discharge permits.  
24 A similar permitting system would assist the state in controlling  
25 damaging wastewater runoff from cultivation sites, while  
26 minimizing the burden on smaller cultivators.

27 (n) Nothing in this act shall have a diminishing effect on the  
28 rights and protections granted to a patient or primary caregiver  
29 pursuant to the Compassionate Use Act of 1996.

30 (o) Nothing in this act shall be construed to promote or facilitate  
31 the nonmedical, recreational possession, sale, or use of marijuana.

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

34 2220.05. (a) In order to ensure that its resources are maximized  
35 for the protection of the public, the Medical Board of California  
36 shall prioritize its investigative and prosecutorial resources to  
37 ensure that physicians and surgeons representing the greatest threat  
38 of harm are identified and disciplined expeditiously. Cases  
39 involving any of the following allegations shall be handled on a

1 priority basis, as follows, with the highest priority being given to  
2 cases in the first paragraph:

3 (1) Gross negligence, incompetence, or repeated negligent acts  
4 that involve death or serious bodily injury to one or more patients,  
5 such that the physician and surgeon represents a danger to the  
6 public.

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

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

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

24 (5) Practicing medicine while under the influence of drugs or  
25 alcohol.

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

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

35 SEC. 4. Article 25 (commencing with Section 2525) is added  
36 to Chapter 5 of Division 2 of the Business and Professions Code,  
37 to read:

1 Article 25. Recommending Medical Marijuana

2  
3 2525. (a) It is unlawful for a physician and surgeon who  
4 recommends marijuana to a patient for a medical purpose to accept,  
5 solicit, or offer any form of remuneration from or to a facility  
6 issued a conditional license pursuant to Part 5 (commencing with  
7 Section 18100) of Division 7, if the physician and surgeon or his  
8 or her immediate family have a financial interest in that facility.

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

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

12 2525.1. The Medical Board of California shall consult with  
13 the California Marijuana Research Program, known as the Center  
14 for Medicinal Cannabis Research, authorized pursuant to Section  
15 11362.9 of the Health and Safety Code, on developing and adopting  
16 medical guidelines for the appropriate administration and use of  
17 medical marijuana.

18 2525.2. A physician and surgeon shall not recommend medical  
19 marijuana to a patient, unless that person is the patient’s attending  
20 physician, as defined by subdivision (a) of Section 11362.7 of the  
21 Health and Safety Code.

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

24  
25 PART 5. MEDICAL MARIJUANA

26  
27 CHAPTER 1. GENERAL PROVISIONS

28  
29 18100. For purposes of this part, the following definitions shall  
30 apply:

31 (a) “Chief” means the Chief of the Office of Medical Marijuana  
32 Regulation.

33 (b) “Dispensary” means a distribution operation that provides  
34 medical marijuana or medical marijuana derived products to  
35 patients and caregivers.

36 (c) “Fund” means the Medical Marijuana Regulation Fund  
37 established pursuant to Section 18118.

38 (d) “Licensed cultivation site” means a facility that plants,  
39 grows, cultivates, harvests, dries, or processes medical marijuana

1 and that is issued *both* a conditional license pursuant to this part  
2 *and a local license or permit*.

3 (e) “Licensed dispensing facility” means a dispensary or other  
4 facility that provides medical marijuana, medical marijuana  
5 products, or devices for the use of medical marijuana or medical  
6 marijuana products that is issued *both* a conditional license  
7 pursuant to this part *and a local license or permit*.

8 (f) “Licensed manufacturer” means a person who extracts,  
9 prepares, derives, produces, compounds, or repackages medical  
10 marijuana or medical marijuana products into consumable and  
11 nonconsumable forms and that is issued *both* a conditional license  
12 pursuant to this part *and a local license or permit*.

13 (g) “Licensed transporter” means an individual or entity issued  
14 *both* a conditional license by the office *and a local license or*  
15 *permit* to transport medical marijuana to and from facilities that  
16 have been issued conditional licenses pursuant to this part or  
17 medical marijuana products above a quantity limit established by  
18 the office.

19 (h) “Marijuana” means all parts of the plant *Cannabis sativa*,  
20 *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not;  
21 the seeds thereof; the resin, whether crude or purified, extracted  
22 from any part of the plant; and every compound, manufacture, salt,  
23 derivative, mixture, or preparation of the plant, its seeds, or resin.  
24 “Marijuana” does not include the mature stalks of the plant, fiber  
25 produced from the stalks, oil or cake made from the seeds of the  
26 plant, any other compound, manufacture, salt, derivative, mixture,  
27 or preparation of the mature stalks (except the resin extracted  
28 therefrom), fiber, oil, or cake, or the sterilized seed of the plant  
29 which is incapable of germination. “Marijuana” also means  
30 marijuana, as defined by Section 11018 of the Health and Safety  
31 Code.

32 (i) “Office” means the Office of Medical Marijuana Regulation  
33 in the Business, Consumer Affairs, and Housing Agency.

34 18101. (a) There is hereby created in the Business, Consumer  
35 Affairs, and Housing Agency the Office of Medical Marijuana  
36 Regulation, under the supervision and control of the Chief of the  
37 Office of Medical Marijuana Regulation.

38 (b) Protection of the public shall be the highest priority for the  
39 office in exercising its licensing, regulatory, and disciplinary  
40 functions. Whenever the protection of the public is inconsistent

1 with other interests sought to be promoted, the protection of the  
2 public shall be paramount.

3 (c) The office shall have the authority to issue, suspend, or  
4 revoke conditional licenses for the cultivation, manufacture,  
5 transportation, storage, distribution, and sale of medical marijuana  
6 within the state and to collect fees in connection with these actions.  
7 The office shall have the authority to create, issue, suspend, or  
8 revoke other licenses in order to protect patient health and the  
9 public and to facilitate the regulation of medical marijuana.

10 (d) (1) The Governor shall appoint the chief at a salary to be  
11 fixed and determined by the secretary with the approval of the  
12 Director of Finance. ~~The chief shall serve in accordance with the~~  
13 ~~State Civil Service Act (Part 2 (commencing with Section 18500)~~  
14 ~~of Division 5 of Title 2 of the Government Code).~~

15 (2) Appointment of the chief shall be subject to confirmation  
16 by the Senate Committee on Rules.

17 (e) The duty of enforcing and administering this part shall be  
18 vested in the chief. The chief may adopt and enforce those rules  
19 and regulations that he or she determines are reasonably necessary  
20 to carry out the purposes of this part and declaring the policy of  
21 the office, including a system for the issuance of citations for  
22 violations of this part, as specified in Section 18127.

23 (f) The chief, as necessary to carry out the provisions of this  
24 part, and in accordance with the State Civil Service Act (Part 2  
25 (commencing with Section 18500) of Division 5 of Title 2 of the  
26 Government Code), may appoint and fix the compensation of  
27 personnel, including, but not limited to, clerical, inspection,  
28 investigation, and auditing personnel, as well as an assistant chief.  
29 These personnel shall perform their respective duties under the  
30 supervision and the direction of the chief.

31 (g) Every power granted to, or duty imposed upon, the chief  
32 under this part may be exercised or performed in the name of the  
33 chief by a deputy or assistant chief, subject to conditions and  
34 limitations that the chief prescribes.

35 (h) The office shall exercise its authority pursuant to this part  
36 consistent with Section 1 of the act that added this section and  
37 consistent with the provisions of this part.

38 18102. Funds for the establishment and support of the office  
39 shall be advanced as a loan from the General Fund and shall be

1 repaid by the initial proceeds from fees collected pursuant to this  
2 part or any rule or regulation adopted pursuant to this part.

3 18103. The office shall have the authority necessary for the  
4 implementation of this part, including, but not limited to, all of  
5 the following:

6 (a) Establishing rules or regulations necessary to carry out the  
7 purposes and intent of this part and to enable the office to exercise  
8 the powers and perform the duties conferred upon it by this part  
9 and in accordance with Chapter 3.5 (commencing with Section  
10 11340) of Part 1 of Division 3 of Title 2 of the Government Code.  
11 These rules and regulations shall not limit any authority of a city,  
12 county, or city and county provided by law. For the performance  
13 of its duties, the office has the powers as set forth in Article 2  
14 (commencing with Section 11180) of Chapter 2 of Part 1 of  
15 Division 3 of Title 2 of the Government Code.

16 (b) Issuing conditional licenses to persons for the cultivation,  
17 manufacture, transportation, storage, distribution, and sale of  
18 medical marijuana within the state.

19 (c) Setting application, licensing, and renewal fees for  
20 conditional licenses issued pursuant to Section 18117.

21 (d) Establishing standards for the cultivation, manufacturing,  
22 transportation, storage, distribution, provision, *testing*, donation,  
23 and sale of medical marijuana and medical marijuana products.

24 (e) Establishing procedures for the issuance, renewal,  
25 suspension, denial, and revocation of conditional licenses.

26 (f) Enforcing the licensing and regulatory requirement of this  
27 part, subject to the requirements of Section 18126.

28 (g) Imposing a penalty authorized by this part or any rule or  
29 regulation adopted pursuant to this part.

30 (h) Taking action with respect to an application for a conditional  
31 license in accordance with procedures established pursuant to this  
32 part.

33 (i) Overseeing the operation of the Medical Marijuana  
34 Regulation Fund and the Special Account for Environmental  
35 Enforcement, established pursuant to Section 18118.

36 (j) Consulting with other state or local agencies, departments,  
37 representatives of the medical marijuana community, or public or  
38 private entities for the purposes of establishing statewide standards  
39 and regulations.

1 18104. (a) On or before January 1, 2018, the office shall  
2 promulgate regulations for implementation and enforcement of  
3 this part, including, but not limited to, all of the following:

4 (1) Procedures for the issuance, renewal, suspension, denial,  
5 and revocation of conditional licenses.

6 (2) Procedures for appeal of fines and the appeal of denial,  
7 suspension, or revocation of conditional licenses.

8 (3) Application, licensing, and renewal forms and fees.

9 (4) A time period in which the office shall approve or deny an  
10 application for a conditional license pursuant to this part.

11 (5) Qualifications for licensees.

12 (b) The office, in consultation with the Division of Labor  
13 Standards Enforcement, shall adopt regulations establishing worker  
14 safety standards for entities licensed pursuant to this part.

15 (c) The office shall not issue a conditional license unless the  
16 applicant has met all of the requirements of this part, including the  
17 requirements of subdivision (d) of Section 18110, and has  
18 demonstrated compliance with all applicable agricultural  
19 requirements, consumer protection requirements, food and product  
20 safety requirements, and environmental requirements, including,  
21 but not limited to, applicable water quality standards.

22 *18104.5. (a) On or before April 1, 2016, the office shall*  
23 *convene an advisory committee to advise the office on the*  
24 *development of standards and regulations pursuant to this chapter.*  
25 *The advisory committee shall recommend to the office the*  
26 *appropriate roles of each state entity as it pertains to this chapter,*  
27 *and shall recommend guidelines on communication and*  
28 *information sharing between state entities, and with local agencies,*  
29 *for implementation of this chapter.*

30 *(b) The advisory committee shall be comprised of gubernatorial*  
31 *and legislative appointees, including, but not limited to,*  
32 *representatives of the medical marijuana industry, appropriate*  
33 *local and state agencies, appropriate local and state law*  
34 *enforcement, physicians, environmental and public health experts,*  
35 *and medical marijuana patient advocates.*

36 *(c) (1) The advisory committee shall submit a report on these*  
37 *standards, determinations, and guidelines for implementation of*  
38 *this chapter to the Legislature and state entities affected by this*  
39 *chapter by August 1, 2016.*

1 (2) *The report submitted to the Legislature shall be submitted*  
 2 *in compliance with Section 9795 of the Government Code.*

3 (3) *The requirement for submitting a report imposed pursuant*  
 4 *to this subdivision is inoperative on January 1, 2020, pursuant to*  
 5 *Section 10231.5 of the Government Code.*

6 18105. (a) The chief shall keep a complete record of all  
 7 facilities issued a conditional license.

8 (b) This record shall be made available on the office's Internet  
 9 Web site.

10 (c) The office shall not disclose information that the office  
 11 determines is sensitive and should not be publicly disclosed,  
 12 including, but not limited to, the address or location of cultivation  
 13 sites.

14 (d) Upon request, the office shall provide summary information  
 15 on all ~~licensed~~, *licensees*, including, but not limited to, the name  
 16 of the licensee, the date the license was issued, the status of the  
 17 license, and the licensee's mailing address.

18 18106. The office shall establish procedures to provide state  
 19 and local law ~~enforcement~~, *enforcement and state and local*  
 20 *agencies*, upon their request, with 24-hour access to information  
 21 to verify a conditional license, track transportation manifests, and  
 22 track the inventories of facilities issued a conditional license.

23 18107. This part shall in no way supersede the provisions of  
 24 Measure D, approved by the voters of the City of Los Angeles on  
 25 the May 21, 2013, ballot for the city, or any similar measure in  
 26 other jurisdictions, which grants medical marijuana businesses and  
 27 dispensaries qualified immunity consistent with the terms of the  
 28 measure and local ordinances. ~~Notwithstanding the provisions of~~  
 29 ~~this part, marijuana businesses and dispensaries subject to the~~  
 30 ~~provisions of Measure D or other similar qualified immunity shall~~  
 31 ~~continue to be subject to the ordinances and regulations of the~~  
 32 ~~relevant local jurisdiction. Immunity granted by Measure D shall~~  
 33 ~~be sufficient to comply with the requirement of local approval for~~  
 34 ~~licensure pursuant to Section 18110.~~

35  
 36 CHAPTER 2. CONDITIONAL LICENSES  
 37

38 18108. The following persons are exempt from the requirement  
 39 of licensure under this part:

1 (a) A patient who cultivates, possesses, stores, manufactures,  
2 or transports marijuana exclusively for his or her personal medical  
3 use and who does not sell, distribute, donate, or provide marijuana  
4 to any other person or entity.

5 (b) A primary caregiver who cultivates, possesses, stores,  
6 manufactures, transports, or provides marijuana exclusively for  
7 the personal medical purposes to no more than five specified  
8 qualified patients for whom he or she is the primary caregiver  
9 within the meaning of Section 11362.7 of the Health and Safety  
10 Code and who does not receive remuneration for these activities,  
11 except for compensation in full compliance with subdivision (c)  
12 of Section 11362.765 of the Health and Safety Code. Nothing in  
13 this section shall permit primary caregivers to organize themselves  
14 as cooperatives or collectives of caregivers.

15 18109. (a) Except as provided in Section 11362.5 of, and  
16 Article 2.5 (commencing with Section 11362.7) of Chapter 6 of  
17 Division 10 of, the Health and Safety Code, a person shall not sell  
18 or provide medical marijuana to a patient or caregiver other than  
19 at a licensed dispensing facility or through delivery from a licensed  
20 dispensing facility.

21 (b) Except as provided in Section 11362.5 of, and Article 2.5  
22 (commencing with Section 11362.7) of Chapter 6 of Division 10  
23 of, the Health and Safety Code, a person shall not grow medical  
24 marijuana other than at a licensed cultivation site.

25 (c) Except as provided in Section 11362.5 of, and Article 2.5  
26 (commencing with Section 11362.7) of Chapter 6 of Division 10  
27 of, the Health and Safety Code, a person shall not manufacture  
28 medical marijuana or medical marijuana products other than a  
29 licensed manufacturer.

30 (d) A person other than a licensed transporter shall not transport  
31 medical marijuana from one facility issued a conditional license  
32 to another.

33 (e) A licensed manufacturer may obtain medical marijuana from  
34 a licensed cultivator and may furnish medical marijuana products  
35 to a licensed dispensary.

36 18110. (a) Beginning no later than July 1, 2018, the office  
37 shall provide for and shall issue conditional licenses. Conditional  
38 licenses shall be required for all activity authorized under this  
39 chapter, including, but not limited to, cultivation, processing,

1 storage, ~~transport~~, *transportation*, and dispensing of medical  
2 marijuana.

3 (b) The issuance of a conditional license shall not, in and of  
4 itself, authorize the recipient to begin business operations. The  
5 conditional license shall certify, at a minimum, that the applicant  
6 has paid the state conditional licensing fee, successfully passed a  
7 criminal background check, and met the state residency  
8 requirements.

9 (c) A conditionally licensed facility shall not commence activity  
10 under the authority of a conditional license until the applicant has  
11 also obtained a license or permit from the local jurisdiction in  
12 which he or she proposes to operate, following the requirements  
13 of local ordinances.

14 (d) An applicant for a conditional license shall do all *of the*  
15 following:

16 (1) Pay the fee or fees required by this part for each license  
17 being applied for.

18 (2) Register with the office on forms prescribed by the chief.  
19 The forms shall contain sufficient information to identify the  
20 licensee, including all of the following:

21 (A) Name of the owner or owners of a proposed facility,  
22 including all persons or entities having an ownership interest other  
23 than a security interest, lien, or encumbrance on property that will  
24 be used by the applicant.

25 (B) The name, address, and date of birth of each principal officer  
26 and board member.

27 (C) The address and telephone number of the proposed facility.

28 (D) In the case of a cultivation site, the GPS coordinates of the  
29 site.

30 (3) Describe, in writing, the scope of business of the proposed  
31 facility.

32 (4) Provide evidence that the applicant and owner have been  
33 legal full-time residents of the state for not less than 12 months.

34 (5) Provide detailed operating procedures, in writing, for the  
35 proposed facility, which shall include, but not be limited to,  
36 procedures for facility and operational security, prevention of  
37 diversion, employee screening, storage of medical marijuana,  
38 personnel policies, and recordkeeping procedures.

1 (6) Provide evidence that the applicant has received all required  
2 environmental permits, including compliance with the California  
3 Environmental Quality Act, and wastewater discharge permits.

4 (7) Provide the applicant’s fingerprint images. For purposes of  
5 this paragraph, “applicant” means the owner or owners of a  
6 proposed facility, including all persons or entities having an  
7 ownership interest other than a security interest, lien, or  
8 encumbrance on property that will be used by the facility.

9 (A) The applicant shall electronically submit to the Department  
10 of Justice fingerprint images and related information required by  
11 the Department of Justice for the purpose of obtaining information  
12 as to the existence and content of a record of state or federal  
13 convictions and arrests, and information as to the existence and  
14 content of a record of state or federal convictions and arrests for  
15 which the Department of Justice establishes that the person is free  
16 on bail, or on his or her own recognizance, pending trial or appeal.

17 (B) The Department of Justice shall provide a response to the  
18 office pursuant to paragraph (1) of subdivision (p) of Section 11105  
19 of the Penal Code.

20 (C) The office shall request from the Department of Justice  
21 subsequent notification service, as provided pursuant to Section  
22 11105.2 of the Penal Code, for persons described in subparagraph  
23 (A).

24 (D) The Department of Justice shall charge the applicant a fee  
25 sufficient to cover the reasonable cost of processing the requests  
26 described in this paragraph.

27 (8) Provide a statement, signed by the applicant under penalty  
28 of perjury, that the information provided is true.

29 (9) Provide any other information required by the office.

30 (e) Each location and each discrete use of a single location shall  
31 require a conditional license. Each application for a conditional  
32 license is separate and distinct, and the office may charge a separate  
33 fee for each.

34 (f) A conditional license issued pursuant to this section shall be  
35 valid for 12 months after the date of issuance. After the initial  
36 12-month period, a conditional license may be renewed for a period  
37 of ~~36~~ 24 months. The office shall establish procedures for the  
38 renewal of a conditional license.

39 (g) Notwithstanding any other law, the office shall not issue a  
40 conditional license to an individual or entity, or for a premise,

1 against whom there is a pending state or local administrative or  
2 judicial proceeding, against whom there is an action initiated by  
3 a city, county, or city and county under a local ordinance, or who  
4 has been determined to have violated an applicable local ordinance.

5 (h) A facility or entity that is operating in ~~conformance~~  
6 *compliance* with local zoning ordinances and other state and local  
7 requirements on January 1, 2016, may continue its operations until  
8 its application for conditional licensure is approved or denied  
9 pursuant to this part.

10 18111. (a) Upon receipt of the application materials and fee  
11 required in Section 18110, the office, provided the applicant has  
12 not committed an act or crime constituting grounds for the denial  
13 of licensure under Section 18112, may issue the conditional license  
14 and send a proof of issuance to the applicant.

15 (b) The chief shall, by regulation, prescribe conditions upon  
16 which a person whose conditional license has previously been  
17 denied, suspended, or revoked, may be issued a conditional license.

18 18112. (a) An application for a conditional license shall be  
19 denied and a conditional license shall be suspended or revoked for  
20 a past felony conviction for the possession for sale, sale,  
21 manufacture, transportation, or cultivation of a controlled  
22 substance, a felony criminal conviction for drug trafficking, a  
23 felony conviction for embezzlement, a felony conviction involving  
24 fraud or deceit, or any violent or serious felony conviction pursuant  
25 to subdivision (c) of Section 667.5 of, or subdivision (c) of Section  
26 1192.7 of, the Penal Code. A conditional license shall not be denied  
27 solely on the basis of a prior conviction for a felony that was  
28 committed after the enactment of the Compassionate Use ~~Act, Act~~  
29 *of 1996*, but which would not be a felony after the enactment of  
30 the measure that added this part. The office, at its discretion, may  
31 issue a license to an applicant that would be otherwise denied  
32 pursuant to this ~~subdivision~~ *subdivision, with the exception of the*  
33 *requirement of having been issued a conditional license*, if the  
34 applicant has obtained a certificate of rehabilitation, pursuant to  
35 Section 4852.13 of the Penal Code.

36 (b) The chief, upon his or her determination, may deny, suspend,  
37 or revoke a conditional license when a conditional licensee,  
38 applicant, or employee, partner, officer, or member of an entity  
39 conditionally licensed does any of the following:

1 (1) Making or authorizing in any manner or by any means a  
2 written or oral statement that is untrue or misleading and that is  
3 known, or that by exercise of reasonable care should be known,  
4 to be untrue or misleading.

5 (2) Any other conduct that constitutes fraud.

6 (3) Conduct constituting gross negligence.

7 (4) Failure to comply with the provisions of this part, Article 8  
8 (commencing with Section 111658) of Chapter 6 of Part 5 of  
9 Division 104 of the Health and Safety Code, or any rule or  
10 regulation adopted pursuant to this part.

11 (5) Conduct that constitutes grounds for denial of licensure  
12 pursuant to Chapter 2 (commencing with Section 480) of Division  
13 1.5.

14 18113. (a) Upon denying, suspending, or revoking a  
15 conditional license, the chief shall notify the applicant or licensee,  
16 in writing, by personal service or mail addressed to the address of  
17 the applicant or licensee set forth in the application. The applicant  
18 or licensee shall be given a hearing within 30 days thereafter if he  
19 or she files with the office a written request for hearing. Otherwise,  
20 the denial, suspension, or revocation is deemed affirmed.

21 (b) All proceedings to deny, suspend, or revoke a conditional  
22 license shall be conducted pursuant to Chapter 5 (commencing  
23 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
24 Government Code.

25 18114. An application for or renewal of a conditional license  
26 shall not be approved if the office determines any of the following:

27 (a) The applicant fails to meet the requirements of this part or  
28 has had an applicable permit or license revoked or denied by an  
29 applicable city, county, or city and county agency. If a local  
30 government adopts an ordinance or resolution authorizing medical  
31 marijuana to be cultivated, manufactured, stored, distributed, or  
32 sold within its jurisdiction, it shall submit to the office  
33 documentation detailing their renewal requirements.

34 (b) The applicant, or any of its officers, directors, owners,  
35 members, or shareholders, is a minor.

36 (c) The applicant has knowingly answered a question or request  
37 for information falsely on the application form or failed to provide  
38 information requested.

39 (d) The applicant, or any of its officers, directors, owners,  
40 members, or shareholders has been sanctioned by the office, a city,

1 county, or city and county, for medical marijuana activities  
2 conducted in violation of this part or any applicable local ordinance  
3 or has had a license revoked in the previous five years.

4 (e) The proposed cultivation, processing, possession, storage,  
5 manufacturing, testing, transporting, distribution, provision, or  
6 sale of medical marijuana will violate any applicable local law or  
7 ordinance.

8 (f) The applicant or the owner is unable to establish that he or  
9 she has been a resident of the state for not less than 12 months.

10 18115. (a) In addition to the provisions of this part, a  
11 conditional license shall be subject to the restrictions of the local  
12 jurisdiction in which the facility operates or proposes to operate.  
13 Even if a conditional license has been granted pursuant to this part,  
14 a facility shall not operate in a local jurisdiction that prohibits the  
15 establishment of that type of business.

16 (b) In addition to the provisions of this part, local jurisdictions  
17 retain the power to assess fees and taxes, as applicable, on facilities  
18 that are conditionally licensed pursuant to this part and the business  
19 activities of those licensees.

20 18116. The office may adopt regulations to limit the number  
21 of conditional licenses issued pursuant to this part upon a finding  
22 that the otherwise unrestricted issuance of conditional licenses is  
23 dangerous to the public health and safety.

24

CHAPTER 3. FEES

25

26  
27 18117. (a) The conditional licensing fee shall be established  
28 by the office at a level sufficient to fund the reasonable costs of  
29 all of the following:

30 (1) Administrative costs incurred by the office in overseeing  
31 the conditional licensing ~~program, program and~~ establishing health  
32 and safety ~~standards, and certifying the required testing~~  
33 ~~laboratories.~~ *standards.*

34 (2) Costs incurred by the office or the Department of Justice  
35 for enforcement of the provisions of this part.

36 (3) Costs incurred by law enforcement and other public safety  
37 entities for enforcing the provisions of this part in their jurisdiction.

38 (b) In addition to the conditional licensing fee required pursuant  
39 to subdivision (a), a cultivation facility shall be assessed a fee in  
40 a sufficient amount to cover the reasonable regulatory costs of

1 enforcing the environmental impact provisions relating to those  
2 cultivation facilities. This fee shall be distributed, as necessary  
3 and in proportion to its regulatory function, between the following  
4 agencies responsible for enforcing the regulations relating to the  
5 environmental impact of licensed cultivation sites:

- 6 (1) The State Water Resources Control Board.
- 7 (2) The Department of Fish and Wildlife.
- 8 (3) The Department of Forestry and Fire Protection.
- 9 (4) The Department of Pesticide Regulation.
- 10 (5) The Department of Food and Agriculture.
- 11 (6) Local law enforcement.

12 18118. (a) The Medical Marijuana Regulation Fund is hereby  
13 established within the State Treasury. Notwithstanding Section  
14 16305.7 of the Government Code, the fund shall include any  
15 interest and dividends earned on the money in the fund.

16 (b) Except as provided in subdivision (c), all fees collected  
17 pursuant to this part shall be deposited into the Medical Marijuana  
18 Regulation Fund. All moneys within the fund are available, upon  
19 appropriation by the Legislature, to the office solely for the  
20 purposes of fully funding and administering this part, including,  
21 but not limited to, the costs incurred by the office for its  
22 administrative expenses.

23 (c) The Special Account for Environmental Enforcement is  
24 hereby established as an account within the Medical Marijuana  
25 Regulation Fund. Notwithstanding Section 16305.7 of the  
26 Government Code, the account shall include any interest and  
27 dividends earned on the money in the account. All fees collected  
28 pursuant to subdivision (b) of Section 18117 shall be deposited in  
29 this account. All moneys within the fund are available, upon  
30 appropriation by the Legislature, to the office for distribution to  
31 the entities listed in subdivision (b) of Section 18117 to be used  
32 to enforce the environmental regulation of licensed cultivation  
33 sites.

34 (d) All moneys collected as a result of penalties imposed under  
35 this part shall be deposited directly into the General Fund, to be  
36 available upon appropriation.

37 (e) The office may establish and administer a grant program to  
38 allocate moneys from the Medical Marijuana Regulation Fund to  
39 state and local entities for the purpose of assisting with medical  
40 marijuana regulation and the enforcement of this part.

1 18119. (a) A facility issued a conditional license shall not  
 2 acquire, cultivate, process, possess, store, manufacture, distribute,  
 3 sell, deliver, transfer, transport, or dispense medical marijuana for  
 4 any purpose other than those authorized by Article 2.5  
 5 (commencing with Section 11362.7) of Chapter 6 of Division 10  
 6 of the Health and Safety Code.

7 (b) A licensed dispensing facility shall not acquire, cultivate,  
 8 process, possess, store, manufacture, distribute, sell, deliver,  
 9 transfer, transport, or dispense medical marijuana plants or medical  
 10 marijuana products except through a licensed cultivation site or a  
 11 licensed manufacturer.

12

13 CHAPTER 4. TRANSPORTATION OF MEDICAL MARIJUANA

14

15 18120. (a) A licensed transporter shall ship only to facilities  
 16 issued a conditional license and only in response to a request for  
 17 a specific quantity and variety from those facilities.

18 (b) Prior to transporting *medical marijuana or* medical marijuana  
 19 products, a licensed transporter shall do both of the following:

20 (1) Complete a shipping manifest using a form prescribed by  
 21 the office.

22 (2) Securely transmit a copy of the manifest to the licensee that  
 23 will receive the *medical marijuana or* medical marijuana product,  
 24 and to the office, prior to transport.

25 (c) The licensed transporter making the shipment and the  
 26 licensee receiving the shipment shall maintain each shipping  
 27 manifest and make it available to local code enforcement officers,  
 28 any other locally designated enforcement entity, and the office  
 29 upon request.

30 18121. (a) Transported *medical marijuana and* medical  
 31 marijuana products shall:

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

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

36 (b) A vehicle transporting medical marijuana *or medical*  
 37 *marijuana products* shall not have external markings or other  
 38 indications that it is transporting medical marijuana.

1 (c) A vehicle transporting medical marijuana products shall  
2 travel directly from one licensed facility to another licensed facility  
3 authorized to receive the shipment.

4 (d) The provisions of this section only apply to a licensed  
5 transporter.

6 18122. (a) All transport vehicles carrying medical marijuana  
7 with a retail value greater than ten thousand dollars (\$10,000) shall  
8 be staffed with a minimum of two employees. At least one transport  
9 team member shall remain with the vehicle at all times when the  
10 vehicle contains medical marijuana.

11 (b) Each transport team member shall have access to a secure  
12 form of communication by which each member can communicate  
13 with personnel at the licensed facility at all times when the vehicle  
14 contains medical marijuana.

15 (c) Each transport team member shall possess documentation  
16 of licensing and a government-issued identification card at all  
17 times when transporting or delivering medical marijuana and shall  
18 produce it to any representative of the office or law enforcement  
19 upon request.

20 (d) This part shall not be construed to authorize or permit a  
21 licensee to transport, or cause to be transported, medical marijuana  
22 or medical marijuana products outside the state.

23 (e) The requirements of this section shall only apply to a licensed  
24 transporter.

25 18123. A local jurisdiction shall not prevent transportation  
26 through or to a facility issued a conditional license, by a  
27 conditionally licensed transporter who acts in compliance with  
28 this part.

29  
30 CHAPTER 5. ENFORCEMENT

31  
32 18124. A state agency is not required by this section to enforce  
33 a city, county, city and county, or local law, ordinance, rule, or  
34 regulation regarding the site or operation of a facility issued a  
35 conditional license.

36 18125. The office may assist state taxation authorities in the  
37 development of uniform policies for the state taxation of licensees.

38 18126. (a) The office may enforce all of the requirements of  
39 this part, including any regulations adopted pursuant to this part.

1 (b) The office shall delegate the authority to enforce the  
2 requirements of this part, including any regulations, to a city,  
3 county, or city and county, upon request of that entity.

4 (c) Nothing in this part shall be interpreted to supersede or limit  
5 existing local authority for law enforcement activity, enforcement  
6 of local zoning requirements, or enforcement of local licensing  
7 requirements.

8 (d) Nothing in this part shall be interpreted to require the office  
9 to undertake local law enforcement responsibilities, enforce local  
10 zoning requirements, or enforce local licensing requirements.

11 18127. (a) A willful violation of Section 18110, including an  
12 attempt to falsify information on an application or to otherwise  
13 defraud or mislead a state or local agency in the course of the  
14 application process, shall be punishable by a civil fine of up to  
15 thirty-five thousand dollars (\$35,000) for each individual violation.

16 (b) A technical violation of Section 18110 shall, at the office's  
17 discretion, be punishable by a civil fine of up to ten thousand  
18 dollars (\$10,000) for each individual violation.

19 18128. A district attorney, county counsel, city attorney, ~~or~~  
20 ~~city prosecutor~~ *prosecutor, the Attorney General, or the office* may  
21 bring an action to enjoin a violation or the threatened violation of  
22 any provision of this part, including, but not limited to, a licensee's  
23 failure to correct objectionable conditions following notice or as  
24 a result of a rule promulgated pursuant to this part. The action shall  
25 be brought in the county in which the violation occurred or is  
26 threatened to occur. A proceeding brought pursuant to this part  
27 shall conform to the requirements of Chapter 3 (commencing with  
28 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.  
29 Nothing in this section shall diminish the authority of a local  
30 government to take requisite enforcement actions pertaining to its  
31 own ordinances or regulations.

32 18129. Nothing in this part shall prevent a city or other local  
33 governing body from taking action as specified in Section 11362.83  
34 of the Health and Safety Code.

35 18130. This part shall not be construed to limit a law  
36 enforcement agency's ability to investigate unlawful activity in  
37 relation to a facility issued a conditional license.

38  
39 CHAPTER 6. CULTIVATION SITES  
40

1 ~~18132. (a) The office shall notify local law enforcement of all~~  
2 ~~conditional licenses issues for cultivation sites in that jurisdiction.~~

3 ~~(b) A licensed cultivation site shall display the state license in~~  
4 ~~a manner so as to be available and easily read at the location.~~

5 18133. (a) No later than January 1, 2022, all medical marijuana  
6 grown, produced, distributed, and sold in the state shall meet ~~the~~  
7 ~~certified organic standards.~~ *standards equivalent to those for*  
8 *certified organic crops. Certification shall be by the office or an*  
9 *independent third party that contracts with the office for the*  
10 *purpose of certifying medical marijuana as organic.*

11 (b) The office shall establish appellations of origin for marijuana  
12 grown in California.

13 18134. The office shall work with county agricultural  
14 ~~commissioners,~~ *offices commissioners* to provide all the  
15 information and forms required for conditional licensure as a  
16 cultivation site in a single location, including state licensure, local  
17 requirements in that jurisdiction, and environmental requirements.

18  
19 CHAPTER 7. REGULATION OF MEDICAL MARIJUANA  
20

21 18136. (a) A person shall not distribute any form of advertising  
22 for physician recommendations for medical marijuana in California  
23 unless the advertisement bears the following notice to consumers:

24 NOTICE TO CONSUMERS: The Compassionate Use Act of  
25 1996 ensures that seriously ill Californians have the right to obtain  
26 and use marijuana for medical purposes where medical use is  
27 deemed appropriate and has been recommended by a physician  
28 who has determined that the person's health would benefit from  
29 the use of medical marijuana. Physicians are licensed and regulated  
30 by the Medical Board of California and arrive at the decision to  
31 make this recommendation in accordance with accepted standards  
32 of medical responsibility. *Marijuana is a Schedule I drug according*  
33 *to the federal Controlled Substances Act. Activity related to*  
34 *marijuana use is subject to federal prosecution, without protections*  
35 *provided by state law.*

36 (b) Advertising for physician recommendations for medical  
37 marijuana shall meet all requirements of Section 651. Price  
38 advertising shall not be fraudulent, deceitful, or misleading,  
39 including statements or advertisements of bait, discounts,  
40 premiums, gifts, or statements of a similar nature.

1 18137. (a) A facility issued a conditional license shall  
2 implement sufficient security measures to both deter and prevent  
3 unauthorized entrance into areas containing *medical marijuana or*  
4 *medical marijuana products* and theft of *medical marijuana or*  
5 *medical marijuana products* at those facilities. These security  
6 measures shall include, but not be limited to, all of the following:

7 (1) Preventing individuals from remaining on the premises of  
8 the facility if they are not engaging in activity expressly related to  
9 the operations of the facility.

10 (2) Establishing limited access areas accessible only to  
11 authorized facility personnel.

12 (3) Storing all finished *medical marijuana and medical*  
13 *marijuana products* in a secured and locked room, safe, or vault,  
14 and in a manner as to prevent diversion, theft, and loss, except for  
15 limited amounts of marijuana used for display purposes, samples,  
16 or immediate sale.

17 (b) A facility issued a conditional license shall notify appropriate  
18 law enforcement authorities within 24 hours after discovering any  
19 of the following:

20 (1) Significant discrepancies identified during inventory. The  
21 level of significance shall be determined by the office.

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

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

27 (4) Any other breach of security.

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

34 18138. (a) A licensed cultivation site or licensed dispensing  
35 facility shall display the conditional license in a manner so as to  
36 be available and easily read at the location.

37 (b) The office shall notify local law enforcement of all  
38 conditional licenses issued for cultivation sites, manufacturers,  
39 and dispensaries in that jurisdiction.

1 18140. (a) Information identifying the names of patients, their  
2 medical conditions, or the names of their primary caregivers  
3 received and contained in records kept by the office for the  
4 purposes of administering this part ~~are confidential and exempt~~  
5 ~~from the California Public Records Act (Chapter 3.5 (commencing~~  
6 ~~with Section 6250) of Division 7 of Title 1 of the Government~~  
7 ~~Code) and are not subject to disclosure to an individual or private~~  
8 ~~entity, except as necessary for authorized employees of the state~~  
9 ~~to perform official duties pursuant to this part. shall be maintained~~  
10 ~~in accordance with Chapter 1 (commencing with Section 123100)~~  
11 ~~of Part 1 of Division 106 of the Health and Safety Code, Part 2.6~~  
12 ~~(commencing with Section 56) of Division 1 of the Civil Code, and~~  
13 ~~other state and federal laws relating to confidential patient~~  
14 ~~information.~~

15 (b) (1) Nothing in this section shall preclude any of the  
16 following:

17 (A) Office employees notifying state or local agencies about  
18 information submitted to the office that the employee suspects is  
19 falsified or fraudulent.

20 (B) Notifications from the office to state or local agencies of  
21 apparent violations of this part or an applicable local ordinance.

22 (C) Verification of requests by state or local agencies to confirm  
23 licenses and certificates issued by the office or other state agency.

24 (D) Providing information requested pursuant to a court order  
25 or subpoena issued by a court, an administrative agency, or local  
26 governing body authorized by law to issue subpoenas.

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

30 18141. (a) The actions of a licensee, its employees, and its  
31 agents, that are permitted pursuant to a conditional license and that  
32 are conducted in accordance with the requirements of this part and  
33 regulations adopted pursuant to this part, are not unlawful under  
34 state law and shall not be an offense subject to arrest or  
35 prosecution.

36 (b) The actions of a person who, in good faith and upon  
37 investigation, allows his or her property to be used by a licensee,  
38 its employees, and its agents, as permitted pursuant to a conditional  
39 license, are not unlawful under state law and shall not be an offense  
40 subject to arrest or prosecution.

1 (c) This section shall not be deemed to limit the authority or  
2 remedies of a city, county, or city and county under any law,  
3 including, without limitation, Section 7 of Article XI of the  
4 California Constitution.

5 18142. (a) A licensee shall not cultivate, process, store,  
6 manufacture, transport, or sell medical marijuana in the state unless  
7 accurate records are kept at the licensed premises of the growing,  
8 processing, storing, manufacturing, transporting, or selling by the  
9 licensee in the state. These records shall include the name and  
10 address of the supplier of marijuana received or possessed by the  
11 licensee, the location at which the marijuana was cultivated, the  
12 amount of marijuana received, the form in which it is received,  
13 the name of the employee receiving it, and the date of receipt.  
14 These records shall also include receipts for all expenditures  
15 incurred by the licensee and banking records, if any, for all funds  
16 obtained or expended in the performance of any activity under the  
17 authority of the conditional license. A licensee who has a  
18 conditional license for more than one premises may keep all records  
19 at one of the conditionally licensed premises. Required records  
20 shall be kept for a period of seven years from the date of the  
21 transaction.

22 (b) The office or a local agency delegated the authority to  
23 enforce the licensing requirements of this part may examine the  
24 books and records of a conditional licensee and may visit and  
25 inspect the premises of a conditional licensee, as the office or local  
26 agency deems necessary to perform its duties under this part.

27 (c) Books or records requested by the office or a local agency  
28 delegated the authority to enforce licensing requirements of this  
29 part shall be provided by the conditional licensee no later than five  
30 business days after the request is made.

31 (d) The office or a local agency delegated the authority to  
32 enforce the licensing requirements of this part may enter and  
33 inspect the premises of a facility issued a conditional license  
34 between the hours of 8 a.m. and 8 p.m. on any day that the facility  
35 is open, or at any reasonable time, to ensure compliance and  
36 enforcement of the provisions of this part or a local ordinance.

37 (e) If a licensee or an employee of a licensee refuses, impedes,  
38 obstructs, or interferes with an inspection pursuant to subdivision  
39 (d), the conditional license may be summarily suspended and the

1 office shall directly commence proceedings for the revocation of  
2 the conditional license.

3 (f) If a licensee fails to maintain or provide the books and  
4 records required pursuant to this section, the licensee shall be  
5 subject to a civil fine of fifteen thousand dollars (\$15,000) per  
6 individual violation.

7 (g) The office or a local agency delegated the authority to  
8 enforce the licensing requirement of this part may, at its discretion,  
9 require a licensee to contract for an independent audit of the records  
10 required under this section. The licensee shall be liable for all costs  
11 associated with such an audit.

12 SEC. 6. Section 23028 is added to the Government Code, to  
13 read:

14 23028. (a) (1) ~~A city, county, or city and county, county~~ may  
15 impose a tax on the privilege of cultivating, dispensing, producing,  
16 processing, preparing, storing, providing, donating, selling, or  
17 distributing *medical marijuana or medical marijuana products* by  
18 a licensee operating pursuant to Part 5 (commencing with Section  
19 18100) of Division 7 of the Business and Professions Code.

20 (2) The board of supervisors ~~or city council~~ shall specify in the  
21 ordinance proposing the tax the activities subject to the tax, the  
22 applicable rate or rates, the method of apportionment, if necessary,  
23 and the manner of collection of the tax. The tax may be imposed  
24 for general governmental purposes or for purposes specified in the  
25 ordinance by the board of ~~supervisors or city council~~ *supervisors*.

26 (3) *In addition to any other method of collection authorized by*  
27 *law, the board of supervisors may provide for the collection of the*  
28 *tax imposed pursuant to this section in the same manner, and*  
29 *subject to the same penalties and priority of lien, as other charges*  
30 *and taxes fixed and collected by the county. A tax imposed pursuant*  
31 *to this section is a tax and not a fee or special assessment. The*  
32 *board of supervisors shall specify whether the tax applies*  
33 *throughout the entire county or within the unincorporated area of*  
34 *the county.*

35 ~~(3)~~

36 (4) The tax authorized by this section may be imposed upon  
37 any or all of the activities set forth in paragraph (1) specified in  
38 the ordinance, regardless of whether the activity is undertaken  
39 individually, collectively, or cooperatively, and regardless of

1 whether the activity is for compensation or gratuitously, as  
 2 determined by the board of supervisors or city council.

3 (b) A tax imposed pursuant to this section shall be subject to  
 4 applicable voter approval requirements imposed by law.

5 (c) For purposes of this section, “marijuana” has the same  
 6 meaning as the term “marijuana product” set forth in Section  
 7 111658 of the Health and Safety Code.

8 (d) This section *is declaratory of existing law and does not limit*  
 9 *or prohibit the levy or collection of any other fee, charge, or*  
 10 *tax, or a license or service fee or charge upon, or related to, the*  
 11 *activities set forth in subdivision (a) as otherwise provided by law,*  
 12 *including Section 37100.5. law. This section shall not be construed*  
 13 *as a limitation upon the taxing authority of a city, county, or city*  
 14 *and county as provided by law.*

15 (e) *A tax imposed pursuant to this section is not a sales and use*  
 16 *tax subject to Part 1.5 (commencing with Section 7200) of Division*  
 17 *2 of the Revenue and Taxation Code or a transactions and use tax*  
 18 *subject to Chapter 2 (commencing with Section 7285) of Part 1.7*  
 19 *of Division 2 of the Revenue and Taxation Code. This subdivision*  
 20 *shall not preclude imposition of any other tax authorized under*  
 21 *this section upon the privilege of selling, storing, using, or*  
 22 *consuming medical marijuana.*

23 SEC. 7. Section 11362.775 of the Health and Safety Code is  
 24 amended to read:

25 11362.775. (a) Qualified patients, persons with valid  
 26 identification cards, and the designated primary caregivers of  
 27 qualified patients and persons with identification cards, who  
 28 cultivate marijuana for medical purposes, shall not solely on the  
 29 basis of that fact be subject to state criminal sanctions under  
 30 Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

31 (b) An individual employee, officer, or board member of a  
 32 facility issued a conditional license pursuant to Part 5 (commencing  
 33 with Section 18100) of Division 7 of the Business and Professions  
 34 Code shall not be subject to state criminal sanctions under Section  
 35 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570 and any  
 36 successor statutes, based solely on holding a conditional license,  
 37 for the possession, cultivation, processing, packaging, storage,  
 38 transportation, sale, or distribution of medical marijuana to a  
 39 facility holding a conditional license pursuant to Part 5  
 40 (commencing with Section 18100) of Division 7 of the Business

1 and Professions Code or directly to a qualified patient, a person  
 2 with a valid identification card, or the designated primary caregiver  
 3 of a qualified patient or person with a valid identification card,  
 4 within the state, unless the information contained on the licensing  
 5 paperwork is false or falsified, the license has been obtained by  
 6 means of fraud, or the person is otherwise in violation of Part 5  
 7 (commencing with Section 18100) of Division 7 of the Business  
 8 and Professions Code.

9 (c) This section shall not diminish the protections of Section  
 10 18141 of the Business and Professions Code.

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

14  
 15 Article 8. Medical Marijuana

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

19 (a) “Edible medical marijuana product” means medical  
 20 marijuana or a medical marijuana-derived product that is ingested  
 21 or meant to be ingested through the mouth and into the digestive  
 22 system.

23 ~~(b) “Labor peace agreement” means an agreement between an~~  
 24 ~~entity and a bona fide labor organization that, at a minimum,~~  
 25 ~~protects the state’s proprietary interests by prohibiting labor~~  
 26 ~~organizations and members from engaging in picketing, work~~  
 27 ~~stoppages, boycotts, and any other economic interference with the~~  
 28 ~~applicant’s business. This agreement means that the applicant has~~  
 29 ~~agreed not to disrupt efforts by the bona fide labor organization~~  
 30 ~~to communicate with, and attempt to organize and represent, the~~  
 31 ~~applicant’s employees.~~

32 (e)  
 33 (b) “Marijuana” means all parts of the plant *Cannabis sativa* L.  
 34 *sativa*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing  
 35 or not; the seeds thereof; the resin, whether crude or purified,  
 36 extracted from any part of the plant; and every compound,  
 37 manufacture, salt, derivative, mixture, or preparation of the plant,  
 38 its seeds, or resin. “Marijuana” does not include the mature stalks  
 39 of the plant, fiber produced from the stalks, oil or cake made from  
 40 the seeds of the plant, any other compound, manufacture, salt,

1 derivative, mixture, or preparation of the mature stalks (except the  
 2 resin extracted therefrom), fiber, oil, or cake, or the sterilized seed  
 3 of the plant which is incapable of germination. “Marijuana” also  
 4 means marijuana, as defined by Section 11018.

5 ~~(d)~~

6 (c) “Office” means the Office of Medical Marijuana Regulation  
 7 in the Business, Consumer Affairs, and Housing Agency.

8 ~~(e) “Representative samples” means samples taken from each~~  
 9 ~~batch or shipment of medical marijuana received from a licensed~~  
 10 ~~cultivation site or any other source if intended for sale.~~

11 111659. On or before July 1, 2017, the office shall report to  
 12 the Legislature on the ~~feasibility~~ *feasibility* of developing a  
 13 program to certify laboratories for the testing of medical marijuana  
 14 and related products and the ~~feasibility~~ *feasibility* of developing  
 15 a labeling requirement for edible marijuana products that  
 16 incorporates information on the cannabinoid content.

17 111660. ~~(a)~~ A facility issued a conditional license pursuant to  
 18 Part 5 (commencing with Section 18100) of Division 7 of the  
 19 Business and Professions Code shall bear the responsibility for  
 20 both of the following:

21 ~~(1)~~

22 (a) Maintaining supplier information in order for recall  
 23 procedures to be implemented, if and when necessary.

24 ~~(2)~~

25 (b) Labeling of all medical marijuana and medical marijuana  
 26 products that shall, at a minimum, include the following:

27 ~~(A)~~

28 (1) List of pharmacologically active ingredients, including, but  
 29 not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD)  
 30 content, ~~clear recommended dosage, and the size or volume of the~~  
 31 ~~recommended dose.~~ *the quantity of active ingredients per serving,*  
 32 *and the total amount within the package. For purposes of this*  
 33 *paragraph, the office shall determine the appropriate size of one*  
 34 *serving.*

35 ~~(B)~~

36 (2) Clear indication, in bold font, that the product contains  
 37 medical marijuana.

38 ~~(C)~~

39 (3) The statement “FOR MEDICAL USE ONLY. KEEP OUT  
 40 OF REACH OF CHILDREN AND ANIMALS” in bold print.

- 1     ~~(D)~~
- 2     (4) Identification of the source and date of cultivation and
- 3     manufacture.
- 4     ~~(E)~~
- 5     (5) The name and location of the dispensary providing the
- 6     product.
- 7     ~~(F)~~
- 8     (6) The date of sale.
- 9     ~~(G)~~
- 10    (7) Any other requirements set by the office.

11     111662. For purposes of this article, edible medical marijuana  
12     products are deemed to be unadulterated food products. In addition  
13     to the quality assurance standards provided in Section 111661, all  
14     edible medical marijuana products shall comply with the following  
15     requirements:

16     (a) Baked edible medical marijuana products, including, but not  
17     limited to, brownies, bars, cookies, and cakes, tinctures, and other  
18     edible medical marijuana products that do not require refrigeration  
19     or hot holding may be manufactured, sold, or otherwise distributed  
20     at facilities issued a conditional license pursuant to Part 5  
21     (commencing with Section 18100) of Division 7 of the Business  
22     and Professions Code.

23     (b) A facility issued a conditional license pursuant to Part 5  
24     (commencing with Section 18100) of Division 7 of the Business  
25     and Professions Code shall have an owner or employee who has  
26     successfully passed an approved and accredited food safety  
27     certification examination as specified in Sections 113947.1,  
28     113947.2, and 113947.3 prior to selling, manufacturing, or  
29     distributing edible medical marijuana products requiring  
30     refrigeration or hot holding.

31     (c) Individuals manufacturing or selling edible medical  
32     marijuana products shall thoroughly wash their hands before  
33     commencing production and before handling finished edible  
34     medical marijuana products.

35     (d) All edible medical marijuana products sold for direct  
36     consumption and infused with marijuana concentrate shall be  
37     individually wrapped at the original point of preparation.

38     (e) Products containing tetrahydrocannabinol (THC) shall be  
39     prepared in compliance with maximum potency standards for THC  
40     and THC concentrates set forth in the ~~bureau's~~ *office's* regulations.

1 (f) Prior to sale or distribution at a licensed dispensing facility,  
 2 edible medical marijuana products shall be labeled and in ~~an~~  
 3 ~~opaque and a~~ tamper evident package. Labels and packages of  
 4 edible medical marijuana products shall meet the following  
 5 requirements:

6 (1) Edible medical marijuana packages and labels shall not be  
 7 made to be attractive to children.

8 (2) ~~At~~ *In addition to the labeling requirements set forth in*  
 9 *Section 111660*, edible medical marijuana product labels shall  
 10 include the following information, prominently displayed and in  
 11 a clear and legible font:

12 (A) Manufacture date and source.

13 ~~(B) The statement “KEEP OUT OF REACH OF CHILDREN~~  
 14 ~~AND ANIMALS” in bold print.~~

15 ~~(C) The statement “FOR MEDICAL USE ONLY.”~~

16 ~~(D)~~

17 (B) Net weight of medical marijuana in package.

18 ~~(E)~~

19 (C) A warning if nuts or other known allergens are used and  
 20 shall include the total weight, in ounces or grams, of medical  
 21 marijuana in the package.

22 ~~(F) List of pharmacologically active ingredients, including, but~~  
 23 ~~not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD)~~  
 24 ~~content, clear recommended dosage, and the size or volume of~~  
 25 ~~recommended dose.~~

26 ~~(G)~~

27 (D) Any other requirement set by the office.

28 (g) Photos or images of food are not allowed on edible medical  
 29 marijuana product packages or labels.

30 (h) Only generic food names may be used to describe edible  
 31 medical marijuana products.

32 *111663. All facilities issued a conditional license pursuant to*  
 33 *Part 5 (commencing with Section 18100) of Division 7 of the*  
 34 *Business and Professions Code that conduct business related to*  
 35 *food or food-based products shall be subject to requirements*  
 36 *equivalent to those of the California Retail Food Code and other*  
 37 *applicable laws, as determined by the office.*

38 SEC. 9. On or before July 1, 2016, the State Board of  
 39 Equalization shall compile a report on the estimated tax collected  
 40 on the sale of medical marijuana, using the most current data

1 available. The report should also include expected tax revenues,  
2 under the existing tax structure, for the years 2016 to 2021,  
3 inclusive. This report shall be submitted to the Legislature and the  
4 Governor's office pursuant to Section 9795 of the Government  
5 Code.

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

10 SEC. 11. The Legislature finds and declares that Section 5 of  
11 this act imposes a limitation on the public's right of access to the  
12 meetings of public bodies or the writings of public officials and  
13 agencies within the meaning of Section 3 of Article I of the  
14 California Constitution. Pursuant to that constitutional provision,  
15 the Legislature makes the following findings to demonstrate the  
16 interest protected by this limitation and the need for protecting  
17 that interest:

18 The limitation imposed under this act is necessary for purposes  
19 of compliance with the federal Health Insurance Portability and  
20 Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the  
21 Confidentiality of Medical Information Act (Part 2.6 (commencing  
22 with Section 56) of Division 1 of the Civil Code), and the Insurance  
23 Information and Privacy Protection Act (Article 6.6 (commencing  
24 with Section 791) of Part 2 of Division 1 of the Insurance Code).

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

34 SEC. 13. The amendments made to Section 11362.775 of the  
35 Health and Safety Code by this act shall become operative on July  
36 1, ~~2017~~. 2018.

O