
Subject:

FW: [External] Prop. 64 – Funding for local emergency response services

From: Lou Paulson <ahoward@cpf.org>**Date:** March 22, 2017 at 12:30:49 PM PDT**To:** Mayor Bailey <rbailey@riversideca.gov>**Subject:** [External] Prop. 64 – Funding for local emergency response services**Reply-To:** Lou Paulson <ahoward@cpf.org>

Dear Mayor Bailey,

California Professional Firefighters (CPF), representing over 30,000 career firefighting and emergency medical service personnel statewide, appreciates this opportunity to submit the following for your thoughtful consideration relative to implementing Proposition 64, which was approved by voters last November.

As you know, Prop. 64's provisions include new, specified taxes and fees on the cultivation and sale of marijuana in California. Local governments retain authority to regulate marijuana production, distribution and sales and in doing so, may elect to establish local tax rules which, at their discretion, can apply to both medical and nonmedical marijuana.

When you consider such taxes and fees on the industry to compensate for community impacts, we encourage you to keep emergency medical, fire protection, and fire response services at the forefront of any funding decisions that you make. There is strong evidence that these core safety services will be significantly impacted and will face additional demand as a result of Prop. 64's enactment.

On the fire response side, the National Fire Protection Association (NFPA) identifies a number of unique fire and life safety issues inherent in marijuana production: Increased fires caused by powerful, low-hanging lights used against a backdrop of plastic dividers, combustible interior finishes, high electrical loads, and illegal locks; elevated levels of carbon dioxide (CO₂) assisting in plant growth; use of toxic chemicals in fumigating grow rooms; an increase in explosions involving illegal hash oil production.

Fire prevention services will be similarly impacted. Fire departments will be called on to inspect more marijuana growth, processing and extraction facilities. Owners of such facilities – some of whom may be transitioning from illegal to legal cultivation – could fail to address code violations. This further increases fire and life safety risks and will likely require fire inspectors to spend more of their time mitigating marijuana-related legal issues.

Marijuana legalization also has been shown to have an impact on EMS response. Recent evidence collected on the experience in Colorado identifies several: Toxicity-related traumatic injuries, including traffic collisions resulting from altered perception and motor control; burns from butane hash oil production; pediatric accidental ingestion and increased heroin use and overdose (per a report in the Journal of Emergency Medical Services).

Make no mistake ... There will be challenges to our emergency response networks, resulting from this new industry. If firefighters and fire agencies are not staffed, equipped and trained accordingly, California's communities will incur an increase in associated deaths, injuries, and property and financial losses. Whether you maintain a city fire department or your city relies on another agency -- such an independent fire district or CAL FIRE via a cooperative fire protection agreement -- these critical partnerships should not be put at risk in the wake of Prop. 64.

Now more than ever, our emergency response networks must be properly

supported. We believe there is an opportunity for us to work together to play a key role in shaping the evolution of this industry in our communities. In doing so, we can strengthen the safety of the public, as well as the safety of our firefighters.

For these reasons, we ask that you make emergency medical, fire protection, and fire response services a funding priority when assessing your community's public safety needs and demands as a result of the enactment of Prop. 64.



Lou Paulson
President
California Professional Firefighters
(916) 921-9111

This email was sent to rbailey@riversideca.gov

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California Professional Firefighters · 1780 Creekside Oaks · Sacramento, CA 95833 · USA

From: Roland Cordova [<mailto:roland@ugrowrentals.com>]

Sent: Tuesday, August 01, 2017 12:42 PM

To: Morton, Sherry <SMorton@riversideca.gov>

Subject: [External] Prop.64 Mandate to allow Cannabis to be grown in residential homes

City Manager, Attorney, and City Clerk,

My name is Roland Cordova, and I am very interested in your thoughts about receptiveness to a solution to help with your upcoming Prop 64 requirements for in- home marijuana growing.

I recently launched a new business with some great people and great investors, and our very first priority is making sure that any community we come in contact with is comfortable with our idea. So, you are the first person that we have reached out to for initial feedback (as you have probably guessed, it will be intertwined with State/City marijuana laws).

In short, our company offers small 10 feet x 10 feet rentable rooms to utilize as a grow space for citizens/patients wishing to begin personal marijuana growing up to their six-plant limit (Prop 64); and all rooms are located in a single building. We would offer these rooms as an alternative to in-home setups – of course, contingent upon your approval and any subsequent code/permitting/legislation.

We really believe this solution provides some huge advantages to City officials – all coming back to cost. The main advantage being that the City would only have to regulate this one facility to cover a huge number of residents. But, this is also seen as something residents would be delighted to have as an option – especially if certain neighborhood associations would prefer to keep any marijuana cultivation out of their community through their own bylaws. This also would address any concerns that home insurance companies might have about the new risks posed by a small growing operation in one's house.

Our name is U-Grow Rentals, and our website is www.ugrowrentals.com. Thank you for your time in reviewing this unsolicited email. We look forward to hearing from you regarding your interest and feedback on this crucial decision.

Thank you again, Roland

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From: Roland Cordova [<mailto:roland@ugrowrentals.com>]

Sent: Tuesday, August 08, 2017 12:06 PM

To: Morton, Sherry <SMorton@riversideca.gov>

Subject: [External] Dangers related to Prop. 64 Mandate to allow In-Home Cannabis Cultivation

Dear Mayor and City Council,

Prop 64 Mandate to allow cannabis to be grown in residential homes has **serious** danger concerns. We understand how busy you are and know that with Prop. 64 looming, you do not want to have more problems to deal with. We are very aware that very few people know what it takes to grow cannabis. Citizens going into a Hydroponic store will be told that this is the equipment needed to grow cannabis. Here is a list:

- 2 1000 Watt LED Lights (requiring a lot of electricity)
- 1 Air Conditioner (room must be kept between 72 and 78 degrees)
- 1 Humidifier
- 2 Fans (for circulation)
- 2 Timers (one for automated watering and 1 for automating lights)
- Ventilation system to extract heat created by lights (sending strong odors into the neighborhood)

We are sharing this with you because of the mandate to allow in-home personal growing. Since this mandate has not been given much thought as it seems innocent enough, we want you to know that it is not. Allowing hundreds of untrained individuals to go to their garage and set up this kind of equipment which requires a considerable amount of power 24 hours a day comes with a high potential for a fire.

There are many other dangers to consider, here are a few:

- Neighbor complaints due to the smell and disapproval of growing cannabis near their home
- Theft due to teenagers becoming aware of growth operation (due to strong odor)
- Guns being used by homeowners protecting their investment
- Homes being involved in a fire incident due to untrained installation and inadequate power source
- Home burglaries to steal finished crops

What is the cost to regulate in-home personal growing? What is the cost to not regulate? What pressure does this put on your Fire Dept., Police Dept., Code Enforcement, and the court system? Obviously, these are issues to consider in the regulation of this very sensitive issue.

U-Grow Rentals has given this a lot of thought and we are not done helping. We sincerely want to aid cities with the difficult spot that the State of California has placed them in. We want this to be a win-win for the city and its citizens. Our facilities have thousands of small, leasable grow rooms for your citizens. It is a single, easily-monitored building that will:

- Require purchase of city permits to use facility (\$100.00 annually for an individual and \$200.00 for Caretakers)
- Consolidate the growing operation of many residents into a single location (lower the cost of regulatory resources)
- Remove the hazardous equipment risks from the homes (lower the volume of 911 calls and home insurance rates)
- Give the citizens a choice to grow in a controlled, expertly-staffed environment (give choices to the 'nimby' neighborhoods and the less sophisticated growers)

U-Grow wants to continue to think it through with each city - what are we missing...?

Let us work with you to bring life to an abandoned building, jobs to the people, and money to the treasurer...

Thank you for your time

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From: Global Elite [<mailto:globaleliteadvocacy16@gmail.com>]

Sent: Wednesday, July 26, 2017 8:20 PM

To: Morton, Sherry <SMorton@riversideca.gov>

Subject: [External] Statement for Public Record or to be Attached into Staff Report

Here is my Statement for Public Record so you have time to publish it. I will send my Packets of State Updates, Surveys and follow up data to my Packet delivered Monday if not sooner so that it as well can become Public Record. Thank You talk to you very soon.

Dear Municipal Council & Representatives of Riverside,

I, Ryan Bacchas would like to have this document read into public record, as letter serving purpose for education, explanation and exploration toward welcoming a newly and continually regulated Cannabis Retail Market to the city of Riverside with consideration to other businesses like Cultivation Manufacturing, Testing etcetera, of which could be as well appropriately regulated. As you are aware with the passage of Proposition 64, "The Regulate and Tax Adult Use of Marijuana Act" (AUMA), Municipal Authorities have the option to come to Resolutions adopting State Law and Ordinances further regulating the Commercial Activity chosen to occur or, ban and prohibit activity outside of individual personal use. I implore the city to explore the potential and possibilities toward allowing a small Regulated Market in order to not only prevent a surge of Black Market and Illicit Dealers but, provide domestic, nearby and visiting consumers with a way to obtain their products from high end, professional and reputable outlets with quality lab tested state approved products. With California being well known for its role in the Cannabis Culture, Industry and Movement, there will be a plethora of locals, tourist, even residents who would imagine and even seek a more luxurious or high end boutique style of their indulgence. This is something that Riverside would be ideal and prime in offering given the long standing history and overall nature of the city; efforts in providing such a market as an option to consumers is something that can benefit all parties even the local businesses.

Providing a regulated market to adult consumers is a door for many opportunities, not only profitable for the city but, publicly and socially responsible for the protection of its citizens, to provide a regulated market for consumers to migrate from the Black Market. In addition to being able to effectively eliminate the black market, it gives the City privilege to necessary state funds, equipment and tools towards things like Cannabis impaired drivers, public education for adult consumption and discouragement of use by minors, and enforcement activity toward upholding local law. Of course just as the other historical, prestige's and respectable businesses in the area, these operations would be owned and comprised of professionals within the industry with and not limited to;

- Accredited business backgrounds
- History of professional conduct
- Statements or proof of Financial Capability required in the process of applying to create and operate a Cannabis retailer, Lounge, Coffee shop, boutique etc. This should include but would not be limited to statements or proof of financial capability to; obtain a \$1,000,000 dollar insurance bond or a \$5,000 surety bond; conduct possible or necessary in tenet or commercial remodel or update to building to meet conforming standards; ability to obtain product that is quality insured and lab tested; appropriate plan or planner for creation P.O.S system and record of all proceeds and revenue generated for audits, inspections and insurance of compliance; Executive Summary of how business is to be run with a rough list of operation expenditures, projected revenue and how the business will be run in order to insure success;

- Understanding of the expectations, rules and regulations to be kept within compliance for obligations of excise fees and taxes generated from product, properly documented through receipts and appropriate records, separated, to be collected and directed to the City.

In exploring the regulated market, an explanation for the regulations and rules that retailers would be held to, in addition to the basic and fundamental practices of any business operating under sensitive uses, include items such but not limited to;

- Physical Appearance in accordance to surround and neighboring businesses and properties (Internally and Externally)
- Appropriate and/or Reasonable Hours of Operation
- Proper management staff meeting criterial age requirements.
- Qualified Managerial and Supervising Staff
- Frequent Upkeep and Maintenance of premises
- Proper Signage including clear prohibition of Minors
- Appropriate means of security or use of security team and/or agency
- Safe or Maximally Secured Vault for all Cash kept on Premises
- Proper means of transportation of cash (i.e use of security, vehicle etc.)
- Permanent waste management and proper disposal techniques including trash receptacles and dumpsters to be locked and restricted from access by the public
- Odor Control and appropriate ventilation
- Windows, doors and openings to have opaque cover restricting sight from exterior of the building
- Operate in distance applicable to Superseding Law (600 Ft of Residential Zones 300 ft. of Schools and Daycares)
- Partitioned entrances and exit ways.
- Exterior Signage conforming to surrounding establishments
- Exclusion of words on the outside that contain the words, wording and/or referencing of or to "marijuana," "cannabis," and/or derivatives thereof, with no bearable of pictures, murals graphics or depictions referencing and/or relating to "Marijuana," "Cannabis" and/or any derivatives thereof the substance.
- No residential conversion or living quarters on the premise
- All required business permits and licenses current and clearly displayed at entrance inside the building
- Permanently installed, operational video surveillance, monitors and recording devices both externally and internal, which have full view of all areas except employee bathrooms, with minimal and minimum parameters; capturing full view of the public right-of-way and any parking lot under control of business; adequate quality, color, rendition and resolution to allow the ready identification of any potential individual committing a crime on the interior or exterior of the property; recording capability to fourteen (14) days of logged history; 24/7 running system
- Professionally Installed burglar and fire systems with third party vendor that has 24/7 year round staffing

- Security staff in place and on site during hours of Operation
- No controlled substance including any Cannabis product that violates applicable state law
- Properly ventilated premise to prevent permeation outside the premises
- On site consumption as regulated by City
- Delivery reserved to outlet as legally permitted by State

In the review for process toward issuance toward a permit, things to be expected in an application vary but, for the most part include;

- Name and Address of Applicant(s) and/or each corporate officer of LLC, Joint Venture or Partnership
- Evidence that the applicant: *(A) Is the owner of the property where business is to be established(?); (B) Has approval and written consent and notarized documentation of owners' acceptance to use of property for establishment of business.*
- The Legal Description of the property, primarily address (Accessors' Parcel Number may be submitted as well).
- Detailed Site Plan at a minimum identifying the proposed location of the building and structures including landscaped areas, parking areas, driveways and means of ingress and regress
- Statement detailing plans for use of each building and structure as displayed in site plan
- Professional Floor with three (3) submittal color photo copies included with application submittal
- Map showing mandated distance from Residencies, Schools and Daycares
- Three (3) color photo copies of complete site plan and three (3) hard copies of Executive Summary, Business Plan and Mission Statement.
- Two (2) photo copies of government issue I.D (i.e DMV License, Driver's License, Social Security Identification Card, Passport) from each owner and/or corporate officer.
- A signed and notarized statement by the applicant(s) that he/she/they certifies under the penalty of perjury that all information contained in application is accurate, correct and true.
- Check or Money order for Application Fee

Grounds for denial would be things like erroneous and falsified information, failure of background check, inability to provide substantial evidence that applicants can be financially and professionally responsible for conduct and operation of proposed the business. The fees to be associated with the cost and issuance of permit as well as oversight by departments and task force conducted, would include but not be limited to;

- Agencies involved in review, renewal and/or issuance of permit including Planning, Health and Safety, City Manager, Code Enforcement, Fire Department, Police Department and Task Force; square feet of premise being used in

operation; fee specific to each activity occurring on the premise (i.e on site consumption, culinary practices). They could generated to the general fund where Council would consider the uses such as, enforcement of such provisions allowing and regulating practices; prevention of minor use; education; infrastructure within city limits; funding of city employee pensions.

The concepts that could be explored by that of retailer, include the classic Amsterdam coffee shop model, a lounge with pool tables and media centers, restaurant serving food infused with THC and other Cannabis derivatives, with other rooms for commingling (V.I.P rooms), Social Clubs and many other creative takes such as a hotel, a restaurant and/or a microbusiness brewery where people can see the multiple facets of the industry in one facility. Not only do these example and potential models provide the safe easy access for consumers that they need, it would serve as an innovative yet conservative platform towards a “high-end quality boutique,” style of the Commercial Business for which the reputation of Riverside would guarantee; especially attractive and reasonable for the more exclusive consumers in or nearby this area. I encourage and urge the Council, Planning Commission, Community Development and the Health and Safety Commission, whilst making their findings and proclamations heard, to consider these facts and reasons towards allowing a regulated and taxed commercial Cannabis Market in order to mutually benefit consumers and residents as well as to finally eliminate and quall the black market through balanced and effective policy. There is a way to implement these measures and insure their success as well as success to any adopted mechanism regarding this, I will assist you.



Marijuana Policy Project
P.O. Box 77492
Washington, DC 20013
p: (202) 462-5747 • f: (202) 232-0442
info@mpp.org • www.mpp.org

“We change laws.”

Medical Marijuana Dispensaries and Their Effect on Crime

Opponents of medical marijuana sometimes speculate that medical marijuana dispensaries will lead to increased crime rates in surrounding areas.¹ These dispensaries, they claim, will attract thieves and robbers to the facilities and breed secondary crimes in surrounding areas. Such claims have prompted empirical and statistical analyses by researchers and law enforcement agencies. In what should not come as a surprise, given the robust security at most medical marijuana facilities, these studies have routinely shown that, contrary to these concerns, dispensaries are not magnets for crime. Instead, these studies suggest that dispensaries are no more likely to attract crime than any other business, and in many cases, by bringing new business and economic activity to previously abandoned or run-down retail spaces, dispensaries actually contribute to a reduction in crime.

While the data is reassuring, one public safety challenge for dispensaries and adult use marijuana stores has been that many have been forced to operate as cash-only businesses because of banks’ concern about federal legal issues. However, with new guidance that was issued by the federal government in February 2014, it is expected that more small banks and credit unions will open accounts for marijuana businesses.

What follows is a brief summary of anecdotal and scientific evidence, including law enforcement data analyses and academic research on medical marijuana dispensaries and their effect on crime. For more information on dispensaries, medical use of marijuana, state laws, and other issues related to medical marijuana, please visit mpp.org/medical.

2009 Los Angeles Police Department survey — In response to debate over medical marijuana regulations by the Los Angeles City Council, and claims from medical marijuana opponents that dispensaries were magnets for crime, Los Angeles Police Chief Charlie Beck asked his department to produce a report comparing the robbery rates of L.A. banks and medical marijuana dispensaries. The report indicated that there were 71 robbery reports filed with the LAPD at the city’s 350 banks. Despite there being far more medical marijuana dispensaries — more than 800 at the time according to Beck — there were fewer robbery reports filed at dispensaries: just 47.

When asked about the report, and claims that dispensaries are crime magnets, Beck said, “I have tried to verify that because, of course, that is the mantra. It really doesn’t bear out. ... Banks are more likely to get robbed than medical marijuana dispensaries.”²

2009 Denver Police Department survey — An analysis of robbery and burglary rates at medical marijuana dispensaries conducted by the Denver Police Department at the request of the Denver City Council found that the robbery and burglary rates at dispensaries were lower than

¹ “Across the state, we’re seeing an increase in crime related to dispensaries,” said Ernie Martinez, a Denver police detective who is president of the Colorado Drug Investigators Association.” “Medical marijuana dispensaries’ effect on crime unclear,” *The Denver Post*, January 24, 2011.

http://www.denverpost.com/news/marijuana/ci_17178820#ixzz1ngbvMOII.

² “LAPD Chief: Pot clinics not plagued by crime,” *Los Angeles Daily News*, January 17, 2010.
http://www.dailynews.com/news/ci_14206441.

area banks and liquor stores and on par with those of pharmacies. Specifically, the report found a 16.8 percent burglary and robbery rate for dispensaries, equal to that of pharmacies. That's lower than the 19.7 percent rate for liquor stores and the 33.7 percent rate for banks, the analysis found.³

2010 Denver Police Department analysis — In late 2010, the Denver Police Department looked at crime rates in areas in and around dispensaries. The analysis showed that through the first nine months of 2010, crime was down 8.2% relative to the same period in 2009. The decrease was comparable to the city's overall drop in crime of 8.8%.⁴ *The Denver Post* completed a similar analysis and found that crime rates in some areas with the highest concentration of dispensaries saw bigger decreases in crime than neighborhoods with no dispensaries.⁵

2010 Colorado Springs Police Department analysis — An analysis by the Colorado Springs Police Department found that robbery and burglary rates at area dispensaries were on par with those of other businesses. Specifically, the department's data indicated that there were 41 criminal incidents reported at the city's 175 medical marijuana businesses in the 18-month period ending August 31, 2010. Meanwhile, over that same period, there were 797 robberies and 4,825 burglaries at other city businesses. These findings led the department's spokesman, Sgt. Darrin Abbink, to comment, "I don't think the data really supports [dispensaries] are more likely to be targeted at this point."⁶

October 2011 UCLA study, "Exploring the Ecological Link Between Crime and Medical Marijuana Dispensaries," — Researchers from UCLA, funded by the National Institute on Drug Abuse, used data from 95 census tracts in Sacramento to analyze two types of crime (violent and property) in areas with varying concentrations of dispensaries. What they found was that while factors traditionally understood to lead to increased crime — for example, large percentages of land zoned for commercial rather than residential use, a high percentage of one-person households, the presence of highway ramps, and a higher percentage of the population being ages 15-24 — were positively associated with crime in those areas, "the density of medical marijuana dispensaries was not associated with violent or property crime rates." In their conclusion, the researchers said, "[t]hese results suggest that the density of [medical marijuana dispensaries] may not be associated with increased crime rates or that measures dispensaries take to reduce crime (i.e., doormen, video cameras) may increase guardianship, such that it deters possible motivated offenders."⁷

Specifically, the study applied the "routine activity theory" of crime, which suggests that crime is more likely when three criteria are met: (1) a motivated offender, (2) a suitable target, as defined by factors like value, visibility, and access, and (3) a lack of guardianship such as low residency or poor security. The authors hypothesized that the lack of a relationship between dispensaries and crime could be attributable to either of two possible conclusions: either medical marijuana dispensaries were no more valuable a target than other businesses in the area — a possibility supported by the law enforcement surveys in L.A. and Denver discussed above — or heightened security at dispensaries was sufficient to deter criminal activity in the area.

³ "Analysis: Denver pot shops' robbery rate lower than banks," *The Denver Post*, January 27, 2010. http://www.denverpost.com/ci_14275637.

⁴ See note 1, *supra*.

⁵ *Id.*

⁶ "Marijuana shops not magnets for crime, police say," *Fort Collins Gazette*, September 14, 2010. <http://www.gazette.com/articles/wall-104598-marijuana-brassfield.html>.

⁷ <http://www.uclamedicalmarijuanaresearch.com/node/10>.

June 2011 Regent University study — Researcher Maura Scherrer of Regent University looked at the perception of crime, and medical marijuana dispensaries' impact on crime, among residents of Denver neighborhoods with varying socio-economic profiles. In so doing, she found that most crimes, including robbery, vandalism, and disorderly conduct increased in Denver from 2008 to 2009. However, in areas within 1,000 feet of a dispensary, rates were down for most types of crime, including burglary, larceny, and a 37.5% reduction in disorderly conduct citations. In her conclusion the author notes, "it appears that crime around the medical marijuana centers is considerably lower than citywide crime rates; a much different depiction than originally perceived."⁸

February 2014 *Urban Geography* — Researchers from the University of South Florida, the University of Colorado, and the New York City Criminal Justice Agency set out to determine whether medical marijuana dispensaries in Denver could be considered locally undesirable land uses (LULUs), land uses that people do not want to live close to, but which provide services to the community.⁹ The researchers studied 275 medical marijuana centers in 75 Denver neighborhoods and concluded that:

"[w]hile public officials, and especially law enforcement, clearly warn residents about the negative effects of these centers on the communities in which they are situated, there is little evidence that residents are listening, as these centers do not appear to have any impact on the urban landscape — and therefore on the health of the communities in which they are located."¹⁰

The study did find that medical marijuana centers are more likely to be opened in areas that have higher crime rates, but that is not unusual because crime follows retail concentrations. "In short, medical marijuana facilities appear to ... be more similar to drugstores and coffee houses than they are to LULUs."¹¹

Los Angeles crime trends — Los Angeles has frequently been cited as the city with the most dispensaries and the least regulation of those dispensaries. It is also the most populous city in the state that has the oldest and the broadest medical marijuana law, where any medical condition qualifies. While L.A. voters do prefer some regulation and control — and they approved a ballot measure to create a regulatory system in May 2013 — the city that has been cited as having more dispensaries than Starbucks certainly has not suffered a crime epidemic as a result of its permissive policies. On the contrary, overall crime in Los Angeles has dropped dramatically since dispensing collectives became legal in 2004. Crime rates have plummeted in the past 11 years, with decreases each of those 11 years. They are now the lowest they have been since 1949.¹²

The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006¹³ — Researchers Robert Morris, Michael TenEyck, J.C. Barnes, and Tomislav Kovandzic

⁸ Study available at <http://adr.coalition.org/codr/fez/view/codr:983>.

⁹ Lyndsay N. Boggess, Deanna M. Pérez, Kathryn Cope, Carl Root & Paul B. Stretesky, *Urban Geography* (2014): Do medical marijuana centers behave like locally undesirable land uses? Implications for the geography of health and environmental justice, *Urban Geography*.

¹⁰ *Id.* at p. 15

¹¹ *Id.* at p.16

¹² Kathy Mather, "L.A. crime falls for 11th year; officials note historic drops," *L.A. Times*, Jan. 13, 2014, <http://www.latimes.com/local/lanow/la-me-ln-crime-falls-20140113,0,3357277.story#axzz2vJ6f1xlX>

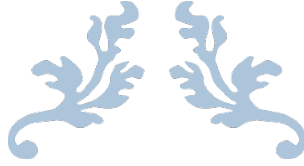
¹³ Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014). "The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006." *PLoS ONE* 9(3): e92816. doi: 10.1371/journal.pone.0092816

analyzed the association between the enactment of a medical marijuana law and state crime rates for all Part 1 offenses — homicide, rape, robbery, assault, burglary, larceny, and auto theft — as collected by the FBI. The purpose was to help inform the debate on whether passage of medical marijuana laws leads to increased crime rates. The researchers used fixed-effects panel design to identify what, if any, effect passage of a medical marijuana law has on crime rates. This design analyzes changes individual states see in their respective crime rates over time and compares the changes to the crime rate trends among states that enacted medical marijuana laws and those that did not.

While all states experienced a reduction in Part 1 offenses during the period studied, those that had passed a medical marijuana law experienced greater reductions in those offenses than those states that had not. The researchers conclude that enactment of a medical marijuana law “is not predictive of higher crime rates and *may* be related to reductions in rates of homicide and assault.”¹⁴ They note that the most “important finding . . . is the lack of evidence of any increase in robbery or burglary, which are the type of crimes one might expect to gradually increase over time if the [medical marijuana laws lead to increased crime] theory was correct.”¹⁵

¹⁴ *Id.* at 5.

¹⁵ *Id.*



STATE ASSEMBLY & SENATE POLICY REPORT

On Behalf of Global Elite Advocacy



AUGUST 11, 2017
8549 WILSHIRE BLVD. SUITE 490

Bills Currently in Assembly

- *Page 3 - Assembly Concurrent Resolution No. 47 CalFire Firefighter Andrew Maloney Memorial Highway*
- *Page 4 - Assembly Bill No. 6 The Financial Information System for California (FISCal) Act: transparency component*
- *Page 5 - Assembly Bill No. 64 Cannabis: licensure and regulation*
- *Page 39 - Assembly Bill No. 110 Cannabis: medicinal and adult use*
- *Page 178 - Assembly Bill No. 175 Cannabis marketing: packaging and labeling*
- *Page 179 - Assembly Bill No. 259 Medical cannabis and nonmedical marijuana: California residency requirement for licensing*
- *Page 182 - Assembly Bill No. 313 Water*
- *Page 189 - Assembly Bill No. 350 Cannabis edibles: appealing to children*
- *Page 190 - Assembly Bill No. 389: Cannabis consumer guide*
- *Page 191 - Assembly Bill No. 416 Cannabis*
- *Page 191 - Assembly Bill No. 420 Personal income tax: deduction: commercial cannabis activity*
- *Page 191 - Assembly Bill No. 729 Nonmedical marijuana: licensee regulation*
- *Page 197 - Assembly Bill No. 823 Edible cannabis products: Labeling*
- *Page 199 - Assembly Bill No. 845 Cannabidiol*
- *Page 200 - Assembly Bill No. 903 California Marijuana Tax Fund: California Highway Patrol*
- *Page 202 - Assembly Bill No. 924 Indian tribes: commercial cannabis activity*
- *Page 204 - Assembly Bill No. 948 Cannabis: taxation: electronic funds transfer*
- *Page 209 - Assembly Bill No. 963 Taxation: marijuana*
- *Page 234 - Assembly Bill No 1002 Center for Cannabis Research*
- *Page 254 - Assembly Bill No. 1090 Cannabis use: location restrictions*
- *Page 257 - Assembly Bill No. 1096 Horse racing: minisatellite wagering facilities*
- *Page 259 - Assembly Bill No. 1120 Controlled substances: butane*
- *Page 262 - Assembly Bill No. 1159 Cannabis: legal services*
- *Page 263 - Assembly Bill No. 1244 Consumer product safety: butane gas*
- *Page 263 - Assembly Bill No. 1254 Production or cultivation of a controlled substance: civil penalties*
- *Page 268 - Assembly Bill No. 1420 Water rights: small irrigation use: lake or streambed alteration agreements*
- *Page 271 - Assembly Bill No. 1516 Maintenance of the codes*
- *Page 638 - Assembly Bill No. 1527 State and local marijuana regulatory agencies: employees*
- *Page 640 - Assembly Bill No. 1578 Marijuana and cannabis programs: cooperation with federal authorities*
- *Page 641 - Assembly Bill No. 1606 Tribal gaming: compact ratification*

- *Page 643 - Assembly Bill No. 1652 Cannabis: distribution and transportation: evaluation*
- *Page 643 - Assembly Bill No. 1669 Urban water conservation standards and use reporting*
- *Page 644 - Assembly Bill No. 1686 Adult-use cannabis and medicinal cannabis: licenses: application: labor peace agreement*
- *Page 648 - Assembly Bill No. 1667 Water management planning*
- *Page 681 - Assembly Bill No. 1700 Adult-use cannabis and medicinal cannabis: license application: OSHA training*

Bills Currently in the Senate

- *Page 692 - Senate Joint Resolution No. 5*
- *Page 693 - Senate Bill No. 148 State Board of Equalization: counties: cannabis-related business: cash payments*
- *Page 699 - Senate Bill No. 162 Cannabis: marketing*
- *Page 701 - Senate Bill No. 173 Real estate: Bureau of Real Estate*
- *Page 717 - Senate Bill No. 175 Marijuana: county of origin: marketing and advertising*
- *Page 718 - Senate Bill No. 311 Medical cannabis and nonmedical marijuana: testing by a licensee*
- *Page 719 - Senate Bill No. 663 Packages and labels of cannabis or cannabis products: children*
- *Page 720 - Senate Bill No. 794 Edible marijuana products: labeling and packaging*
- *Page 721 - Senate Bill No. 798 Healing arts: boards*
- *Page 796 - Senate Bill No. 805 Pupil discipline: expulsions: assault or battery: intradistrict transfers*

Assembly Bills Pending

ASSEMBLY CONCURRENT RESOLUTION No. 47

Introduced by Assembly Member Gray

March 28, 2017

Bill Text:

WHEREAS, In the year 2000, Andrew Maloney began his career as a paid call firefighter for the Merced County Fire Department in Los Banos and he worked for the United States Fish and Wildlife Service as a firefighter in the summer of 2001; and

WHEREAS, Maloney worked for CalFire from 2003 until his death on June 12, 2016, serving at the Los Banos, Santa Nella, and Hornitos stations; and

WHEREAS, Maloney was also involved in fire safety programs in Merced and Mariposa Counties; and

WHEREAS, Colleagues described working with Maloney as “nothing but enjoyable,” noting that even when working outside in 115-degree weather in the sun Maloney would always make sure everyone was smiling; and

WHEREAS, In addition, CalFire said in a statement that “Andrew will be missed not only by his parents, brother and friends, but also by his entire Cal Fire and Merced County Fire Department family.”; and

WHEREAS, Maloney enjoyed the outdoors, both in his professional and personal life, was an avid scuba diver, hiked both the Appalachian and Pacific Crest trails, loved animals, and was the rare vegetarian firefighter working amongst carnivores; and

WHEREAS, On June 9, 2016, while riding his motorcycle, Maloney was hit by a distracted driver who was found to be under the influence of alcohol and cannabis, and died three days later of his injuries; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby designates the portion of State Route 165 located between Berkeley Drive and Pioneer Road in the County of Merced as CalFire Firefighter Andrew Maloney Memorial Highway; and be it further

Resolved, That the Department of Transportation is requested to determine the costs of erecting the appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

ASSEMBLY BILL No. 6

Introduced by Assembly Members Obernolte, Fong, and Lackey

December 05, 2016

Bill Text:

SECTION 1. This act shall be known as the Budget Transparency Act of 2017.

SEC. 2. Section 11862 of the Government Code is amended to read:

11862. (a) In addition to the requirements set forth in the approved FISCAL project Project documents, the system shall include a state transparency component that allows the public to have information regarding General Fund and federal fund expenditure data, state expenditures, using an Internet Web site. site, including all of the following information for each state expenditure:

The name and principal location of each entity or other recipient of the funds.

The amount of the expenditure.

The type of transaction.

The identity of the state department or agency making the expenditure.

The budget program source for the expenditure.

A brief description of the purpose for the expenditure.

A brief description of any item purchased pursuant to the expenditure.

(b) The Internet Web site described in subdivision (a) shall be interactive, searchable, and regularly updated, and shall include all of the following features:

The ability to search and filter expenditures by each of the categories listed in subdivision (a).

The ability to aggregate data.

The ability to create graphs and charts of data.

The ability to download information obtained through the Internet Web site.

(b)

(c) This section shall does not require the disclosure of information deemed confidential or otherwise exempt from disclosure under state or federal law.

SECTION 1. Section 2429.7 is added to the Vehicle Code, to read:

2429.7.(a)The commissioner shall appoint a drugged driving task force to develop recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of driving under the influence of drugs, including prescription drugs. The task force shall also examine the use of technology, including field testing

technologies, to identify drivers under the influence of drugs. The task force shall consist of the commissioner, who shall serve as chairperson, and at least one member from each of the following:

(1)The Office of Traffic Safety.

(2)The National Highway Traffic Safety Administration.

(3)Local law enforcement.

(4)District attorneys.

(5)Local government representatives.

(6)California Association of Crime Laboratory Directors.

(7)California Attorneys for Criminal Justice.

(8)The California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code.

(9)Medical cannabis industry representatives.

(10)Pharmaceutical industry representatives.

(11)Licensed physicians.

(12)Nongovernmental organizations that focus on improving roadway safety.

(b)The members of the task force shall serve at the pleasure of the commissioner and without compensation.

(c)The task force shall report to the Legislature its policy recommendations and the steps state agencies are taking regarding drugged driving. The report shall be submitted in compliance with Section 9795 of the Government Code.

(d)This section shall be implemented only to the extent that the Department of the California Highway Patrol has been provided funding through the annual Budget Act or by subdivision (c) of Section 34019 of the Revenue and Taxation Code.

ASSEMBLY BILL No. 64

Introduced by Assembly Members Bonta, Cooley, Jones-Sawyer, Lackey, and Wood

December 12, 2016

Bill Text

SECTION 1. The Legislature finds and declares all of the following:

In 1996, California became the first state in the nation to allow the use of medical medicinal cannabis after voters approved Proposition 215, the California Compassionate Use Act. In

2003, California enacted Senate Bill 420, the Medical Marijuana Program Act, which allowed the [medical medicinal cannabis](#) industry to organize as collectives and cooperatives, and provided limited protections from prosecution. In 2015, California enacted the Medical Cannabis Regulation and Safety Act (MCRSA), by passing Assembly Bill 266 (Bonta, Cooley, Jones-Sawyer, Lackey, and Wood), Assembly Bill 243 (Wood), and Senate Bill 643 (McGuire). The Medical Cannabis Regulation and Safety Act was the first proactive regulatory framework for [medical medicinal cannabis](#) in the state's history. The MCRSA was revised in 2016 with the passage of Senate Bill 837 and Assembly Bill 2516, which made changes to implement the act and create a new cottage cultivation license.

In 2016, two decades after the approval of Proposition 215, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA). The regulatory system contained within AUMA was modeled after the MCRSA, as approved by the Legislature in 2015, but contained policy differences and did not reflect legislative amendments made to the MCRSA prior to AUMA's approval. Both acts require state licenses to be issued by the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health, and both require compliance with local ordinances regulating commercial cannabis activity.

AUMA directs the state to begin issuing licenses to businesses in the adult use cannabis industry by January 1, 2018, despite having only been approved by the voters on November 8, 2016. This is an aggressive timeline for implementation given that it leaves state licensing authorities with less than 14 months to engage in the stakeholder process, determine how to regulate the [adult use adult-use](#) cannabis industry and to what extent these regulations should differ from those they develop for the [medical medicinal](#) cannabis industry, and begin issuing multiple types of licenses under AUMA and the MCRSA, two systems with significant policy differences.

The Blue Ribbon Commission report published on July 22, 2015, highlighted the benefits and drawbacks of a unitary, reconciled system for regulating [medical and adult use medicinal and adult-use](#) cannabis, suggesting that under such a system regulated businesses can reach the entire market of both [adult use and medical adult-use and medicinal](#) consumers under one set of licenses, which would help reduce the costs of compliance with regulations and enable the businesses to remain competitive with the illicit market.

Robust standards for the cultivation, manufacturing, testing, distribution, and transportation of cannabis are required under both the MCRSA and AUMA and should be uniform in order to protect communities, the environment, public safety, and patients, while easing the transition for business.

[\(f\)Both the MCRSA and AUMA place local control at the core of their regulatory structures, reflecting the diversity of opinions surrounding medical and adult use cannabis in cities throughout California. As such, the regulatory options at the state level should reflect that diversity by providing for medical dispensaries, adult use dispensaries, and nonstorefront dispensaries.](#)

[Senate Bill 94 reconciled the Medical Cannabis Regulation and Safety Act and the Control, Regulate and Tax Adult Use of Marijuana Act and provided uniform standards for both medicinal and adult-use cannabis activity.](#)

AUMA provides for amendment by the Legislature when consistent with and furthering the intent and text of the initiative. Creating a viable regulatory structure for both medical and adult use, which this act does, is core to and furthers that intent.

It is the intent of the Legislature that this act reconcile continue the reconciliation of the Medical Cannabis Regulation and Safety Act and the Control, Regulate and Tax Adult Use of Marijuana Act in order to protect public safety, communities, patients, consumers, and the environment.

SEC. 2. Section 14235.5 is added to the Business and Professions Code, to read:

14235.5. (a) Notwithstanding Section 14235, for purposes of marks for which a certificate of registration is issued on or after January 1, 2018, the following classifications may be used for marks related to medical cannabis and nonmedical cannabis cannabis, including medicinal cannabis, goods and services that are lawfully in commerce under state law in the State of California:

500 for goods that are medical cannabis, medical cannabis products, nonmedical cannabis, or nonmedical cannabis products. cannabis or cannabis products, including medicinal cannabis or medicinal cannabis products.

501 for services related to medical cannabis, medical cannabis products, nonmedical cannabis, or nonmedical cannabis products. cannabis or cannabis products, including medicinal cannabis or medicinal cannabis products.

(b) For purposes of this section, the following terms have the following meanings:

(1)“Medical cannabis” and “medical cannabis products” have the meanings provided in Section 19300.5.

(2)“Nonmedical cannabis” and “nonmedical section, “cannabis,” “cannabis products,” “medicinal cannabis,” and “medicinal cannabis products” have the meanings provided for “marijuana” and “marijuana products,” respectively, in Section 26001.

SEC. 3. Section 19322.5 is added to the Business and Professions Code, to read:

19322.5. A licensee may operate for profit or not for profit.

SEC. 4. Section 19334 of the Business and Professions Code is amended to read:

19334.(a) State licenses to be issued by the Department of Consumer Affairs are as follows:

(1)(A)“Dispensary,” Type 10 license as defined in this chapter. This license shall allow for delivery pursuant to Section 19340.

(B) A dispensary may be either of the following:

(i)“Storefront dispensary” for licensees that have a premises, meaning a “brick and mortar” facility, with direct physical access for the public.

(ii)“Nonstorefront dispensary” for licensees that have a premises, meaning a “brick and mortar” facility, that does not have a storefront with direct physical access for the public.

(2)“Distributor,” Type 11 license for the distribution of medical cannabis and medical cannabis products from manufacturer to dispensary. A distributor licensee shall hold a Type 12 or transporter license. Each location where product is stored for the purposes of distribution must be individually licensed. A distributor licensee shall not hold a license in a cultivation, manufacturing, dispensing, or testing license category and shall not own, or have an ownership interest in, premises licensed in those categories other than a security interest, lien, or encumbrance on property that is used by a licensee. A distributor shall be bonded and insured at a minimum level established by the licensing authority.

(3)(A)“Producing dispensary,” Type 10A for dispensers who have no more than three licensed dispensary facilities and wish to hold either a cultivation or manufacturing license or both. This license shall allow for delivery where expressly authorized by local ordinance. Each dispensary must be individually licensed.

(B)A producing dispensary may be either of the following:

(i)“Storefront producing dispensary” for licensees that have a premises, meaning a “brick and mortar” facility, with direct physical access for the public.

(ii)“Nonstorefront producing dispensary” for licensees that have a premises, meaning a “brick and mortar” facility, that does not have a storefront with direct physical access for the public.

(4)“Transport,” Type 12 license for transporters of medical cannabis or medical cannabis products between licensees. A Type 12 licensee shall be bonded and insured at a minimum level established by the licensing authority.

(b)The bureau shall establish minimum security requirements for the commercial transportation, storage, and delivery of medical cannabis and medical cannabis products.

(c)The State Department of Public Health shall establish minimum security requirements for the storage of medical cannabis products at the manufacturing site.

(d)A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:

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

(2)Establishing limited access areas accessible only to authorized dispensary personnel.

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

(e)A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

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

(2)Diversion, theft, loss, or any criminal activity pertaining to the operation of the dispensary.

(3) Diversion, theft, loss, or any criminal activity by any agent or employee of the dispensary pertaining to the operation of the dispensary.

(4) The loss or unauthorized alteration of records related to medical cannabis or medical cannabis products, registered qualifying patients, primary caregivers, or dispensary employees or agents.

(5) Any other breach of security.

SEC. 5. Article 12 (commencing with Section 19349) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

12. Advertising and Marketing Restrictions

19349. For purposes of this article:

(a) “Advertise” means the publication or dissemination of an advertisement.

(b) “Advertisement” includes any written or verbal statement, illustration, or depiction that is calculated to induce sales of medical cannabis or medical cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that “advertisement” shall not include either of the following:

(1) Any label affixed to any medical cannabis or medical cannabis products, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of this chapter.

(2) Any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and that is not written by or at the direction of the licensee.

(c) “Advertising sign” is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of medical cannabis or medical cannabis products that are not cultivated, manufactured, distributed, or sold on the same lot.

(d) “Entity” means either of the following:

(1) Licensee.

(2) Business that is not a licensee and is not referenced in Section 1070 of the Evidence Code.

(e) “Market” or “Marketing” means any act or process of promoting or selling medical cannabis or medical cannabis products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

19349.1.(a) All advertisements and marketing shall accurately and legibly identify the entity responsible for its content.

(b) Any advertisements or marketing placed in broadcast, cable, radio, print, and digital communications shall be displayed only where at least 71.6 percent of the audience is

reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c)Any advertisements or marketing involving direct, individualized communication or dialogue shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in that communication or dialogue. For purposes of this section, that method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

(d)All advertising shall be truthful and appropriately substantiated.

19349.2.An entity shall not do any of the following:

(a)Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

(b)Publish or disseminate advertisements or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.

(c)Publish or disseminate advertisements or marketing containing any statement, design, device, or representation that tends to create the impression that the medical cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and that appellation of origin appears in the advertisement.

(d)Advertise or market on a billboard or similar advertising device located on an interstate highway or state highway.

(e)Advertise or market medical cannabis or medical cannabis products in a manner intended to encourage persons under the age of 21 years to consume medical cannabis or medical cannabis products.

(f)Publish or disseminate advertisements or marketing containing symbols, language, music, gestures, cartoon characters, or other content elements known to appeal primarily to minors.

(g)Advertise or market medical cannabis or medical cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

19349.3.An entity shall not give away any amount of medical cannabis or medical cannabis products, or any medical cannabis accessories, as part of a business promotion or other commercial activity.

19349.4.An entity shall not publish or disseminate advertisements or marketing containing any statement that is untrue in any particular manner or tends to create a misleading impression as to the effects of medical cannabis consumption.

19349.5.(a)Subdivision (g) of Section 19349.2 shall not apply to the placement of advertising signs inside a licensed premises and that are not visible by normal unaided vision from a public place, provided that those advertising signs do not advertise medical cannabis or medical cannabis products in a manner intended to encourage persons under the age of 21 years to consume medical cannabis or medical cannabis products.

(b)This article does not apply to any noncommercial speech.

SEC. 6.Section 26055 of the Business and Professions Code is amended to read:

26055.(a)Licensing authorities may issue state licenses only to qualified applicants.

(b)Revocation of a state license issued under this division shall terminate the ability of the licensee to operate within California until the licensing authority reinstates or reissues the state license.

(c)Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation.

(d)After issuance or transfer of a license, a licensee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until prior written assent of the licensing authority or bureau has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

(e)(1)Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200. The determination of the licensing authority that an applicant for a state license is not in compliance with any local ordinance or regulation adopted in accordance with Section 26200 shall be based on a written or electronic notification provided to the licensing authority by the local jurisdiction in response to an inquiry from the licensing authority.

(2)If the local jurisdiction does not provide a written or electronic notification of compliance or noncompliance with applicable local ordinances and regulations, and does not provide notification indicating that the completion of the local permitting process is still pending, within 90 business days of receiving an inquiry from a licensing authority, the licensing authority shall deem the applicant to be in compliance with all local ordinances and regulations adopted in accordance with Section 26200. This paragraph does not preclude a local jurisdiction from enforcing applicable local ordinances and regulations with respect to the applicant.

SEC. 7.Section 26070 of the Business and Professions Code is amended to read:

26070.Retailers and Distributors.

(a)State licenses to be issued by the Department of Consumer Affairs are as follows:

(1)(A)“Retailer,” for the retail sale and delivery of marijuana or marijuana products to customers.

(B)A retailer may be either of the following:

(i)“Storefront retailer” for licensees that have a premises, meaning a “brick and mortar” facility, with direct physical access for the public.

(ii)“Nonstorefront retailer” for licensees that have a premises, meaning a “brick and mortar” facility, that does not have a storefront with direct physical access for the public.

(2)“Distributor,” for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

(3)“Microbusiness,” for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality. A microbusiness license does not authorize the distribution of marijuana or marijuana products except those produced at the licensed cultivation or manufacturing sites of the microbusiness licensee and sold at the licensed retail establishments under the exclusive control of the microbusiness licensee.

(b)The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. The transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which marijuana and marijuana products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

(c)Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises. These security measures shall include, but not be limited to, all of the following:

(1)Prohibiting individuals from remaining on the licensee’s premises if they are not engaging in activity expressly related to the operations of the dispensary.

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

(3)Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

SEC. 8.Section 26150 of the Business and Professions Code is amended to read:

26150.For purposes of this chapter:

(a)“Advertise” means the publication or dissemination of an advertisement.

(b)“Advertisement” includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(1)Any label affixed to any marijuana or marijuana products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of this division.

(2)Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

(c)“Advertising sign” is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of marijuana or marijuana products which are not cultivated, manufactured, distributed, or sold on the same lot.

(d)“Entity” means either of the following:

(1)Licensee.

(2)Business that is not a licensee and is not referenced in Section 1070 of the Evidence Code.

(e)“Health-related statement” means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of marijuana or marijuana products and health benefits, or effects on health.

(f)“Market” or “Marketing” means any act or process of promoting or selling marijuana or marijuana products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

SEC. 9.Section 26151 of the Business and Professions Code is amended to read:

26151.(a)All advertisements and marketing shall accurately and legibly identify the entity responsible for its content.

(b)Any advertising or marketing placed in broadcast, cable, radio, print, and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c)Any advertising or marketing involving direct, individualized communication or dialogue shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue. For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

(d)All advertising shall be truthful and appropriately substantiated.

SEC. 10. Section 26152 of the Business and Professions Code is amended to read:

26152. No entity shall:

(a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

(b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.

(c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the marijuana originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

(d) Advertise or market on a billboard or similar advertising device located on an interstate highway or state highway.

(e) Advertise or market marijuana or marijuana products in a manner intended to encourage persons under 21 years of age to consume marijuana or marijuana products.

(f) Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters, or other content elements known to appeal primarily to persons below the legal age of consumption.

(g) Advertise or market marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

SEC. 11. Section 26153 of the Business and Professions Code is amended to read:

26153. An entity shall not gift any amount of marijuana or marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

SEC. 12. Section 26154 of the Business and Professions Code is amended to read:

26154. An entity shall not publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects of marijuana consumption on the health of an individual.

SEC. 13. Section 26200 of the Business and Professions Code is amended to read:

26200.(a) This division, except as provided by Sections 26054, 26080, and 26090, does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(b) This division does not require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

(c)A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 10 days of being so informed by the bureau, the relevant licensing authorities shall commence proceedings under Chapter 3 (commencing with Section 26030) to determine whether a license issued to the licensee should be suspended or revoked.

(d)Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or marijuana products on the premises of a retailer or microbusiness licensed under this division if all of the following apply:

(1)Access to the area where marijuana consumption is allowed is restricted to persons 21 years of age and older.

(2)Marijuana consumption is not visible from any public place or nonage-restricted area.

(3)Sale or consumption of alcohol or tobacco is not allowed on the premises.

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

11362.775.(a)Subject to subdivision (d), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. A collective or cooperative that operates pursuant to this section may operate for profit or not for profit. A collective or cooperative that operates for profit shall retain the protections of this section only if it possesses a valid seller's permit from the State Board of Equalization and a valid local license, permit, or other authorization.

(b)A collective or cooperative that operates pursuant to this section and manufactures medical cannabis products shall not, solely on the basis of that fact, be subject to state criminal sanctions under Section 11379.6 if the collective or cooperative abides by all of the following requirements:

(1)The collective or cooperative does either or both of the following:

(A)Utilizes only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(B)Utilizes only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:

(i)The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(ii)The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.

(iii)A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).

(iv)The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

(2)The collective or cooperative receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility.

(3)The collective or cooperative meets required fire, safety, and building code requirements in one or more of the following:

(A)The California Fire Code.

(B)The National Fire Protection Association (NFPA) standards.

(C)International Building Code (IBC).

(D)The International Fire Code (IFC).

(E)Other applicable standards, including complying with all applicable fire, safety, and building codes in processing, handling, and storage of solvents or gasses.

(4)The collective or cooperative is in possession of a valid seller’s permit issued by the State Board of Equalization.

(5)The collective or cooperative is in possession of a valid local license, permit, or other authorization specific to the manufacturing of medical cannabis products, and in compliance with any additional conditions imposed by the city or county issuing the local license, permit, or other authorization.

(c)For purposes of this section, “manufacturing” means compounding, converting, producing, deriving, processing, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, medical cannabis products.

(d)This section shall remain in effect only until one year after the Bureau of Marijuana Control posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medical Cannabis Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code).

(e)This section is repealed one year after the date upon which the notice is posted pursuant to subdivision (d).

SEC. 15.Section 34019 of the Revenue and Taxation Code is amended to read:

34019.(a)Beginning with the 2017–18 fiscal year, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to

subdivisions (b), (c), (d), and (e), the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, those costs shall not exceed 4 percent of tax revenues received.

(2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. Disbursements from the Tax Fund may be made, until June 30, 2023, for the reasonable costs identified in this paragraph.

(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

(7) Reasonable costs incurred by the Department of the California Highway Patrol and the Board of State and Community Corrections for managing grant administration pursuant to paragraph (3) of subdivision (f).

(8) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with 2018–19 fiscal year until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research

funded pursuant to this subdivision shall include, but not necessarily be limited to, all of the following:

(1)Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.

(2)The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.

(3)Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.

(4)Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.

(5)Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.

(6)Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7)The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8)Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

(9)Environmental issues related to marijuana production and the criminal prohibition of marijuana production.

(10)The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11)The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.

(c)The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year

until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

(d)The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning with the 2018–19 fiscal year and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor’s Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e)The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

(f)By July 15 of each fiscal year beginning with the 2018–19 fiscal year, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1)Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A)Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, fostercare

providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B)Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C)Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders.

(D)Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E)Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication, and psychotherapy. When indicated, referrals must be made to other providers.

(F)To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers, and all their children.

(G)Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H)Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I)Construction of community-based youth treatment facilities.

(J)The departments may contract with each county behavioral health program for the provision of services.

(K)Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed

through statistical data, validated assessments or submitted reports prepared by the applicable county to demonstrate and validate need.

(L)The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M)The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation, and oversight of the programs.

(N)If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O)The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2)Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A)To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B)To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

(C)To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D)For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of Implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E)Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for

these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3)Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A)To the Department of the California Highway Patrol for conducting training programs for detecting, testing, and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B)To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.

(C)To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D)For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before the 2022–23 fiscal year pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g)Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h)(1)Prior to July 1, 2028, the Legislature shall not change the allocations to programs specified in subdivisions (d) and (f).

(2)On and after July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts

established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in the 2027–28 fiscal year.

SEC. 16. Section 23152 of the Vehicle Code is amended to read:

23152.(a) It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle.

(b) It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) It is unlawful for a person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(d) It is unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210. In a prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(e) Commencing July 1, 2018, it shall be unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a motor vehicle when a passenger for hire is a passenger in the vehicle at the time of the offense. For purposes of this subdivision, "passenger for hire" means a passenger for whom consideration is contributed or expected as a condition of carriage in the vehicle, whether directly or indirectly flowing to the owner, operator, agent, or any other person having an interest in the vehicle. In a prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(f) It is unlawful for a person who is under the influence of any drug other than marijuana to drive a vehicle.

(g) It is unlawful for a person who is under the combined influence of any alcoholic beverage and drug other than marijuana to drive a vehicle.

(h) It is unlawful for a person who is under the influence of marijuana to drive a vehicle.

(i)It is unlawful for a person who is under the combined influence of any alcoholic beverage and marijuana to drive a vehicle.

SEC. 17.Section 23153 of the Vehicle Code is amended to read:

23153.(a)It is unlawful for a person, while under the influence of any alcoholic beverage, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, when the act or neglect proximately causes bodily injury to any person other than the driver.

(b)It is unlawful for a person, while having 0.08 percent or more, by weight, of alcohol in his or her blood, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, when the act or neglect proximately causes bodily injury to any person other than the driver.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood, at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood, at the time of the performance of a chemical test within three hours after driving.

(c)In proving the person neglected any duty imposed by law in driving the vehicle, it is not necessary to prove that any specific section of this code was violated.

(d)It is unlawful for a person, while having 0.04 percent or more, by weight, of alcohol in his or her blood, to drive a commercial motor vehicle, as defined in Section 15210 and concurrently to do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, when the act or neglect proximately causes bodily injury to a person other than the driver. In a prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of performance of a chemical test within three hours after driving.

(e)Commencing July 1, 2018, it is unlawful for a person, while having 0.04 percent or more, by weight, of alcohol in his or her blood, to drive a motor vehicle when a passenger for hire is a passenger in the vehicle at the time of the offense, and concurrently to do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, when the act or neglect proximately causes bodily injury to any person other than the driver. For purposes of this subdivision, “passenger for hire” means a passenger for whom consideration is contributed or expected as a condition of carriage in the vehicle, whether directly or indirectly flowing to the owner, operator, agent, or any other person having an interest in the vehicle. In a prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of performance of a chemical test within three hours after driving.

(f)It is unlawful for a person, while under the influence of any drug other than marijuana, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, when the act or neglect proximately causes bodily injury to any person other than the driver.

(g)It is unlawful for a person, while under the combined influence of any alcoholic beverage and drug other than marijuana, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, when the act or neglect proximately causes bodily injury to any person other than the driver.

(h)It is unlawful for a person who is under the influence of marijuana to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, when the act or neglect proximately causes bodily injury to any person other than the driver.

(i)It is unlawful for a person who is under the combined influence of any alcoholic beverage and marijuana to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, when the act or neglect proximately causes bodily injury to any person other than the driver.

SEC. 18.Section 23222 of the Vehicle Code is amended to read:

23222.(a)A person shall not have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in Section 38001, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

(b)Except as authorized by law, every person who possesses, while driving a motor vehicle upon a highway or on lands, as described in Section 38001, not more than one avoirdupois ounce of marijuana, other than concentrated cannabis as defined by Section 11006.5 of the Health and Safety Code, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).

(c)A person shall not have marijuana or marijuana products, including edibles and concentrates, in his or her possession while driving a motor vehicle upon a highway or on lands described in Section 38001 unless either of the following applies:

(1)The marijuana or marijuana products are located in one of the following:

(A)The trunk of the vehicle.

(B)In an area of the vehicle not normally occupied or directly accessible by the driver or passengers if the vehicle does not have a trunk. For purposes of this subdivision, a glove compartment is directly accessible by the driver.

(C)Notwithstanding subparagraph (B) and if the vehicle does not have a trunk, marijuana or marijuana products may be located in a glove compartment if in a sealed package with the original manufacturer's seal intact.

(2)The person is a licensee under Chapter 3.5 (commencing with Section 19300) of Division 8 of, or under Division 10 (commencing with Section 26000) of, the Business and Professions Code acting in accordance with applicable regulations.

SEC. 19.The sum of three million dollars (\$3,000,000) is hereby advanced as a loan from the General Fund to the Department of the California Highway Patrol for use in the 2017–18 fiscal year for the purposes described in subdivision (c) of Section 34019 of the Revenue and Taxation Code. Moneys advanced pursuant to this section shall be repaid from amounts to be

disbursed to the Department of the California Highway Patrol pursuant to subdivision (c) of Section 34019 of the Revenue and Taxation Code.

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

SEC. 3. Section 26001 of the Business and Professions Code, as amended by Section 5 of Senate Bill 94 of the 2017–18 Regular Session, is amended to read:

26001. For purposes of this division, the following definitions shall apply:

“A-license” means a state license issued under this division for cannabis or cannabis products that are intended for adults who are 21 years of age and over and who do not possess physician’s recommendations.

“A-licensee” means any person holding a license under this division for cannabis or cannabis products that are intended for adults who are 21 years of age and over and who do not possess physician’s recommendations.

“Applicant” means an owner applying for a state license pursuant to this division.

“Batch” means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:

Harvest batch. “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals, and harvested at the same time.

Manufactured cannabis batch. “Manufactured cannabis batch” means either of the following:

An amount of cannabis concentrate or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.

An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.

“Bureau” means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound,

manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

“Cannabis accessories” has the same meaning as in Section 11018.2 of the Health and Safety Code.

“Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

“Cannabis products” has the same meaning as in Section 11018.1 of the Health and Safety Code.

“Child resistant” means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

“Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this division.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Cultivation site” means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

“Customer” means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician’s recommendation.

“Day care center” has the same meaning as in Section 1596.76 of the Health and Safety Code.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and owned, leased, or controlled by the retailer.

“Director” means the Director of Consumer Affairs.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

“Dried flower” means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

“Edible cannabis product” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

“Fund” means the Cannabis Control Fund established pursuant to Section 26210.

“Kind” means applicable type or designation regarding a particular cannabis variant or cannabis product type, including, but not limited to, strain name or other grower trademark, or growing area designation.

“Labeling” means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.

“Labor peace agreement” means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the state’s proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant’s business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant’s employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant’s employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

“License” means a state license issued under this division, and includes both an A-license and an M-license, as well as a testing laboratory license.

“Licensee” means any person holding a license under this division, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

“Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.

(ab) “Live plants” means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(ac) “Local jurisdiction” means a city, county, or city and county.

(ad) “Lot” means a batch or a specifically identified portion of a batch.

(ae) “M-license” means a state license issued under this division for commercial cannabis activity involving medicinal cannabis.

(af) “M-licensee” means any person holding a license under this division for commercial cannabis activity involving medicinal cannabis.

(ag) “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(ah) “Manufacturer” means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

(ai) “Medicinal cannabis” or “medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

(aj) “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(ak) “Operation” means any act for which licensure is required under the provisions of this division, or any commercial transfer of cannabis or cannabis products.

(al) “Owner” means any of the following:

A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.

The chief executive officer of a nonprofit or other entity.

A member of the board of directors of a nonprofit.

An individual who will be participating in the direction, control, or management of the person applying for a license.

(am) “Package” means any container or receptacle used for holding cannabis or cannabis products.

(an) “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(ao) “Physician’s recommendation” means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

(ap) “Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

(aq) “Purchaser” means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.

(ar) “Sell,” “sale,” and “to sell” include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

(as) “Testing laboratory” means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.

Licensed by the bureau.

(at) “Unique identifier” means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

(au) “Youth center” has the same meaning as in Section 11353.1 of the Health and Safety Code.

SEC. 4. Section 26053 of the Business and Professions Code, as amended by Section 37 of Senate Bill 94 of the 2017–18 Regular Session, is amended to read:

26053. (a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this division.

(b) A person that holds a state testing laboratory license under this division is prohibited from licensure for any other activity, except testing, as authorized under this division. A person that holds a state testing laboratory license shall not employ an individual who is also employed by any other licensee that does not hold a state testing laboratory license. A person that holds a state testing laboratory license shall not own, or have an ownership interest in, a premises licensed pursuant to this division for any activity except testing.

(c) Except as provided in subdivision (b), a person may apply for and be issued more than one license under this division, provided the licensed premises are separate and distinct.

(d) Each applicant or licensee shall apply for, and if approved, shall obtain, a separate license for each location where it engages in commercial cannabis activity.

SEC. 5. Section 26070 of the Business and Professions Code, as amended by Section 59 of Senate Bill 94 of the 2017–18 Regular Session, is amended to read:

26070. Retailers and Distributors.

26070. (a) State licenses to be issued by the bureau related to the sale and distribution of cannabis and cannabis products are as follows:

“Retailer,” for the retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premises which is a physical location from which commercial cannabis activities

are conducted. A retailer's premises may be closed to the public. A retailer may conduct sales exclusively by delivery.

"Distributor," for the distribution of cannabis and cannabis products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

"Microbusiness," for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such those activities. Microbusiness licenses that authorize cultivation of cannabis shall include the license conditions described in subdivision (b) of Section 26060.1.

In coordination with each other, the licensing authorities shall establish a process by which an applicant for a microbusiness license can demonstrate compliance with all the requirements under this division for the activities that will be conducted under the license.

The bureau may enter into interagency agreements with licensing authorities to implement and enforce the provisions of this division related to microbusinesses. The costs of activities carried out by the licensing authorities as requested by the bureau pursuant to the interagency agreement shall be calculated into the application and licensing fees collected pursuant to this division, and shall provide for reimbursement to state agencies for associated costs as provided for in the interagency agreement.

(b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of cannabis and cannabis products. The transportation of cannabis and cannabis products shall only be conducted by persons holding a distributor license under this division or employees of those persons. Transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which cannabis and cannabis products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

(c) The driver of a vehicle transporting cannabis or cannabis products shall be directly employed by a licensee authorized to transport cannabis or cannabis products.

(d) Notwithstanding any other law, all vehicles transporting cannabis and cannabis products for hire shall be required to have a valid motor carrier permit pursuant to Chapter 2 (commencing with Section 34620) of Division 14.85 of the Vehicle Code. The Department of the California Highway Patrol shall have authority over the safe operation of these vehicles, including, but not limited to, requiring licensees engaged in the transportation of cannabis or cannabis products to participate in the Basic Inspection of Terminals (BIT) program pursuant to Section 34501.12 of the Vehicle Code.

(e) Prior to transporting cannabis or cannabis products, a licensed distributor shall do both of the following:

Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest shall include the unique identifier, pursuant to Section 26069, issued by the Department of Food and Agriculture for the original cannabis product.

Securely transmit the manifest to the bureau and the licensee that will receive the cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 26067.

(f) During transportation, the licensed distributor shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the Department of Consumer Affairs and law enforcement officers.

(g) The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to the Department of Consumer Affairs and any law enforcement officers.

Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing authority a record verifying receipt of the shipment and the details of the shipment.

Transporting, or arranging for or facilitating the transport of, cannabis or cannabis products in violation of this chapter is grounds for disciplinary action against the license.

Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products from the premises. These security measures shall include, but not be limited to, all of the following:

Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the retailer.

Establishing limited access areas accessible only to authorized personnel.

Other than limited amounts of cannabis used for display purposes, samples, or immediate sale, storing all finished cannabis and cannabis products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

A retailer shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.

Diversion, theft, loss, or any criminal activity pertaining to the operation of the retailer.

Diversion, theft, loss, or any criminal activity by any agent or employee of the retailer pertaining to the operation of the retailer.

The loss or unauthorized alteration of records related to cannabis or cannabis products, registered qualifying patients, primary caregivers, or retailer employees or agents.

Any other breach of security.

Beginning January 1, 2018, a licensee may sell cannabis or cannabis products that have not been tested for a limited and finite time as determined by the bureau. The cannabis and or cannabis products must have a label affixed to each package containing the cannabis or

cannabis products that clearly states “This product has not been tested as required by the Medicinal and Adult-Use Cannabis Regulation and Safety Act” and must comply with any other requirement as determined by the bureau.

A retailer, microbusiness, or licensed nonprofit under Section 26070.5 shall display a sign educating its customers on California’s laws on transporting cannabis or cannabis products in a vehicle, in accordance with Section 23222 of the Vehicle Code.

SEC. 6. Section 26100 of the Business and Professions Code, as renumbered from Section 26100 of the Business and Professions Code by Section 66 of Senate Bill 94 of the 2017–18 Regular Session, is amended to read:

26100. (a) Except as otherwise provided by law, cannabis or cannabis products shall not be sold pursuant to a license provided for under this division unless a representative sample of the cannabis or cannabis products has been tested by a licensed testing laboratory.

(b) The bureau shall develop criteria to determine which batches shall be tested. All testing of the samples shall be performed on the final form in which the cannabis or cannabis product will be consumed or used.

(c) Testing of batches to meet the requirements of this division shall only be conducted by a licensed testing laboratory.

(d) For each batch tested, the testing laboratory shall issue a certificate of analysis for selected lots at a frequency determined by the bureau with supporting data, to report both of the following:

Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following, unless limited through regulation by the bureau:

Tetrahydrocannabinol (THC).

Tetrahydrocannabinolic Acid (THCA).

Cannabidiol (CBD).

Cannabidiolic Acid (CBDA).

The terpenes required by the bureau in regulation.

Cannabigerol (CBG).

Cannabinol (CBN).

Any other compounds or contaminants required by the bureau.

That the presence of contaminants does not exceed the levels established by the bureau. In establishing the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (d) of Section 26060, and any other relevant sources. For purposes of this paragraph, “contaminants” includes, but is not limited to, all of the following:

Residual solvent or processing chemicals.

Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

Microbiological impurities as identified by the bureau in regulation.

(e) Standards for residual levels of volatile organic compounds shall be established by the bureau.

(f) The testing laboratory shall conduct all testing required by this section in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling and using verified methods.

(g) All testing laboratories performing tests pursuant to this section shall obtain and maintain ISO/IEC 17025 accreditation as required by the bureau in regulation.

(h) If a test result falls outside the specifications authorized by law or regulation, the testing laboratory shall follow a standard operating procedure to confirm or refute the original result.

A testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis, as determined by the bureau through regulations.

(j) Any presale inspection, testing transfer, or transportation of cannabis products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

(k) This division does not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. This division also does not prohibit a licensee from performing testing on the licensee's premises of cannabis or cannabis products obtained from another licensee. Onsite testing by the licensee shall not be certified by the bureau and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

SEC. 7. Section 26110 of the Business and Professions Code, as added by Section 73 of Senate Bill 94 of the 2017–18 Regular Session, is amended to read:

26110. (a) Cannabis batches are subject to quality assurance and testing prior to sale at a retailer, microbusiness, or nonprofit licensed under Section 26070.5, except for immature cannabis plants and seeds, as provided for in this division.

(b) A licensee that holds a valid distributor license may act as the distributor for the licensee's cannabis and cannabis products.

(c) The distributor shall store, as determined by the bureau, the cannabis batches on the premises of the distributor before testing and continuously until either of the following occurs:

The cannabis batch passes the testing requirements pursuant to this division and is transported to a licensed retailer.

The cannabis batch fails the testing requirements pursuant to this division and is destroyed or transported to a manufacturer for remediation as allowed by the bureau or the State Department of Public Health.

(d) The distributor shall arrange for a testing laboratory to obtain a representative sample of each cannabis batch at the distributor's licensed premises. After obtaining the sample, the testing laboratory representative shall maintain custody of the sample and transport it to the testing laboratory.

(e) Upon issuance of a certificate of analysis by the testing laboratory that the cannabis batch has passed the testing requirements pursuant to this division, the distributor shall conduct a quality assurance review before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.

(f) (1) There shall be a quality assurance compliance monitor who is an employee or contractor of the bureau and who shall not hold a license in any category or own or have an ownership interest in a licensee or the premises of a licensee.

The quality assurance compliance monitor shall conduct random quality assurance reviews at a distributor's licensed premises before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.

The quality assurance compliance monitor shall have access to all records and test results required of a licensee by law in order to conduct quality assurance analysis and to confirm test results. All records of inspection and verification by the quality assurance compliance monitor shall be provided to the bureau. Failure to comply shall be noted by the quality assurance compliance monitor for further investigation. Violations shall be reported to the bureau. The quality assurance compliance monitor shall also verify the tax payments collected and paid under Sections 34011 and 34012 Section 34012.5 of the Revenue and Tax Taxation Code are accurate. The monitor shall also have access to the inputs and assumptions in the track and trace system and shall be able to verify the accuracy of those and that they are commensurate with the tax payments.

(g) After testing, all cannabis and cannabis products fit for sale may be transported only from the distributor's premises to the premises of a licensed retailer, microbusiness, or nonprofit.

(h) A licensee is not required to sell cannabis or cannabis products to a distributor and may directly contract for sale with a licensee authorized to sell cannabis and cannabis products to purchasers.

A distributor performing services pursuant to this section may collect a fee from the licensee for the services provided. The fee may include, but is not limited to, the costs incurred for laboratory testing. A distributor may also collect applicable state or local taxes and fees.

(j) This section does not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. The testing conducted on the licensee's premises by the licensee does not meet the testing requirements pursuant to this division.

SEC. 8. Section 26130 of the Business and Professions Code, as amended by Section 77 of Senate Bill 94 of the 2017–18 Regular Session, is amended to read:

26130. (a) The State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. Licenses to be issued are as follows:

“Manufacturing Level 1,” for sites that manufacture cannabis products using nonvolatile solvents, or no solvents. A Manufacturing Level 1 M-Type 6 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license.

“Manufacturing Level 2,” for sites that manufacture cannabis products using volatile solvents. A Manufacturing Level 2 M-Type 7 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license.

(b) For purposes of this section, “volatile solvents” shall have the same meaning as in paragraph (3) of subdivision (d) (b) of Section 11362.3 of the Health and Safety Code, unless otherwise provided by law or regulation.

(c) Edible cannabis products shall be:

Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.

Produced and sold with a standardized concentration of cannabinoids not to exceed ten (10) 10 milligrams tetrahydrocannabinol (THC) per serving.

Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis product in solid form.

Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, that are similar to the standards for preparation, storage, handling, and sale of food products.

Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary.

Marked with a universal symbol, as determined by the State Department of Public Health through regulation.

(d) Cannabis, including concentrated cannabis, included in a cannabis product manufactured in compliance with law is not considered an adulterant under state law.

SEC. 9. Section 11362.775 of the Health and Safety Code, as amended by Section 140 of Senate Bill 94 of the 2017–18 Regular Session, is amended to read:

11362.775. (a) Subject to subdivision (d), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medicinal purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. A collective or cooperative that operates pursuant to this section may operate for profit or not for profit. A collective or cooperative that operates for profit shall retain the protections of this section only if it possesses a valid seller’s permit from the State Board of Equalization and a valid local license, permit, or other authorization.

(b) A collective or cooperative that operates pursuant to this section and manufactures medicinal cannabis products shall not, solely on the basis of that fact, be subject to state criminal sanctions under Section 11379.6 if the collective or cooperative abides by all of the following requirements:

The collective or cooperative does either or both of the following:

Utilizes only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

Utilizes only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:

The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.

A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).

The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

The collective or cooperative receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility.

The collective or cooperative meets required fire, safety, and building code requirements in one or more of the following:

The California Fire Code.

The National Fire Protection Association (NFPA) standards.

International Building Code (IBC).

The International Fire Code (IFC).

Other applicable standards, including complying with all applicable fire, safety, and building codes in processing, handling, and storage of solvents or gasses.

The collective or cooperative is in possession of a valid seller's permit issued by the State Board of Equalization.

The collective or cooperative is in possession of a valid local license, permit, or other authorization specific to the manufacturing of medicinal cannabis products, and in compliance with any additional conditions imposed by the city or county issuing the local license, permit, or other authorization.

(c) For purposes of this section, “manufacturing” means compounding, converting, producing, deriving, processing, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, medicinal cannabis products.

(d) This section shall remain in effect only until one year after the Bureau of Cannabis Control posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business and Professions Code).

(e) This section is repealed one year after the date upon which the notice is posted pursuant to subdivision (d).

SEC. 21. SEC. 10. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act by accomplishing all of the following:

Reducing barriers to entry into the legal, regulated market by ensuring that the market is not dominated by a monopoly power.

(b) Preventing large, vertically integrated companies from using a microbusiness license to circumvent and undermine the system of state licensing in which every marijuana business is overseen by a specialized agency with relevant expertise.

(c) Ensuring that the Department of the California Highway Patrol and the Board of State and Community Corrections have the resources necessary to kick-start development of impaired driving protocols and administration of grant programs for education, local law enforcement, public health, and community investment required by the Control, Regulate and Tax Adult Use of Marijuana Act.

(d)

Taking nonmedical marijuana adult-use cannabis production and sales out of the hands of the illegal market and bringing them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.

(e)

Strictly controlling the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana adult-use cannabis through a system of state licensing, regulation, and enforcement.

(f)

Allowing local governments to enforce state laws and regulations for nonmedical marijuana adult-use cannabis businesses if that authority is delegated to them by the state, and enact additional local requirements for nonmedical marijuana adult-use cannabis businesses, but not require that

they do so for a nonmedical marijuana an adult-use cannabis business to be issued a state license and be legal under state law.

ASSEMBLY BILL 110

Introduced by Committee on Budget (Assembly Members Ting (Chair), Arambula, Bloom, Caballero, Chiu, Cooper, Cristina Garcia, Jones-Sawyer, Limón, McCarty, Medina, Mullin, Muratsuchi, O'Donnell, Rubio, Mark Stone, Weber, and Wood)

January 10, 2017

Bill Text

SECTION 1.

The Legislature finds and declares as follows:

In November 1996, voters approved Proposition 215, which decriminalized the use of medicinal **cannabis** in California. Since the proposition was passed, most, if not all the regulation has been left to local governments.

In 2015, California enacted three bills—Assembly Bill 243 (Wood, Chapter 688 of the Statutes of 2015); Assembly Bill 266 (Bonta, Chapter 689 of the Statutes of 2015); and Senate Bill 643 (McGuire, Chapter 719 of the Statutes of 2015)—that collectively established a comprehensive state regulatory framework for the licensing and enforcement of cultivation, manufacturing, retail sale, transportation, storage, delivery, and testing of medicinal **cannabis** in California. This regulatory scheme is known as the Medical **Cannabis** Regulation and Safety Act (MCRSA).

In November 2016, voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). Under Proposition 64, adults 21 years of age or older may legally grow, possess, and use **cannabis** for nonmedicinal purposes, with certain restrictions. In addition, beginning on January 1, 2018, AUMA makes it legal to sell and distribute **cannabis** through a regulated business.

Although California has chosen to legalize the cultivation, distribution, and use of **cannabis**, it remains an illegal Schedule I controlled substance under federal law. The intent of Proposition 64 and MCRSA was to ensure a comprehensive regulatory system that takes production and sales of **cannabis** away from an illegal market and curtails the illegal diversion of **cannabis** from California into other states or countries.

Cannabis is cultivated in all 50 states however; the majority of domestically produced **cannabis** comes from California. In 2014, the United States Drug Enforcement Agency's Domestic **Cannabis** Eradication Suppression Program eradicated 4.3 million plants in the United States; 2.68 million of which were grown in California. Much of the **cannabis** grown in the state is grown for exportation purposes. To prevent illegal production and avoid illegal diversion to other states, California must place strict limits on cultivation.

In order to strictly control the cultivation, processing, manufacturing, distribution, testing, and sale of **cannabis** in a transparent manner that allows the state to fully implement and enforce a robust regulatory system, licensing authorities must know the identity of those individuals who

have a significant financial interest in a licensee, or who can direct its operation. Without this knowledge, regulators would not know if an individual who controlled one licensee also had control over another. To ensure accountability and preserve the state's ability to adequately enforce against all responsible parties the state must have access to key information.

So that state entities can implement the voters' intent to issue licenses beginning January 1, 2018, while avoiding duplicative costs and inevitable confusion among licensees, regulatory agencies, and the public and ensuring a regulatory structure that prevents access to minors, protects public safety, public health and the environment, as well as maintaining local control, it is necessary to provide for a single regulatory structure for both medicinal and adult-use **cannabis** and provide for temporary licenses to those applicants that can show compliance with local requirements.

Before denying a license and creating arbitrary barriers to entry into the legal regulated marketplace, it is the intent of the state to compile data that will inform how to best craft licensure policies that will prevent the proliferation of the illegal market while allowing a balanced regulatory scheme that allows legitimate businesses that comply with local standards to succeed. This will also permit licensing entities to issue licenses in a more timely manner.

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

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

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

SEC. 2.

Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code is repealed.

SEC. 3.

The heading of Division 10 (commencing with Section 26000) of the Business and Professions Code is amended to read:

DIVISION 10. ~~MARIJUANA~~ Cannabis

SEC. 4.

Section 26000 of the Business and Professions Code is amended to read:

26000.

This division shall be known, and may be cited, as the Medicinal and Adult-Use **Cannabis** Regulation and Safety Act.

(a)

The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of ~~nonmedical marijuana and marijuana products for adults 21 years~~ both of ~~age and over~~. the following:

Medicinal **cannabis** and medicinal **cannabis** products for patients with valid physician's recommendations.

Adult-use **cannabis** and adult-use **cannabis** products for adults 21 years of age and over.

(b)

In the furtherance of subdivision ~~(a);~~ (b), this division ~~expands~~ sets forth the power and duties of the ~~existing~~ state agencies responsible for controlling and regulating the ~~medical **cannabis** industry under Chapter 3.5 (commencing with Section 19300) of Division 8 to include the power commercial medicinal and duty to control and regulate the commercial nonmedical marijuana adult-use **cannabis** industry.~~

(c)

The Legislature may, by majority vote, enact laws to implement this division, provided ~~such~~ those laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

SEC. 5.

Section 26001 of the Business and Professions Code is amended to read:

26001.

For purposes of this division, the following definitions shall apply:

~~“Applicant”~~ “A-license” means ~~the following:~~ a state license issued under this division for **cannabis** or **cannabis** products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.

“A-licensee” means any person holding a license under this division for **cannabis** or **cannabis** products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.

“Applicant” means an owner applying for a state license pursuant to this division.

“Batch” means a specific quantity of homogeneous **cannabis** or **cannabis** product that is one of the following types:

Harvest batch. “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other **cannabis** plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals, and harvested at the same time.

Manufactured **cannabis** batch. “Manufactured **cannabis** batch” means either of the following:

An amount of **cannabis** concentrate or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.

An amount of a type of manufactured **cannabis** produced in one production cycle using the same formulation and standard operating procedures.

“Bureau” means the Bureau of **Cannabis** Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical **Cannabis** Regulation, and the Bureau of Medical Marijuana Regulation.

~~(1) The owner or owners of a proposed licensee. “Owner”~~

~~“**Cannabis**” means all persons having (A) an aggregate ownership interest (other than a security interest, lien, or encumbrance) parts of the plant **Cannabis** sativa Linnaeus, **Cannabis** indica, or **Cannabis** ruderalis, whether growing or not; the seeds thereof;~~

the resin, whether crude or purified, extracted from any part of ~~20 percent~~ the plant; and every compound, manufacture, salt, derivative, mixture, or ~~more in~~ preparation of the ~~licensee and (B)~~ plant, its seeds, or resin. “**Cannabis**” also means the ~~power to direct~~ separated resin, whether crude or ~~cause to be directed~~, purified, obtained from **cannabis**. “**Cannabis**” does not include the ~~management or control~~ mature stalks of the ~~licensee~~ plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “**cannabis**” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

“**Cannabis** accessories” has the same meaning as in Section 11018.2 of the Health and Safety Code.

(2)H

“**Cannabis** concentrate” means **cannabis** that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the ~~applicant~~ product’s potency. Resin from granular trichomes from a **cannabis** plant is a ~~publicly traded company~~, “owner” ~~includes the chief executive officer and any member~~ concentrate for purposes of ~~the board of directors and any person or entity with an aggregate ownership interest in this division~~. A **cannabis** concentrate is not considered food, as defined by Section 109935 of the ~~company~~ of 20 percent Health and Safety Code, or ~~more~~. If the applicant is a ~~nonprofit entity~~, “owner” means ~~both the chief executive officer and any member~~ drug, as defined by Section 109925 of the ~~board of directors~~ Health and Safety Code.

(b)“Bureau” means

“**Cannabis** products” has the ~~Bureau of Marijuana Control within~~ same meaning as in Section 11018.1 of the ~~Department of Consumer Affairs~~ Health and Safety Code.

(c)

“Child resistant” means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

(d)

“Commercial ~~marijuana~~ **cannabis** activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, **packaging**, labeling, transportation, ~~distribution~~, delivery or sale of ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products as provided for in this division.

(e)

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of ~~marijuana~~ **cannabis**.

“Cultivation site” means a location where **cannabis** is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

(f)

“Customer” means a natural person 21 years of age or ~~over~~ over or a natural person 18 years of age or older who possesses a physician’s recommendation.

(g)

“Day care center” ~~shall have~~ has the same meaning as in Section 1596.76 of the Health and Safety Code.

(h)

“Delivery” means the commercial transfer of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the ~~retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.~~ retailer.

(i)

“Director” means the Director of ~~the Department of~~ Consumer Affairs.

(j)

“Distribution” means the procurement, sale, and transport of ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products between ~~entities licensed pursuant to this division.~~ licensees.

“Dried flower” means all dead **cannabis** that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

“Edible **cannabis** product” means **cannabis** product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible **cannabis** product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(k)

“Fund” means the ~~Marijuana~~ **Cannabis** Control Fund established pursuant to Section 26210.

(l)

“Kind” means applicable type or designation regarding a particular ~~marijuana~~ **cannabis** variant or ~~marijuana~~ **cannabis** product type, including, but not limited to, strain name or other grower trademark, or growing area designation.

“Labeling” means any label or other written, printed, or graphic matter upon a **cannabis** product, upon its container or wrapper, or that accompanies any **cannabis** product.

“Labor peace agreement” means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the state’s proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant’s business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant’s employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant’s employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(m)

“License” means a state license issued under this ~~division.~~ division, and includes both an A-license and an M-license, as well as a testing laboratory license.

(n)

“Licensee” means any person ~~or entity~~ holding a license under this ~~division~~ division, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

(+)

“Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.

(ab) “Live plants” means living **cannabis** flowers and plants, including seeds, immature plants, and vegetative stage plants.

(+)

(ac) “Local jurisdiction” means a city, county, or city and county.

(ad) “Lot” means a batch or a specifically identified portion of a batch.

(ae) “M-license” means a state license issued under this division for commercial **cannabis** activity involving medicinal **cannabis**.

(af) “M-licensee” means any person holding a license under this division for commercial **cannabis** activity involving medicinal **cannabis**.

(+)

(ag) “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a ~~marijuana~~ **cannabis** product.

(+)

(ah) “Manufacturer” means a ~~person licensee~~ that conducts the production, preparation, propagation, or compounding of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products or labels or ~~re-labels~~ relabels its ~~container, that holds a state license pursuant to this division.~~ container.

~~(s) “Marijuana” has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 (commencing with Section 19300) of Division 8.~~

~~(t) “Marijuana accessories” has the same meaning as in Section 11018.2 of the Health and Safety Code.~~

~~(u) “Marijuana products” has~~

(ai) “Medicinal **cannabis**” or “medicinal **cannabis** product” means **cannabis** or a **cannabis** product, respectively, intended to be sold for use pursuant to the ~~same meaning as in~~ Compassionate Use Act of 1996 (Proposition 215), found at Section ~~11018.1~~ 11362.5 of the Health and Safety Code, ~~except that it does not include marijuana products manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 (commencing with Section 19300) of Division 8.~~ by a medicinal **cannabis** patient in California who possesses a physician’s recommendation.

(+)

(aj) “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the ~~planting, propagation,~~ propagation and cultivation of ~~marijuana.~~ **cannabis**.

(w)

(ak) “Operation” means any act for which licensure is required under the provisions of this division, or any commercial transfer of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products.

(al) “Owner” means any of the following:

A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.

The chief executive officer of a nonprofit or other entity.

A member of the board of directors of a nonprofit.

An individual who will be participating in the direction, control, or management of the person applying for a license.

~~(x)~~

(am) “Package” means any container or receptacle used for holding ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products.

~~(y)~~

(an) “Person” includes any individual, firm, ~~copartnership~~, **partnership**, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(ao) “Physician’s recommendation” means a recommendation by a physician and surgeon that a patient use **cannabis** provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

(ap) “Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial **cannabis** activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

~~(z)~~

(aq) “Purchaser” means the customer who is engaged in a transaction with a licensee for purposes of obtaining ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products.

~~(aa)~~

(ar) “Sell,” “sale,” and “to sell” include any transaction whereby, for any consideration, title to ~~marijuana~~ **cannabis** or **cannabis** products is transferred from one person to another, and includes the delivery of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products by a licensee to the licensee from whom ~~such marijuana the~~ **cannabis** or ~~marijuana~~ **cannabis** product was purchased.

~~(bb)~~

(as) “Testing ~~service~~ **laboratory**” means a laboratory, facility, or entity in the ~~state~~, **state** that offers or performs tests of ~~marijuana~~ **cannabis** or ~~marijuana~~ **products**, ~~including the equipment provided by such laboratory, facility, or entity,~~ **cannabis** products and that is both of the following:

Accredited by an accrediting body that is independent from all other persons involved in commercial ~~marijuana~~ **cannabis** activity in the state.

~~Registered with~~ Licensed by the ~~State Department of Public Health~~ bureau.

~~(cc)~~

(at) “Unique identifier” means an alphanumeric code or designation used for reference to a specific plant on a licensed ~~premises~~, premises and any **cannabis** or **cannabis** product derived or manufactured from that plant.

~~(dd) “Unreasonably impracticable” means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.~~

~~(ee)~~

(au) “Youth center” ~~shall have~~ has the same meaning as in Section 11353.1 of the Health and Safety Code.

SEC. 6.

Section 26010 of the Business and Professions Code is repealed.

~~26010.~~

~~(a) The Bureau of Medical Marijuana Regulation established in Section 19302 is hereby renamed the Bureau of Marijuana Control. The director shall administer and enforce the provisions of this division in addition to the provisions of Chapter 3.5 (commencing with Section 19300) of Division 8. The director shall have the same power and authority as provided by subdivisions (b) and (c) of Section 19302.1 for purposes of this division.~~

~~(b) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Medical Marijuana Regulation under Chapter 3.5 (commencing with Section 19300) of Division 8.~~

~~(c) In addition to the powers, duties, purposes, responsibilities, and jurisdiction referenced in subdivision (b), the bureau shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity as provided in this division.~~

~~(d) Upon the effective date of this section, whenever “Bureau of Medical Marijuana Regulation” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.~~

SEC. 7.

Section 26010 is added to the Business and Professions Code, to read:

26010.

There is in the Department of Consumer Affairs the Bureau of **Cannabis** Control, under the supervision and control of the director. The director shall administer and enforce the provisions of this division related to the bureau.

SEC. 8.

Section 26010.5 is added to the Business and Professions Code, to read:

26010.5.

The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the Director of Consumer Affairs with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the Director of Consumer Affairs and at the pleasure of the Governor.

Every power granted to or duty imposed upon the Director of Consumer Affairs under this division may be exercised or performed in the name of the director by a deputy or assistant director or by the chief, subject to conditions and limitations that the director may prescribe. In addition to every power granted or duty imposed under this division, the director shall have all other powers and duties generally applicable in relation to bureaus that are part of the Department of Consumer Affairs.

The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service laws and regulations. The Governor may also appoint a deputy chief and an assistant chief counsel to the bureau. These positions shall hold office at the pleasure of the Governor.

The bureau has the power, duty, purpose, responsibility, and jurisdiction to regulate commercial **cannabis** activity as provided in this division.

The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction formerly vested in the Bureau of Marijuana Control, also formerly known as the Bureau of Medical **Cannabis** Regulation and the Bureau of Medical Marijuana Regulation, under the former Medical **Cannabis** Regulation and Safety Act (former Chapter 3.5 (commencing with Section 19300) of Division 8).

Upon the effective date of this section, whenever “Bureau of Marijuana Control,” “Bureau of Medical **Cannabis** Regulation,” or “Bureau of Medical Marijuana Regulation” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

Upon the effective date of this section, whenever any reference to the “Medical **Cannabis** Regulation and Safety Act,” “Medical Marijuana Regulation and Safety Act,” or former Chapter 3.5 (commencing with Section 19300) of Division 8 appears in any statute, regulation, contract, or in any other code, it shall be construed to refer to this division as it relates to medicinal **cannabis** and medicinal **cannabis** products.

SEC. 9.

Section 26011 of the Business and Professions Code is amended to read:

26011.

Neither the chief of the bureau nor any member of the ~~Marijuana~~ **Cannabis** Control Appeals Panel established under Section 26040 shall do any of the following:

Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this ~~division or Chapter 3.5 (commencing with Section 19300) of Division 8.~~ division.

Engage or have any interest in the sale or any insurance covering a licensee’s business or premises.

Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial ~~marijuana~~ **cannabis** activity.

Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.

Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

SEC. 10.

Section 26011.5 is added to the Business and Professions Code, to read:

26011.5.

The protection of the public shall be the highest priority for all licensing authorities in exercising licensing, regulatory, and disciplinary functions under this division. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 11.

Section 26012 of the Business and Professions Code is amended to read:

26012.

It being a matter of statewide concern, except as otherwise authorized in this division:

The ~~Department of Consumer Affairs~~ bureau shall have the ~~exclusive sole~~ authority to create, issue, ~~deny~~, renew, discipline, suspend, or revoke licenses for ~~the microbusinesses~~, transportation, storage unrelated to manufacturing activities, distribution, ~~testing~~, and sale of ~~marijuana~~ **cannabis** and **cannabis** products within the state.

The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of ~~marijuana~~ **cannabis**. The Department of Food and Agriculture shall have the authority to create, issue, ~~deny~~, and suspend or revoke cultivation licenses for violations of this division.

The State Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing ~~and testing~~ of ~~marijuana~~ **cannabis** products. The State Department of Public Health shall have the authority to create, issue, ~~deny~~, and suspend or revoke manufacturing ~~and testing~~ licenses for violations of this division.

The licensing authorities ~~and the bureau~~ shall have the authority to collect fees in connection with activities they regulate concerning ~~marijuana~~ **cannabis**. The ~~bureau~~ licensing authorities may create licenses in addition to those identified in this division that the ~~bureau deems~~ licensing authorities deem necessary to effectuate ~~its~~ their duties under this division.

For the performance of its duties, each licensing authority has the power conferred by Sections 11180 to 11191, inclusive, of the Government Code.

(e)

Licensing authorities shall begin issuing licenses under this division by January 1, 2018.

SEC. 12.

Section 26013 of the Business and Professions Code is amended to read:

26013.

Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. ~~Such~~ Those rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

Each licensing authority may adopt emergency regulations to implement this division.

Each licensing authority may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted as authorized by this section. Any such readoption shall be limited to one time for each regulation.

~~(b) Licensing authorities may prescribe, adopt, and enforce any~~
Notwithstanding any other law, the initial adoption of emergency regulations ~~as necessary to implement, administer and enforce their respective duties under this division. Any~~ the readoption of emergency ~~regulation prescribed, adopted or enforced pursuant to~~ regulations authorized by this section shall be ~~adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of~~

~~Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code,~~ deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readopted emergency regulations authorized by this section shall be each submitted to the ~~adoption Office of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.~~ Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance ~~unreasonably impracticable~~. so onerous that the operation under a **cannabis** license is not worthy of being carried out in practice by a reasonably prudent businessperson.

SEC. 13.

Section 26013.5 is added to the Business and Professions Code, to read:

26013.5.

Notice of any action of a licensing authority required by this division to be given may be signed and given by the director of the licensing authority or an authorized employee of the licensing authority and may be made personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure, or in the manner prescribed by Section 124 of this code.

SEC. 14.

Section 26014 of the Business and Professions Code is amended to read:

26014.

The bureau shall convene an advisory committee to advise the ~~bureau and~~ licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial ~~marijuana~~ **cannabis** activity that does not impose such ~~unreasonably impracticable~~ barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for ~~marijuana~~. **cannabis**.

The advisory committee members shall include, but not be limited to, representatives of the ~~marijuana~~ **cannabis** industry, including medicinal **cannabis**, representatives of labor organizations, appropriate state and local agencies, **persons who work directly with racially, ethnically, and economically diverse populations**, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

Commencing on January 1, 2019, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the ~~bureau and~~ licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the ~~bureau or~~ licensing authorities.

SEC. 15.

Section 26030 of the Business and Professions Code is amended to read:

26030.

Grounds for disciplinary action ~~include:~~ include, but are not limited to, all of the following:

Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.

Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5 or discipline of a license pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.

Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.

Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.

Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.

Failure to comply with the requirement of a local ordinance regulating commercial ~~marijuana~~ **cannabis** activity.

The intentional and knowing sale of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products by ~~a licensee~~ an A-licensee to a person under ~~the legal age to purchase or possess.~~ 21 years of age.

The intentional and knowing sale of medicinal **cannabis** or medicinal **cannabis** products by an M-licensee to a person without a physician's recommendation.

Failure to maintain safe conditions for inspection by a licensing authority.

Failure to comply with any operating procedure submitted to the licensing authority pursuant to subdivision (b) of Section 26051.5.

Failure to comply with license conditions established pursuant to subdivision (b) of Section 26060.1.

SEC. 16.

Section 26031 of the Business and Professions Code is amended to read:

26031.

Each licensing authority may ~~suspend~~ suspend, revoke, place on probation with terms and conditions, or ~~revoke licenses,~~ otherwise discipline licenses issued by that licensing authority and fine a licensee, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

A licensing authority may suspend or revoke a license when a local agency has notified the licensing authority that a licensee within its jurisdiction is in violation of state rules and regulations relating to commercial **cannabis** activities, and the licensing authority, through an investigation, has determined that the violation is grounds for suspension or revocation of the license.

Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's officers, directors, owners, agents, or employees while acting on behalf of the licensee or engaged in commercial **cannabis** activity.

A licensing authority may recover the costs of investigation and enforcement of a disciplinary proceeding pursuant to Section 125.3 of this code.

Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities. Upon any other enforcement action against a licensee, the licensing authority shall notify all other licensing authorities.

SEC. 17.

Section 26032 of the Business and Professions Code is repealed.

~~26032.~~

~~Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial marijuana activity.~~

SEC. 18.

Section 26032 is added to the Business and Professions Code, to read:

26032.

The actions of a licensee, its employees, and its agents are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law if they are all of the following:

Permitted pursuant to a state license.

Permitted pursuant to a local authorization, license, or permit issued by the local jurisdiction, if any.

Conducted in accordance with the requirements of this division and regulations adopted pursuant to this division.

The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and, if required by the applicable local ordinances, a local license or permit, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

SEC. 19.

Section 26033 of the Business and Professions Code is repealed.

~~26033.~~

~~Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities.~~

SEC. 20.

Section 26033 is added to the Business and Professions Code, to read:

26033.

A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports **cannabis** exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute **cannabis** to any other person is not thereby engaged in commercial **cannabis** activity and is therefore exempt from the licensure requirements of this division.

A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides **cannabis** exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code, is exempt from the licensure requirements of this division.

SEC. 21.

Section 26034 of the Business and Professions Code is repealed.

~~26034.~~

~~Accusations against licensees under this division shall be filed within the same time limits as specified in Section 19314 or as otherwise provided by law.~~

SEC. 22.

Section 26034 is added to the Business and Professions Code, to read:

26034.

All accusations against licensees shall be filed by the licensing authority within five years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in that case shall not be deemed to have accrued until discovery, by the licensing authority, of the facts constituting the fraud or misrepresentation, and, in that case, the accusation shall be filed within five years after that discovery.

SEC. 23.

Section 26038 of the Business and Professions Code is amended to read:

26038.

A person engaging in commercial ~~marijuana~~ **cannabis** activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of ~~marijuana~~ **cannabis** associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b). **A violator shall be responsible for the cost of the destruction of **cannabis** associated with his or her violation.**

If an action for civil penalties is brought against a ~~licensee~~ **person** pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If

the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial ~~marijuana~~ **cannabis** activity in violation of this division.

SEC. 24.

Section 26040 of the Business and Professions Code is amended to read:

26040.

There is established in state government a **Cannabis** Control Appeals Panel which shall consist of the following members:

One member appointed by the Senate Committee on Rules.

One member appointed by the Speaker of the Assembly.

Three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate.

~~(a) There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. Each~~

Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

The members of the panel may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty, ~~corruption~~ **corruption**, or incompetency.

A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if 5 Members of the Senate, or 10 Members of the Assembly, join as authors.

SEC. 25.

Section 26043 of the Business and Professions Code is amended to read:

26043.

After proceedings pursuant to Section 26031 or 26058 or Chapter 2 (commencing with Section 480) or Chapter 3 (commencing with Section 490) of Division 1.5, any person aggrieved by the decision of a licensing authority denying the person's application for any license, denying the person's renewal of any license, placing any license on probation, imposing any condition on any license, imposing any fine on any license, assessing any penalty on any license, or canceling, suspending, revoking, or otherwise disciplining any license as provided for under this division, may appeal the licensing authority's written decision to the panel.

~~(a) When any person aggrieved thereby appeals from a decision of the bureau or any licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license provided for under this division, the~~

The panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the ~~bureau or the~~ licensing authority.

(b)

Review by the panel of a decision of ~~the bureau or~~ a licensing authority shall be limited to the following questions:

Whether the ~~bureau or any~~ licensing authority has proceeded without or in excess of its jurisdiction.

Whether the ~~bureau or any~~ licensing authority has proceeded in the manner required by law.

Whether the decision is supported by the findings.

Whether the findings are supported by substantial evidence in the light of the whole record.

SEC. 26.

Section 26044 of the Business and Professions Code is amended to read:

26044.

In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the ~~bureau or~~ licensing authority, it may enter an order remanding the matter to the ~~bureau or~~ licensing authority for reconsideration in the light of ~~such~~ that evidence.

Except as provided in subdivision (a), in all appeals, the panel shall enter an order either affirming or reversing the decision of the ~~bureau or~~ licensing authority. When the order reverses the decision of the ~~bureau or~~ licensing authority, the ~~board~~ panel may direct the reconsideration of the matter in the light of its order and may direct the ~~bureau or~~ licensing authority to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the ~~bureau or~~ licensing authority.

SEC. 27.

Section 26045 of the Business and Professions Code is repealed.

~~26045.~~

~~Orders of the panel shall be subject to judicial review under Section 1094.5 of the Code of Civil Procedure upon petition by the bureau or licensing authority or any party aggrieved by such order.~~

SEC. 28.

Section 26045 is added to the Business and Professions Code, to read:

26045.

No court of this state, except the Supreme Court and the courts of appeal to the extent specified in this chapter, shall have jurisdiction to review, affirm, reverse, correct, or annul any order, rule, or decision of a licensing authority or to suspend, stay, or delay the operation or execution thereof, or to restrain, enjoin, or interfere with a licensing authority in the performance of its duties, but a writ of mandate shall lie from the Supreme Court or the courts of appeal in any proper case.

Any person affected by a final order of the panel, including a licensing authority, may apply to the Supreme Court or to the court of appeal for the appellate district in which the proceeding arose, for a writ of review of that final order.

The application for writ of review shall be made within 30 days after filing of the final order.

The provisions of the Code of Civil Procedure relating to writs of review shall, insofar as applicable, apply to proceedings in the courts as provided by this chapter. A copy of

every pleading filed pursuant to this chapter shall be served on the panel, the licensing authority, and on each party who entered an appearance before the panel.

No decision of a licensing authority that has been appealed to the panel and no final order of the panel shall become effective during the period in which application may be made for a writ of review, as provided by subdivision (c).

The filing of a petition for, or the pendency of, a writ of review shall not of itself stay or suspend the operation of any order, rule, or decision of a licensing authority, but the court before which the petition is filed may stay or suspend, in whole or in part, the operation of the order, rule, or decision of the licensing authority subject to review, upon the terms and conditions which it by order directs.

SEC. 29.

Section 26046 is added to the Business and Professions Code, to read:

26046.

The review by the court shall not extend further than to determine, based on the whole record of the licensing authority as certified by the panel, whether:

The licensing authority has proceeded without or in excess of its jurisdiction.

The licensing authority has proceeded in the manner required by law.

The decision of the licensing authority is supported by the findings.

The findings in the licensing authority's decision are supported by substantial evidence in the light of the whole record.

There is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the licensing authority.

Nothing in this chapter shall permit the court to hold a trial de novo, to take evidence, or to exercise its independent judgment on the evidence.

SEC. 30.

Section 26047 is added to the Business and Professions Code, to read:

26047.

The findings and conclusions of the licensing authority on questions of fact are conclusive and final and are not subject to review. Those questions of fact shall include ultimate facts and the findings and conclusions of the licensing authority. The panel, the licensing authority, and each party to the action or proceeding before the panel shall have the right to appear in the review proceeding. Following the hearing, the court shall enter judgment either affirming or reversing the decision of the licensing authority, or the court may remand the case for further proceedings before or reconsideration by the licensing authority.

SEC. 31.

Section 26050 of the Business and Professions Code is amended to read:

26050.

The license classification pursuant to this division shall, at a minimum, be as follows:

Type 1—Cultivation; Specialty outdoor; Small.

Type 1A—Cultivation; Specialty indoor; Small.

Type 1B—Cultivation; Specialty mixed-light; Small.

Type 1C—Cultivation; Specialty cottage; Small.

~~(4)~~

Type 2—Cultivation; Outdoor; Small.

~~(5)~~

Type 2A—Cultivation; Indoor; Small.

~~(6)~~

Type 2B—Cultivation; Mixed-light; Small.

~~(7)~~

Type 3—Cultivation; Outdoor; Medium.

~~(8)~~

Type 3A—Cultivation; Indoor; Medium.

~~(9)~~

Type 3B—Cultivation; Mixed-light; Medium.

~~(10)~~

Type 4—Cultivation; Nursery.

~~(11)~~

Type 5—Cultivation; Outdoor; Large.

~~(12)~~

Type 5A—Cultivation; Indoor; Large.

~~(13)~~

Type 5B—Cultivation; Mixed-light; Large.

~~(14)~~

Type 6—Manufacturer 1.

~~(15)~~

Type 7—Manufacturer 2.

~~(16)~~

Type ~~8—Testing~~; 8—Testing laboratory.

~~(17)~~

Type 10—Retailer.

~~(18)~~

Type 11—Distributor.

~~(19)~~

Type 12—Microbusiness.

~~All~~ With the exception of testing laboratory licenses, which may be used to test **cannabis** and **cannabis** products regardless of whether they are intended for use by individuals who possesses a physician's recommendation, all licenses issued under this division shall bear a clear designation indicating ~~that~~ whether the license is for commercial ~~marijuana~~ adult-use **cannabis** activity as distinct from

commercial ~~medical~~ medicinal **cannabis** activity ~~licensed under Chapter 3.5 (commencing with Section 19300) of Division 8,~~ by prominently affixing an “A” or “M,” respectively. Examples of such a designation include, but are not limited to, ~~“Type 1 Nonmedical,” “A-Type 1” or “Type 1NM.”~~ “M-Type 1.” Except as specifically specified in this division, the requirements for A-licenses and M-licenses shall be the same. For testing laboratories, the bureau shall create a license that indicates a testing laboratory may test both adult-use and medicinal **cannabis**.

A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.

Each licensing authority shall establish procedures for the issuance and renewal of licenses.

~~(c) Notwithstanding subdivision (c), a licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operative on January 1, 2019.~~

SEC. 32.

Section 26050.1 is added to the Business and Professions Code, to read:

26050.1.

Notwithstanding subdivision (c) of Section 26050, until January 1, 2019, a licensing authority may, in its sole discretion, issue a temporary license if the applicant submits all of the following:

A written request to the licensing authority in a manner prescribed by the licensing authority.

A copy of a valid license, permit, or other authorization, issued by a local jurisdiction, that enables the applicant to conduct commercial **cannabis** activity at the location requested for the temporary license.

The temporary license application fee, if any, required by the licensing authority.

Temporary licenses issued pursuant to this section are subject to the following conditions:

Except as provided for in paragraph (4) below, the temporary license shall be valid for a period of 120 days and may be extended for additional 90-day periods at the discretion of the licensing authority. Temporary licenses shall only be eligible for an extension of the expiration date if the applicant has submitted a complete application for licensure pursuant to regulations adopted under this division.

A temporary license is a conditional license and authorizes the holder thereof to engage in commercial **cannabis** activity as would be permitted under the privileges of the license for which the applicant has submitted an application to the licensing authority.

Refusal by the licensing authority to issue or extend a temporary license shall not entitle the applicant to a hearing or appeal of the decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to temporary licenses.

A temporary license does not obligate the licensing authority to issue a nontemporary license nor does the temporary license create a vested right in the holder to either an extension of the temporary license or to the granting of a subsequent nontemporary license.

This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 33.

Section 26051 of the Business and Professions Code is repealed.

~~26051.~~

~~(a) In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:~~

- ~~(1) Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power;~~
- ~~(2) Perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;~~
- ~~(3) Encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;~~
- ~~(4) Result in an excessive concentration of licensees in a given city, county, or both;~~
- ~~(5) Present an unreasonable risk of minors being exposed to marijuana or marijuana products; or~~
- ~~(6) Result in violations of any environmental protection laws.~~

~~(b) A licensing authority may deny a license or renewal of a license based upon the considerations in subdivision (a):~~

~~(c) For purposes of this section, “excessive concentration” means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:~~

- ~~(1) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products.~~
- ~~(2) The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.~~

SEC. 34.

Section 26051 is added to the Business and Professions Code, to read:

26051.

The Cartwright Act, the Unfair Practices Act, the Unfair Competition Law, and the other provisions of Part 2 (commencing with Section 16600) of Division 7 apply to all licensees regulated under this division.

It shall be unlawful for any person to monopolize, or attempt to monopolize, or to combine or conspire with any person or persons, to monopolize any part of the trade or commerce related to **cannabis**. The Attorney General shall have the sole authority to enforce the provisions of this subdivision.

In determining whether to grant, deny, or renew a license for a retail license, microbusiness license, or a license issued under Section 26070.5, the bureau shall consider if an excessive concentration exists in the area where the licensee will operate. For purposes of this section “excessive concentration” applies when either of the following conditions exist:

The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for **cannabis** or **cannabis** products.

The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to the population in the census tract, census division, or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

SEC. 35.

Section 26051.5 is added to the Business and Professions Code, to read:

26051.5.

An applicant for any type of state license issued pursuant to this division shall do all of the following:

Require that each owner of the applicant electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

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

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

The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

Provide evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property or that landowner's agent where the commercial **cannabis** activity will occur, as proof to demonstrate the landowner has acknowledged and consented to permit commercial **cannabis** activities to be conducted on the property by the tenant applicant.

Provide evidence that the proposed location is in compliance with subdivision (b) of Section 26054.

Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

For the purposes of this paragraph, "employee" does not include a supervisor.

For the purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the applicant, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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

Provide any other information required by the licensing authority.

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

Pay all applicable fees required for licensure by the licensing authority.

Provide proof of a bond to cover the costs of destruction of **cannabis** or **cannabis** products if necessitated by a violation of licensing requirements.

An applicant shall also include in the application a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

Cultivation.

Extraction and infusion methods.

The transportation process.

Inventory procedures.

Quality control procedures.

Security protocols.

For applicants seeking licensure to cultivate, the source or sources of water the applicant will use for cultivation, as provided in subdivisions (a) to (c), inclusive, of Section 26060.1. For purposes of this paragraph, "cultivation" as used in Section 26060.1 shall have the same meaning as defined in Section 26001. The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this paragraph.

The applicant shall also provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy, including aggregate square footage and individual square footage of separate cultivation areas, if any, roads, water crossings, points of diversion, water storage, and all other facilities and infrastructure related to the cultivation.

Provide a complete list of every person with a financial interest in the person applying for the license as required by the licensing authority. For purposes of this subdivision, "persons with a financial interest" does not include persons whose only interest in a licensee is an interest in a diversified mutual fund, blind trust, or similar instrument.

SEC. 36.

Section 26052 of the Business and Professions Code is amended to read:

26052.

~~No~~A licensee shall ~~not~~ perform any of the following acts, or permit any ~~such of the following~~ acts to be performed by any employee, agent, or contractor of ~~such the~~ licensee:

Make any contract in restraint of trade in violation of Section ~~16600~~; 16600.

Form a trust or other prohibited organization in restraint of trade in violation of Section ~~16720~~; 16720.

Make a sale or contract for the sale of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products, or to fix a price charged therefor, or discount from, or rebate upon, ~~such that~~ price, on the condition, ~~agreement~~ agreement, or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of ~~such the~~ seller, where the effect of ~~such that~~ sale, contract,

condition, ~~agreement~~ agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or ~~commerce~~; commerce.

Sell any ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective ~~purchasers~~; purchasers.

Discriminate between different sections, communities, or cities or portions thereof, or between different locations in ~~such those~~ sections, communities, or cities or portions thereof in this state, by selling or furnishing ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products at a lower price in one section, community, or city or any portion thereof, or in one location in ~~such that~~ section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying ~~competition~~; or competition.

Sell any ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.

Any person who, either as director, ~~officer~~ officer, or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter, or assists or aids, directly or indirectly, in ~~such that~~ violation is responsible therefor equally with the person, ~~firm~~ firm, or corporation for which ~~such that~~ person acts.

~~(c) A licensing authority may enforce this section by appropriate regulation.~~

~~(d)~~

Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.

SEC. 37.

Section 26053 of the Business and Professions Code is amended to read:

26053.

~~The bureau and licensing authorities may issue licenses under this division to persons or entities that hold licenses under Chapter 3.5 (commencing with Section 19300) of Division 8. All commercial~~ cannabis activity shall be conducted between licensees, except as otherwise provided in this division.

~~Notwithstanding subdivision (a), a~~ A person ~~or entity~~ that holds a state testing laboratory license under this division ~~or Chapter 3.5 (commencing with Section 19300) of Division 8~~ is prohibited from licensure for any other activity, except testing, as authorized under this division. A person that holds a state testing laboratory license shall not employ an individual who is also employed by any other licensee that does not hold a state testing laboratory license.

Except as provided in subdivision (b), a person ~~or entity~~ may apply for and be issued more than one license under this ~~division~~. division, provided the licensed premises are separate and distinct.

Each applicant or licensee shall apply for, and if approved, shall obtain, a separate license for each location where it engages in commercial cannabis activity.

SEC. 38.

Section 26054 of the Business and Professions Code is amended to read:

26054.

A licensee shall not ~~also be licensed as a retailer of sell~~ alcoholic beverages ~~under Division 9 (commencing with Section 23000) or of tobacco products.~~ or tobacco products on or at any premises licensed under this division.

~~No licensee~~ A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

It shall ~~be lawful under state and local law, and shall~~ not be a violation of state or local ~~law, law~~ for a business engaged in the manufacture of ~~marijuana~~ cannabis accessories to possess, transport, ~~purchase purchase,~~ or otherwise obtain small amounts of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products as necessary to conduct research and development related to ~~such marijuana the~~ cannabis accessories, provided ~~such marijuana the~~ cannabis and ~~marijuana~~ cannabis products are obtained from a person ~~or entity~~ licensed under this division ~~or Chapter 3.5 (commencing with Section 19300) of Division 8~~ permitted to provide or deliver ~~such marijuana the~~ cannabis or ~~marijuana~~ cannabis products.

It shall not be a violation of state or local law for an agent of a licensing authority to possess, transport, or obtain cannabis or cannabis products as necessary to conduct activities reasonably related to the duties of the licensing authority.

SEC. 39.

Section 26054.1 of the Business and Professions Code is repealed.

26054.1.

~~(a) No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.~~

~~(b) Subdivision (a) shall cease to be operative on December 31, 2019, unless reenacted prior thereto by the Legislature.~~

SEC. 40.

Section 26054.2 of the Business and Professions Code is amended to read:

26054.2.

A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws before September 1, ~~2016, or currently operates in compliance with Chapter 3.5 (commencing with Section 19300) of Division 8.~~ 2016.

The ~~bureau~~ licensing authorities shall request that local jurisdictions identify for the ~~bureau~~ licensing authorities potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws, and any applicable local laws. ~~The bureau shall make the requested information available to licensing authorities.~~

In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence ~~as deemed appropriate by the licensing authority~~ to demonstrate operation in compliance with the Compassionate Use Act ~~or Chapter 3.5 (commencing with Section 19300) of Division 8, The bureau~~ 1996 (Section 11362.5 of the Health and Safety Code). The licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).

This section shall cease to be operative on December 31, 2019, unless otherwise provided by law.

SEC. 41.

Section 26055 of the Business and Professions Code is amended to read:

26055.

Licensing authorities may issue state licenses only to qualified applicants.

Revocation of a state license issued under this division shall terminate the ability of the licensee to operate ~~pursuant to that license~~ within California until ~~the licensing authority reinstates or reissues the state license;~~ a new license is obtained.

~~(c) Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation.~~

~~(d)~~

~~After issuance or transfer of a license, no~~ A licensee shall ~~not~~ change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until ~~prior~~ written ~~assent of approval~~ by the licensing authority ~~or bureau~~ has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

~~(e)~~

Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

An applicant may voluntarily provide proof of a license, permit, or other authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction.

A local jurisdiction shall provide to the bureau a copy of any ordinance or regulation related to commercial **cannabis** activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial **cannabis** activity within the jurisdiction. If a local jurisdiction does not provide a contact person, the bureau shall assume that the clerk of the legislative body of the local jurisdiction is the contact person.

Whenever there is a change in a local ordinance or regulation adopted pursuant to Section 26200 or a change in the contact person for the jurisdiction, the local jurisdiction shall provide that information to the bureau.

The bureau shall share the information required by this subdivision with the other licensing authorities.

The licensing authority shall deny an application for a license under this division for a commercial **cannabis** activity that the local jurisdiction has notified the bureau is prohibited in

accordance with subdivision (f). The licensing authority shall notify the contact person for the local jurisdiction of each application denied due to the local jurisdictions indication that the commercial **cannabis** activity for which a license is sought is prohibited by a local ordinance or regulation.

Prior to issuing a state license under this division for any commercial **cannabis** activity:

The licensing authority shall notify the contact person for the local jurisdiction of the receipt of an application for commercial **cannabis** activity within their jurisdiction.

A local jurisdiction may notify the licensing authority that the applicant is not in compliance with a local ordinance or regulation. In this instance, the licensing authority shall deny the application.

A local jurisdiction may notify the licensing authority that the applicant is in compliance with all applicable local ordinances and regulations. In this instance, the licensing authority may proceed with the licensing process.

If the local jurisdiction does not provide notification of compliance or noncompliance with applicable local ordinances or regulations, or otherwise does not provide notification indicating that the completion of the local permitting process is still pending, within 60 business days of receiving the inquiry from a licensing authority submitted pursuant to subparagraph (A), the licensing authority shall make a rebuttable presumption that the applicant is in compliance with all local ordinances and regulations adopted in accordance with Section 26200, except as provided in subparagraphs (E) and (F).

At any time after expiration of the 60-business-day period set forth in subparagraph (D), the local jurisdiction may provide written notification to the licensing authority that the applicant or licensee is not in compliance with a local ordinance or regulation adopted in accordance with Section 26200. Upon receiving this notification, the licensing authority shall not presume that the applicant or licensee has complied with all local ordinances and regulations adopted in accordance with Section 26200, and may commence disciplinary action in accordance with Chapter 3 (commencing with Section 26030). If the licensing authority does not take action against the licensee before the time of the renewal of the license, the license shall not be renewed until and unless the local jurisdiction notifies the licensing authority that the licensee is once again in compliance with local ordinances.

A presumption by a licensing authority pursuant to this paragraph that an applicant has complied with all local ordinances and regulations adopted in accordance with Section 26200 shall not prevent, impair, or preempt the local government from enforcing all applicable local ordinances or regulations against the applicant, nor shall the presumption confer any right, vested or otherwise, upon the applicant to commence or continue operating in any local jurisdiction except in accordance with all local ordinances or regulations.

For purposes of this section, “notification” includes written notification or access by a licensing authority to a local jurisdiction’s registry, database, or other platform designated by a local jurisdiction, containing information specified by the licensing authority, on applicants to determine local compliance.

Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial **cannabis** activity. To qualify for this exemption, the discretionary review in any

such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.

A local or state public agency may charge and collect a fee from a person proposing a project pursuant to subdivision (a) of Section 21089 of the Public Resources Code.

SEC. 42.

Section 26056 of the Business and Professions Code is repealed.

~~26056.~~

~~An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in Section 19322 unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority, except as follows:~~

~~(a) Notwithstanding paragraph (2) of subdivision (a) of Section 19322, an applicant need not provide documentation that the applicant has obtained a license, permit or other authorization to operate from the local jurisdiction in which the applicant seeks to operate;~~

~~(b) An application for a license under this division shall include evidence that the proposed location meets the restriction in subdivision (b) of Section 26054; and~~

~~(c) For applicants seeking licensure to cultivate, distribute, or manufacture nonmedical marijuana or marijuana products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:~~

~~(1) Cultivation.~~

~~(2) Extraction and infusion methods.~~

~~(3) The transportation process.~~

~~(4) The inventory process.~~

~~(5) Quality control procedures.~~

~~(6) The source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law.~~

~~(d) The applicant shall provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy including aggregate square footage and individual square footage of separate cultivation areas, if any.~~

SEC. 43.

Section 26056.5 of the Business and Professions Code is repealed.

~~26056.5.~~

~~The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, including but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), lake or streambed alteration agreements (Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code), the Clean Water Act (33 U.S.C. Sec. 1251 et seq.), the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.~~

SEC. 44.

Section 26056 is added to the Business and Professions Code, to read:

26056.

The requirements of Sections 13143.9, 13145, and 13146 of the Health and Safety Code shall apply to all licensees.

SEC. 45.

Section 26057 of the Business and Professions Code is amended to read:

26057.

The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

Failure ~~or inability~~ to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream ~~flow~~ flow, water quality, and ~~water quality~~ fish and wildlife.

Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.

Failure to provide information required by the licensing authority.

The ~~applicant~~ applicant, owner, or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the ~~applicant~~ applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the ~~applicant~~ applicant or owner, and shall evaluate the suitability of the ~~applicant~~ applicant, owner, or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

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

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

A felony conviction involving fraud, deceit, or embezzlement.

A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or ~~11379.8~~ 11379.8 of the Health and Safety Code.

Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any

controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

The applicant, or any of its officers, directors, or owners, has been subject to ~~fin~~ fines, penalties, or ~~penalties~~ otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial ~~marijuana activities or commercial medical~~ cannabis activities, has had a license suspended or revoked under this division ~~or Chapter 3.5 (commencing with Section 19300) of Division 8~~ in the three years immediately preceding the date the application is filed with the licensing ~~authority, or has been sanctioned under Section 12025 or 12025.1 of the Fish and Game Code.~~ authority.

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

Any other condition specified in law.

SEC. 46.

Section 26058 of the Business and Professions Code is amended to read:

26058.

Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein. Any appeal from a final decision of the licensing authority shall be conducted in accordance with Chapter 4 (commencing with Section 26040).

SEC. 47.

Section 26060 of the Business and Professions Code is amended to read:

26060.

Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, nursery, special cottage, and mixed-light cultivation sites shall apply to licensed cultivators under this division. The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this division, including regulations governing the licensing of indoor, outdoor, mixed-light cultivation site, nursery, and special cottage cultivation.

The regulations shall do all of the following:

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

Require that cannabis cultivation by licensees is conducted in accordance with state and local laws.

~~(b) Standards developed by~~

Establish procedures for the ~~Department~~ issuance and revocation of ~~Pesticide Regulation, in consultation~~ unique identifiers for activities associated with ~~the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested~~ cannabis shall apply to licensed cultivators under this division. a cannabis cultivation license, pursuant to Chapter 6.5 (commencing with Section 26067).

All **cannabis** shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers pursuant to Chapter 6.5 (commencing with Section 26067).

The Department of Food and Agriculture shall ~~include conditions in each license requested by~~ serve as the ~~Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed lead~~ agency for fish spawning, migration, and rearing, and purposes of the ~~flows needed to maintain natural flow variability, and to otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.~~ California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) related to the licensing of **cannabis** cultivation.

The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of **cannabis** and residue in harvested **cannabis**.

A **cannabis** cultivator shall not use any pesticide that has been banned for use in the state.

(d)

The regulations promulgated by the Department of Food and Agriculture under this division ~~shall, at a minimum, address in relation to commercial marijuana activity, shall implement the same matters described in requirements of subdivision (e)(b) of Section 19332.~~ 26060.1.

(e)

The Department of Pesticide ~~Regulation, in consultation with the State Water Resources Control Board,~~ Regulation shall ~~promulgate regulations that~~ require that the application of pesticides or other pest control in connection with the indoor, outdoor, nursery, specialty cottage, or ~~mixed-light~~ mixed-light cultivation of ~~marijuana meets standards equivalent to~~ **cannabis** complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

SEC. 48.

Section 26060.1 is added to the Business and Professions Code, to read:

26060.1.

An application for a license for cultivation issued by the Department of Food and Agriculture shall identify the source of water supply as follows:

If water will be supplied by a retail water supplier, as defined in Section 13575 of the Water Code, the application shall identify the retail water supplier.

Paragraphs (2) and (3) do not apply to any water subject to subparagraph (A) unless the retail water supplier has 10 or fewer customers, the applicant receives 10 percent or more of the water supplied by the retail water supplier, 25 percent or more of the water delivered by the retail water supplier is used for **cannabis** cultivation, or the applicant and the retail water supplier are affiliates, as defined in Section 2814.20 of Title 23 of the California Code of Regulations.

If the water supply includes a diversion within the meaning of Section 5100 of the Water Code, the application shall identify the point of diversion and the maximum amount to be diverted as follows:

For an application submitted before January 1, 2019, the application shall include a copy of one of the following:

A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

A statement of water diversion and use filed with the State Water Resources Control Board before July 1, 2017, that covers the diversion and specifies the amount of water used for **cannabis** cultivation.

A pending application for a permit to appropriate water, filed with the State Water Resources Control Board before July 1, 2017.

Documentation submitted to the State Water Resources Control Board before July 1, 2017, demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of the Water Code.

Documentation submitted to the State Water Resources Control Board before July 1, 2017, demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

For an application submitted after December 31, 2018, the application shall include a copy of one of the following:

A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

A statement of water diversion and use filed with the State Water Resources Control Board that covers the diversion and specifies the amount of water used for **cannabis** cultivation.

Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of the Water Code.

Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and in the calendar year in which the application is submitted. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

If water will be supplied from a groundwater extraction not subject to paragraph (2), the application shall identify the location of the extraction and the maximum amount to be diverted for **cannabis** cultivation in any year.

The Department of Food and Agriculture shall include in any license for cultivation all of the following:

Conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to (A) ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and

the flows needed to maintain natural flow variability; (B) ensure that cultivation does not negatively impact springs, riparian habitat, wetlands, or aquatic habitat; and (C) otherwise protect fish, wildlife, fish and wildlife habitat, and water quality. The conditions shall include, but not be limited to, the principles, guidelines, and requirements established pursuant to Section 13149 of the Water Code.

Any relevant mitigation requirements the Department of Food and Agriculture identifies as part of its approval of the final environmental documentation for the **cannabis** cultivation licensing program as requirements that should be included in a license for cultivation. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the identification of these mitigation measures. This paragraph does not reduce any requirements established pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

A condition that the license shall not be effective until the licensee has demonstrated compliance with Section 1602 of the Fish and Game Code or receives written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not required.

The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this section.

Notwithstanding paragraph (1) of subdivision (b), the Department of Food and Agriculture is not responsible for verifying compliance with the conditions requested or imposed by the Department of Fish and Wildlife or the State Water Resources Control Board. The Department of Fish and Wildlife or the State Water Resources Control Board, upon finding and making the final determination of a violation of a condition included pursuant to paragraph (1) of subdivision (b), shall notify the Department of Food and Agriculture, which may take appropriate action with respect to the licensee in accordance with Chapter 3 (commencing with Section 26030).

SEC. 49.

Section 26061 of the Business and Professions Code is amended to read:

26061.

The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include ~~Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law.~~ all of the following:

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

Type 1A, or “specialty indoor,” for indoor cultivation using exclusively artificial lighting of between 501 and 5,000 square feet of total canopy size on one premises.

Type 1B, or “specialty mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between 2,501 and 5,000 square feet of total canopy size on one premises.

Type 1C, or “specialty cottage,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of 2,500 square feet or less of total canopy size for mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

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

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

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

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

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

Type 3B, or “mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

~~(b) Except as otherwise provided by law,~~

~~Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4 licenses shall provide 4, or “nursery” for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis solely as specified in subdivision (g) of Section 19332. a nursery.~~

~~(c)~~

Except as otherwise provided by law:

Type 5, or “outdoor,” means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

Type 5A, or “indoor,” means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

Type 5B, or “mixed-light,” means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

~~(d)~~

No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

~~(e)~~

Commencing on January 1, 2023, a Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold a Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not be eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

SEC. 50.

Section 26062 of the Business and Professions Code is repealed.

~~26062.~~

~~The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in Section 19332.5.~~

SEC. 51.

Section 26062 is added to the Business and Professions Code, to read:

26062.

No later than January 1, 2021, the Department of Food and Agriculture shall establish a program for **cannabis** that is comparable to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code) and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code. The Department of Food and Agriculture shall be the sole determiner of designation and certification.

If at any time preceding or following the establishment of a program by the Department of Food and Agriculture pursuant to subdivision (a), the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)) authorizes organic designation and certification for **cannabis**, this section shall become inoperative and, as of January 1, of the following year, is repealed.

SEC. 52.

Section 26062.5 is added to the Business and Professions Code, to read:

26062.5.

A person shall not represent, sell, or offer for sale any **cannabis** or **cannabis** product as organic except in accordance with the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), if applicable. A person shall not represent, sell, or offer for sale any **cannabis** or **cannabis** product with the designation or certification established by the Department of Food and Agriculture pursuant to subdivision (a) of Section 26062 except in accordance with that subdivision.

SEC. 53.

Section 26063 of the Business and Professions Code is amended to read:

26063.

~~The bureau~~ No later than January 1, 2018, the Department of Food and Agriculture shall establish standards ~~for recognition of~~ by which a ~~particular appellation~~ licensed cultivator may designate a county of origin ~~applicable to marijuana grown or cultivated in a certain geographical area in California~~ for **cannabis**. To be eligible for the designation, 100 percent of the **cannabis** shall be produced within the designated county, as defined by finite political boundaries.

~~(b) Marijuana~~

Cannabis shall not be advertised, marketed, labeled, or sold as grown in a California county when the ~~marijuana~~ **cannabis** was not grown in that county.

~~(c)~~

The name of a California ~~county~~ county, including any similar name that is likely to mislead consumers as to the origin of the product, shall not be used in the advertising, labeling, marketing, or packaging

of ~~marijuana~~ **cannabis** products unless the ~~marijuana~~ **cannabis** contained in the product was grown in that county.

No later than January 1, 2021, the Department of Food and Agriculture shall establish a process by which licensed cultivators may establish appellations of standards, practices, and varieties applicable to **cannabis** grown in a certain geographical area in California, not otherwise specified in subdivision (a).

SEC. 54.

Section 26064 of the Business and Professions Code is repealed.

~~26064.~~

~~Each licensed cultivator shall ensure that the licensed premises do not pose an unreasonable risk of fire or combustion. Each cultivator shall ensure that all lighting, wiring, electrical and mechanical devices, or other relevant property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.~~

SEC. 55.

Section 26065 of the Business and Professions Code is amended to read:

26065.

An employee engaged in the cultivation of ~~marijuana~~ **cannabis** under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

SEC. 56.

Section 26066 of the Business and Professions Code is amended to read:

26066.

Indoor and outdoor ~~marijuana~~ **cannabis** cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, **current building and fire standards**, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies, shall address environmental impacts of ~~marijuana~~ **cannabis** cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

SEC. 57.

Section 26067 of the Business and Professions Code is repealed.

~~26067.~~

~~(a) The Department of Food and Agriculture shall establish a Marijuana Cultivation Program to be administered by the Secretary of Food and Agriculture. The secretary shall administer this section as it pertains to the cultivation of marijuana. For purposes of this division, marijuana is an agricultural product.~~

~~(b) A person or entity shall not cultivate marijuana without first obtaining a state license issued by the department pursuant to this section.~~

~~(c)(1) The department, in consultation with, but not limited to, the bureau, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for marijuana. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:~~

~~(A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability. If a watershed cannot support additional cultivation, no new plant identifiers will be issued for that watershed.~~

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

~~(2) The department shall establish a program for the identification of permitted marijuana plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each marijuana plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.~~

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

~~(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26170.~~

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

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

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

~~(d) Unique identifiers and associated identifying information administered by local jurisdictions shall adhere to the requirements set by the department and be the equivalent to those administered by the department.~~

~~(e)(1) This section does not apply to the cultivation of marijuana in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.~~

~~(2) Subdivision (b) does not apply to persons or entities licensed under either paragraph (3) of subdivision (a) of Section 26070 or subdivision (b) of Section 26070.5.~~

~~(f) "Department" for purposes of this section means the Department of Food and Agriculture.~~

SEC. 58.

Chapter 6.5 (commencing with Section 26067) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 6.5. Unique Identifiers and Track and Trace 26067.

The department, in consultation with the bureau, shall establish a track and trace program for reporting the movement of **cannabis** and **cannabis** products throughout the distribution chain that utilizes a unique identifier pursuant to Section 26069, secure packaging, and is capable of providing information that captures, at a minimum, all of the following:

The licensee receiving the product.

The transaction date.

The cultivator from which the product originates, including the associated unique identifier pursuant to Section 26069.

The department, in consultation with the State Board of Equalization, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:

The variety and quantity or weight of products shipped.

The estimated times of departure and arrival.

The variety and quantity or weight of products received.

The actual time of departure and arrival.

A categorization of the product.

The license number and the unique identifier pursuant to Section 26069 issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.

The database shall be designed to flag irregularities for all licensing authorities in this division to investigate. All licensing authorities pursuant to this division may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.

The department shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial **cannabis** activity for investigatory purposes.

Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.

The bureau shall have 24-hour access to the electronic database administered by the department. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of **cannabis** and **cannabis** products.

The department shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the department.

Information received and contained in records kept by the department or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this division or a local ordinance.

Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this division.

26068.

The department, in consultation with the bureau and the State Board of Equalization, shall ensure that the track and trace program can also track and trace the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity, including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

The department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs, and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of **cannabis** and **cannabis** products throughout the distribution chain and communicate the information to licensing agencies as required by law.

Any software, database, or other information technology system utilized by the department to implement the expanded track and trace program shall support interoperability with third-party **cannabis** business software applications and allow all licensee-facing system activities

to be performed through a secure application programming interface (API) or comparable technology that is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

26069.

The department shall establish a **Cannabis** Cultivation Program to be administered by the secretary. The secretary shall administer this section as it pertains to the cultivation of **cannabis**. For purposes of this division, **cannabis** is an agricultural product.

A person or entity shall not cultivate **cannabis** without first obtaining a state license issued by the department pursuant to this section.

The department, in consultation with, but not limited to, the bureau, shall implement a unique identification program for **cannabis**. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. If the State Water Resources Control Board or the Department of Fish and Wildlife finds, based on substantial evidence, that **cannabis** cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area, the department shall not issue new licenses or increase the total number of plant identifiers within that watershed or area.

The department shall establish a program for the identification of permitted **cannabis** plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each **cannabis** plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

Unique identifiers shall only be issued to those persons appropriately licensed by this section.

Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26067.

The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each **cannabis** plant.

The department may promulgate regulations to implement this section.

The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

A city, county, or city and county may administer unique identifiers and associated identifying information but a city, county, or city and county's identifiers shall not supplant the department's track and trace program.

This section does not apply to the cultivation of **cannabis** in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.

Subdivision (b) does not apply to persons or entities licensed under subdivision (b) of Section 26070.5.

26069.1.

The secretary may enter into a cooperative agreement with a county agricultural commissioner or other state or local agency to assist the department in implementing the provisions of this division related to administration, investigation, inspection, fee collection, document management, education and

outreach, distribution of individual licenses approved by the secretary, and technical assistance pertaining to the cultivation of **cannabis**. The department shall pay compensation under a cooperative agreement from fees collected and deposited pursuant to this division and shall provide reimbursement to a county agricultural commissioner, state, or local agency for associated costs. The secretary shall not delegate through a cooperative agreement, or otherwise, its authority to issue cultivation licenses to a county agricultural commissioner, local agency, or another state agency. The secretary shall provide notice of any cooperative agreement entered into pursuant to this section to other relevant state agencies involved in the regulation of **cannabis** cultivation. No cooperative agreement under this section shall relieve the department of its obligations under paragraph (2) of subdivision (a) of Section 26012 to administer the provisions of this division related to, and associated with, the cultivation of **cannabis**.

26069.9.

For purposes of this chapter:

“Department” means the Department of Food and Agriculture.

“Secretary” means the Secretary of Food and Agriculture.

SEC. 59.

Section 26070 of the Business and Professions Code is amended to read:

26070.

Retailers and Distributors.

State licenses to be issued by the ~~Department~~ bureau related to the sale and distribution of ~~Consumer—Affairs~~ **cannabis** and **cannabis** products are as follows:

“Retailer,” for the retail sale and delivery of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products to customers. A retailer shall have a licensed premises which is a physical location from which commercial **cannabis** activities are conducted. A retailer’s premises may be closed to the public. A retailer may conduct sales exclusively by delivery.

“Distributor,” for the distribution of ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

“Microbusiness,” for the cultivation of ~~marijuana~~ **cannabis** on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee ~~complies~~ can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of ~~marijuana~~ **cannabis** shall include ~~conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.~~ license conditions described in subdivision (b) of Section 26060.1.

In coordination with each other, the licensing authorities shall establish a process by which an applicant for a microbusiness license can demonstrate compliance with all the requirements under this division for the activities that will be conducted under the license.

The bureau may enter into interagency agreements with licensing authorities to implement and enforce the provisions of this division related to microbusinesses. The costs of activities carried out by the licensing authorities as requested by the bureau pursuant to the interagency

agreement shall be calculated into the application and licensing fees collected pursuant to this division, and shall provide for reimbursement to state agencies for associated costs as provided for in the interagency agreement.

The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products. The transportation of cannabis and cannabis products shall only be conducted by persons holding a distributor license under this division or employees of those persons. Transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

The driver of a vehicle transporting cannabis or cannabis products shall be directly employed by a licensee authorized to transport cannabis or cannabis products.

Notwithstanding any other law, all vehicles transporting cannabis and cannabis products for hire shall be required to have a valid motor carrier permit pursuant to Chapter 2 (commencing with Section 34620) of Division 14.85 of the Vehicle Code. The Department of the California Highway Patrol shall have authority over the safe operation of these vehicles, including, but not limited to, requiring licensees engaged in the transportation of cannabis or cannabis products to participate in the Basic Inspection of Terminals (BIT) program pursuant to Section 34501.12 of the Vehicle Code.

Prior to transporting cannabis or cannabis products, a licensed distributor shall do both of the following:

Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest shall include the unique identifier, pursuant to Section 26069, issued by the Department of Food and Agriculture for the original cannabis product.

Securely transmit the manifest to the bureau and the licensee that will receive the cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 26067.

During transportation, the licensed distributor shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the Department of Consumer Affairs and law enforcement officers.

The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to the Department of Consumer Affairs and any law enforcement officers.

Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing authority a record verifying receipt of the shipment and the details of the shipment.

Transporting, or arranging for or facilitating the transport of, cannabis or cannabis products in violation of this chapter is grounds for disciplinary action against the license.

(e)

Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products and theft

of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products from the premises. These security measures shall include, but not be limited to, all of the following:

Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the ~~dispensary~~ **retailer**.

Establishing limited access areas accessible only to authorized personnel.

Other than limited amounts of ~~marijuana~~ **cannabis** used for display purposes, samples, or immediate sale, storing all finished ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

A retailer shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.

Diversion, theft, loss, or any criminal activity pertaining to the operation of the retailer.

Diversion, theft, loss, or any criminal activity by any agent or employee of the retailer pertaining to the operation of the retailer.

The loss or unauthorized alteration of records related to **cannabis** or **cannabis** products, registered qualifying patients, primary caregivers, or retailer employees or agents.

Any other breach of security.

Beginning January 1, 2018, a licensee may sell **cannabis** or **cannabis** products that have not been tested for a limited and finite time as determined by the bureau. The **cannabis** and **cannabis** products must have a label affixed to each package containing **cannabis** or **cannabis** products that clearly states "This product has not been tested as required by the Medicinal and Adult-Use **Cannabis** Regulation and Safety Act" and must comply with any other requirement as determined by the bureau.

SEC. 60.

Section 26070.1 is added to the Business and Professions Code, to read:

26070.1.

Cannabis or **cannabis** products purchased by a customer shall not leave a licensed retail premises unless they are placed in an opaque package.

SEC. 61.

Section 26070.5 of the Business and Professions Code is amended to read:

26070.5.

The bureau shall, by January 1, ~~2018~~, 2020, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:

Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?

Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products and a diversity of ~~marijuana~~ **cannabis** strains and seed stock to low-income persons?

Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily ~~providing~~ **providing** whole-plant ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products and a diversity of ~~marijuana~~ **cannabis** strains and seed stock to low-income persons so long as the local ~~jurisdiction~~ **jurisdiction does all of the following:**

Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit ~~entities;~~ **entities.**

Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this ~~division;~~ **division.**

Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's ~~operation, and;~~ **operation.**

Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

SEC. 62.

Section 26080 of the Business and Professions Code is amended to read:

26080.

This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products outside the state, unless authorized by federal law.

A local jurisdiction shall not prevent transportation of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products on public roads by a licensee

transporting ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products in compliance with this division.

SEC. 63.

Section 26090 of the Business and Professions Code is amended to read:

26090.

Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.

All employees of a retailer, microbusiness, or nonprofit delivering **cannabis** or **cannabis** products shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this division.

During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

(b)

A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.

(c)

A local jurisdiction shall not prevent delivery of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

SEC. 64.

The heading of Chapter 10 (commencing with Section 26100) of Division 10 of the Business and Professions Code is amended to read:

CHAPTER 10. ~~Manufacturers and~~ Testing Laboratories

SEC. 65.

Section 26100 of the Business and Professions Code is repealed.

~~26100.~~

~~The State Department of Public Health shall promulgate regulations governing the licensing of marijuana manufacturers and testing laboratories. Licenses to be issued are as follows:~~

~~(a) "Manufacturing Level 1," for sites that manufacture marijuana products using nonvolatile solvents, or no solvents.~~

~~(b) "Manufacturing Level 2," for sites that manufacture marijuana products using volatile solvents.~~

~~(c) "Testing," for testing of marijuana and marijuana products. Testing licensees shall have their facilities or devices licensed according to regulations set forth by the department. A testing licensee shall not hold a license in another license category of this division and shall not own or have ownership interest in a non-testing facility licensed pursuant to this division.~~

~~(d) For purposes of this section, "volatile solvents" shall have the same meaning as in subdivision (d) of Section 11362.3 of the Health and Safety Code unless otherwise provided by law or regulation.~~

SEC. 66.

Section 26101 of the Business and Professions Code is amended and renumbered to read:

26101.26100.

Except as otherwise provided by law, ~~no marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products ~~may~~ **shall not** be sold pursuant to a license provided for under this division unless a representative sample of ~~such marijuana~~ the **cannabis** or ~~marijuana~~ **cannabis** product **cannabis** products has been tested by a ~~certified~~ licensed testing ~~service to determine~~ laboratory.

The bureau shall develop criteria to determine which batches shall be tested. All testing of the samples shall be performed on the final form in which the **cannabis** or **cannabis** product will be consumed or used.

Testing of batches to meet the requirements of this division shall only be conducted by a licensed testing laboratory.

For each batch tested, the testing laboratory shall issue a certificate of analysis for selected lots at a frequency determined by the bureau with supporting data, to report both of the following:

Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the ~~following~~ **following**, unless limited through regulation by the bureau:

Tetrahydrocannabinol (THC).

Tetrahydrocannabinolic Acid (THCA).

Cannabidiol (CBD).

Cannabidiolic Acid (CBDA).

The terpenes ~~described in the most current version of the~~ **cannabis** inflorescence ~~monograph published~~ **required** by the ~~American Herbal Pharmacopoeia~~ bureau in regulation.

Cannabigerol (CBG).

Cannabinol (CBN).

Any other compounds or contaminants required by the bureau.

That the presence of contaminants does not exceed the levels ~~in established by the most current version of~~ **bureau**. In establishing the levels, the bureau shall consider the American Herbal Pharmacopoeia ~~monograph~~ **monograph**, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (d) of Section 26060, and any other relevant sources. For purposes of this paragraph, ~~contaminants~~ **“contaminants”** includes, but is not limited to, all of the following:

Residual solvent or processing ~~chemicals, including explosive gases, such as Butane, propane, O₂ or H₂, and poisons, toxins, or carcinogens, such as Methanol, Isopropyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.~~ **chemicals.**

Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

Microbiological ~~impurity, including total aerobic microbial count, total yeast mold count, P. aeruginosa, aspergillus spp., s. aureus, aflatoxin B1, B2, G1, or G2, or ochratoxin A.~~ **impurities as identified by the bureau in regulation.**

(b)

~~Residual Standards for residual levels of volatile organic compounds shall satisfy standards of the cannabis inflorescence monograph set be established by the United States Pharmacopeia (U.S.P. Chapter 467).~~ bureau.

(e)

The testing laboratory shall conduct all testing required by ~~paragraph (a) shall be performed this section~~ in a manner consistent with general requirements for the competence of testing and calibrations activities, including ~~sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 sampling and ISO/IEC 17025 to test marijuana and marijuana products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.~~ using verified methods.

All testing laboratories performing tests pursuant to this section shall obtain and maintain ISO/IEC 17025 accreditation as required by the bureau in regulation.

If a test result falls outside the specifications authorized by law or regulation, the testing laboratory shall follow a standard operating procedure to confirm or refute the original result.

A testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis, as determined by the bureau through regulations.

(4)

Any ~~pre-sale~~ presale inspection, testing transfer, or transportation of ~~marijuana~~ cannabis products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

This division does not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. This division also does not prohibit a licensee from performing testing on the licensee's premises of cannabis or cannabis products obtained from another licensee. Onsite testing by the licensee shall not be certified by the bureau and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

SEC. 67.

Section 26102 of the Business and Professions Code is repealed.

~~26102.~~

~~A licensed testing service shall not handle, test, or analyze marijuana or marijuana products unless the licensed testing laboratory meets the requirements of Section 19343 or unless otherwise provided by law.~~

SEC. 68.

Section 26102 is added to the Business and Professions Code, to read:

26102.

A testing laboratory shall not be licensed by the bureau unless the laboratory meets all of the following:

Complies with any other requirements specified by the bureau.

Notifies the bureau within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

SEC. 69.

Section 26103 of the Business and Professions Code is repealed.

26103.

~~A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in Section 19344 or unless otherwise provided by law.~~

SEC. 70.

Section 26104 of the Business and Professions Code is amended to read:

26104.

A licensed testing ~~service~~ laboratory shall, in performing activities concerning ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products, comply with the requirements and restrictions set forth in applicable law and regulations.

The ~~State Department of Public Health~~ bureau shall develop procedures ~~to~~ to do all of the following:

Ensure that testing of ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section ~~26070.5~~; 26070.5.

Specify how often licensees shall test ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products, and that the cost of testing ~~marijuana~~ **cannabis** shall be borne by the licensed cultivators and the cost of testing ~~marijuana~~ **cannabis** products shall be borne by the licensed manufacturer, and that the costs of testing ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products shall be borne by a nonprofit licensed under Section ~~26070.5~~; and 26070.5.

Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards ~~promulgated~~ required by the ~~State Department of Public Health~~ bureau, unless remedial measures can bring the ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products into compliance with quality assurance standards as ~~promulgated~~ specified by the ~~State Department of Public Health~~ law and implemented by the bureau.

Ensure that a testing laboratory employee takes the sample of **cannabis** or **cannabis** products from the distributor's premises for testing required by this division and that the testing laboratory employee transports the sample to the testing laboratory.

Except as provided in this division, a testing laboratory shall not acquire or receive **cannabis** or **cannabis** products except from a licensee in accordance with this division, and shall not distribute, sell, deliver, transfer, transport, or dispense **cannabis** or **cannabis** products, from the licensed premises from which the **cannabis** or **cannabis** products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

A testing laboratory may receive and test samples of **cannabis** or **cannabis** products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for **cannabis** for medicinal purposes. A testing laboratory shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of **cannabis** or **cannabis** product received.

SEC. 71.

Section 26106 of the Business and Professions Code is amended to read:

26106.

Standards for the ~~production~~ production, packaging, and labeling of all ~~marijuana~~ **cannabis** products developed by the State Department of Public Health ~~shall~~ apply to all licensed manufacturers and microbusinesses, and nonprofits licensed under Section ~~26070.5~~ 26070.5, unless otherwise specified by the State Department of Public Health.

SEC. 72.

Section 26110 of the Business and Professions Code is repealed.

~~26110.~~

~~(a) All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.~~
~~(b) All marijuana and marijuana products shall undergo quality assurance, inspection, and testing in the same manner as provided in Section 19326, except as otherwise provided in this division or by law.~~

SEC. 73.

Section 26110 is added to the Business and Professions Code, to read:

26110.

Cannabis batches are subject to quality assurance and testing prior to sale at a retailer, microbusiness, or nonprofit licensed under Section 26070.5, except for immature **cannabis** plants and seeds, as provided for in this division.

A licensee that holds a valid distributor license may act as the distributor for the licensee's **cannabis** and **cannabis** products.

The distributor shall store, as determined by the bureau, the **cannabis** batches on the premises of the distributor before testing and continuously until either of the following occurs:

The **cannabis** batch passes the testing requirements pursuant to this division and is transported to a licensed retailer.

The **cannabis** batch fails the testing requirements pursuant to this division and is destroyed or transported to a manufacturer for remediation as allowed by the bureau or the Department of Public Health.

The distributor shall arrange for a testing laboratory to obtain a representative sample of each **cannabis** batch at the distributor's licensed premises. After obtaining the sample, the testing laboratory representative shall maintain custody of the sample and transport it to the testing laboratory.

Upon issuance of a certificate of analysis by the testing laboratory that the **cannabis** batch has passed the testing requirements pursuant to this division, the distributor shall conduct a quality assurance review before distribution to ensure the labeling and packaging of the **cannabis** and **cannabis** products conform to the requirements of this division.

There shall be a quality assurance compliance monitor who is an employee or contractor of the bureau and who shall not hold a license in any category or own or have an ownership interest in a licensee or the premises of a licensee.

The quality assurance compliance monitor shall conduct random quality assurance reviews at a distributor's licensed premises before distribution to ensure the labeling and packaging of the **cannabis** and **cannabis** products conform to the requirements of this division.

The quality assurance compliance monitor shall have access to all records and test results required of a licensee by law in order to conduct quality assurance analysis and to confirm test results. All records of inspection and verification by the quality assurance compliance monitor shall be provided to the bureau. Failure to comply shall be noted by the quality assurance compliance monitor for further investigation. Violations shall be reported to the bureau. The quality assurance compliance monitor shall also verify the tax payments collected and paid under Sections 34011 and 34012 of the Revenue and Tax Code are accurate. The monitor shall also have access to the inputs and assumptions in the track and trace system and shall be able to verify the accuracy of those and that they are commensurate with the tax payments.

After testing, all **cannabis** and **cannabis** products fit for sale may be transported only from the distributor's premises to the premises of a licensed retailer, microbusiness, or nonprofit.

A licensee is not required to sell **cannabis** or **cannabis** products to a distributor and may directly contract for sale with a licensee authorized to sell **cannabis** and **cannabis** products to purchasers.

A distributor performing services pursuant to this section may collect a fee from the licensee for the services provided. The fee may include, but is not limited to, the costs incurred for laboratory testing. A distributor may also collect applicable state or local taxes and fees.

This section does not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. The testing conducted on the licensee's premises by the licensee does not meet the testing requirements pursuant to this division.

SEC. 74.

Section 26120 of the Business and Professions Code is amended to read:

26120.

Prior to delivery or sale at a retailer, ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products shall be labeled and placed in a resealable, ~~child-resistant package~~, tamper-evident, child-resistant package and shall include a unique identifier for the purposes of identifying and tracking **cannabis** and **cannabis** products.

Packages and labels shall not be made to be attractive to children.

All ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the State Department of Public Health:

~~(1) Manufacture date and source.~~

~~(2)~~

The following statements, in bold print:

For ~~marijuana~~ **cannabis**: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS ~~MARIJUANA~~, **CANNABIS**, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. ~~MARIJUANA~~ **CANNABIS** MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. ~~MARIJUANA~~ **CANNABIS** USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION

OF ~~MARIJUANA~~ **CANNABIS** IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

For ~~marijuana~~ **cannabis** products: “GOVERNMENT WARNING: THIS PRODUCT CONTAINS ~~MARIJUANA~~, **CANNABIS**, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. ~~MARIJUANA~~ **CANNABIS** PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF ~~MARIJUANA~~ **CANNABIS** PRODUCTS MAY BE DELAYED UP TO TWO HOURS. ~~MARIJUANA~~ **CANNABIS** USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF ~~MARIJUANA~~ **CANNABIS** PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

(3)

For packages containing only dried flower, the net weight of ~~marijuana~~ **cannabis** in the package.

(4)

Identification of the source and date of cultivation, the type of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** product and the date of manufacturing and packaging.

(5)

The appellation of origin, if any.

(6)

List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package ~~total, and the potency of the marijuana or marijuana product by reference to the amount of tetrahydrocannabinol and cannabidiol in each serving.~~ **total.**

~~(7) For marijuana products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in Section 101.9 of Title 21 of the Code of Federal Regulations.~~

~~(8) A list of any solvents, nonorganic pesticides, herbicides, and fertilizers that were used in the cultivation, production, and manufacture of such marijuana or marijuana product.~~

(9)

A warning if nuts or other known allergens are used.

(10)

Information associated with the unique identifier issued by the Department of Food and Agriculture.

For a medicinal **cannabis** product sold at a retailer, the statement “FOR MEDICAL USE ONLY.”

(11)

Any other requirement set by the bureau or the State Department of Public Health.

Only generic food names may be used to describe the ingredients in edible ~~marijuana~~ **cannabis** products.

In the event the ~~bureau~~ Attorney General determines that ~~marijuana~~ **cannabis** is no longer a ~~schedule~~ **Schedule** I controlled substance under federal law, the label prescribed in subdivision (c) shall no longer require a statement that ~~marijuana~~ **cannabis** is a ~~schedule~~ **Schedule** I controlled substance.

SEC. 75.

Section 26121 is added to the Business and Professions Code, to read:

26121.

A **cannabis** product is misbranded if it is any of the following:

Manufactured, packed, or held in this state in a manufacturing premises not duly licensed as provided in this division.

Its labeling is false or misleading in any particular.

Its labeling or packaging does not conform to the requirements of Section 26120 or any other labeling or packaging requirement established pursuant to this division.

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale a **cannabis** product that is misbranded.

It is unlawful for any person to misbrand a **cannabis** product.

It is unlawful for any person to receive in commerce a **cannabis** product that is misbranded or to deliver or offer for delivery any such **cannabis** product.

SEC. 76.

The heading of Chapter 13 (commencing with Section 26130) of Division 10 of the Business and Professions Code is amended to read:

CHAPTER 13. ~~Marijuana-Manufacturers~~ and **Cannabis** Products

SEC. 77.

Section 26130 of the Business and Professions Code is amended to read:

26130.

~~Marijuana products~~The State Department of Public Health shall ~~be~~ promulgate regulations governing the licensing of **cannabis** manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured **cannabis** products. Licenses to be issued are as follows:

“Manufacturing Level 1,” for sites that manufacture **cannabis** products using nonvolatile solvents, or no solvents. A Manufacturing Level 1 M-Type 6 licensee shall only manufacture **cannabis** products for sale by a retailer with an M-Type 10 license.

“Manufacturing Level 2,” for sites that manufacture **cannabis** products using volatile solvents. A Manufacturing Level 2 M-Type 7 licensee shall only manufacture **cannabis** products for sale by a retailer with an M-Type 10 license.

For purposes of this section, “volatile solvents” shall have the same meaning as in paragraph (3) of subdivision (d) of Section 11362.3 of the Health and Safety Code, unless otherwise provided by law or regulation.

Edible **cannabis** products shall be:

Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain ~~marijuana~~ **cannabis**.

Produced and sold with a standardized ~~dosage~~ concentration of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.

Delineated or scored into standardized serving sizes if the ~~marijuana~~ **cannabis** product contains more than one serving and is an edible ~~marijuana~~ **cannabis** product in solid form.

Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, **that are similar to the standards** for preparation, storage, ~~handling~~ **handling**, and sale of food products.

Provided to customers with sufficient information to enable the informed consumption of ~~such the~~ product, including the potential effects of the ~~marijuana~~ **cannabis** product and directions as to how to consume the ~~marijuana~~ **cannabis** product, as necessary.

Marked with a universal symbol, as determined by the State Department of Public Health through regulation.

~~(b) Marijuana,~~

Cannabis, including concentrated **cannabis**, included in a ~~marijuana~~ **cannabis** product manufactured in compliance with law is not considered an adulterant under state law.

SEC. 78.

Section 26131 is added to the Business and Professions Code, to read:

26131.

A **cannabis** product is adulterated if it is any of the following:

It has been produced, prepared, packed, or held under unsanitary conditions in which it may have become contaminated with filth or in which it may have been rendered injurious.

It consists in whole or in part of any filthy, putrid, or decomposed substance.

It bears or contains any poisonous or deleterious substance that may render it injurious to users under the conditions of use suggested in the labeling or under conditions as are customary or usual.

It bears or contains a substance that is restricted or limited under this division or regulations promulgated pursuant to this division and the level of substance in the product exceeds the limits specified pursuant to this division or in regulation.

Its concentrations differ from, or its purity or quality is below, that which it is represented to possess.

The methods, facilities, or controls used for its manufacture, packing, or holding do not conform to, or are not operated or administered in conformity with, practices established by regulations adopted under this division to ensure that the **cannabis** product meets the requirements of this division as to safety and has the concentrations it purports to have and meets the quality and purity characteristics that it purports or is represented to possess.

Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

It is an edible **cannabis** product and a substance has been mixed or packed with it after testing by a testing laboratory so as to reduce its quality or concentration or if any substance has been substituted, wholly or in part, for the edible **cannabis** product.

It is unlawful for a person to manufacture, sell, deliver, hold, or offer for sale a **cannabis** product that is adulterated.

It is unlawful for a person to adulterate a **cannabis** product.

It is unlawful for a person to receive in commerce a **cannabis** product that is adulterated or to deliver or proffer for delivery any such **cannabis** product.

SEC. 79.

Section 26132 is added to the Business and Professions Code, to read:

26132.

When the State Department of Public Health has evidence that a **cannabis** product is adulterated or misbranded, the department shall notify the manufacturer.

The State Department of Public Health may order a manufacturer to immediately cease distribution of a **cannabis** product and recall the product if the department determines both of the following:

The manufacture, distribution, or sale of the **cannabis** product creates or poses an immediate and serious threat to human life or health.

Other procedures available to the State Department of Public Health to remedy or prevent the occurrence of the situation would result in an unreasonable delay.

The State Department of Public Health shall provide the manufacturer an opportunity for an informal proceeding on the matter, as determined by the department, within five days, on the actions required by the order and on why the product should not be recalled. Following the proceeding, the order shall be affirmed, modified, or set aside as determined appropriate by the State Department of Public Health.

The State Department of Public Health's powers set forth in this section expressly include the power to order movement, segregation, isolation, or destruction of **cannabis** products, as well as the power to hold those products in place.

If the State Department of Public Health determines it is necessary, it may issue the mandatory recall order and may use all appropriate measures to obtain reimbursement from the manufacturer for any and all costs associated with these orders. All funds obtained by the State Department of Public Health from these efforts shall be deposited into a fee account specific to the State Department of Public Health, to be established in the **Cannabis** Control Fund, and will be available for use by the department upon appropriation by the Legislature.

It is unlawful for any person to move or allow to be moved a **cannabis** product subject to an order issued pursuant to this section unless that person has first obtained written authorization from the State Department of Public Health.

SEC. 80.

Section 26133 is added to the Business and Professions Code, to read:

26133.

If the State Department of Public Health finds or has probable cause to believe that a **cannabis** product is adulterated or misbranded within the meaning of this division or the sale of the **cannabis** product would be in violation of this division, the department shall affix to the **cannabis** product, or component thereof, a tag or other appropriate marking. The State Department of Public Health shall give notice that the **cannabis** product is, or is suspected of being, adulterated or misbranded, or the sale of the **cannabis** would be in violation of this division and has been embargoed and that no person shall remove or dispose of the **cannabis** product by sale or otherwise until permission for removal or disposal is given by the State Department of Public Health or a court.

It is unlawful for a person to remove, sell, or dispose of a detained or embargoed **cannabis** product without written permission of the State Department of Public Health or a court. A violation of this subdivision is punishable by a fine of not more than ten thousand dollars (\$10,000).

If the adulteration or misbranding can be corrected by proper labeling or additional processing of the **cannabis** product and all of the provisions of this division can be complied with, the licensee or owner may request the State Department of Public Health to remove the tag or other marking. If, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected, the department may remove the tag or other marking.

If the State Department of Public Health finds that a **cannabis** product that is embargoed is not adulterated or misbranded, or that its sale is not otherwise in violation of this division, the State Department of Public Health may remove the tag or other marking.

The **cannabis** product may be destroyed by the owner pursuant to a corrective action plan approved by the State Department of Public Health and under the supervision of the department. The **cannabis** product shall be destroyed at the expense of the licensee or owner.

A proceeding for condemnation of a **cannabis** product under this section shall be subject to appropriate notice to, and the opportunity for a hearing with regard to, the person affected in accordance with Section 26016.

Upon a finding by the administrative law judge that the **cannabis** product is adulterated or misbranded, or that its sale is otherwise in violation of this division, the administrative law judge may direct the **cannabis** product to be destroyed at the expense of the licensee or owner. The administrative law judge may also direct a licensee or owner of the affected **cannabis** product to pay fees and reasonable costs, including the costs of storage and testing, incurred by the bureau or the State Department of Public Health in investigating and prosecuting the action taken pursuant to this section.

When, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected by proper labeling or additional processing of the **cannabis** and **cannabis** product and when all provisions of this division have been complied with, and after costs, fees, and expenses have been paid, the State Department of Public Health may release the embargo and remove the tag or other marking.

The State Department of Public Health may condemn a **cannabis** product under provisions of this division. The **cannabis** product shall be destroyed at the expense of the licensee or owner.

SEC. 81.

Section 26134 is added to the Business and Professions Code, to read:

26134.

The State Department of Public Health may issue a citation, which may contain an order of abatement and an order to pay an administrative fine assessed by the department if the licensee is in violation of this division or any regulation adopted pursuant to it.

Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the law determined to have been violated.

If appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

The administrative fine assessed by the State Department of Public Health shall not exceed five thousand dollars (\$5,000) for each violation, unless a different fine amount is expressly provided by this division. In assessing a fine, the department shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

A citation issued or a fine assessed pursuant to this section shall notify the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the State Department of Public Health within 30 days of the date of issuance of the citation or fine. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Failure of a licensee to pay a fine within 30 days of the date of assessment of the fine, unless assessment of the fine or the citation is being appealed, may result in further legal action being taken by the State Department of Public Health. If a licensee does not contest a citation or pay the fine, the full amount of the fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee, including the amount of the fine.

A citation may be issued without the assessment of an administrative fine.

The State Department of Public Health may limit the assessment of administrative fines to only particular violations of this division and establish any other requirement for implementation of the citation system by regulation.

Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

SEC. 82.

Section 26135 is added to the Business and Professions Code, to read:

26135.

A peace officer, including a peace officer within the State Department of Public Health or the bureau, may seize **cannabis** and **cannabis** products in any of the following circumstances:

The **cannabis** or **cannabis** product is subject to recall or embargo by any licensing authority.

The **cannabis** or **cannabis** product is subject to destruction pursuant to this division.

The **cannabis** or **cannabis** product is seized related to an investigation or disciplinary action for violation of this division.

SEC. 83.

Section 26140 of the Business and Professions Code is amended to read:

26140.

~~No licensee shall:~~ An A-licensee shall not:

Sell ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products to persons under 21 years of age.

Allow any person under 21 years of age on its premises.

Employ or retain persons under 21 years of age.

Sell or transfer ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products unless the person to whom the ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish ~~marijuana~~ **cannabis** to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any ~~marijuana~~ **cannabis** while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase ~~marijuana~~ **cannabis**. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Notwithstanding subdivision (a), ~~a licensee that is also a dispensary licensed under Chapter 3.5 (commencing with Section 19300) of Division 8~~ an M-licensee may:

Allow on the premises any person 18 years of age or older who possesses a valid **government-issued** identification card and either a valid physician's recommendation or a valid county-issued identification card under Section ~~11362.71~~ 11362.712 of the Health and Safety ~~Code and a valid government issued identification card~~ Code.

Sell ~~marijuana~~, ~~marijuana~~ **cannabis**, **cannabis** products, and ~~marijuana~~ **cannabis** accessories to a person 18 years of age or older who possesses a valid **government-issued** identification card and either a valid physician's recommendation or a valid county-issued identification card under Section ~~11362.71~~ 11362.712 of the Health and Safety ~~Code and a valid government issued identification card~~ Code.

SEC. 84.

Section 26150 of the Business and Professions Code is amended to read:

26150.

For purposes of this chapter:

“Advertise” means the publication or dissemination of an advertisement.

“Advertisement” includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

Any label affixed to any ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products, or any individual covering, carton, or other wrapper of ~~such that~~ container that constitutes a part of the labeling under provisions of this division.

Any editorial or other reading ~~material (e.g., material, such as a news release)~~ release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

“Advertising sign” is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale

of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products which are not cultivated, manufactured, distributed, or sold on the same lot.

“Health-related statement” means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products and health benefits, or effects on health.

“Market” or “Marketing” means any act or process of promoting or selling ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

SEC. 85.

Section 26151 of the Business and Professions Code is amended to read:

26151.

All advertisements and marketing shall accurately and legibly identify the licensee responsible for its ~~content~~. content, by adding, at a minimum, the licensee’s license number.

A technology platform shall not display an advertisement by a licensee on an Internet Web page unless the advertisement displays the license number of the licensee.

An outdoor advertising company subject to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200) of Division 3) shall not display an advertisement by a licensee unless the advertisement displays the license number of the licensee.

Any advertising or marketing placed in broadcast, cable, radio, ~~print~~ print, and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older ~~prior to~~ before engaging in ~~such that~~ communication or dialogue controlled by the licensee. For purposes of this section, ~~such that~~ method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

All advertising shall be truthful and appropriately substantiated.

SEC. 86.

Section 26152 of the Business and Professions Code is amended to read:

26152.

~~No~~ A licensee ~~shall~~: shall not do any of the following:

Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, ~~scientific~~ scientific, or technical matter, tends to create a misleading ~~impression~~; impression.

Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling ~~thereof~~; thereof.

Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the ~~marijuana~~ **cannabis** originated in

a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the ~~advertisement;~~ advertisement.

Advertise or market on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the ~~border of any other state;~~ California border.

Advertise or market ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products in a manner intended to encourage persons under ~~the~~ age of 21 years of age to consume ~~marijuana~~ cannabis or ~~marijuana~~ products; cannabis products.

Publish or disseminate advertising or marketing ~~containing symbols, language, music, gestures, cartoon characters or other content elements known that is attractive to appeal primarily to persons below the legal age of consumption; or~~ children.

Advertise or market ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

SEC. 87.

Section 26153 of the Business and Professions Code is amended to read:

26153.

~~No~~ A licensee shall not give away any amount of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products, or any ~~marijuana~~ cannabis accessories, as part of a business promotion or other commercial activity.

SEC. 88.

Section 26154 of the Business and Professions Code is amended to read:

26154.

~~No~~ A licensee shall not include on the label of any cannabis or cannabis product or publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of ~~marijuana~~ cannabis consumption.

SEC. 89.

Section 26155 of the Business and Professions Code is amended to read:

26155.

The provisions of subdivision (g) of Section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products in a manner intended to encourage persons under ~~the~~ age of 21 years of age to consume ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products.

This chapter does not apply to any noncommercial speech.

SEC. 90.

Section 26156 is added to the Business and Professions Code, to read:

26156.

The requirements of Section 5272 apply to this division.

SEC. 91.

Section 26160 of the Business and Professions Code is amended to read:

26160.

A licensee shall keep accurate records of commercial ~~marijuana~~ **cannabis** activity.

All records related to commercial ~~marijuana~~ **cannabis** activity as defined by the licensing authorities shall be maintained for a minimum of seven years.

~~The bureau~~ Licensing authorities may examine the ~~books and~~ records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections and examinations of records shall be conducted during standard business hours of the licensed facility or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.

Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing ~~agency~~ authority upon request.

A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.

If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of up to thirty thousand dollars (\$30,000) per individual violation.

SEC. 92.

Section 26161 of the Business and Professions Code is amended to read:

26161.

Every sale or transport of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the ~~bureau~~ licensing authorities or State Board of Equalization and shall not be commingled with invoices covering other commodities.

Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:

Name and address of the purchaser.

Date of sale and invoice number.

Kind, quantity, size, and capacity of packages of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products sold.

The cost to the purchaser, together with any discount applied to the price as shown on the invoice.

The place from which transport of the ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** product was made unless transport was made from the premises of the licensee.

Any other information specified by the ~~bureau or the~~ licensing authority.

SEC. 93.

Section 26162 is added to the Business and Professions Code, to read:

26162.

Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, and other state and federal laws relating to confidential patient information.

Nothing in this section precludes the following:

Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

Notifications from the bureau or any licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.

Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.

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

Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

SEC. 94.

Section 26162.5 is added to the Business and Professions Code, to read:

26162.5.

Information contained in a physician's recommendation issued in accordance with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 and received by a licensee, including, but not limited to, the name, address, or social security number of the patient, the patient's medical condition, or the name of the patient's primary caregiver is hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by a licensee except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

SEC. 95.

Chapter 17 (commencing with Section 26170) of Division 10 of the Business and Professions Code is repealed.

SEC. 96.

Section 26180 of the Business and Professions Code is amended to read:

26180.

Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section ~~26170~~, 26067, but shall not exceed the reasonable regulatory costs to the licensing authority.

The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.

All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the ~~Marijuana~~ Cannabis Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

SEC. 97.

Section 26180.5 is added to the Business and Professions Code, to read:

26180.5.

No later than January 1, 2018, the Secretary of Business, Consumer Services, and Housing or his or her designee shall initiate work with the Legislature, the Department of Consumer Affairs, the Department of Food and Agriculture, the State Department of Public Health, and any other related departments to ensure that there is a safe and viable way to collect cash payments for taxes and fees related to the regulation of cannabis activity throughout the state.

SEC. 98.

Section 26181 of the Business and Professions Code is amended to read:

26181.

The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their ~~marijuana regulatory~~ cannabis programs.

SEC. 99.

Section 26190 of the Business and Professions Code is amended to read:

26190.

Beginning on March 1, ~~2020~~, 2023, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's ~~activities concerning commercial marijuana activities~~ activities, in compliance with Section 9795 of the Government Code, and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the ~~same type of following information specified in Section 19353, and a detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.~~ previous fiscal year:

The amount of funds allocated and spent by the licensing authority for cannabis licensing, enforcement, and administration.

The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.

The average time for processing state license applications, by state license category.

The number of appeals from the denial of state licenses or other disciplinary actions taken by the licensing authority and the average time spent on these appeals.

The number of complaints submitted by citizens or representatives of cities or counties regarding licensees, provided as both a comprehensive statewide number and by geographical region.

The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities.

The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

A detailed list of the petitions for regulatory relief or rulemaking changes received by the licensing authorities from licensees requesting modifications of the enforcement of rules under this division.

For the first publication of the reports, the licensing authorities shall provide a joint report to the Legislature regarding the state of the **cannabis** market in California. This report shall identify any statutory or regulatory changes necessary to ensure that the implementation of this division does not do any of the following:

Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power.

Perpetuate the presence of an illegal market for **cannabis** or **cannabis** products in the state or out of the state.

Encourage underage use or adult abuse of **cannabis** or **cannabis** products, or illegal diversion of **cannabis** or **cannabis** products out of the state.

Result in an excessive concentration of licensees in a given city, county, or both.

Present an unreasonable risk of minors being exposed to **cannabis** or **cannabis** products.

Result in violations of any environmental protection laws.

For purposes of this subdivision, “excessive concentration” means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:

The ratio of licensees to population in a census tract or census division exceeds the ratio of licensees to population in the county in which the census tract or census division is located, unless reduction of that ratio would unduly limit the development of the legal market so as to perpetuate the illegal market for **cannabis** or **cannabis** products.

The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division, or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

SEC. 100.

Section 26190.5 is added to the Business and Professions Code, to read:

26190.5.

The bureau shall contract with the California **Cannabis** Research Program, known as the Center for Medicinal **Cannabis** Research, and formerly known as the California Marijuana Research Program, authorized pursuant to Section 11362.9 of the Health and Safety Code, to develop a study that identifies the impact that **cannabis** has on motor skills.

SEC. 101.

Section 26191 of the Business and Professions Code is amended to read:

26191.

Commencing January 1, 2019, and by January 1 ~~of each year~~ triennially thereafter, the ~~California Office of State Auditor's Office~~ Audits and Evaluations within the Department of Finance shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

The actual costs of the program.

The overall effectiveness of enforcement programs.

Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

The Legislature shall provide sufficient funds to the ~~California State Auditor's Office~~ Department of Finance to conduct the ~~annual~~ triennial audit required by this section.

SEC. 102.

Section 26200 of the Business and Professions Code is amended to read:

26200.

~~Nothing in this~~ (1) This division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

This division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

~~Nothing in this~~ This division shall not be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local ~~licensing~~ licensing, permitting, or other authorization requirements.

A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial ~~marijuana~~ **cannabis** activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within ~~10~~ 60 days of being so informed by the bureau, the relevant licensing authorities shall ~~commence proceedings under Chapter 3 (commencing with Section 26030)~~ begin the process to determine whether a license issued to the licensee should be suspended or ~~revoked~~. revoked pursuant to Chapter 3 (commencing with Section 26030).

For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite **cannabis** sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that the activities, at a minimum, comply with the requirements of paragraphs (1) to (3), inclusive, of subdivision (g), that all participants are licensed under this division, and that the activities are otherwise consistent with regulations promulgated and adopted by the bureau governing state temporary event licenses. These temporary event licenses shall only be issued in local jurisdictions that authorize such events.

This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

(d)

Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products on the premises of a retailer or microbusiness licensed under this division ~~if~~ **if all of the following are met**:

Access to the area where ~~marijuana~~ **cannabis** consumption is allowed is restricted to persons 21 years of age and ~~older~~ **older**.

~~Marijuana~~ **Cannabis** consumption is not visible from any public place or ~~non-age-restricted area~~ **and nonage-restricted area**.

Sale or consumption of alcohol or tobacco is not allowed on the premises.

SEC. 103.

Section 26202 of the Business and Professions Code is amended to read:

26202.

A local jurisdiction may enforce this division and the regulations promulgated by ~~the bureau~~ **or** any licensing authority if delegated the power to do so by the ~~bureau or a~~ licensing authority.

~~The bureau or any~~ A licensing authority shall implement the delegation of enforcement authority in subdivision (a) through ~~a memorandum of understanding an agreement~~ between the ~~bureau or~~ licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

SEC. 104.

Section 26210 of the Business and Professions Code is amended to read:

26210.

The Marijuana Control Fund, formerly known as the Medical **Cannabis** Regulation and Safety Act Fund ~~established in Section 19351~~ and the Medical Marijuana Regulation and Safety Act

Fund, is hereby renamed the ~~Marijuana~~ **Cannabis** Control Fund. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on moneys in the fund.

Upon the effective date of this section, whenever “Marijuana Control Fund,” “Medical **Cannabis** Regulation and Safety Act Fund,” or “Medical Marijuana Regulation and Safety Act Fund” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the ~~Marijuana~~ **Cannabis** Control Fund.

Any General Fund or special fund loan that was used to establish and support the regulatory activities of the state licensing entities pursuant to former Section 19351 shall be repaid by the initial proceeds from fees collected pursuant to this division or any rule or regulation adopted pursuant to this division, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the **Cannabis** Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

The Medical **Cannabis** Fines and Penalties Account established in former Section 19351 is hereby renamed the **Cannabis** Fines and Penalties Account.

SEC. 105.

Section 26210.5 is added to the Business and Professions Code, to read:

26210.5.

By July 1, 2018, the bureau, in coordination with the Department of General Services, shall establish an office to collect fees and taxes in the County of Humboldt, County of Trinity, or County of Mendocino in order to ensure the safe payment and collection of cash in those counties.

SEC. 106.

Section 26211 of the Business and Professions Code is amended to read:

26211.

Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the State Board of Equalization under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.

Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the State Board of Equalization, as necessary, to implement the provisions of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

Within 45 days of November 9, 2016, the date this section ~~becoming~~ became operative:

The Director of Finance shall determine an amount of the initial advance from the General Fund to the ~~Marijuana~~ **Cannabis** Control Fund that does not exceed thirty million dollars (\$30,000,000); and

There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the State Department of Health Care Services to provide for the public information program described in subdivision (c).

Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the ~~Marijuana~~ **Cannabis** Control Fund to support the activities of the bureau, state licensing authorities under this division, and the ~~State~~ Board of Equalization to support its activities under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

The State Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products to persons under the age of 21 years, describe the penalties for providing access to ~~marijuana~~ **cannabis** and ~~marijuana~~ **cannabis** products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from ~~marijuana~~ **cannabis** use, the potential harms of using ~~marijuana~~ **cannabis** while pregnant or breastfeeding, and the potential harms of overusing ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products.

SEC. 107.

Chapter 22 (commencing with Section 26220) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 22. ~~Marijuana~~ **Cannabis Cooperative Associations**

Article 1. Definitions

26220.

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

26220.1.

“Association” means any **cannabis** cooperative that is organized pursuant to this chapter. An association shall be deemed incorporated pursuant to this chapter, or organized pursuant to this chapter and shall be deemed a cultivator of a **cannabis** product within the meaning of this chapter, if it is functioning under, or is subject to, the provisions of this chapter, irrespective of whether it was originally incorporated pursuant to those provisions or was incorporated under other provisions.

26220.2.

“Member” includes members of associations without capital stock and holders of common stock in associations that are organized with shares of stock.

26220.3.

“**Cannabis** product” includes any **cannabis** associated with a licensed cultivator.

Article 2. General Provisions

26222.

The purpose of this chapter is to do all of the following:

Promote, foster, and encourage the intelligent and orderly marketing of **cannabis** product through cooperation.

Eliminate speculation and waste.

Make the distribution of **cannabis** product as direct as can be efficiently done.

Stabilize the marketing of **cannabis** product.

Satisfy the conditions of Section 26052.

26222.1.

An exemption under law that applies to a **cannabis** product in the possession, or under the control, of the individual cultivator, shall apply similarly and completely to the **cannabis** product that is delivered by its cultivator members that are in the possession, or under the control, of the association.

26222.2.

A person, firm, corporation, or association, that is hereafter organized or doing business in this state, may not use the word “**cannabis** cooperative” as part of its corporate name or other business name or title for producers’ cooperative marketing activities, unless it has complied with this chapter.

26222.3.

An association that is organized pursuant to this chapter shall not conspire in restraint of trade, or serve as an illegal monopoly, attempt to lessen competition, or to fix prices in violation of law of this state.

26222.4.

The marketing contracts and agreements between an association that is organized pursuant to this chapter and its members and any agreements authorized in this chapter shall not result in restraint of trade, or violation of law of this state.

26222.5.

The General Corporation Law (Division 1 (commencing with Section 100) of Title 1 of the Corporations Code) applies to each association that is organized pursuant to this chapter, except where those provisions are in conflict with or inconsistent with the express provisions of this chapter. For the purpose of associations organized without shares of stock, the members shall be deemed to be “shareholders” as the term is used in the General Corporation Law.

26222.6.

Except as provided in subdivision (c), Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure does not apply to a proprietary interest in an association organized in accordance with this chapter. A proprietary interest that would otherwise escheat to the state pursuant to Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure shall instead become the property of the association.

Notwithstanding subdivision (a), no proprietary interest shall become the property of the association under this section unless all of the following requirements are satisfied:

At least 60 days’ prior notice of the proposed transfer of the proprietary interest to the association is given to the affected member by first-class or certified mail to the last address of the member shown on the association’s records, and by publication in a newspaper of general circulation in the county in which the member last resided as shown on the association’s records. Notice given pursuant to this paragraph constitutes actual notice.

No written notice objecting to the transfer is received by the association from the affected member or, if the member is deceased, from the member’s heirs or the executor or executrix of the estate, prior to the date of the proposed transfer.

“Proprietary interest” means and includes any membership, membership certificate, membership share, share certificate, or equity or dividend certificate of any class representing a proprietary interest in, and issued by, the association together with all accrued and unpaid earnings, dividends, and patronage distributions relating thereto.

Article 3. Purposes

26223.

Three or more natural persons, who are engaged in the cultivation of any **cannabis** product, may form an association pursuant to this chapter for the purpose of engaging in any activity in connection with any of the following:

The cultivation, marketing, or selling of the **cannabis** products of its members.

The growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any product of its members.

The manufacturing, selling, or supplying to its members of machinery, equipment, or supplies.

The financing of the activities that are specified by this section.

Members of a **cannabis** cooperative shall be disclosed to the licensing authority before the application is processed.

Members of a **cannabis** cooperative formed pursuant to this chapter shall be limited to cultivators who only hold a single Type 1 or Type 2 license.

Collectively, members of a **cannabis** cooperative shall not grow more than four acres of total canopy size of cultivation throughout the state during the period that the respective licensees are valid.

No member of a cooperative formed pursuant to this section shall be licensed to operate a **cannabis** business in another state or country.

Article 4. Articles of Incorporation 26224.

The articles of incorporation of an association shall show that the signers of the articles of incorporation are engaged in the cultivation of **cannabis** products, and that they propose to incorporate an association pursuant to this chapter, and shall state all of the following:

The name of the association.

The purposes for which it is formed.

The city, county, or city and county where the principal office for the transaction of business of the association is to be located.

The number of directors of the association, which shall not be less than three, and the names and addresses of the persons who are to serve as first directors. If it is desired that the first directors shall serve for terms of different lengths, the term for which each person so named to serve shall also be stated.

If organized without shares of stock, whether the voting power and the property rights and interest of each member are equal or unequal. If voting power and property rights and interest of each member are unequal, the general rule or rules that are applicable to all members by which the voting power and the property rights and interests, respectively, of each member may be and are determined and fixed shall also be stated.

If organized with shares of stock, the number of shares that may be issued and if the shares are to have a par value, the par value of each share, and the aggregate par value of all shares. If the shares are to be without par value, it shall be so stated.

If the shares of stock are to be classified, a description of the classes of shares and a statement of the number of shares of each kind or class and the nature and extent of the preferences, rights, privileges, and restrictions that are granted to or imposed upon the holders of the respective classes of stock. Except

as to the matters and things so stated, no distinction shall exist between the classes of stock or the holders of them. One class of stock shall always be known as common stock, and voting power may be restricted to holders of common stock.

26224.1.

Articles of incorporation shall be signed, acknowledged, and filed in the manner that is prescribed by the general laws of this state for domestic corporations.

26224.2.

The articles of incorporation of any association may be amended in the manner and for the purposes which are authorized by the General Corporation Law, Division 1 (commencing with Section 100) of Title 1 of the Corporations Code.

Article 5. Bylaws

26225.

Each association shall, within 30 days after its incorporation, adopt for its government and management, a code of bylaws, consistent with this chapter. The vote or written assent of shareholders or members that hold at least a majority of the voting power is necessary to adopt the bylaws and is effectual to repeal or amend a bylaw, or to adopt an additional bylaw. The power to repeal and amend the bylaws, and adopt new bylaws, may, by a similar vote, or similar written assent, be delegated to the board of directors, which authority may, by a similar vote, or similar written assent, be revoked.

26225.1.

The bylaws may prescribe the time, place, and manner of calling and conducting its meetings. Meetings of members or stockholders shall be held at the place as provided in the bylaws, or, if no provision is made, in the city, county, or city and county where the principal place of business is located at a place designated by the board of directors. Meetings of the board of directors may be held at any place within or without the state that is fixed by a quorum of the board of directors unless otherwise provided in the articles of incorporation or bylaws.

26225.2.

The bylaws may prescribe the number of stockholders, directors, or members that constitutes a quorum.

26225.3.

The bylaws may prescribe the following:

The right of members or stockholders to vote by proxy or by mail or both, and the conditions, manner, form, and effects of those votes.

The right of members or stockholders to cumulate their votes and the prohibition, if any, of cumulative voting.

26225.4.

The bylaws may prescribe the qualifications, compensation, duties, and term of office of directors and officers and the time of their election.

The number of directors set forth in the articles of incorporation shall be either a fixed number or a variable number. If a fixed number, it shall not be less than three, and if a variable number, the stated minimum shall not be less than three and the stated maximum shall not be greater than two times the stated minimum minus one.

The number of directors may also be set forth in the bylaws either as a fixed number or as a variable number subject to the same limitations as in subdivision (b). After shares have been issued or members have been admitted, any adoption or amendment

of the bylaw provision shall be approved by the outstanding shares as provided in Section 152 of the Corporations Code.

In the event of an inconsistency between an article provision referred to in subdivision (b) and a bylaw provision referred to in subdivision (c), the provision more recently adopted or amended shall prevail.

If a variable number of directors is set forth in the articles of incorporation or the bylaws, the exact number of directors shall be fixed, within the limits specified, by approval of the board of directors or the shareholders as provided in Section 153 of the Corporations Code in the manner designated in the bylaws.

26225.5.

The bylaws may prescribe penalties for violations of the bylaws.

26225.6.

The bylaws may prescribe the amount of entrance, organization, and membership fees, if any, the manner and method of collection of the fees, and the purposes for which they may be used.

26225.7.

The bylaws may prescribe the amount that each member or stockholder shall be required to pay annually, or from time to time, if at all, to carry on the business of the association, the charge, if any, to be paid by each member or stockholder for services that are rendered by the association to him, the time of payment and the manner of collection, and the marketing contract between the association and its members or stockholders that every member or stockholder may be required to sign.

26225.8.

The bylaws may prescribe the amount of dividends, if any, that may be declared on the stock or membership capital. To the extent that dividends are payable out of the excess of association income over association expenses attributable to business transacted with or for members, dividends shall not exceed 8 percent per annum.

26225.9.

The bylaws may prescribe any of the following:

The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock.

The method, time, and manner of permitting members to withdraw or the holders of common stock to transfer their stock.

The manner of assignment and transfer of the interest of members, and of the shares of common stock.

The conditions under which, and time when, membership of a member shall cease.

The automatic suspension of the rights of a member when he or she ceases to be eligible to membership in the association.

The mode, manner, and effect of the expulsion of a member.

26225.95.

The bylaws may prescribe any of the following:

The manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture

of his or her membership, or at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors.

the conditions and terms for the repurchase by the association from its stockholders of their stock upon their disqualification as stockholders.

If a member is expelled and the bylaws do not provide any procedure or penalty for expulsion, the board of directors shall equitably and conclusively appraise his or her property interest in the association and shall fix the amount of his or her property interest in money, which shall be paid to him or her within one year after such expulsion.

Article 6. Directors and Management

26226.

The affairs of the association shall be managed by a board of not less than three directors who are elected by the members or stockholders.

26226.1.

The bylaws may provide that the territory in which the association has members shall be divided into districts and that directors shall be elected from the several districts. If the bylaws divides the territory into districts for the election of directors, the bylaws shall specify the number of directors to be elected by each district and the manner and method of reapportioning the directors and of redistricting the territory covered by the association.

26226.2.

The bylaws may provide that primary elections shall be held to nominate directors. If the bylaws provide that the territory in which the association has members shall be divided into districts, the bylaws may also provide that the results of the primary elections in the various districts shall be final and shall be ratified at the annual meeting of the association.

26226.3.

The bylaws may provide that the territory in which the association has members shall be divided into districts, and that the directors shall be elected by representatives or advisers, who themselves have been elected by the members or stockholders from the several territorial districts. If the bylaws divide the territory into districts for the election of representatives or advisers who elect the directors, the bylaws shall specify the number of representatives or advisers to be elected by each district and the manner and method of reapportioning the representatives or advisers and of redistricting the territory that is covered by the association.

26226.4.

The bylaws may provide that one or more directors may be chosen by a public official or commission or by the other directors selected by the members. The director shall represent primarily the interest of the general public in the association. The director shall have the same powers and rights as other directors. These directors shall not number more than one-fifth of the entire number of directors.

26226.5.

The bylaws may provide for an executive committee and may allot to the committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

26226.6.

An association may provide a fair remuneration for the time that is actually spent by its officers and directors in its service and for the service of the members of its executive committee.

26226.7.

If a vacancy on the board of directors occurs, except by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the bylaws provide for an election of directors by districts. If the bylaws provide for an election of directors by districts, the vacancy shall be filled either by the election of a director from the district in which the vacancy occurs or by the board of directors calling a special meeting of the members or stockholders in that district to fill the vacancy.

26226.8.

The directors shall elect a president, one or more vice presidents, a secretary, a treasurer, and such other officers as may be prescribed by the bylaws. Any two or more offices, except those of president and secretary, may be held by the same person.

The treasurer may be a bank or a depository and, as such, shall not be considered as an officer, but as a function of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds shall be deposited only as and where authorized by the board of directors.

26226.9.

A member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition that is signed by 5 percent of the members, which requests the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer, against whom the charges have been brought, shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses. The person bringing the charges against him or her shall have the same opportunity.

If the bylaws provide for election of directors by districts with primary elections in each district, the petition for removal of a director shall be signed by 20 percent of the members that reside in the district from which the director was elected. The board of directors shall call a special meeting of the members who reside in that district to consider the removal of the director. By a vote of the majority of the members of that district at the special meeting, the director in question shall be removed from office.

Article 7. Powers

26227.

An association may engage in any activity in connection with the growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any **cannabis** product that is produced or delivered to it by its members; or any activity in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment, or in the financing of any such activities; or in any one or more of the activities that are specified in this section with a valid license.

26227.1.

An association may borrow without limitation as to the amount of corporate indebtedness or liability and may make advances to members.

26227.2.

An association may act as the agent or representative of any member or members in any of the activities specified in Section 26226.2 or 26226.3.

26227.3.

An association may purchase or otherwise acquire, hold, own, and exercise all rights of ownership in, sell, transfer, pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of an association that is engaged in any related activity or in the growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of a **cannabis** product that is handled by the association.

26227.4.

An association may establish reserves and invest the funds of the reserves in bonds or in other property as may be provided in the bylaws.

26227.5.

An association may buy, hold, and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conduct and operation of, or incidental to, the business of the association.

26227.6.

An association may levy assessments in the manner and in the amount as may be provided in its bylaws.

26227.7.

An association may do any of the following anywhere:

That which is what is necessary, suitable, or proper for the accomplishment of a purpose, or the attainment of an object, that is enumerated in this article.

That which is conducive to, or expedient for, the interest or benefit of the association.

Contract accordingly.

Exercise and possess all powers, rights, and privileges that are necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged.

Exercise any other rights, powers, and privileges that are granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this chapter.

26227.75.

An association may use or employ any of its facilities for any purpose, provided the proceeds that arise from such use and employment shall go to reduce the cost of operation for its members. The **cannabis** products that are handled for, or the services, machinery, equipment, or supplies or facilities that are furnished to, nonmembers shall not, however, exceed in value the **cannabis** products that are handled for, or the services, merchandise, or facilities that are supplied to, members during the same period.

26227.8.

An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other association, with or without capital stock, that is engaged in growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any **cannabis** product that is handled by the association, or the byproducts of the **cannabis** product.

Any two or more associations that are organized pursuant to this section may be merged into one constituent association or consolidated into a new association. The merger or consolidation shall be made in the manner that is prescribed by the general laws of the state that cover domestic corporations.

26227.9.

Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations and arrangements with another **cannabis** cooperative or association that is formed in this or in any other state for the **cannabis** cooperative and more economical carrying on of its business or any part of its business.

Any two or more associations may, by agreement between them, unite in employing and using, or may separately employ and use, the same personnel, methods, means, and agencies for carrying on and conducting their respective business.

Article 8. Financial Provisions

26228.

An association is not subject in any manner to the terms of the Corporate Securities Law (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code), and any association may issue its membership certificates or stock or other securities as provided in this chapter without the necessity of any qualification under that law.

26228.1.

If an association issues nonpar value stock, the issuance of the stock shall be governed by the terms of all general laws that cover the issuance of nonpar value stock in domestic corporations.

26228.2.

If an association with preferred shares of stock purchases the stock or any property, or any interest in any property of any person, it may discharge the obligations that are so incurred, wholly or in part, by exchanging for the acquired interest, shares of its preferred stock to an amount that at par value would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. In that case, the transfer to the association of the stock or interest that is purchased is equivalent to payment in cash for the shares of stock that are issued.

26228.3.

The board of directors of every association shall cause to be sent to the members of the association not later than 120 days after the close of the fiscal or calendar year an annual report of the operations of the association, unless the report is expressly dispensed with in the bylaws. If required by the bylaws, interim reports of the operations of the association for the three-month, six-month, or nine-month periods of the current fiscal year of the association shall be furnished to the members of the association. Such annual report and any such interim reports shall include a balance sheet as of such closing date. Such financial statement shall be prepared from, and be in accordance with, the books. It shall be prepared in a form that is sanctioned by sound accounting practice for the association or approved by a duly certified public accountant or a public accountant.

Article 9. Members

26229.

Under the terms and conditions that are prescribed in the bylaws adopted by it, an association may admit as members or issue common stock only to persons engaged in the cultivation of a **cannabis** product that is to be handled by or through the association.

26229.1.

If a member of a nonstock association is other than a natural person, the member may be represented by any individual, associate, officer, or manager or member of it, who is duly authorized in writing.

26229.2.

Any association may become a member or stockholder of any other association.

26229.3.

If a member of an association that is established without shares of stock has paid his membership fee in full, he or she shall receive a certificate of membership.

26229.4.

An association shall not issue a certificate for stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but the retention as security does not affect the member's right to vote.

26229.5.

An association, in its bylaws, may limit the amount of common stock that any member may own.

26229.6.

The bylaws shall prohibit the transfer of the common stock or membership certificates of the associations to a person that is not qualified to be a shareholder or member as specified in this chapter. These restrictions shall be printed upon every certificate of stock or membership that is subject to them.

26229.7.

The association may, at any time, as specified in the bylaws, except when the debts of the association exceed 50 percent of its assets, buy in or purchase its common stock at the book value of the common stock, as conclusively determined by the board of directors, and pay for it in cash within one year thereafter.

26229.8.

A member or stockholder is not liable for the debts of the association to an amount that exceeds the sum that remains unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory note that is given in payment of the membership fee or the subscription to the capital stock.

Article 10. Marketing Contracts

26230.

The association and its members may make and execute marketing contracts that require the members to sell, for any period of time, but not over 15 years, all or a specified part of a **cannabis** product exclusively to or through the association, or a facility that is created by the association. If the members contract a sale to the association, title to the **cannabis** product passes absolutely and unreservedly, except for recorded liens, to the association upon delivery or at another specified time that is expressly and definitely agreed in the contract.

26230.1.

Notwithstanding any provisions of the Civil Code, a contract that is entered into by a member or stockholder of an association that provides for the delivery to the association of a **cannabis** product that is produced or acquired by the member or stockholder may be specifically enforced by the association to secure the delivery to it of the **cannabis** product.

26230.2.

The bylaws or a marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by him or her of any provision of the marketing contract regarding the sale or delivery or withholding of a **cannabis** product and may provide that the member will pay all costs, premiums for bonds, expenses, and fees, if any action is brought upon the contract by the association. These provisions are valid and enforceable in the courts of this state. The clauses that provide for liquidated damages are enforceable as such and shall not be regarded as penalties.

26230.3.

If there is a breach or threatened breach of a marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance of the contract. Pending the adjudication of the action and upon filing a verified complaint that shows the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

Article 11. Reorganization of Corporations Organized Pursuant to Other Laws

26231.

A corporation that is organized or existing pursuant to any law except Title 23 (commencing with Section 653aa) of Part 4 of Division 1 of the Civil Code may be brought under the provisions of this

chapter by amending its articles of incorporation, in the manner that is prescribed by the general corporation laws, to conform to this chapter. If a corporation amends its articles of incorporation to conform to this chapter, it shall be deemed to be organized and existing pursuant to, and entitled to the benefit of, and subject to this chapter for all purposes and as fully as though it had been originally organized pursuant to this chapter.

26231.1.

Articles of incorporation shall be deemed to conform to this chapter within the meaning of Section 26231 if it clearly appears from the articles of incorporation that the corporation desires to be subject to, and to be organized, exist, and function pursuant to this chapter.

26231.2.

If the amended articles conform, as provided in Section 26231.1, provisions in the articles of incorporation that appeared in the original articles or some previous amended articles, are ineffective if, and to the extent that, they are inapplicable to, or inconsistent with, this chapter.

SEC. 108.

Section 1602 of the Fish and Game Code is amended to read:

1602.

An entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:

A detailed description of the project's location and a map.

The name, if any, of the river, stream, or lake affected.

A detailed project description, including, but not limited to, construction plans and drawings, if applicable.

A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

A copy of any other applicable local, state, or federal permit or agreement already issued.

Any other information required by the department.

The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.

The entity pays the applicable fees, pursuant to Section 1609.

One of the following occurs:

The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification,

including any measures in the notification that are intended to protect fish and wildlife resources.

Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this clause may be renewed annually.

The department determines that the activity may substantially adversely affect an existing fish or wildlife resource and issues a final agreement to the entity that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.

A panel of arbitrators issues a final agreement to the entity in accordance with subdivision (b) of Section 1603, and the entity conducts the activity in accordance with the agreement.

The department does not issue a draft agreement to the entity within 60 days from the date notification is complete, and the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required after the initial notification and agreement, unless the department determines either of the following:

The work described in the agreement has substantially changed.

Conditions affecting fish and wildlife resources have substantially changed, and those resources are adversely affected by the activity conducted under the agreement.

This subdivision applies only if notice to, and agreement with, the department was attained prior to January 1, 1977, and the department has been provided a copy of the agreement or other proof of the existence of the agreement that satisfies the department, if requested.

Notwithstanding subdivision (a), the department is not required to determine whether the notification is complete or otherwise process the notification until the department has received the applicable fees.

Notwithstanding subdivision (a), an entity shall not be required to obtain an agreement with the department pursuant to this chapter for activities authorized by a license or renewed license for **cannabis** cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if all of the following occur:

The entity submits all of the following to the department:

The written notification described in paragraph (1) of subdivision (a).

A copy of the license or renewed license for **cannabis** cultivation issued by the Department of Food and Agriculture that includes the requirements specified in ~~subdivisions (d), (e), and (f) of~~ Section ~~19332.2~~ **26060.1** of the Business and Professions Code.

The fee specified in paragraph (3) of subdivision (a).

The department determines in its sole discretion that compliance with the requirements specified in ~~subdivisions (d), (e), and (f) of~~ Section ~~19332.2~~ 26060.1 of the Business and Professions Code that are included in the license will adequately protect existing fish and wildlife resources that may be substantially adversely affected by the cultivation without the need for additional measures that the department would include in a draft streambed alteration agreement in accordance with Section 1603.

The department notifies the entity in writing that the exemption applies to the cultivation authorized by the license or renewed license.

The department shall notify the entity in writing whether the exemption in paragraph (1) applies to the cultivation authorized by the license or renewed license within 60 days from the date that the notification is complete and the fee has been paid.

If an entity receives an exemption pursuant to this subdivision and fails to comply with any of the requirements described in ~~subdivision (d), (e), or (f) of~~ Section ~~19332.2~~ 26060.1 of the Business and Professions Code that are included in the license, the failure shall constitute a violation under this section, and the department shall notify the Department of Food and Agriculture of any enforcement action taken.

It is unlawful for any entity to violate this chapter.

SEC. 109.

Section 1617 of the Fish and Game Code is amended to read:

1617.

The department may adopt ~~regulations establishing the requirements and procedure~~ general agreements for the ~~issuance~~ cultivation of a ~~general agreement in a geographic area for a category or categories of activities related to cannabis cultivation.~~ cannabis.

~~A~~ Any general agreement adopted by the department subsequent to adoption of regulations under this section shall be in lieu of an individual agreement described in subparagraph (B) of paragraph (4) of subdivision (a) of Section 1602.

Subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and all other time periods to process agreements specified in this chapter do not apply to the issuance of a general agreement adopted by the department pursuant to this section.

~~The department~~ Any general agreement issued by the department pursuant to this section is a final agreement and is not subject to Section 1603 or 1604.

The department shall charge a fee for a general agreement adopted by the department under this section in accordance with Section 1609.

If the department adopts or amends a general agreement under this section, it shall do so as an emergency regulation. An emergency regulation adopted pursuant to this section, and any amendments to it, shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the department, or any amendments to it made by the department pursuant to this section, shall stay in effect until revised by the department.

(+)

Regulations adopted pursuant to this section, and any amendment thereto, shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 110.

Section 37104 of the Food and Agricultural Code is amended to read:

37104.

Notwithstanding Section ~~19300.5~~ 26001 of the Business and Professions Code, butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with ~~medical medicinal or adult-use~~ cannabis at the premises or location that is not subject to licensing as a milk product plant is exempt from the provisions of this division.

SEC. 111.

Section 54036 of the Food and Agricultural Code is amended to read:

54036.

A person, firm, corporation, or association, that is hereafter organized or doing business in this state, may not use the word “cooperative” as part of its corporate name or other business name or title for producers’ cooperative marketing activities, unless it has complied with this ~~chapter. chapter or is~~ otherwise authorized by Chapter 22 (commencing with Section 26220) of Division 10 of the Business and Professions Code.

SEC. 112.

Section 81010 of the Food and Agricultural Code is amended to read:

~~Operation of Division.~~

81010.

~~(a)~~ This division, and Section 221 shall become operative on January 1, 2017.

~~(b) The possession, use, purchase, sale, production, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of industrial hemp shall be regulated in accordance with this division. The Bureau of Marijuana Control has authority to regulate and control plants and products that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled pursuant to a license issued under Division 10 (commencing with Section 26000) of the Business and Professions Code.~~

SEC. 113.

Section 11006.5 of the Health and Safety Code is amended to read:

11006.5.

“Concentrated cannabis” means the separated resin, whether crude or purified, obtained from ~~marijuana.~~ cannabis.

SEC. 114.

Section 11014.5 of the Health and Safety Code is amended to read:

11014.5.

“Drug paraphernalia” means all equipment, products and materials of any kind which are designed for use or marketed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this division. It includes, but is not limited to:

Kits designed for use or marketed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

Kits designed for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

Isomerization devices designed for use or marketed for use in increasing the potency of any species of plant which is a controlled substance.

Testing equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.

Scales and balances designed for use or marketed for use in weighing or measuring controlled substances.

Containers and other objects designed for use or marketed for use in storing or concealing controlled substances.

Hypodermic syringes, needles, and other objects designed for use or marketed for use in parenterally injecting controlled substances into the human body.

Objects designed for use or marketed for use in ingesting, inhaling, or otherwise introducing ~~marijuana~~, **cannabis**, cocaine, hashish, or hashish oil into the human body, such as:

Carburetion tubes and devices.

Smoking and carburetion masks.

Roach clips, meaning objects used to hold burning material, such as a ~~marijuana~~ **cannabis** cigarette, that has become too small or too short to be held in the hand.

Miniature cocaine spoons, and cocaine vials.

Chamber pipes.

Carburetor pipes.

Electric pipes.

Air-driven pipes.

Chillums.

Bongs.

Ice pipes or chillers.

For the purposes of this section, the phrase “marketed for use” means advertising, distributing, offering for sale, displaying for sale, or selling in a manner which promotes the use of equipment, products, or materials with controlled substances.

In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

Statements by an owner or by anyone in control of the object concerning its use.

Instructions, oral or written, provided with the object concerning its use for ingesting, inhaling, or otherwise introducing a controlled substance into the human body.

Descriptive materials accompanying the object which explain or depict its use.

National and local advertising concerning its use.

The manner in which the object is displayed for sale.

Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

Expert testimony concerning its use.

If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

SEC. 115.

Section 11018 of the Health and Safety Code is amended to read:

~~Marijuana.~~

11018.

~~“Marijuana”~~ **“Cannabis”** means all parts of the plant **Cannabis** sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not ~~include~~ **include either of the following**:

Industrial hemp, as defined in Section ~~11018.5; or~~ 11018.5.

The weight of any other ingredient combined with ~~marijuana~~ **cannabis** to prepare topical or oral administrations, food, drink, or other product.

SEC. 116.

Section 11018.1 of the Health and Safety Code is amended to read:

~~Marijuana Products.~~

11018.1.

~~“Marijuana”~~ **“Cannabis** products” means ~~marijuana~~ **cannabis** that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated **cannabis**, or an edible or topical product containing ~~marijuana~~ **cannabis** or concentrated **cannabis** and other ingredients.

SEC. 117.

Section 11018.2 of the Health and Safety Code is amended to read:

~~Marijuana Accessories.~~

11018.2.

~~“Marijuana”~~ **“Cannabis** accessories” means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing ~~marijuana,~~ **cannabis**, or for ingesting, inhaling, or otherwise introducing ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products into the human body.

SEC. 118.

Section 11018.5 of the Health and Safety Code is amended to read:

~~Industrial Hemp.~~

11018.5.

“Industrial hemp” means a fiber or oilseed crop, or both, that is limited to types of the plant **Cannabis** sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

~~The possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use and transfer of industrial~~ **Industrial** hemp shall not be subject to the provisions of this division or of Division 10 (commencing with Section 26000) of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 (commencing with Section 81000) of the Food and Agricultural Code, inclusive.

SEC. 119.

Section 11032 of the Health and Safety Code is amended to read:

11032.

~~Whenever~~ If reference is made to the term “narcotics” in any ~~provision of law outside of not~~ in this division, unless otherwise expressly provided, it ~~shall be construed to mean~~ **means those** controlled substances classified in Schedules I and II, as defined in this division. ~~Whenever~~ If reference is made to “restricted dangerous drugs” ~~outside of not~~ in this division, unless otherwise expressly provided, it ~~shall be construed to mean~~ **means those** controlled substances classified in Schedules III and IV. ~~Whenever~~ If reference is made to the term “marijuana” in any ~~provision of law outside of not~~ in this division, unless otherwise expressly provided, it ~~shall be construed to mean~~ **marijuana** **means** **cannabis** as defined in this division.

SEC. 120.

Section 11054 of the Health and Safety Code is amended to read:

11054.

The controlled substances listed in this section are included in Schedule I.

Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetylmethadol.

Allylprodine.

Alphacetylmethadol (except levoalphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).

Alphameprodine.

Alphamethadol.

Benzethidine.

Betacetylmethadol.

Betameprodine.

Betamethadol.

Betaprodine.

Clonitazene.

Dextromoramide.

Diampromide.

Diethylthiambutene.

Difenoxin.

Dimenoxadol.

Dimepheptanol.

Dimethylthiambutene.

Dioxaphetyl butyrate.

Dipipanone.

Ethylmethylthiambutene.

Etonitazene.

Etoxeridine.

Furethidine.

Hydroxypethidine.

Ketobemidone.

Levomoramide.

Levophenacymorphan.

Morpheridine.

Noracymethadol.

Norlevorphanol.

Normethadone.

Norpipanone.

Phenadoxone.

Phenampromide.

Phenomorphane.

Phenoperidine.

Piritramide.

Proheptazine.

Propiridine.

Propiram.

Racemoramide.

Tilidine.

Trimeperidine.

Any substance which contains any quantity of acetylfentanyl (N-[1-phenethyl-4-piperidinyl] acetanilide) or a derivative thereof.

Any substance which contains any quantity of the thiophene analog of acetylfentanyl (N-[1-[2-(2-thienyl)ethyl]-4-piperidinyl] acetanilide) or a derivative thereof.

(47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).

(48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).

Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine.

Acetyldihydrocodeine.

Benzylmorphine.

Codeine methylbromide.

Codeine-N-Oxide.

Cyprenorphine.

Desomorphine.

Dihydromorphine.

Drotebanol.

Etorphine (except hydrochloride salt).

Heroin.

Hydromorphanol.

Methyldesorphine.

Methyldihydromorphine.
Morphine methylbromide.
Morphine methylsulfonate.
Morphine-N-Oxide.
Myrophine.
Nicocodeine.
Nicomorphine.
Normorphine.
Pholcodine.
Thebacon.

Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term “isomer” includes the optical, position, and geometric isomers):

(1) 4-bromo-2,5-dimethoxy-amphetamine—Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.

2,5-dimethoxyamphetamine—Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.

(3) 4-methoxyamphetamine—Some trade or other names: 4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.

(4) 5-methoxy-3,4-methylenedioxy-amphetamine.

(5) 4-methyl-2,5-dimethoxy-amphetamine—Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; “DOM”; and “STP.”

3,4-methylenedioxy amphetamine.

3,4,5-trimethoxy amphetamine.

Bufotenine—Some trade or other names: 3-(beta-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserotonin, 5-hydroxy-N,N-dimethyltryptamine; mappine.

Diethyltryptamine—Some trade or other names: N,N-Diethyltryptamine; DET.

Dimethyltryptamine—Some trade or other names: DMT.

Ibogaine—Some trade or other names: 7-Ethyl-6,6beta, 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernantheiboga.

Lysergic acid diethylamide.

~~Marijuana.~~ **Cannabis.**

Mescaline.

Peyote—Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).

N-ethyl-3-piperidyl benzilate.

N-methyl-3-piperidyl benzilate.

Psilocybin.

Psilocyn.

Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of **Cannabis**, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

~~(Since~~ Because nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions ~~covered~~; covered.

Ethylamine analog of phencyclidine—Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

Pyrrolidine analog of phencyclidine—Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCP, PHP.

Thiophene analog of phencyclidine—Some trade or other names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.

Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

Mecloqualone.

Methaqualone.

Gamma hydroxybutyric acid (also known by other names such as GHB; gamma hydroxy butyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate), including its immediate precursors, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, including, but not limited to, gammabutyrolactone, for which an application has not been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its isomers:

Cocaine base.

Fenethylamine, including its salts.

N-Ethylamphetamine, including its salts.

SEC. 121.

The heading of Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of the Health and Safety Code is amended to read:

Article 2. ~~Marijuana~~ Cannabis

SEC. 122.

Section 11357 of the Health and Safety Code is amended to read:

~~Possession.~~

11357.

Except as authorized by law, possession of not more than 28.5 grams of ~~marijuana, cannabis~~, or not more than four grams of concentrated ~~cannabis~~, or both, shall be punished or adjudicated as follows:

Persons under the age of 18 ~~shall be~~ are guilty of an infraction and shall be required to:

Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.

Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.

Persons at least 18 years of age but less than 21 years of age ~~shall be~~ are guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).

Except as authorized by law, possession of more than 28.5 grams of ~~marijuana, cannabis~~, or more than four grams of concentrated ~~cannabis~~, shall be punished as follows:

Persons under the age of 18 who possess more than 28.5 grams of ~~marijuana cannabis~~ or more than four grams of concentrated ~~cannabis~~, or both, ~~shall be~~ are guilty of an infraction and shall be required to:

Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.

Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.

Persons 18 years of age or over who possess more than 28.5 grams of ~~marijuana, cannabis~~, or more than four grams of concentrated ~~cannabis~~, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both ~~such that~~ fine and imprisonment.

Except as authorized by law, ~~every a~~ person 18 years of age or over who possesses not more than 28.5 grams of ~~marijuana, cannabis~~, or not more than four grams of concentrated ~~cannabis~~, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 ~~through 12 to 12, inclusive~~, during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished as follows:

A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

A fine of not more than five hundred dollars (\$500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

Except as authorized by law, ~~every~~ a person under the age of 18 who possesses not more than 28.5 grams of ~~marijuana~~, **cannabis**, or not more than four grams of concentrated **cannabis**, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 ~~through 12~~ to 12, **inclusive**, during hours the school is open for classes or school-related programs is guilty of an infraction and shall be punished in the same manner provided in paragraph (1) of subdivision (b).

SEC. 123.

Section 11358 of the Health and Safety Code is amended to read:

~~Planting, Harvesting, or Processing.~~

11358.

~~Every~~ **Each** person who plants, cultivates, harvests, dries, or processes ~~marijuana~~ **cannabis** plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

~~Every~~ **Each** person under the age of 18 who plants, cultivates, harvests, dries, or processes any ~~marijuana~~ **cannabis** plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

~~Every~~ **Each** person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living ~~marijuana~~ **cannabis** plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

~~Every~~ **Each** person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living ~~marijuana~~ **cannabis** plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both ~~such that~~ fine and imprisonment.

Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living ~~marijuana~~ **cannabis** plants, or any part thereof, except as otherwise provided by law, may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code ~~if~~ **if any of the following conditions exist:**

The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal ~~Code;~~ **Code.**

The person has two or more prior convictions under subdivision ~~(e); or~~ **(c).**

The offense resulted in any of the following:

Violation of Section 1052 of the Water Code relating to illegal diversion of ~~water;~~ **water.**

Violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of ~~waste;~~ **water.**

Violation of ~~Fish and Game Code~~ Section 5650 or ~~Section~~ 5652 of the Fish and Game Code relating to waters of the ~~state;~~ **state.**

Violation of Section 1602 of the Fish and Game Code relating to rivers, ~~streams~~ streams, and ~~lakes~~ lakes.

Violation of Section 374.8 of the Penal Code relating to hazardous substances or Section 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous ~~waste~~ waste.

Violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty ~~Act~~ Act, or Section 2000 of the Fish and Game Code relating to the unlawful taking of fish and wildlife.

Intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

SEC. 124.

Section 11359 of the Health and Safety Code is amended to read:

~~Possession for Sale.~~

11359.

Every person who possesses for sale any ~~marijuana~~ cannabis, except as otherwise provided by law, shall be punished as follows:

Every person under the age of 18 who possesses ~~marijuana~~ cannabis for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

Every person 18 years of age or over who possesses ~~marijuana~~ cannabis for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

Notwithstanding subdivision (b), a person 18 years of age or over who possesses ~~marijuana~~ cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

The person has two or more prior convictions under subdivision (b); or

The offense occurred in connection with the knowing sale or attempted sale of ~~marijuana~~ cannabis to a person under the age of 18 years.

Notwithstanding subdivision (b), a person 21 years of age or over who possesses ~~marijuana~~ cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any ~~marijuana~~ cannabis.

SEC. 125.

Section 11360 of the Health and Safety Code is amended to read:

~~Unlawful Transportation, Importation, Sale, or Gift.~~

11360.

Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into

this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any ~~marijuana~~ **cannabis** shall be punished as follows:

Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of Section 11357.

Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, ~~three~~ **three**, or four years if:

The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

The person has two or more prior convictions under paragraph (2);

The offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, ~~administer~~ **administer**, or give away ~~marijuana~~ **cannabis** to a person under the age of 18 years; or

The offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of ~~marijuana~~ **cannabis** or more than four grams of concentrated **cannabis**.

Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of ~~marijuana~~ **cannabis**, other than concentrated **cannabis**, is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, ~~such that~~ **such that** person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

For purposes of this section, “transport” means to transport for sale.

This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

SEC. 126.

Section 11361 of the Health and Safety Code is amended to read:

11361.

~~Every~~ **A** person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any ~~marijuana~~ **cannabis**, who unlawfully sells, or offers to sell, any ~~marijuana~~ **cannabis** to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any ~~marijuana~~ **cannabis** to a minor under 14 years of age, or who induces a minor to use ~~marijuana~~ **cannabis** in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

~~Every~~ A person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any ~~marijuana~~ **cannabis** to a minor 14 years of age or older **in violation of law** shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 127.

Section 11361.1 of the Health and Safety Code is amended to read:

11361.1.

The drug education and counseling requirements under Sections 11357, 11358, 11359, and 11360 shall be:

Mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;

Free to participants, and ~~the drug education provides~~ **shall consist of** at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of ~~marijuana~~ **cannabis** and other controlled substances.

For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under Sections 11357, 11358, 11359, and 11360.

SEC. 128.

Section 11361.5 of the Health and Safety Code is amended to read:

~~Destruction of Arrest and Conviction Records; Procedure; Exceptions.~~

11361.5.

Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of Section 11357 or subdivision (b) of Section 11360, or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (d) of Section 11357, or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades ~~1 through 12~~ **12, inclusive**, during hours the school is open for classes or school-related programs, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records, including the statewide criminal databases, shall provide for the timely destruction of the records in accordance with subdivision (c), and ~~such those~~ **those** records ~~must~~ **shall** also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether **the** defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall ~~begin to run~~ **commence** from the date the person is released from custody. The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.

This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

Any violation of Section 11357 or a statutory predecessor thereof.

Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking ~~marijuana~~, **cannabis**, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Unlawful visitation or presence in a room or place in which ~~marijuana~~ **cannabis** is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Unlawfully using or being under the influence of ~~marijuana~~, **cannabis**, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents (\$37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars (\$10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution

and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

SEC. 129.

Section 11362.1 of the Health and Safety Code is amended to read:

11362.1.

Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:

Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of ~~marijuana~~ **cannabis** not in the form of concentrated **cannabis**;

Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of ~~marijuana~~ **cannabis** in the form of concentrated **cannabis**, including as contained in ~~marijuana~~ **cannabis** products;

Possess, plant, cultivate, harvest, dry, or process not more than six living ~~marijuana~~ **cannabis** plants and possess the ~~marijuana~~ **cannabis** produced by the plants;

Smoke or ingest ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products; and

Possess, transport, purchase, obtain, use, manufacture, or give away ~~marijuana~~ **cannabis** accessories to persons 21 years of age or older without any compensation whatsoever.

Paragraph (5) of subdivision (a) is intended to meet the requirements of subsection (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. Sec. 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute ~~marijuana~~ **cannabis** accessories.

~~Marijuana Cannabis~~ and ~~marijuana~~ **cannabis** products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.

SEC. 130.

Section 11362.2 of the Health and Safety Code is amended to read:

11362.2.

Personal cultivation of ~~marijuana~~ **cannabis** under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:

A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b).

The living plants and any ~~marijuana~~ **cannabis** produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.

Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

A city, county, or city and county may enact and enforce reasonable regulations to ~~reasonably~~ regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.

Notwithstanding paragraph (1), ~~no~~ a city, county, or city and county ~~may shall not~~ completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.

Paragraph (3) shall become inoperative upon a determination by the California Attorney General that ~~nonmedical adult~~ use of ~~marijuana~~ **cannabis** is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) ~~shall be deemed repealed is~~ **unenforceable** upon the date of ~~such that~~ determination by the Attorney General.

For purposes of this section, “private residence” means a house, an apartment unit, a mobile home, or other similar dwelling.

SEC. 131.

Section 11362.3 of the Health and Safety Code is amended to read:

11362.3.

~~Nothing in~~ Section 11362.1 ~~shall be construed to~~ **does not** permit any person to:

Smoke or ingest ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products in ~~any~~ a public place, except in accordance with Section 26200 of the Business and Professions Code.

Smoke ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products in a location where smoking tobacco is prohibited.

Smoke ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products within 1,000 feet of a school, day care center, or youth center while children are present at ~~such a~~ the school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 ~~of, or Chapter 3.5 (commencing with Section 19300) of Division 8 of,~~ the Business and Professions Code and only if such smoking is not detectable by others on the grounds of ~~such a~~ the school, day care center, or youth center while children are present.

Possess an open container or open package of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

Possess, ~~smoke~~ smoke, or ingest ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products in or upon the grounds of a school, day care center, or youth center while children are present.

Manufacture concentrated **cannabis** using a volatile solvent, unless done in accordance with a license under ~~Chapter 3.5~~ **Division 10** (commencing with Section ~~19300~~ **26000**) of ~~Division 8 of, or Division 10 of,~~ the Business and Professions Code.

Smoke or ingest ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

Smoke or ingest ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used

for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under ~~the age of~~ 21 years ~~of age~~ are present.

For purposes of this section, the following definitions apply:

(b)

~~For purposes of this section, “day”~~ “Day care center” has the same meaning as in Section 1596.76.

(c)

~~For purposes of this section, “smoke”~~ “Smoke” means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoke” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(d)

~~For purposes of this section, “volatile”~~ “Volatile solvent” means ~~volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂, a solvent that is or H₂; and (2) dangerous poisons, toxins, produces a flammable gas or carcinogens, such as Methanol, Iso propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Trichloro ethylene.~~ vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

(e) ~~For purposes of this section, “youth~~

“Youth center” has the same meaning as in Section 11353.1.

(f)

Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

SEC. 132.

Section 11362.4 of the Health and Safety Code is amended to read:

11362.4.

A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a ~~one hundred dollar~~ **one hundred dollar** (\$100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.

A person who engages in the conduct described in paragraphs ~~(2) through~~ (2), (3), or (4) of subdivision (a) of Section 11362.3 ~~shall be~~ **is** guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine, unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivision (c) or (d) of Section 11357.

A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.

A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine.

Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.

The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that such a program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.

The drug education program required by this section for persons under the age of 18 ~~must~~ shall be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of ~~marijuana~~ **cannabis** and other controlled substances.

Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

SEC. 133.

Section 11362.45 of the Health and Safety Code is amended to read:

11362.45.

~~Nothing in~~ Section 11362.1 ~~shall be construed or interpreted to~~ **does not** amend, repeal, affect, restrict, or preempt:

Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.

Laws prohibiting the sale, administering, furnishing, or giving away of ~~marijuana~~, ~~marijuana~~ **cannabis**, **cannabis** products, or ~~marijuana~~ **cannabis** accessories, or the offering to sell, administer, furnish, or give away ~~marijuana~~, ~~marijuana~~ **cannabis**, **cannabis** products, or ~~marijuana~~ **cannabis** accessories to a person younger than 21 years of age.

Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.

Laws pertaining to smoking or ingesting ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products.

The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of ~~marijuana~~ **cannabis** in the workplace, or affect the ability of employers to have policies prohibiting the use of ~~marijuana~~ **cannabis** by employees and prospective employees, or prevent employers from complying with state or federal law.

The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 within a building owned, leased, or occupied by the state or local government agency.

The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 on the individual's or entity's privately owned property.

Laws pertaining to the Compassionate Use Act of 1996.

SEC. 134.

Section 11362.7 of the Health and Safety Code is amended to read:

11362.7.

For purposes of this article, the following definitions shall apply:

“Attending physician” means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of ~~marijuana~~ **cannabis** is appropriate.

“Department” means the State Department of ~~Health Services~~ **Public Health**.

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

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

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

An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

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

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

“Identification card” means a document issued by the ~~State Department of Health Services~~ [department](#) that ~~document~~ identifies a person authorized to engage in the medical use of ~~marijuana~~ [cannabis](#) and the person’s designated primary caregiver, if any.

“Serious medical condition” means all of the following medical conditions:

Acquired immune deficiency syndrome (AIDS).

Anorexia.

Arthritis.

Cachexia.

Cancer.

Chronic pain.

Glaucoma.

Migraine.

Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.

Seizures, including, but not limited to, seizures associated with epilepsy.

Severe nausea.

Any other chronic or persistent medical symptom that either:

Substantially limits the ability of the person to conduct one or more major life activities as defined in the [federal](#) Americans with Disabilities Act of 1990 (Public Law 101-336).

If not alleviated, may cause serious harm to the patient’s safety or physical or mental health.

“Written documentation” means accurate reproductions of those portions of a patient’s medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit ~~to a county health department or the county’s designee~~ as part of an application for an identification card.

SEC. 135.

[Section 11362.71 of the Health and Safety Code is amended to read:](#)

11362.71.

The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.

The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.

Every county health department, or the county's designee, shall do all of the following:

Provide applications upon request to individuals seeking to join the identification card program.

Receive and process completed applications in accordance with Section 11362.72.

Maintain records of identification card programs.

Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).

Issue identification cards developed by the department to approved applicants and designated primary caregivers.

The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes ~~marijuana~~ **cannabis**.

The department shall develop all of the following:

Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.

Application forms that shall be issued to requesting applicants.

An identification card that identifies a person authorized to engage in the medical use of ~~marijuana~~ **cannabis** and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.

No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of ~~medical marijuana~~ **medicinal cannabis** in an amount established pursuant to this article, unless there is ~~reasonable~~ **probable** cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.

It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

SEC. 136.

Section 11362.715 of the Health and Safety Code is amended to read:

11362.715.

A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:

The name of the ~~person~~, person and proof of his or her residency within the county.

Written documentation by the attending physician in the person's medical records stating that the person has been diagnosed with a serious medical condition and that the ~~medical~~ medicinal use of ~~marijuana~~ cannabis is appropriate.

The name, office address, office telephone number, and California medical license number of the person's attending physician.

The name and the duties of the primary caregiver.

A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.

If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person's legal representative, including, but not limited to, any of the following:

A conservator with authority to make medical decisions.

An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.

Any other individual authorized by statutory or decisional law to make medical decisions for the person.

The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.

The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

SEC. 137.

Section 11362.765 of the Health and Safety Code is amended to read:

11362.765.

Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. ~~However, nothing in this~~ This section ~~shall~~ does not authorize the individual to smoke or otherwise consume ~~marijuana~~ cannabis unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute ~~marijuana~~ cannabis for profit.

Subdivision (a) shall apply to all of the following:

A qualified patient or a person with an identification card who transports or processes ~~marijuana~~ cannabis for his or her own personal medical use.

A designated primary caregiver who transports, processes, administers, delivers, or gives away ~~marijuana~~ cannabis for medical purposes, in amounts not exceeding those established in

subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

~~Any~~ An individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering ~~medical marijuana~~ medicinal cannabis to the qualified patient or person or acquiring the skills necessary to cultivate or administer ~~marijuana~~ cannabis for medical purposes to the qualified patient or person.

A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use ~~marijuana~~ cannabis under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section 11359 or 11360.

SEC. 138.

Section 11362.768 of the Health and Safety Code is amended to read:

11362.768.

This section shall apply to individuals specified in subdivision (b) of Section 11362.765.

No ~~medical~~ ~~marijuana~~ medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes ~~medical marijuana~~ medicinal cannabis pursuant to this article shall be located within a 600-foot radius of a school.

The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the ~~medical marijuana~~ medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.

This section shall not apply to a ~~medical~~ ~~marijuana~~ medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider that is also a licensed residential medical or elder care facility.

This section shall apply only to a ~~medical~~ ~~marijuana~~ medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider that is authorized by law to possess, cultivate, or distribute ~~medical marijuana~~ medicinal cannabis and that has a storefront or mobile retail outlet which ordinarily requires a local business license.

Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a ~~medical marijuana~~ medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider.

~~Nothing in this~~ This section ~~shall~~ does not preempt local ordinances, adopted prior to January 1, 2011, that regulate the location or establishment of a ~~medical~~ ~~marijuana~~ medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider.

For the purposes of this section, “school” means any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

SEC. 139.

Section 11362.77 of the Health and Safety Code is amended to read:

11362.77.

A qualified patient or primary caregiver may possess no more than eight ounces of dried ~~marijuana~~ **cannabis** per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature ~~marijuana~~ **cannabis** plants per qualified patient.

If a qualified patient or primary caregiver has a ~~doctor's~~ **physician's** recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of ~~marijuana~~ **cannabis** consistent with the patient's needs.

Counties and cities may retain or enact ~~medical-marijuana medicinal~~ **cannabis** guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a).

Only the dried mature processed flowers of female **cannabis** plant or the plant conversion shall be considered when determining allowable quantities of ~~marijuana~~ **cannabis** under this section.

~~(e) The Attorney General may recommend modifications to the possession or cultivation limits set forth in this section. These recommendations, if any, shall be made to the Legislature no later than December 1, 2005, and may be made only after public comment and consultation with interested organizations, including, but not limited to, patients, health care professionals, researchers, law enforcement, and local governments. Any recommended modification shall be consistent with the intent of this article and shall be based on currently available scientific research.~~

~~(f)~~

A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of ~~marijuana~~ **cannabis** consistent with this article.

SEC. 140.

Section 11362.775 of the Health and Safety Code is amended to read:

11362.775.

Subject to subdivision (d), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate **cannabis** for ~~medical medicinal~~ purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

A collective or cooperative that operates pursuant to this section and manufactures ~~medical medicinal~~ **cannabis** products shall not, solely on the basis of that fact, be subject to state criminal sanctions under Section 11379.6 if the collective or cooperative abides by all of the following requirements:

The collective or cooperative does either or both of the following:

Utilizes only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

Utilizes only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:

The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.

A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).

The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

The collective or cooperative receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility.

The collective or cooperative meets required fire, safety, and building code requirements in one or more of the following:

The California Fire Code.

The National Fire Protection Association (NFPA) standards.

International Building Code (IBC).

The International Fire Code (IFC).

Other applicable standards, including complying with all applicable fire, safety, and building codes in processing, handling, and storage of solvents or gasses.

The collective or cooperative is in possession of a valid seller's permit issued by the State Board of Equalization.

The collective or cooperative is in possession of a valid local license, permit, or other authorization specific to the manufacturing of ~~medical~~ medicinal cannabis products, and in compliance with any additional conditions imposed by the city or county issuing the local license, permit, or other authorization.

For purposes of this section, "manufacturing" means compounding, converting, producing, deriving, processing, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, ~~medical~~ medicinal cannabis products.

This section shall remain in effect only until one year after the Bureau of ~~Medical Cannabis Regulation Control~~ posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the ~~Medical Medicinal and Adult-Use Cannabis~~ Regulation and Safety Act (~~Chapter 3.5 (Division 10 (commencing with Section 19300) 26000) of Division 8 of~~ the Business and Professions Code).

This section is repealed one year after the date upon which the notice is posted pursuant to subdivision (d).

SEC. 141.

Section 11362.777 of the Health and Safety Code is repealed.

~~11362.777.~~

(a) The Department of Food and Agriculture shall establish a Medical **Cannabis** Cultivation Program to be administered by the secretary and, except as specified in subdivision (c), shall administer this section as it pertains to the commercial cultivation of medical **cannabis**. For purposes of this section and Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code, medical **cannabis** is an agricultural product.

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

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

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

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

(3) A person or entity shall not submit an application for a state license pursuant to this section if the proposed cultivation of **cannabis** will violate the provisions of any local ordinance or regulation, or if medical **cannabis** is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.

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

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

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

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

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

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

(e)(1) The department, in consultation with, but not limited to, the Bureau of Medical **Cannabis** Regulation, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for medical **cannabis**. In implementing

the program, the department shall consider issues, including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure compliance with Section 19332.2 of the Business and Professions Code.

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

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

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

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

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

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

(f)(1) A city, county, or city and county that issues or denies licenses, permits, or other entitlements to cultivate medical **cannabis** pursuant to this section shall notify the department in a manner prescribed by the secretary.

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

(g) This section does not apply to a qualified patient cultivating **cannabis** pursuant to Section 11362.5 if the area he or she uses to cultivate **cannabis** does not exceed 100 square feet and he or she cultivates **cannabis** for his or her personal medical use and does not sell, distribute, donate, or provide **cannabis** to any other person or entity. This section does not apply to a primary caregiver cultivating **cannabis** pursuant to Section 11362.5 if the area he or she uses to cultivate **cannabis** does not exceed 500 square feet and he or she cultivates **cannabis** exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Section 11362.765. For purposes of this section, the area used to cultivate **cannabis** shall be measured by the aggregate area of vegetative growth of live **cannabis** plants on the premises. Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution.

SEC. 142.

Section 11362.78 of the Health and Safety Code is amended to read:

11362.78.

A state or local law enforcement agency or officer shall not refuse to accept an identification card issued ~~by the department~~ pursuant to this article unless the state or local law enforcement agency or officer has ~~reasonable~~probable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

SEC. 143.

Section 11362.785 of the Health and Safety Code is amended to read:

11362.785.

Nothing in this article shall require any accommodation of ~~any~~ ~~medical medicinal~~ use of ~~marijuana~~ **cannabis** on the property or premises of ~~any~~ a place of employment or during the hours of employment or on the property or premises of ~~any~~ a jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

Notwithstanding subdivision (a), a person shall not be prohibited or prevented from obtaining and submitting the written information and documentation necessary to apply for an identification card on the basis that the person is incarcerated in a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained.

~~Nothing in this~~ This article ~~shall~~ does not prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has an identification card, to use ~~marijuana~~ **cannabis** for ~~medical~~ medicinal purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

~~Nothing in this~~ This article ~~shall~~ does not require a governmental, private, or any other health insurance provider or health care service plan to be liable for ~~any a~~ claim for reimbursement for the ~~medical~~ medicinal use of ~~marijuana~~ **cannabis**.

SEC. 144.

Section 11362.79 of the Health and Safety Code is amended to read:

11362.79.

~~Nothing in this~~ This article ~~shall~~ does not authorize a qualified patient or person with an identification card to engage in the smoking of ~~medical-marijuana~~ medicinal **cannabis** under any of the following circumstances:

In ~~any a~~ place where smoking is prohibited by law.

In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the ~~medical~~ medicinal use occurs within a residence.

On a schoolbus.

While in a motor vehicle that is being operated.

While operating a boat.

SEC. 145.

Section 11362.795 of the Health and Safety Code is amended to read:

11362.795.

Any criminal defendant who is eligible to use ~~marijuana~~ **cannabis** pursuant to Section 11362.5 may request that the court confirm that he or she is allowed to use ~~medical marijuana~~ medicinal **cannabis** while he or she is on probation or released on bail.

The court's decision and the reasons for the decision shall be stated on the record and an entry stating those reasons shall be made in the minutes of the court.

During the period of probation or release on bail, if a physician recommends that the probationer or defendant use ~~medical-marijuana~~ medicinal **cannabis**, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of ~~medical-marijuana~~ medicinal **cannabis**.

The court's consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

Any person who is to be released on parole from a jail, state prison, school, road camp, or other state or local institution of confinement and who is eligible to use ~~medical marijuana~~ medicinal cannabis pursuant to Section 11362.5 may request that he or she be allowed to use ~~medical marijuana~~ medicinal cannabis during the period he or she is released on parole. A parolee's written conditions of parole shall reflect whether or not a request for a modification of the conditions of his or her parole to use ~~medical marijuana~~ medicinal cannabis was made, and whether the request was granted or denied.

During the period of the parole, where a physician recommends that the parolee use ~~medical marijuana~~ medicinal cannabis, the parolee may request a modification of the conditions of the parole to authorize the use of ~~medical marijuana~~ medicinal cannabis.

Any parolee whose request to use ~~medical marijuana~~ medicinal cannabis while on parole was denied may pursue an administrative appeal of the decision. Any decision on the appeal shall be in writing and shall reflect the reasons for the decision.

The administrative consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

SEC. 146.

Section 11362.8 of the Health and Safety Code is amended to read:

11362.8.

~~No~~ A professional licensing board ~~may~~ shall not impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11362.72. However, this section shall not apply to acts performed by a physician relating to the discussion or recommendation of the medical use of ~~marijuana~~ cannabis to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

SEC. 147.

Section 11362.81 of the Health and Safety Code is amended to read:

11362.81.

A person specified in subdivision (b) shall be subject to the following penalties:

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

For a second or subsequent offense, imprisonment in the county jail for no more than one year, or a fine not to exceed one thousand dollars (\$1,000), or both.

Subdivision (a) applies to any of the following:

A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining an identification card.

A person who steals or fraudulently uses any person's identification card in order to acquire, possess, cultivate, transport, use, produce, or distribute ~~marijuana~~ cannabis.

A person who counterfeits, tampers with, or fraudulently produces an identification card.

A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program.

In addition to the penalties prescribed in subdivision (a), ~~any~~ a person described in subdivision (b) may be precluded from attempting to obtain, or obtaining or using, an identification card for a period of up to six months at the discretion of the court.

In addition to the requirements of this article, the Attorney General shall develop and adopt appropriate guidelines to ensure the security and nondiversion of ~~marijuana~~ **cannabis** grown for ~~medical medicinal~~ use by patients qualified under the Compassionate Use Act of 1996.

SEC. 148.

Section 11362.83 of the Health and Safety Code is amended to read:

11362.83.

Nothing in this article shall prevent a city or other local governing body from adopting and enforcing any of the following:

Adopting local ordinances that regulate the location, operation, or establishment of a ~~medical marijuana medicinal~~ **cannabis** cooperative or collective.

The civil and criminal enforcement of local ordinances described in subdivision (a).

Enacting other laws consistent with this article.

SEC. 149.

Section 11362.85 of the Health and Safety Code is amended to read:

11362.85.

Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify ~~marijuana~~ **cannabis**, the Legislature may amend or repeal the provisions of ~~the Health and Safety Code~~ **this code**, as necessary, to conform state law to such changes in federal law.

SEC. 150.

Section 11362.9 of the Health and Safety Code is amended to read:

11362.9.

It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering ~~marijuana~~ **cannabis** as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California ~~Marijuana~~ **Cannabis** Research Program. **Whenever** "California Marijuana Research Program" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the California **Cannabis** Research Program.

The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of ~~marijuana~~ **cannabis** and, if found valuable, shall develop medical guidelines for the appropriate administration and use of ~~marijuana~~ **cannabis**. The studies may include studies to ascertain the effect of ~~marijuana~~ **cannabis** on motor skills.

The program may immediately solicit proposals for research projects to be included in the ~~marijuana~~ **cannabis** studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding ~~marijuana's~~ **cannabis**, general medical efficacy and safety.

Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on ~~marijuana~~. **cannabis**.

Proposals shall contain provisions for a patient registry.

Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

Proposals shall contain protocols suitable for research on ~~marijuana~~, **cannabis**, addressing patients diagnosed with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of ~~marijuana~~. **cannabis**.

Proposals shall demonstrate the use of a laboratory capable of analyzing ~~marijuana~~, **cannabis**, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

It is the intent of the Legislature that the program be established as follows:

The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.

When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.

The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.

The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.

The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.

All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.

Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, ~~marijuana~~ **cannabis**. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.

The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.

The ~~marijuana~~ **cannabis** studies shall employ state-of-the-art research methodologies.

The program shall ensure that all ~~marijuana~~ **cannabis** used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply ~~marijuana~~ **cannabis** for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

To enhance understanding of the efficacy and adverse effects of ~~marijuana~~ **cannabis** as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of ~~marijuana~~ **cannabis** in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of ~~marijuana~~ **cannabis** as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of ~~marijuana~~ **cannabis**.

The program shall examine the safety of ~~marijuana~~ **cannabis** in patients with various medical disorders, including ~~marijuana's~~ **cannabis's** interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of ~~marijuana~~ **cannabis** as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of ~~marijuana~~ **cannabis**.

Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.

If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

In order to maximize the scope and size of the ~~marijuana~~ **cannabis** studies, the program may do any of the following:

- Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the ~~marijuana~~ **cannabis** studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.

- Include within the scope of the ~~marijuana~~ **cannabis** studies other ~~marijuana~~ **cannabis** research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of ~~marijuana~~ **cannabis** as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of ~~marijuana~~ **cannabis** and that he or she will have no control over the use of these funds.

Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the ~~marijuana~~ **cannabis** studies.

Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:

- The names and number of diseases or conditions under study.

- The number of patients enrolled in each study by disease.

- Any scientifically valid preliminary findings.

If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section.

This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act.

SEC. 151.

Section 11364.5 of the Health and Safety Code is amended to read:

11364.5.

Except as authorized by law, no person shall maintain or operate any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away unless such drug paraphernalia is completely and wholly kept, displayed or offered within a separate room or enclosure to which persons under the age of 18 years not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia is kept, displayed or offered in such room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

Except as authorized by law, no owner, manager, proprietor or other person in charge of any room or enclosure, within any place of business, in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away shall permit or allow any person under the age of 18 years to enter, be in, remain in or visit such room or enclosure unless ~~such~~ **that** minor person is accompanied by one of his or her parents or by his or her legal guardian.

Unless authorized by law, no person under the age of 18 years shall enter, be in, remain ~~in~~ **in**, or visit any room or enclosure in any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, ~~transferred~~ **transferred**, or given away unless accompanied by one of his or her parents or by his or her legal guardian.

As used in this section, “drug paraphernalia” means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. “Drug paraphernalia” includes, but is not limited to, all of the following:

Kits intended for use or designed for use in planting, propagating, cultivating, ~~growing~~ **growing**, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, ~~effectiveness~~ **effectiveness**, or purity of controlled substances.

Scales and balances intended for use or designed for use in weighing or measuring controlled substances.

Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.

Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, ~~marijuana~~, **cannabis**.

Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.

Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.

Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing ~~marijuana~~, **cannabis**, cocaine, hashish, or hashish oil into the human body, such as the following:

- Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

- Water pipes.

- Carburetion tubes and devices.

- Smoking and carburetion masks.

- Roach clips, meaning objects used to hold burning material, such as a ~~marijuana~~ **cannabis** cigarette that has become too small or too short to be held in the hand.

- Miniature cocaine spoons, and cocaine vials.

- Chamber pipes.

- Carburetor pipes.

- Electric pipes.

- Air-driven pipes.

- Chillums.

- Bongs.

- Ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

Statements by an owner or by anyone in control of the object concerning its use.

Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

Instructions, oral or written, provided with the object concerning its use.

Descriptive materials, accompanying the object which explain or depict its use.

National and local advertising concerning its use.

The manner in which the object is displayed for sale.

Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

The existence and scope of legitimate uses for the object in the community.

Expert testimony concerning its use.

This section shall not apply to any of the following:

Any pharmacist or other authorized person who sells or furnishes drug paraphernalia described in paragraph (11) of subdivision (d) upon the prescription of a physician, dentist, ~~podiatrist~~ podiatrist, or veterinarian.

Any physician, dentist, ~~podiatrist~~ podiatrist, or veterinarian who furnishes or prescribes drug paraphernalia described in paragraph (11) of subdivision (d) to his or her patients.

Any manufacturer, ~~wholesaler~~ wholesaler, or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in paragraph (11) of subdivision (d).

Notwithstanding any other provision of law, including Section 11374, violation of this section shall not constitute a criminal offense, but operation of a business in violation of the provisions of this section shall be grounds for revocation or nonrenewal of any license, permit, or other entitlement previously issued by a city, county, or city and county for the privilege of engaging in such business and shall be grounds for denial of any future license, permit, or other entitlement authorizing the conduct of such business or any other business, if the business includes the sale of drug paraphernalia.

SEC. 152.

Section 11470 of the Health and Safety Code is amended to read:

11470.

The following are subject to forfeiture:

All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

All property except real property or a boat, airplane, or any vehicle which is used, or intended for use, as a container for property described in subdivision (a) or (b).

All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an instrument to facilitate the manufacture of, or possession for sale or sale of 14.25 grams or more of heroin, or a substance containing 14.25 grams or more of heroin, or 14.25 grams or more of a substance containing heroin, or 28.5 grams or more of Schedule I controlled substances except ~~marijuana~~, **cannabis**, peyote, or psilocybin; 10 pounds dry weight or more of ~~marijuana~~, **cannabis**, peyote, or psilocybin; or 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or a substance containing 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or 57 grams or more of a substance containing cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or 28.5 grams or more of Schedule II controlled substances. An interest in a vehicle which may be lawfully driven on the highway with a class C, class M1, or class M2 license, as prescribed in Section 12804.9 of the Vehicle Code, shall not be forfeited under this subdivision if there is a community property interest in the vehicle by a person other than the defendant and the vehicle is the sole class C, class M1, or class M2 vehicle available to the defendant's immediate family.

All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, or securities used or intended to be used to facilitate any violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property, or the filing of a petition under this chapter, or the issuance of an order of forfeiture of the property, whichever comes first.

The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

Subject to the requirements of Section 11488.5 and except as further limited by this subdivision to protect innocent parties who claim a property interest acquired from a defendant, all right, title, and interest in any personal property described in this section shall vest in the state upon commission of the act giving rise to forfeiture under this chapter, if the state or local governmental entity proves a violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves the manufacture, sale, possession for sale, offer for sale, offer to manufacture, or conspiracy to commit at least one of those offenses, in accordance with the burden of proof set forth in paragraph (1) of subdivision (i) of Section 11488.4 or, in the case of cash or negotiable instruments in excess of twenty-five thousand dollars (\$25,000), paragraph (4) of subdivision (i) of Section 11488.4.

The operation of the special vesting rule established by this subdivision shall be limited to circumstances where its application will not defeat the claim of any person, including a bona fide purchaser or encumbrancer who, pursuant to Section 11488.5, 11488.6, or 11489, claims an interest in the property seized, notwithstanding that the interest in the property being claimed was acquired from a defendant whose property interest would otherwise have been subject to divestment pursuant to this subdivision.

SEC. 153.

Section 11478 of the Health and Safety Code is amended to read:

11478.

~~Marijuana~~ **Cannabis** may be provided by the Attorney General to the heads of research projects which have been registered by the Attorney General, and which have been approved by the research advisory panel pursuant to Section 11480.

The head of the approved research project shall personally receipt for such quantities of ~~marijuana~~ **cannabis** and shall make a record of their disposition. The receipt and record shall be retained by the Attorney General. The head of the approved research project shall also, at intervals and in the manner required by the research advisory panel, report the progress or conclusions of the research project.

SEC. 154.

Section 11479 of the Health and Safety Code is amended to read:

11479.

Notwithstanding Sections 11473 and 11473.5, at any time after seizure by a law enforcement agency of a suspected controlled substance, except in the case of growing or harvested ~~marijuana~~, **cannabis**, that amount in excess of 10 pounds in gross weight may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. In the case of growing or harvested ~~marijuana~~, **cannabis**, that amount in excess of two pounds, or the amount of ~~marijuana~~ **cannabis** a ~~medical—marijuana medicinal~~ **cannabis** patient or designated caregiver is authorized to possess by ordinance in the city or county where the ~~marijuana~~ **cannabis** was seized, whichever is greater, may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. These samples shall be in addition to the 10 pounds required above. When the suspected controlled substance consists of growing or harvested ~~marijuana~~ **cannabis** plants, at least one 2-pound sample or a sample in the amount of ~~medical—marijuana medicinal~~ **cannabis** a ~~medical~~ **marijuana medicinal** **cannabis** patient or designated caregiver is authorized to possess by ordinance in the city or county where the ~~marijuana~~ **cannabis** was seized, whichever is greater, shall be retained. This sample may include stalks, branches, or leaves. In addition, five representative samples of leaves or buds shall be retained for evidentiary purposes from the total amount of suspected controlled substances to be destroyed.

Photographs and videos have been taken that reasonably and accurately demonstrate the total amount of the suspected controlled substance to be destroyed.

The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating that weight after dimensional measurement of the total suspected controlled substance.

The chief of the law enforcement agency has determined that it is not reasonably possible to preserve the suspected controlled substance in place, or to remove the suspected controlled substance to another location. In making this determination, the difficulty of transporting and storing the suspected controlled substance to another site and the storage facilities may be taken into consideration.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court that has jurisdiction over any pending criminal proceedings pertaining to that suspected controlled substance, reciting the applicable information required by subdivisions (a), (b), (c), and (d) together with information establishing the location of the suspected controlled substance, and specifying the date and time of the destruction. In the event that there are no criminal proceedings pending that pertain to that suspected controlled substance, the affidavit may be filed in any court within the county that would have jurisdiction over a person against whom those criminal charges might be filed.

SEC. 155.

[Section 11479.2 of the Health and Safety Code is amended to read:](#)

11479.2.

Notwithstanding the provisions of Sections 11473, 11473.5, 11474, 11479, and 11479.1, at any time after seizure by a law enforcement agency of a suspected controlled substance, except ~~marijuana~~, **cannabis**, any amount, as determined by the court, in excess of 57 grams may, by court order, be destroyed by the chief of a law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. Those samples shall be in addition to the 57 grams required above and each sample shall weigh not less than one gram at the time the sample is collected.

Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance to be destroyed.

The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating such weight after dimensional measurement of the total suspected controlled substance.

In cases involving controlled substances suspected of containing cocaine or methamphetamine, an analysis has determined the qualitative and quantitative nature of the suspected controlled substance.

The law enforcement agency with custody of the controlled substance sought to be destroyed has filed a written motion for the order of destruction in the court which has jurisdiction over any pending criminal proceeding in which a defendant is charged by accusatory pleading with a crime specifically involving the suspected controlled substance sought to be destroyed. The motion shall, by affidavit of the chief of the law enforcement agency or designated subordinate, recite the applicable information required by subdivisions (a), (b), (c), and (d), together with information establishing the location of the suspected controlled substance and the title of any pending criminal proceeding as defined in this subdivision. The motion shall bear proof of service upon all parties to any pending criminal proceeding. No motion shall be made when a defendant is without counsel until the defendant has entered his or her plea to the charges.

The order for destruction shall issue pursuant to this section upon the motion and affidavit in support of the order, unless within 20 days after application for the order, a defendant has requested, in writing,

a hearing on the motion. Within 10 days after the filing of that request, or a longer period of time upon good cause shown by either party, the court shall conduct a hearing on the motion in which each party to the motion for destruction shall be permitted to call and examine witnesses. The hearing shall be recorded. Upon conclusion of the hearing, if the court finds that the defendant would not be prejudiced by the destruction, it shall grant the motion and make an order for destruction. In making the order, the court shall ensure that the representative samples to be retained are of sufficient quantities to allow for qualitative analyses by both the prosecution and the defense. Any order for destruction pursuant to this section shall include the applicable information required by subdivisions (a), (b), (c), (d), and (e) and the name of the agency responsible for the destruction. Unless waived, the order shall provide for a 10-day delay prior to destruction in order to allow expert analysis of the controlled substance by the defense.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which ordered destruction stating the location of the retained, suspected controlled substance and specifying the date and time of destruction.

This section does not apply to seizures involving hazardous chemicals or controlled substances in mixture or combination with hazardous chemicals.

SEC. 156.

Section 11480 of the Health and Safety Code is amended to read:

11480.

The Legislature finds that there is a need to encourage further research into the nature and effects of ~~marijuana~~ **cannabis** and hallucinogenic drugs and to coordinate research efforts on such subjects.

There is a Research Advisory Panel ~~which~~ **that** consists of a representative of the State Department of Health Services, a representative of the California State Board of Pharmacy, **the State Public Health Officer**, a representative of the Attorney General, a representative of the University of California who shall be a pharmacologist, a physician, or a person holding a doctorate degree in the health sciences, a representative of a private university in this state who shall be a pharmacologist, a physician, or a person holding a doctorate degree in the health sciences, a representative of a statewide professional medical society in this state who shall be engaged in the private practice of medicine and shall be experienced in treating controlled substance dependency, a representative appointed by and serving at the pleasure of the Governor who shall have experience in drug abuse, cancer, or controlled substance research and who is either a registered nurse, licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, or other health professional. The Governor shall annually designate the private university and the professional medical society represented on the panel. Members of the panel shall be appointed by the heads of the entities to be represented, and they shall serve at the pleasure of the appointing power.

The Research Advisory Panel shall appoint two special members to the Research Advisory Panel, who shall serve at the pleasure of the Research Advisory Panel only during the period Article 6 (commencing with Section 11260) of Chapter 5 remains effective. The additional members shall be physicians and surgeons, and who are board certified in oncology, ophthalmology, or psychiatry.

The panel shall annually select a ~~chairman~~ **chairperson** from among its members.

The panel may hold hearings on, and in other ways study, research projects concerning ~~marijuana~~ **cannabis** or hallucinogenic drugs in this state. Members of the panel shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties.

The panel may approve research projects, which have been registered by the Attorney General, into the nature and effects of ~~marijuana~~ **cannabis** or hallucinogenic drugs, and shall inform the Attorney General of the head of the approved research projects ~~which~~ **that** are entitled to receive quantities of ~~marijuana~~ **cannabis** pursuant to Section 11478.

The panel may withdraw approval of a research project at any time, and when approval is withdrawn shall notify the head of the research project to return any quantities of ~~marijuana~~ **cannabis** to the Attorney General.

The panel shall report annually to the Legislature and the Governor those research projects approved by the panel, the nature of each research project, and, where available, the conclusions of the research project.

SEC. 157.

Section 11485 of the Health and Safety Code is amended to read:

11485.

Any peace officer of this state who, incident to a search under a search warrant issued for a violation of Section 11358 with respect to which no prosecution of a defendant results, seizes personal property suspected of being used in the planting, cultivation, harvesting, drying, processing, or transporting of ~~marijuana,~~ **cannabis**, shall, if the seized personal property is not being held for evidence or destroyed as contraband, and if the owner of the property is unknown or has not claimed the property, provide notice regarding the seizure and manner of reclamation of the property to any owner or tenant of real property on which the property was seized. In addition, this notice shall be posted at the location of seizure and shall be published at least once in a newspaper of general circulation in the county in which the property was seized. If, after 90 days following the first publication of the notice, no owner appears and proves his or her ownership, the seized personal property shall be deemed to be abandoned and may be disposed of by sale to the public at public auction as set forth in Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code, or may be disposed of by transfer to a government agency or community service organization. Any profit from the sale or transfer of the property shall be expended for investigative services with respect to crimes involving ~~marijuana.~~ **cannabis**.

SEC. 158.

Section 11532 of the Health and Safety Code is amended to read:

11532.

It is unlawful for any person to loiter in any public place in a manner and under circumstances manifesting the purpose and with the intent to commit an offense specified in Chapter 6 (commencing with Section 11350) and Chapter 6.5 (commencing with Section 11400).

Among circumstances that may be considered in determining whether a person has the requisite intent to engage in drug-related activity are that the person:

Acts as a “look-out.”

Transfers small objects or packages for currency in a furtive fashion.

Tries to conceal himself or herself or any object that reasonably could be involved in an unlawful drug-related activity.

Uses signals or language indicative of summoning purchasers of illegal drugs.

Repeatedly beckons to, stops, attempts to stop, or engages in conversations with passersby, whether on foot or in a motor vehicle, indicative of summoning purchasers of illegal drugs.

Repeatedly passes to or receives from passersby, whether on foot or in a motor vehicle, money or small objects.

Is under the influence of a controlled substance or possesses narcotic or drug paraphernalia. For the purposes of this paragraph, “narcotic or drug paraphernalia” means any device, contrivance, instrument, or apparatus designed or marketed for the use of smoking, injecting, ingesting, or consuming ~~marijuana~~, **cannabis**, hashish, PCP, or any controlled substance, including, but not limited to, roach clips, cigarette papers, and rollers designed or marketed for use in smoking a controlled substance.

Has been convicted in any court within this state, within five years prior to the arrest under this chapter, of any violation involving the use, possession, or sale of any of the substances referred to in Chapter 6 (commencing with Section 11350) or Chapter 6.5 (commencing with Section 11400), or has been convicted of any violation of those provisions or substantially similar laws of any political subdivision of this state or of any other state.

Is currently subject to any order prohibiting his or her presence in any high drug activity geographic area.

Has engaged, within six months prior to the date of arrest under this section, in any behavior described in this subdivision, with the exception of paragraph (8), or in any other behavior indicative of illegal drug-related activity.

The list of circumstances set forth in subdivision (b) is not exclusive. The circumstances set forth in subdivision (b) should be considered particularly salient if they occur in an area that is known for unlawful drug use and trafficking, or if they occur on or in premises that have been reported to law enforcement as a place suspected of unlawful drug activity. Any other relevant circumstances may be considered in determining whether a person has the requisite intent. Moreover, no one circumstance or combination of circumstances is in itself determinative of intent. Intent must be determined based on an evaluation of the particular circumstances of each case.

SEC. 159.

Section 11553 of the Health and Safety Code is amended to read:

11553.

The fact that a person is or has been, or is suspected of being, a user of ~~marijuana~~ **cannabis** is not alone sufficient grounds upon which to invoke Section 11551 or 11552.

This section shall not be construed to limit the discretion of a judge to invoke Section 11551 or 11552 if the court has reason to believe a person is or has been a user of narcotics or drugs other than ~~marijuana~~, **cannabis**.

SEC. 160.

Section 109925 of the Health and Safety Code is amended to read:

109925.

“Drug” means any of the following:

~~(a) Any~~

An article recognized in an official compendium.

~~(b) Any~~

An article used or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or any other animal.

~~(c)Any~~

An article other than food, that is used or intended to affect the structure or any function of the body of human beings or any other animal.

~~(d)Any~~

An article used or intended for use as a component of ~~any an~~ article designated in ~~subdivision (a), (b), or (c) of this section.~~ paragraphs (1) to (3), inclusive.

~~The~~

The term “drug” does not include any device.

~~Any~~

Any food for which a claim (as described in Sections 403(r)(1)(B) (21 U.S.C. Sec. 343(r)(1)(B)) and 403(r)(3) (21 U.S.C. Sec. 343(r)(3)) or Sections 403(r)(1)(B) (21 U.S.C. Sec. 343(r)(1)(B)) and 403(r)(5)(D) (21 U.S.C. Sec. 343(r)(5)(D)) of the federal act), is made in accordance with the requirements set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act, is not a drug under subdivision (b) solely because the label or labeling contains such a claim.

Cannabis product, including any **cannabis** product intended for external use, is not a drug.

SEC. 161.

The heading of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code is amended to read:

PART 14.5. ~~MARIJUANA TAX~~ Cannabis Tax

SEC. 162.

Section 34010 of the Revenue and Taxation Code is amended to read:

34010.

For purposes of this part:

“Arm’s length transaction” shall mean a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

“Average market price” shall mean:

In an arm’s length transaction, the average market price means the average retail price determined by the wholesale cost of the **cannabis** or **cannabis** products sold or transferred to a **cannabis** retailer, plus a mark-up, as determined by the board on a biannual basis in six-month intervals.

In a nonarm’s length transaction, the average market price means the **cannabis** retailer’s gross receipts from the retail sale of the **cannabis** or **cannabis** products.

~~(a)~~

“Board” shall mean the **State** Board of Equalization or its successor agency.

~~(b)~~

“Bureau” shall mean the Bureau of ~~Marijuana~~ **Cannabis** Control within the Department of Consumer Affairs.

~~(c)~~

“Tax Fund” means the California ~~Marijuana~~ **Cannabis** Tax Fund created by Section 34018.

~~(d)“Marijuana”~~

“**Cannabis**” shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean ~~medical~~ medicinal **cannabis**.

(e) ~~“Marijuana~~

“**Cannabis** products” shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean ~~medical~~ medicinal concentrates and ~~medical~~ medicinal **cannabis** products.

(f) ~~“Marijuana~~

“**Cannabis** flowers” shall mean the dried flowers of the ~~marijuana~~ **cannabis** plant as defined by the board.

(g) ~~“Marijuana~~

“**Cannabis** leaves” shall mean all parts of the ~~marijuana~~ **cannabis** plant other than ~~marijuana~~ **cannabis** flowers that are sold or consumed.

(h) ~~“Gross receipts”~~

“**Cannabis** retailer” shall ~~have~~ mean a person required to be licensed as a retailer, microbusiness, or nonprofit pursuant to Division 10 (commencing with Section 26000) of the ~~same meaning as set forth in Section 6012.~~ Business and Professions Code.

“Cultivator” shall mean all persons required to be licensed to cultivate **cannabis** pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

“Distributor” shall mean a person required to be licensed as a distributor pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(i) ~~“Retail sale”~~

“Enters the commercial market” shall ~~have the same meaning~~ mean **cannabis** or **cannabis** product that has completed and complies with all quality assurance, inspection, and testing, as ~~set forth~~ described in Section ~~6007.~~ 26110 of the Business and Professions Code.

(j) ~~“Person”~~

“Gross receipts” shall have the same meaning as set forth in Section ~~6005.~~ 6012.

(k)

“Microbusiness” shall have the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.

(l)

“Nonprofit” shall have the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

“Person” shall have the same meaning as set forth in Section 6005.

“Retail sale” shall have the same meaning as set forth in Section 6007.

“Sale” and “purchase” shall mean any change of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

“Transfer” shall mean to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration.

“Unprocessed **cannabis**” shall include **cannabis** flowers, **cannabis** leaves, or other categories of harvested **cannabis**, categories for unprocessed or frozen **cannabis** or immature plants, or **cannabis** that is shipped directly to manufacturers.

SEC. 163.

Section 34011 of the Revenue and Taxation Code is amended to read:

34011.

Effective January 1, 2018, a ~~marijuana~~ **cannabis** excise tax shall be imposed upon purchasers of ~~marijuana or marijuana~~ **cannabis** or **cannabis** products sold in this state at the rate of 15 percent of the ~~gross receipts average market price~~ of any retail sale by ~~a dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.~~ a **cannabis** retailer. A purchaser's liability for the **cannabis** excise tax is not extinguished until the **cannabis** excise tax has been paid to this state except that an invoice, receipt, or other document from a **cannabis** retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers. Each **cannabis** retailer shall provide a purchaser with an invoice, receipt, or other document that displays the **cannabis** excise tax separately from the list price, the price advertised in the premises, the marked price, or other price and includes a statement that reads: "The **cannabis** cultivation and excise taxes are included in the total amount of this invoice."

~~(b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if nonitemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.~~

~~(c) A dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code~~

A distributor in an arm's length transaction shall collect the **cannabis** excise tax from the **cannabis** retailer on or before 90 days after the sale or transfer of **cannabis** or **cannabis** product to the **cannabis** retailer. A distributor in a nonarm's length transaction shall collect the **cannabis** excise tax from the **cannabis** retailer on or before 90 days after the sale or transfer of **cannabis** or **cannabis** product to the **cannabis** retailer, or at the time of retail sale by the **cannabis** retailer, whichever is earlier. A distributor shall report and remit the **cannabis** excise tax to the board pursuant to Section 34015. A **cannabis** retailer shall be responsible for collecting ~~this the~~ **cannabis** excise tax from the purchaser and remitting ~~it to the board~~ the **cannabis** excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the board.

A distributor shall provide an invoice, receipt, or other similar document to the **cannabis** retailer that identifies the licensee receiving the product, the distributor from which the product originates, including the associated unique identifier, the amount of **cannabis** excise tax, and any other information deemed necessary by the board. The board may authorize other forms of documentation under this paragraph.

~~(d)~~

The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

~~(e)~~

Gross receipts from the sale of ~~marijuana or marijuana~~ **cannabis** or **cannabis** products for purposes of assessing the sales and use tax under Part 1 ~~of this division~~ (commencing with Section 6001) shall include the tax levied pursuant to this section.

~~(f) No marijuana or marijuana~~

Cannabis or **cannabis** products ~~may~~ shall not be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

~~(g)~~

The sales and use ~~tax~~ taxes imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of ~~medical medicinal~~ **cannabis**, ~~medical medicinal~~ **cannabis** concentrate, edible ~~medical medicinal~~ **cannabis** ~~products~~ products, or topical **cannabis** as those terms are defined in ~~Chapter 3.5 (commencing with Section 19300) of Division 8~~ Division 10 (commencing with Section 26000) of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

SEC. 164.

Section 34012 of the Revenue and Taxation Code is amended to read:

34012.

Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested ~~marijuana~~ **cannabis** that enters the commercial market upon all ~~persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code~~ cultivators. The tax shall be due after the ~~marijuana~~ **cannabis** is ~~harvested~~ harvested and enters the commercial market.

The tax for ~~marijuana~~ **cannabis** flowers shall be nine dollars and twenty-five cents (\$9.25) per dry-weight ounce.

The tax for ~~marijuana~~ **cannabis** leaves shall be set at two dollars and seventy-five cents (\$2.75) per dry-weight ounce.

The board may adjust the tax rate for ~~marijuana~~ **cannabis** leaves annually to reflect fluctuations in the relative price of ~~marijuana~~ **cannabis** flowers to ~~marijuana~~ **cannabis** leaves.

The board may from time to time establish other categories of harvested ~~marijuana~~ **cannabis**, categories for unprocessed or frozen ~~marijuana~~ **cannabis** or immature plants, or ~~marijuana~~ **cannabis** that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with ~~marijuana~~ **cannabis** flowers.

The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the ~~marijuana~~ **cannabis** is packaged.

The tax stamps and product bags shall be of the designs, ~~specifications~~ specifications, and denominations as may be prescribed by the board and may be purchased by any licensee under ~~Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or under Division 10 (commencing with Section 26000) of the Business and Professions Code~~.

Subsequent to the establishment of a tax stamp program, the board may by regulation provide that ~~no marijuana may~~ **cannabis** shall not be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section ~~26170~~ 26068 of the Business and Professions Code.

~~Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code~~ Cultivators shall be responsible for payment of the tax pursuant to regulations adopted by the board. ~~No marijuana may~~ A cultivator's liability for the tax is not extinguished until the tax has been paid to this state except that an invoice, receipt, or other document from a distributor or manufacturer given to the cultivator pursuant to paragraph (3) is sufficient to relieve the cultivator from further liability for the tax to which the invoice, receipt, or other document refers. **Cannabis** shall not be sold unless the tax has been paid as provided in this part.

A distributor shall collect the cultivation tax from a cultivator upon entry into the commercial market. This paragraph shall not apply where a cultivator is not required to send, and does not send, the harvested **cannabis** to a distributor.

A manufacturer shall collect the cultivation tax from a cultivator on the first sale or transfer of unprocessed **cannabis** by a cultivator to a manufacturer. The manufacturer shall remit the cultivation tax collected on the **cannabis** product sold or transferred to a distributor for quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code. All cultivation tax applicable to a unique identifier shall be paid upon the first sale or transfer of **cannabis** or **cannabis** product with an associated unique identifier. This paragraph shall not apply where a distributor collects the cultivation tax from a cultivator pursuant to paragraph (1).

Notwithstanding subparagraph (A), the board may prescribe a substitute method and manner for collection and remittance of the cultivation tax under this paragraph, including a method and manner for collection of the cultivation tax by a distributor.

A distributor or manufacturer shall provide to the cultivator, and a distributor that collects the cultivation tax from a manufacturer pursuant to paragraph (2) shall provide to the manufacturer, an invoice, receipt, or other similar document that identifies the licensee receiving the product, the cultivator from which the product originates, including the associated unique identifier, the amount of cultivation tax, and any other information deemed necessary by the board. The board may authorize other forms of documentation under this paragraph.

The board may adopt regulations prescribing procedures for the refund of cultivation tax collected on **cannabis** or **cannabis** product that fails quality assurance, inspection, and testing as described in Section 26110 of the Business and Professions Code.

All ~~marijuana~~ **cannabis** removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

The tax imposed by this section shall be imposed on all ~~marijuana~~ **cannabis** cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to ~~marijuana~~ **cannabis** cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use ~~Act~~ Act of 1996 (Section 11362.5 of the Health and Safety Code).

Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

The Department of Food and Agriculture is not responsible for enforcing any provisions of the cultivation tax.

SEC. 165.

Section 34012.5 is added to the Revenue and Taxation Code, to read:

34012.5.

The cultivation tax and **cannabis** excise tax required to be collected by the distributor, or required to be collected by the manufacturer pursuant to paragraph (2) of subdivision (h) of Section 34012, and any amount unreturned to the cultivator or **cannabis** retailer that is not tax but was collected from the cultivator or **cannabis** retailer under the representation by the distributor or the manufacturer that it was tax constitute debts owed by the distributor or the manufacturer to this state.

A distributor or manufacturer that has collected any amount of tax in excess of the amount of tax imposed by this part and actually due from a cultivator or **cannabis** retailer, may refund such amount to the cultivator or **cannabis** retailer, even though such tax amount has already been paid over to the board and no corresponding credit or refund has yet been secured. The distributor or manufacturer may claim credit for that overpayment against the amount of tax imposed by this part that is due upon any other quarterly return, providing that credit is claimed in a return dated no later than three years from the date of overpayment.

Any tax collected from a cultivator or **cannabis** retailer that has not been remitted to the board shall be deemed a debt owed to the State of California by the person required to collect and remit the tax.

SEC. 166.

Section 34013 of the Revenue and Taxation Code is amended to read:

34013.

The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section ~~55001~~ of Division 2). 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to “fee” shall include the ~~tax~~ taxes imposed by this part, and references to “feepayer” shall include a person required to pay or collect the ~~tax~~ taxes imposed by this part.

The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products, or the packages thereof, to designate prior tax payment.

~~The~~ Until January 1, 2019, the board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, ~~administer~~ administer, and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

Any person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

SEC. 167.

Section 34014 of the Revenue and Taxation Code is amended to read:

34014.

~~All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products~~ distributors must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a ~~cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code~~ distributor without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

The board may require every licensed ~~dispensary, distributor, retailer,~~ cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on ~~marijuana~~ cannabis produced or received by the ~~retailer,~~ cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a ~~distributor, retailer,~~ cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a ~~marijuana~~ cannabis business. A person may not commence or continue any business or operation relating to ~~marijuana~~ cannabis cultivation until any surety required by the board with respect to the business or operation has been properly prepared, ~~executed~~ executed, and submitted under this part.

In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

SEC. 168.

Section 34015 of the Revenue and Taxation Code is amended to read:

34015.

~~The marijuana~~ Unless otherwise prescribed by the board pursuant to subdivision (c), the excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each ~~person required to be licensed for cultivation or retail sale under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code~~ distributor using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant

to subdivision (d) of Section 34012 the board may by regulation determine when and how the tax shall be paid.

The board may require every person engaged in the cultivation, ~~distribution or~~ distribution, manufacturing, retail sale of ~~marijuana and marijuana products~~ **cannabis** or **cannabis** products, or any other person required to be licensed pursuant to ~~Chapter 3.5 (commencing with Section 19300) of Division 8 or Division~~ 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

The board may adopt regulations prescribing the due date for returns and remittances of excise tax collected by a distributor in an arm's length transaction pursuant to subdivision (b) of Section 34011.

The board may make examinations of the books and records of any person licensed, or required to be licensed, pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, as it may deem necessary in carrying out this part.

SEC. 169.

Section 34016 of the Revenue and Taxation Code is amended to read:

34016.

Any peace officer or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

Inspections may be at any place at which ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

Inspections shall be ~~requested or~~ conducted no more than once in a 24-hour period.

Any person who fails or refuses to allow an inspection shall be guilty of a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California ~~Marijuana~~ **Cannabis** Tax Fund.

Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products. Any ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.

Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

All moneys remitted to the board under this part shall be credited to the California-~~Marijuana~~ **Cannabis** Tax Fund.

SEC. 170.

Section 34018 of the Revenue and Taxation Code is amended to read:

34018.

The California-~~Marijuana~~ **Cannabis** Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.

Notwithstanding any other law, the California-~~Marijuana~~ **Cannabis** Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.

Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered “moneys” for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

SEC. 171.

Section 34019 of the Revenue and Taxation Code is amended to read:

34019.

Beginning with ~~the 2017–18 fiscal year~~ ~~2017–2018 year~~, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing ~~Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Division 10 (commencing with Section 26000) of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code~~. This paragraph shall remain operative through ~~the 2022–23 fiscal year~~ ~~2022–2023 year~~.

Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective

duties under ~~Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10~~ (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

Reasonable costs incurred by the ~~State Auditor~~ Department of Finance for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under ~~Chapter 3.5 (commencing with Section 19300) of Division 8 and Division 10~~ (commencing with Section 26000) of the Business and Professions Code.

The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with the 2018–19 fiscal year ~~2018–2019~~ until the 2028–29 fiscal year ~~2028–2029~~ to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

Impacts on public health, including health costs associated with ~~marijuana~~ cannabis use, as well as whether ~~marijuana~~ cannabis use is associated with an increase or decrease in use of alcohol or other drugs.

The impact of treatment for maladaptive ~~marijuana~~ cannabis use and the effectiveness of different treatment programs.

Public safety issues related to ~~marijuana~~ cannabis use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products, and studying the health-related effects among users of varying potency levels of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products.

~~Marijuana~~ Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis rates of ~~marijuana-related~~ cannabis-related substance use disorders.

~~Marijuana~~ Cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax ~~marijuana~~ cannabis based on potency, and the structure and function of licensed ~~marijuana~~ cannabis businesses.

Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the ~~nonmedical marijuana~~ adult-use cannabis industry and, if so, recommendations as to the most effective measures for preventing such behavior.

The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

Environmental issues related to ~~marijuana~~ **cannabis** production and the criminal prohibition of ~~marijuana~~ **cannabis** production.

The geographic location, structure, and function of licensed ~~marijuana~~ **cannabis** businesses, and demographic data, including race, ethnicity, and gender, of license holders.

The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for ~~marijuana-related~~ **cannabis-related** offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products to a more serious offense.

The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year ~~2018–2019~~ until the 2022–23 fiscal year ~~2022–2023~~ to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products.

The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning with the 2018–19 fiscal year ~~2018–2019~~ and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year ~~2022–2023~~, year, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor’s Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, ~~evaluation~~ **evaluation**, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal **Cannabis** Research to further the objectives of the ~~center~~ **center**, including the enhanced understanding of the efficacy and adverse effects of ~~marijuana~~ **cannabis** as a pharmacological agent.

By July 15 of each fiscal year beginning in the 2018–19 fiscal ~~year 2018–2019, year~~, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, fostercare providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

Grants to programs for outreach, ~~education~~ education, and treatment for homeless youth and out-of-school youth with substance use disorders.

Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other ~~co-occurring~~ cooccurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

Construction of community-based youth treatment facilities.

The departments may contract with each county behavioral health program for the provision of services.

Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated ~~assessments~~ assessments, or submitted reports prepared by the applicable county to demonstrate and validate need.

The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, ~~evaluation~~ evaluation, and oversight of the programs.

If the Department of Finance ever determines that funding pursuant to ~~marijuana~~ cannabis taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by ~~marijuana~~ cannabis cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, ~~sale~~ sale, and use of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products on public lands, and to

facilitate the investigation, ~~enforcement~~ enforcement, and prosecution of illegal cultivation, production, sale, and use of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products on public lands.

To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of ~~marijuana~~ cannabis cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of ~~marijuana~~ cannabis. The department may hire personnel to conduct the training programs specified in this subparagraph.

To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, ~~prevention~~ prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including ~~marijuana~~ cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, ~~injuries~~ injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including ~~marijuana~~ cannabis.

To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in ~~the 2022–23~~ fiscal year ~~2022–2023~~ the amount allocated pursuant to subparagraph (A)

shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before the 2022–23 fiscal year ~~2022–2023~~ pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in the 2027–28 fiscal ~~year–2027–2028~~ year. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

SEC. 172.

Section 34021.5 of the Revenue and Taxation Code is amended to read:

34021.5.

A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing ~~marijuana~~ **cannabis** or ~~marijuana~~ **cannabis** products by a licensee operating under ~~Chapter 3.5 (commencing with Section 19300) of~~ Division ~~8 or Division~~ 10 (commencing with Section 26000) of the Business and Professions Code.

The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

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

The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.

A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.

This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use ~~tax~~ taxes imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of ~~the Revenue and Taxation Code~~, this code.

SEC. 173.

Section 2429.7 is added to the Vehicle Code, to read:

2429.7.

The commissioner shall appoint an impaired driving task force to develop recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of impaired driving, including driving under the influence of **cannabis** and controlled substances. The task force shall also examine the use of technology, including field testing technologies and validated field sobriety tests, to identify drivers under the influence of prescription drugs, **cannabis**, and controlled substances. The task force shall include, but is not limited to, the commissioner, who shall serve as chairperson, and at least one member from each of the following:

The Office of Traffic Safety.

The National Highway Traffic Safety Administration.

Local law enforcement.

District attorneys.

Public defenders.

California Association of Crime Laboratory Directors.

California Attorneys for Criminal Justice.

The California **Cannabis** Research Program, known as the Center for Medicinal **Cannabis** Research, authorized pursuant to Section 11362.9 of the Health and Safety Code.

An organization that represents medicinal **cannabis** patients.

Licensed physicians with expertise in substance abuse disorder treatment.

Researchers with expertise in identifying impairment caused by prescription medications and controlled substances.

Nongovernmental organizations committed to social justice issues.

A nongovernmental organization that focuses on improving roadway safety.

The members of the task force shall serve at the pleasure of the commissioner and without compensation.

The task force members shall be free of economic relationships with any company that profits from the sale of technologies or equipment that is intended to identify impairment. Members and their organizations shall not receive pay from, grants from, or any form of financial support from companies or entities that sell such technologies or equipment.

The task force shall make recommendations regarding prevention of impaired driving, means of identifying impaired driving, and responses to impaired driving that reduce reoccurrence, including, but not limited to, evidence-based approaches that do not rely on incarceration.

The task force shall make recommendations regarding how to best capture data to evaluate the impact that **cannabis** legalization is having on roadway safety.

By January 1, 2021, the task force shall report to the Legislature its policy recommendations and the steps state agencies are taking regarding impaired driving. The report shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 174.

Section 23222 of the Vehicle Code is amended to read:

23222.

No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

~~(b) Except as authorized by law, every person who possesses, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, not more than one avoirdupois ounce of marijuana, other than concentrated **cannabis** as defined by Section 11006.5 of the Health and Safety Code, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).~~

Except as authorized by law, every person who has in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any receptacle containing any **cannabis** or **cannabis** products, as defined by Section 11018.1 of the Health and Safety Code, which has been opened or has a seal broken, or loose **cannabis** flower not in a container, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).

Paragraph (1) does not apply to a person who has a receptacle containing **cannabis** or **cannabis** products that has been opened, has a seal broken, or the contents of which have been partially removed, or to a person who has loose **cannabis** flower not in a container, if the receptacle or loose **cannabis** flower not in a container is in the trunk of the vehicle.

Subdivision (b) does not apply to a qualified patient or person with an identification card, as defined in Section 11362.7 of the Health and Safety Code, if both of the following apply:

The person is carrying a current identification card or a physician's recommendation.

The **cannabis** or **cannabis** product is contained in a container or receptacle that is either sealed, resealed, or closed.

SEC. 175.

Section 1831 of the Water Code is amended to read:

1831.

When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.

The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.

The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:

The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.

Any term or condition of a permit, license, certification, or registration issued under this division.

Any decision or order of the board issued under this part, Section 275, Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

A regulation adopted under Section 1058.5.

Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

Any diversion or use of water for **cannabis** cultivation if any of paragraphs (1) to (5), inclusive, or any of the following applies:

A license is required, but has not been obtained, under ~~Article Chapter~~ 6 (commencing with Section ~~19331~~ ~~of~~ 26060) or Chapter ~~3.5~~ 7 (commencing with Section 26070) of Division ~~8~~ 10 of the Business and Professions Code.

The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

The diversion or use is not in compliance with a requirement imposed under paragraphs (1) and (2) of subdivision ~~(d) or (e)~~ (b) of Section ~~19332.2~~ 26060.1 of, and paragraph (3) of subdivision (a) of Section 26070 of, the Business and Professions Code.

This article does not alter the regulatory authority of the board under other provisions of law.

SEC. 176.

Section 1847 of the Water Code is amended to read:

1847.

A person or entity may be liable for a violation of any of the requirements of subdivision (b) in an amount not to exceed the sum of the following:

Five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of that person.

Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

Liability may be imposed for any of the following violations:

Violation of a ~~limitation~~ principle, guideline, or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

Failure to submit information, or making a material misstatement in information submitted, under ~~subdivision (a), (b), or (c) of~~ Section ~~19332.2~~ 26060.1 of the Business and Professions Code.

Violation of any requirement imposed under subdivision ~~(e)~~ (b) of Section ~~19332.2~~ 26060.1 of the Business and Professions Code.

Diversion or use of water for **cannabis** cultivation for which a license is required, but has not been obtained, under ~~Article Chapter~~ 6 (commencing with Section ~~19331~~ ~~of~~ 26060) or Chapter ~~3.5~~ 7 (commencing with Section 26070) of Division ~~8~~ 10 of the Business and Professions Code.

Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

Civil liability may be imposed administratively by the board pursuant to Section 1055.

SEC. 177.

Section 13276 of the Water Code is amended to read:

13276.

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

~~Each regional~~ **The state board shall, and the State Water Resources Control Board may, or the appropriate regional board shall** address discharges of waste resulting from ~~medical marijuana~~ **cannabis** cultivation ~~and commercial marijuana cultivation~~ under Division 10 of the Business and Professions Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, ~~each the state board or the regional board~~ shall include conditions to address items that include, but are not limited to, all of the following:

Site development and maintenance, erosion control, and drainage features.

Stream crossing installation and maintenance.

Riparian and wetland protection and management.

Soil disposal.

Water storage and use.

Irrigation runoff.

Fertilizers and soil.

Pesticides and herbicides.

Petroleum products and other chemicals.

Cultivation-related waste.

Refuse and human waste.

Cleanup, restoration, and mitigation.

SEC. 178.

The amount of three million dollars (\$3,000,000) is hereby appropriated from the Cannabis Control Fund to the Department of the California Highway Patrol to be used to for training drug recognition experts. Program costs may include, but are not limited to, training, overtime, and backfill of state and local law enforcement officers to attend training.

SEC. 179.

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

SEC. 180.

The Legislature finds and declares that Sections 58 and 93 of this act, which add Sections 26067 and 26162 to the Business and Professions Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect public safety and prevent the diversion of cannabis to the illegal market, it is necessary for that information to be confidential.

SEC. 181.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

SEC. 182.

The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act by accomplishing all of the following:

Taking adult-use cannabis production and sales out of the hands of the illegal market and bringing them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.

Strictly controlling the cultivation, processing, manufacture, distribution, testing, and sale of adult-use cannabis through a system of state licensing, regulation, and enforcement.

Allowing local governments to enforce state laws and regulations for adult-use cannabis businesses if that authority is delegated to them by the state, and enact additional local requirements for adult-use cannabis businesses, but not require that they do so for an adult-use cannabis business to be issued a state license and be legal under state law.

Requiring track and trace management procedures to track adult-use cannabis from cultivation to sale.

Requiring licensed adult-use **cannabis** businesses to follow strict environmental and product safety standards as a condition of maintaining their license.

Denying access to **cannabis** by persons younger than 21 years of age who are not medicinal **cannabis** patients.

Preventing the illegal production or distribution of **cannabis**.

Preventing the illegal diversion of **cannabis** from California to other states or countries or to the illegal market.

Reducing barriers to entry into the legal, regulated market.

Allowing industrial hemp to be grown as an agricultural product, and for agricultural or academic research, and regulated separately from the strains of **cannabis** with higher delta-9 tetrahydrocannabinol concentrations.

SEC. 183.

This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

~~SECTION 1.~~

~~It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2017.~~

ASSEMBLY BILL 175

Introduced by Assembly Member Chau

(Coauthors: Assembly Members Cooper, Jones-Sawyer, Voepel, and Waldron)

(Coauthor: Senator Allen)

January 17th, 2017

Bill Text

SECTION 1. Section ~~26121~~ 26122 is added to the Business and Professions Code, to read:

~~26121~~,26122. (a) Before a manufacturer introduces an edible ~~marijuana~~ **cannabis** product into commerce in California, he or she shall submit the packaging and labeling to the State Department of Public Health for approval. The department shall determine whether the packaging and labeling are in compliance with the requirements of this division, including the requirements that the packaging be child resistant and not attractive to children.

The department shall have 60 days in which to determine whether the packaging and labeling of the edible ~~marijuana~~ **cannabis** product are in compliance with the provisions of this division and to notify the manufacturer in writing. If a determination has not been made within 60 days, the department shall notify the manufacturer of the delay and at what date within the following 30 days the determination is expected to be made.

If the department determines that the edible ~~marijuana~~ **cannabis** product packaging and labeling are not in compliance with this division, the department shall notify the

manufacturer, in writing, of the reasons for noncompliance. A manufacturer shall have 60 days after receiving the notice of noncompliance to redesign and submit the packaging and labeling for that product for reassessment by the department. The department shall make a determination on the new packaging within 30 days of resubmission and notify the manufacturer of that determination in writing.

If, after resubmission, the department again determines that the packaging and labeling are not in compliance with this division, the department shall notify the manufacturer, in writing, of the reasons for noncompliance. The manufacturer may request an administrative hearing with the department within 30 days after the date of the department's notice.

Any time a manufacturer proposes to make a material change to the packaging or labeling of an edible [marijuana cannabis](#) product, that packaging and labeling shall be submitted to the department pursuant to this section.

The department may charge a fee to the manufacturer for the determination required by this section in an amount no greater than the amount required to cover the actual and reasonable costs of administering the approval program established by this section.

SEC. 2. The Legislature finds and declares that Section 1 of this bill implements Section 6.1 of the Control, Regulate and Tax Adult Use of Marijuana Act, and that it is consistent with and furthers the purposes of the act as stated in Section 3.

ASSEMBLY BILL No. 259

Introduced by Assembly Member Gipson

January 31, 2017

Bill Text:

SECTION 1. Section 19322 of the Business and Professions Code is amended to read:

19322. (a) A person shall not submit an application for a state license issued by a licensing authority pursuant to this chapter unless that person has received a license, permit, or authorization from the local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:

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

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

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

The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

Provide documentation issued by the local jurisdiction in which the proposed business is operating certifying that the applicant is or will be in compliance with all local ordinances and regulations.

Provide evidence of the legal right to occupy and use the proposed location. For an applicant seeking a cultivator, distributor, manufacturing, testing, transporter, or dispensary license, provide a statement from the owner of real property or their agent where the cultivation, distribution, manufacturing, testing, transport, or dispensing of commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit cultivation, distribution, manufacturing, testing, transport, or dispensary activities to be conducted on the property by the tenant applicant.

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

Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

For the purposes of this paragraph, “employee” does not include a supervisor.

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

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

Demonstrate three years of continuous California residency prior to the date of application.

(8)

Provide any other information required by the licensing authority.

(9)

For an applicant seeking a cultivation license, provide a statement declaring the applicant is an “agricultural employer,” as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor

Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.

(10)

Pay all applicable fees required for licensure by the licensing authority.

(11)

Provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements.

For applicants seeking licensure to cultivate, distribute, manufacture, test, or dispense medical cannabis or medical cannabis products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

Cultivation.

Extraction and infusion methods.

The transportation process.

Inventory procedures.

Quality control procedures.

Security protocols.

SEC. 2. Section 26054.1 of the Business and Professions Code is amended to read:

26054.1. (a) No A licensing authority shall not issue or renew a license to any a person that cannot demonstrate continuous California residency from or before January 1, 2015. for three years prior to the date of application. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015. for three years prior to the date of application.

Subdivision (a) shall cease to be operative on December 31, 2019, unless reenacted prior thereto by the Legislature. 2023.

SEC. 3. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

SECTION 1. Section 1317 of the Health and Safety Code is amended to read:

1317.(a)Emergency services and care shall be provided to any person requesting the services or care, or for whom services or care is requested, for any condition in which the person is in danger of loss of life, or serious injury or illness, at any health facility licensed under this chapter that maintains and operates an emergency department to provide emergency services to the public when the health facility has appropriate facilities and qualified personnel available to provide the services or care.

(b)In no event shall the provision of emergency services and care be based upon, or affected by, the person's ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, or any other characteristic listed or defined in subdivision (b) or

(e) of Section 51 of the Civil Code, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental disability is medically significant to the provision of appropriate medical care to the patient.

(c)Neither the health facility, its employees, nor any physician and surgeon, dentist, clinical psychologist, or podiatrist shall be liable in any action arising out of a refusal to render emergency services or care if the refusal is based on the determination, exercising reasonable care, that the person is not suffering from an emergency medical condition, or that the health facility does not have the appropriate facilities or qualified personnel available to render those services.

(d)Emergency services and care shall be rendered without first questioning the patient or any other person as to his or her ability to pay. However, the patient or his or her legally responsible relative or guardian shall execute an agreement to pay therefor or otherwise supply insurance or credit information promptly after the services are rendered.

(e)If a health facility subject to this chapter does not maintain an emergency department, its employees shall nevertheless exercise reasonable care to determine whether an emergency exists and shall direct the persons seeking emergency care to a nearby facility that can render the needed services, and shall assist the persons seeking emergency care in obtaining the services, including transportation services, in every way reasonable under the circumstances.

(f)No act or omission of any rescue team established by any health facility licensed under this chapter, or operated by the federal or state government, a county, or by the Regents of the University of California, done or omitted while attempting to resuscitate any person who is in immediate danger of loss of life shall impose any liability upon the health facility, the officers, members of the staff, nurses, or employees of the health facility, including, but not limited to, the members of the rescue team, or upon the federal or state government or a county, if good faith is exercised.

(g)“Rescue team,” as used in this section, means a special group of physicians and surgeons, nurses, and employees of a health facility who have been trained in cardiopulmonary resuscitation and have been designated by the health facility to attempt, in cases of emergency, to resuscitate persons who are in immediate danger of loss of life.

(h)This section shall not relieve a health facility of any duty otherwise imposed by law upon the health facility for the designation and training of members of a rescue team or for the provision or maintenance of equipment to be used by a rescue team.

ASSEMBLY BILL No. 313

Introduced by Assembly Member Gray

February 06, 2017

Bill Text:

SECTION 1. Article 2.5 (commencing with Section 11375) is added to Chapter 4 of Part 1 of Division 3 of Title 2 of the Government Code, to read:

Article 2.5. Water Rights Division

11375. (a) There is within the Office of Administrative Hearings a Water Rights Division, consisting of no fewer than four full-time administrative law judges. An administrative law judge of the division shall have the same qualifications as other administrative law judges and have no less than eight years experience as an attorney dealing with water rights matters.

The director shall select an administrative law judge as the supervisor of the division. The director and the supervisor shall assign at least three other administrative law judges to the division. The supervisor shall supervise the administrative law judges' training and coordinate the publication of the division's decisions. The division shall include only those administrative law judges specifically qualified and shall at no time constitute more than 25 percent of the total number of administrative law judges within the Office of Administrative Hearings. If the members of the division do not have a full water rights-related case workload, they may be assigned other work by the director. When the water rights-related case workload exceeds the capacity of the members of the division, the supervisor shall request the director to assign additional judges as appropriate. When this workload overflow occurs on a temporary basis, the director shall supply judges from the office to adjudicate the cases.

The administrative law judges of the division shall have experts available. The director, with the advice of the supervisor, shall appoint experts. The administrative law judges of the division may call on these experts to testify on the record about any matter relevant to a proceeding and these experts shall be subject to cross-examination by all parties. The administrative law judge may award reasonable expert witness fees to any person serving as an expert, which shall be paid from the Water Rights Fund upon appropriation by the Legislature.

Section 11430.30 does not apply in a proceeding under this section.

11375.5. An administrative law judge shall conduct a hearing relating to any quasi-adjudicatory matter involving water rights pursuant to the Administrative Procedure Act.

11376. The office shall provide facilities and support personnel for the division.

11376.5. A decision made by an administrative law judge in the division shall be deemed a recommendation and is not final until accepted by the State Water Resources Control Board. The State Water Resources Control Board may review materials from the hearing record, as necessary, and has the authority to accept, modify, or reject the recommendation. The State Water Resources Control Board shall make a final decision accepting, modifying, or rejecting the division's recommendation within 30 days of the issuance of that recommendation. If the State Water Resources Control Board does not act on a recommendation within 30 days, the recommendation shall be deemed adopted. The State Water Resources Control Board's decision on the recommendation, or the adoption of the recommendation due to the failure to act, is a final agency action that may be appealed to a superior court of the State of California.

11377. This article shall become operative on July 1, 2018.

SEC. 2. Section 1055 of the Water Code is amended to read:

1055. (a) The executive director of the board may issue a complaint to any person or entity on which administrative civil liability may be imposed pursuant to Section 1052, Article 4 (commencing with Section 1845) of Chapter 12 of Part 2 of Division 2, or Section 5107. The complaint shall allege the

act or failure to act that constitutes a trespass or violation, the provision of law authorizing civil liability to be imposed, and the proposed civil liability.

The complaint shall be served by personal notice or certified mail. The complaint shall inform the party served that the party may request a hearing not later than 20 days from the date the party was served and that the board may adopt an order setting administrative civil liability based on the allegations set forth in the complaint without a hearing if the party does not sign a written request for a hearing that is delivered to, or received by mail by, the board within 20 days after the date the party was served. The hearing shall be before the board or a member of the board, in accordance with Section 183.

The board, after any necessary hearing, may adopt an order setting administrative civil liability, or determining that a liability shall not be imposed.

Orders setting administrative civil liability shall become effective and final upon issuance thereof and payment shall be made.

This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 3. Section 1055 is added to the Water Code, to read:

1055. (a) The executive director of the board may issue a complaint to any person or entity on which administrative civil liability may be imposed pursuant to Section 1052, Article 4 (commencing with Section 1845) of Chapter 12 of Part 2 of Division 2, or Section 5107. The complaint shall allege the act or failure to act that constitutes a trespass or violation, the provision of law authorizing civil liability to be imposed, and the proposed civil liability.

The complaint shall be served by personal notice or certified mail. The complaint shall inform the party served that the party may request a hearing conducted by the Water Rights Division of the Office of Administrative Hearings not later than 20 days from the date the party was served and that the board may adopt an order setting administrative civil liability based on the allegations set forth in the complaint without a hearing if the party does not sign a written request for a hearing that is delivered to, or received by mail by, the board within 20 days after the date the party was served. The hearing shall be before an administrative law judge of the Water Rights Division of the Office of Administrative Hearings in accordance with Article 2.5 (commencing with Section 11375) of Chapter 4 of Part 1 of Division 3 of Title 2 of the Government Code.

The executive director, after any necessary hearing, may adopt an order setting administrative civil liability, or determining that a liability shall not be imposed.

Orders setting administrative civil liability shall become effective and final upon issuance thereof and payment shall be made.

This section shall become operative on July 1, 2018.

SEC. 4. Section 1552 of the Water Code is amended to read:

1552. (a) Except as provided in subdivision (e) of Section 1058.5, moneys in the Water Rights Fund are available for expenditure, upon appropriation by the Legislature, for the following purposes:

For expenditure by the State Board of Equalization in the administration of this chapter and the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2

of the Revenue and Taxation Code) in connection with any fee or expense subject to this chapter.

For the payment of refunds, pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code, of fees or expenses collected pursuant to this chapter.

For expenditure by the board for the purposes of carrying out this division, Division 1 (commencing with Section 100), Part 2 (commencing with Section 10500) and Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, and the water diversion related provisions of Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.

For expenditures by the board for the purposes of carrying out Sections 13160 and 13160.1 in connection with activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.

For expenditures by the board for the purposes of carrying out Sections 13140 and 13170 in connection with plans and policies that address the diversion or use of water.

This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 5. Section 1552 is added to the Water Code, to read:

1552. (a) Except as provided in subdivision (e) of Section 1058.5, moneys in the Water Rights Fund are available for expenditure, upon appropriation by the Legislature, for the following purposes:

For expenditure by the State Board of Equalization in the administration of this chapter and the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code) in connection with any fee or expense subject to this chapter.

For the payment of refunds, pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code, of fees or expenses collected pursuant to this chapter.

For expenditure by the board for the purposes of carrying out this division, Division 1 (commencing with Section 100), Part 2 (commencing with Section 10500) and Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, and the water diversion related provisions of Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.

For expenditures by the board for the purposes of carrying out Sections 13160 and 13160.1 in connection with activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.

For expenditures by the board for the purposes of carrying out Sections 13140 and 13170 in connection with plans and policies that address the diversion or use of water.

For expenditures by the Water Rights Division of the Office of Administrative Hearings for the purposes of carrying out Article 2.5 (commencing with Section 11375) of Chapter 4 of Part 1 of Division 3 of Title 2 of the Government Code.

This section shall become operative on July 1, 2018.

SEC. 6. Section 1825 of the Water Code is amended to read:

1825. It is the intent of the Legislature that the state should take vigorous action to enforce the terms and conditions of permits licenses, certifications, and registrations to appropriate water, to enforce all orders and decisions, and to prevent the unlawful diversion of water.

SEC. 7. Section 1837 is added to the Water Code, to read:

1837. This article shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 8. Article 2 (commencing with Section 1831) is added to Chapter 12 of Part 2 of Division 2 of the Water Code, to read:

Article 2. Cease and Desist Orders

1831. (a) (1) (A) Notwithstanding paragraph (2), when the board determines that any person is violating, or threatening to violate, any requirement described in paragraphs (2) to (6), inclusive, of subdivision (c), the board may issue an order to that person to cease and desist from that violation.

The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to subparagraph (C).

The board shall give notice by personal notice or certified mail, pursuant to which the party shall be informed that he or she may request a hearing not later than 20 days from the date on which the notice is received, to the person allegedly engaged in the violation. The notice shall contain a statement of facts and information that would tend to show the proscribed action, and notification of the requirements of clause (ii).

Unless a written request for a hearing signed by or on behalf of the notified party is delivered to or received by mail by the board within 20 days after receipt of the notice, the board may adopt a cease and desist order, based on the statement of facts and information set forth in the notice, without a hearing.

When the board determines that any person is violating, or threatening to violate, paragraph (1) of subdivision (c), the board may issue a complaint seeking an order requiring that person to cease and desist from that violation. The complaint shall contain a statement of facts and information that tend to show the conduct that constitutes a violation or threatened violation of paragraph (1) of subdivision (c) and a description of the terms and conditions of the proposed cease and desist order.

The complaint shall be served by personal notice or certified mail. The complaint shall inform the party served that the party may request a hearing conducted by the Water Rights Division of the Office of Administrative Hearings not later than 20 days from the date the party was served and that the board may adopt a cease and desist order based on the allegations set forth in the complaint without a hearing if the person does not sign a written request for a hearing that is delivered to, or received by mail by, the board within 20 days

after the date the party was served. The hearing shall be before an administrative law judge of the Water Rights Division of the Office of Administrative Hearings in accordance with Article 2.5 (commencing with Section 11375) of Chapter 4 of Part 1 of Division 3 of Title 2 of the Government Code.

A decision made by an administrative law judge in a hearing conducted pursuant to subparagraph (B) shall be deemed a recommendation and is not final until accepted by the board. The board may review materials from the hearing record, as necessary, and has the authority to accept, modify, or reject the recommendation. Following the board's acceptance, modification, or rejection of the recommendation, the board may issue a cease and desist order under this paragraph. The board shall make a final decision accepting, modifying, or rejecting the division's recommendation within 30 days of the issuance of that recommendation. If the board does not act on a recommendation within 30 days, the recommendation shall be deemed adopted. The board's decision on the recommendation, or the adoption of the recommendation due to the failure to act, is a final agency action that may be appealed to a superior court of the State of California.

A cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board or, if issued pursuant to paragraph (2) of subdivision (a), in accordance with a time schedule set by the administrative law judge presiding over the hearing described in subparagraph (B) of paragraph (2) of subdivision (a).

The cease and desist order may be issued in response to a violation or threatened violation of any of the following:

The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.

Any term or condition of a permit, license, certification, or registration issued under this division.

Any decision or order of the board issued under this part, Section 275, Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

A regulation adopted under Section 1058.5.

Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

Any diversion or use of water for cannabis cultivation if any of paragraphs (1) to (5), inclusive, or any of the following applies:

A license is required, but has not been obtained, under Article Chapter 6 (commencing with Section 19331) of 26060) or Chapter 3.5 7 (commencing with Section 26070) of Division 8 10 of the Business and Professions Code.

The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

The diversion or use is not in compliance with a requirement imposed under paragraphs (1) and (2) of subdivision (d) or (e) (b) of Section 19332.2 of 26060.1 of, and paragraph (3) of subdivision (a) of Section 26070 of, the Business and Professions Code.

This article does not alter the regulatory authority of the board under other provisions of law.

1832. (a) Cease and desist orders of the board shall be effective upon the issuance thereof.

The board, for cease and desist orders issued pursuant to paragraph (1) of subdivision (a) of Section 1831, may, after notice and opportunity for hearing, upon its own motion or upon receipt of an application from an aggrieved person, modify, revoke, or stay in whole or in part any cease and desist order issued pursuant to this chapter.

A cease and desist order issued pursuant to paragraph (2) of subdivision (a) may be modified, revoked, or stayed in whole or in part only after notice and a hearing, before an administrative law judge of the Water Rights Division of the Office of Administrative Hearings in accordance with Article 2.5 (commencing with Section 11375) of Chapter 4 of Part 1 of Division 3 of Title 2 of the Government Code, if applicable.

1833. As used in this chapter, “person” includes any city, county, district, the state, or any department or agency thereof, and the United States to the extent authorized by law.

1834. Nothing in this chapter shall preclude the board from issuing any order or taking any other action authorized pursuant to Section 275.

1835. This article shall become operative on July 1, 2018.

SEC. 9. Section 1845 of the Water Code is amended to read:

1845. (a) Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

A person or entity who violates a cease and desist order issued pursuant to this chapter may be liable in an amount not to exceed the following:

If the violation occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions, ten thousand dollars (\$10,000) for each day in which the violation occurs.

If the violation is not described by subparagraph (A), one thousand dollars (\$1,000) for each day in which the violation occurs.

Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

Civil liability may be imposed administratively by the board pursuant to Section 1055.

This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 10. Section 1845 is added to the Water Code, to read:

1845. (a) Upon the failure of any person to comply with a cease and desist order issued pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

A person or entity who violates a cease and desist order issued pursuant to this chapter may be liable in an amount not to exceed the following:

If the violation occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions, ten thousand dollars (\$10,000) for each day in which the violation occurs.

If the violation is not described by subparagraph (A), one thousand dollars (\$1,000) for each day in which the violation occurs.

Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

Civil liability may be imposed administratively by the board pursuant to Section 1055.

This section shall become operative on July 1, 2018.

ASSEMBLY BILL No. 350

Introduced by Assembly Member Salas

February 08, 2017

Bill Text

SECTION 1. Section 26131 is added to the Business and Professions Code, to read:

26131.(a)A marijuana product shall be deemed to be appealing to children or easily confused with commercially sold candy if it is in the shape of a person, animal, insect, fruit, or in another shape normally associated with candy.

(b)This section does not prohibit a licensee from making an edible marijuana product in the shape of the licensee's logo.

SECTION 1. Section 26130 of the Business and Professions Code is amended to read:

26130. (a) Marijuana Cannabis products shall be:

Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana. cannabis. A cannabis product shall not be made in the shape of a person, animal, insect, or fruit.

Produced and sold with a standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.

Delineated or scored into standardized serving sizes if the [marijuana cannabis](#) product contains more than one serving and is an edible [marijuana cannabis](#) product in solid form.

Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, for preparation, storage, handling and sale of food products.

Provided to customers with sufficient information to enable the informed consumption of [such](#) the product, including the potential effects of the [marijuana cannabis](#) product and directions as to how to consume the [marijuana](#) cannabis product, as necessary.

[Marijuana, Cannabis](#), including concentrated cannabis, included in a [marijuana](#) cannabis product manufactured in compliance with law is not considered an adulterant under state law.

SEC. 2. The Legislature finds and declares that Section 1 of this [bill](#) act implements Section 6.1 of the Control, Regulate and Tax Adult Use of Marijuana Act, and that it is consistent with and furthers the purposes of the act as stated in Section [3. 3](#) of that act.

ASSEMBLY BILL No. 389

Introduced by Assembly Members Salas, Caballero, and Ridley-Thomas

February 09, 2017

Bill Text

SECTION 1. Chapter 2.5 (commencing with Section 26025) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 2.5. Other Responsibilities of the Bureau of [Marijuana Cannabis](#) Control

26025. (a) On or before July 1, 2018, the bureau shall establish and make available on its Internet Web site a consumer guide to [educate serve as a resource](#) for the public on the [regulation of medical and nonmedical marijuana](#). [California laws and regulations applicable to medicinal and adult-use cannabis](#).

The consumer guide shall include, but is not limited to, the following information:

The difference between [medical marijuana and nonmedical marijuana](#). [medicinal cannabis and adult-use cannabis](#).

[Where nonmedical marijuana may be legally purchased](#). [Licensing requirements for facilities to engage in commercial cannabis activities](#).

Rules on the public consumption of [medical marijuana and nonmedical marijuana](#). [medicinal cannabis and adult-use cannabis](#).

How much [marijuana](#) [cannabis](#) may be purchased at one time.

Penalties for violating [marijuana](#) [cannabis](#) laws.

The process for reporting consumer concerns or complaints.

[Laws and regulations applicable to both medicinal and adult-use cannabis-infused edibles including measures to keep cannabis products safely out of the reach of children or pets.](#)

ASSEMBLY BILL No. 416

Introduced by Assembly Member Mathis

February 09, 2017

Bill Text:

SECTION 1. It is the intent of the Legislature to enact legislation relating to CBD-enriched cannabis.

ASSEMBLY BILL No. 420

Introduced by Assembly Members Wood, Bonta, Cooley, Dahle, Jones-Sawyer, and Lackey

February 09, 2017

Bill Text:

SECTION 1. Section 17209 is added to the Revenue and Taxation Code, to read:

17209. [Section](#) For each taxable year beginning on or after January 1, 2018, 280E of the Internal Revenue Code, relating to expenditures in connection with the illegal sale of drugs, shall not apply to the carrying on of any trade or business that is commercial cannabis activity, as defined in [subdivision \(j\) of Section 19300.5 of the Business and Professions Code, or commercial marijuana activity, as defined in subdivision \(d\) of Section 26001 of the Business and Professions Code, or both.](#) [Division 10 \(commencing with Section 26000\) of the Business and Professions Code.](#)

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.

ASSEMBLY BILL No. 729

Introduced by Assembly Member Gray

February 15, 2017

Bill Text:

SECTION 1. Section 26031 of the Business and Professions Code is amended to read:

26031. (a) Each licensing authority may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein. by that chapter.

A licensing authority shall suspend a license for a third or subsequent violation of Section 26140 that occurs within 36 months of the initial violation.

A licensing authority may revoke a license for a third violation of Section 26140 that occurs within any 36-month period. This subdivision does not limit the authority or discretion of a licensing authority to revoke a license prior to a third violation if the circumstances warrant that penalty.

SEC. 2. Section 26036.1 is added to the Business and Professions Code, to read:

26036.1. (a) (1) A peace officer, or employee of a licensing authority or a state or local agency granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, may enter a place described in paragraph (3) and conduct inspections in accordance with this section.

Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be inspected.

Inspections may be at any place at which marijuana or marijuana products are sold, produced, or stored or at any site where evidence of activities involving evasion of marijuana or marijuana products tax may be discovered.

Inspections shall be requested or conducted no more than once in a 24-hour period.

A person that refuses to allow an inspection has violated this division.

SEC. 3. Section 26054 of the Business and Professions Code is amended to read:

26054. (a) A licensee shall not also be licensed as a retailer of alcoholic beverages under Division 9 (commencing with Section 23000) or of tobacco products.

No A licensee under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, to 12, inclusive, day care center, or youth center center, playground, hospital, or church that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

It shall be lawful under state and local law, and shall not be a violation of state or local law, for a business engaged in the manufacture of marijuana accessories to possess, transport, purchase or otherwise obtain small amounts of marijuana or marijuana products as necessary to conduct research and development related to such those marijuana accessories, provided

such the marijuana and marijuana products are obtained from a person or entity licensed under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 who is permitted to provide or deliver such the marijuana or marijuana products.

SEC. 4. Section 26070 of the Business and Professions Code is amended to read:

26070. Retailers and Distributors.

26070. (a) State licenses to be issued by the Department of Consumer Affairs are as follows:

“Retailer,” for the retail sale and delivery of marijuana or marijuana products to customers.

“Distributor,” for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

“Microbusiness,” for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(b)

The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. The transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which marijuana and marijuana products may be distributed and delivered and minimum qualifications for persons eligible to operate such those vehicles.

(c)

Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises. These security measures shall include, but not be limited to, all of the following:

Prohibiting individuals from remaining on the licensee’s premises if they are not engaging in activity expressly related to the operations of the dispensary.

Establishing limited access areas accessible only to authorized personnel.

Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

A window or transparent door of a licensee's premises shall not have more than 33 percent of the square footage covered by advertisements or signs of any sort and shall be maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which any cash register is located, from the exterior public sidewalk or the entrance to the premises.

Subparagraph (A) does not apply to premises with no windows or premises with windows only located at a height that precludes a pedestrian's view of the interior of the premises from outside the premises.

SEC. 5. Section 26140 of the Business and Professions Code is amended to read:

26140. (a) No A licensee shall: shall not do any of the following:

Sell marijuana or marijuana products to persons under 21 years of age.

Allow any person under 21 years of age on its premises.

Employ or retain persons under 21 years of age.

Sell or transfer marijuana or marijuana products unless the person to whom the marijuana or marijuana product is to be sold or transferred first presents documentation which that reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

A licensee shall post a sign, visible from each public entrance, and a similar sign inside the premises that reads "No Person Under 21 Allowed."

A licensee that is also a dispensary licensed under Chapter 3.5 (commencing with Section 19300) of Division 8 may include language on the sign that reads "without identification authorizing the purchase of medical cannabis."

(b)

Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish marijuana to minors. Notwithstanding any provision of law, any a person under 21 years of age who purchases or attempts to purchase any marijuana while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase marijuana. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). In accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the bureau shall adopt and publish guidelines for the use of persons under 21 years of age in inspections conducted pursuant to subdivision (c) that shall include, but not be limited to, all of the following:

An enforcing agency may use persons under 21 years of age in random inspections to determine if sales of marijuana or marijuana products are being made to persons under 21 years of age.

A photograph or video recording of the person under 21 years of age shall be taken prior to each inspection or shift of inspections and shall be retained by the enforcing agency for purposes of verifying appearance.

An enforcing agency may use video recording equipment when conducting the inspections to record and document illegal sales or attempted sales.

The person who is under 21 years of age, if questioned about his or her age, need not state his or her actual age, but shall present a true and correct identification if verbally asked to present it. Failure on the part of the person under 21 years of age to provide true and correct identification, if verbally requested, is a defense to an action pursuant to this section.

The person under 21 years of age shall be under the supervision of a regularly employed peace officer during the inspection.

All persons under 21 years of age used by an enforcing agency shall appear to be a person under 21 years of age. It is a defense to an action under this division that the person's appearance was not that which could be generally expected of a person under 21 years of age, under the actual circumstances presented to the retailer at the time of the alleged offense.

Following the completion of the sale, the peace officer accompanying the person under 21 years of age shall reenter the premise and shall inform the seller of the random inspection. Following an attempted sale, the enforcing agency shall notify the retailer of the inspection.

Failure of the person under 21 years of age or the enforcing agency to comply with the procedures set forth in this subdivision is a defense to an action brought pursuant to this section.

(c)

Notwithstanding subdivision (a), a licensee that is also a dispensary licensed under Chapter 3.5 (commencing with Section 19300) of Division 8 may: may do both of the following:

Allow on the premises any a person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card; card.

Sell marijuana, marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

SEC. 6. Section 26141 is added to the Business and Professions Code, to read:

26141. (a) For purposes of preventing violation of this division, a licensee or its agents or employees may refuse to sell marijuana to a person who is unable to produce adequate personal identification that he or she is 21 years of age or older.

A licensee, or its agent or employee, may seize any personal identification presented by a person that shows the person to be under 21 years of age or that is false, if within 24 hours of seizure, a receipt is given to the local law enforcement agency that has jurisdiction over the licensed premises. A licensee's decision not to seize the personal identification pursuant to this subdivision shall not create any civil or criminal liability.

SEC. 7. Section 26142 is added to the Business and Professions Code, to read:

26142. Marijuana or marijuana products shall not be sold, offered for sale, or distributed from a vending machine or appliance, or any other coin- or token-operated mechanical device designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.

SEC. 8. Section 26152 of the Business and Professions Code is amended to read:

26152. No A licensee shall: shall not do any of the following:

Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression; impression.

Publish or disseminate advertising or marketing containing any a statement concerning a brand or product that is inconsistent with any statement on the labeling thereof; thereof.

Publish or disseminate advertising or marketing containing any a statement, design, device, or representation which that tends to create the impression that the marijuana originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such that appellation of origin appears in the advertisement; advertisement.

Advertise or market on a billboard or similar advertising device located on an Interstate Highway or State Highway which interstate highway or state highway that crosses the border of any other state; state.

Advertise or market marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years of age to consume marijuana or marijuana products; products.

Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters characters, or other content elements known to appeal primarily to persons below the legal age of consumption; or consumption.

Advertise or market marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, inclusive, playground, or youth center. youth center, or church.

SEC. 9. (a) The Legislature finds and declares that Sections 1, 3, 5, and 8 of this act amending Sections 26031, 26054, 26070, and 26152 of, and that Sections 2, 6, and 7 of this act adding Sections 26036.1, 26141, and 26142 to, the Business and Professions Code further the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act, because these amendments (a) deny access to marijuana by persons younger than 21 years age who are not medical marijuana patients, (b) prevent access to marijuana by minors, (c) ensure that marijuana is taxed in a way that drives out the illicit market for marijuana and discourages use by minors, (d) prevent illegal production or distribution of marijuana, and (e) protect public safety.

The Legislature finds and declares that Section 4 of this bill, amending Section 26140 of the Business and Professions Code, implements Section 6.1 of the Control, Regulate and Tax Adult Use of Marijuana Act, and that it is consistent with and further the purposes of the act as stated in Section 3 of that act.

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

ASSEMBLY BILL No. 823

Introduced by Assembly Member Chau

(Coauthor: Assembly Member Lackey)

February 16, 2017

Bill Text

SECTION 1. Section 26130 of the Business and Professions Code is amended to read:

26130. (a) The State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. Licenses to be issued are as follows:

“Manufacturing Level 1,” for sites that manufacture cannabis products using nonvolatile solvents, or no solvents. A Manufacturing Level 1 M-Type 6 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license.

“Manufacturing Level 2,” for sites that manufacture cannabis products using volatile solvents. A Manufacturing Level 2 M-Type 7 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license.

For purposes of this section, “volatile solvents” shall have the same meaning as in paragraph (3) of subdivision (d) of Section 11362.3 of the Health and Safety Code, unless otherwise provided by law or regulation.

Edible cannabis products shall be:

Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.

Produced and sold with a standardized concentration of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.

Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis product in solid form.

Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, that are similar to the standards for preparation, storage, handling, and sale of food products.

Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary.

Marked with a universal symbol, as determined by the State Department of Public Health through regulation.

For edible cannabis products that are not sold as liquids, loose bulk goods, or powders, the symbol required by this paragraph shall meet both of the following requirements:

The symbol shall be placed directly on at least one side of each edible cannabis product serving so as to be distinguishable and easily recognizable.

The symbol shall be centered either horizontally or vertically on the single serving. If centered horizontally, the height and width of the symbol shall be at least 25 percent of the serving's width, but not less than one-quarter inch square. If centered vertically, the height and width of the symbol shall be at least 25 percent of the serving's height, but not less than one-quarter inch square. If the product is one-quarter inch square or smaller, the symbol shall be at least 25 percent of the serving's height or width and centered either horizontally or vertically.

Cannabis, including concentrated cannabis, included in a cannabis product manufactured in compliance with law is not considered an adulterant under state law.

SECTION 1. Section 26130 of the Business and Professions Code is amended to read:

26130.(a) Marijuana products shall be:

(1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.

(2) Produced and sold with a standardized dosage of cannabinoids not to exceed 10 milligrams of tetrahydrocannabinol (THC) per serving.

(3) Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana product in solid form.

(4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(5) Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, for preparation, storage, handling, and sale of food products.

(6) Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.

(b)(1) Chocolate, soft confections, hard confections and lozenges, consolidated baked goods, and pressed pills and capsules that include marijuana or marijuana products shall be stamped,

marked, or otherwise imprinted on each single serving with a cannabis product symbol, designed by the State Department of Public Health. The symbol shall be placed directly on at least one side of each edible marijuana product serving so as to be distinguishable and easily recognizable.

(2)The cannabis product symbol shall be centered either horizontally or vertically on the single serving. If centered horizontally, the height and width of the symbol shall be at least 25 percent of the serving's width, but not less than one-quarter inch square. If centered vertically, the height and width of the symbol shall be at least 25 percent of the serving's height, but not less than one-quarter inch square. If the product is one-quarter inch square or smaller, the cannabis product symbol shall be at least 25 percent of the serving's height or width and centered either horizontally or vertically.

(3)For purposes of this subdivision, "consolidated baked goods" includes, but is not limited to, cookies, brownies, cupcakes, and granola bars.

(4)This subdivision does not apply to marijuana products that are liquids, loose bulk goods, or powders.

(c)Marijuana, including concentrated cannabis, included in a marijuana product manufactured in compliance with law is not an adulterant under state law.

SEC. 2. The Legislature finds and declares that this act is consistent with, and furthers the purposes of, the Control, Regulate and Tax Adult Use of Marijuana Act.

ASSEMBLY BILL No. 845

Introduced by Assembly Member Wood

February 16, 2017

Bill Text:

SECTION 1. The Legislature finds and declares that both children and adults with epilepsy are in desperate need of new treatment options and that cannabidiol is showing potential as one of these treatments. If federal laws prohibiting the prescription of medications composed of cannabidiol are repealed or if an exception from the general prohibition is enacted permitting the prescription of drugs composed of cannabidiol, patients should have rapid access to this treatment option. The availability of this new prescription medication is intended to augment, not to restrict or otherwise amend, other cannabinoid treatment modalities currently available under state law.

SEC. 2. Section 11150.2 is added to the Health and Safety Code, to read:

11150.2. (a) Notwithstanding any other law, if cannabidiol is **removed** excluded from Schedule I of the federal Controlled Substances Act and placed on a schedule of the act other than Schedule I, or if a product composed of cannabidiol is approved by the federal Food and Drug Administration and either placed on a schedule of the act other than Schedule I, or exempted from one or more provisions of the act, so as to permit a physician, pharmacist, or other authorized healing arts licensee acting within his or her scope of practice, to prescribe, furnish, or dispense that product, the physician,

pharmacist, or other authorized healing arts licensee who prescribes, furnishes, or dispenses that product in accordance with federal law shall be deemed to be in compliance with state law governing those acts.

For purposes of this chapter, upon the effective date of one of the changes in federal law described in subdivision (a), notwithstanding any other state law, a product composed of cannabidiol may be prescribed, furnished, dispensed, transferred, possessed, or used in accordance with federal law and is authorized pursuant to state law.

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

In order to ensure that patients are able to obtain access to a new treatment modality as soon as federal law makes it available, it is necessary that this act take effect immediately.

ASSEMBLY BILL No. 924

Introduced by Assembly Member Gray Bonta

February 16, 2017

Bill Text:

SECTION 1. The Legislature finds and declares all of the following:

In November 1996, voters approved Proposition 215, which decriminalized the use of medicinal cannabis in California. Since the proposition was passed, most, if not all, of the regulation has been performed by local governments.

In 2015, California enacted three bills (Assembly Bill 243 (Wood, Chapter 688 of the Statutes of 2015); Assembly Bill 266 (Bonta, Chapter 689 of the Statutes of 2015); and Senate Bill 643 (McGuire, Chapter 719 of the Statutes of 2015)) that collectively established a comprehensive state regulatory framework for the licensing and enforcement of cultivation, manufacturing, retail sale, transportation, storage, delivery, and testing of medicinal cannabis in California. This regulatory scheme is known as the Medical Cannabis Regulation and Safety Act (MCRSA).

In November 2016, voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA). Under Proposition 64, adults 21 years of age or older may legally grow, possess, and use cannabis for nonmedicinal purposes, with certain restrictions. In addition, beginning on January 1, 2018, AUMA makes it legal under state law to sell and distribute cannabis through a regulated business.

Although California has chosen to legalize the cultivation, distribution, and use of cannabis, it remains an illegal Schedule I controlled substance under federal law. The intent of Proposition 64 and MCRSA was to ensure a comprehensive regulatory system that takes production and sales of cannabis away from an illegal market and

curtails the illegal diversion of cannabis from California into other states or countries. The state has legalized cannabis through MCRSA and AUMA.

The state has criminal jurisdiction over Indian land located within the state pursuant to federal law commonly known as Public Law 280 (PL-280).

The United States Department of Justice, in a document known as the Cole Memorandum, has set forth a policy lowering the priority of cannabis enforcement under certain circumstances.

The United States Department of Justice, in a document known as the Wilkinson Memorandum, has extended the terms of the Cole Memorandum to apply to Indian tribes.

Indian tribes have civil jurisdiction over their tribal land within the state and have the inherent right to engage in commercial cannabis activity on tribal land pursuant to federal court interpretation of PL-280.

MCRSA and AUMA did not consider how Indian tribes would interact with the regulated California marketplace where state licensed businesses are limited to conducting business only with other state licensed businesses.

California has an interest in ensuring the health and safety of the California consumers of cannabis products that were cultivated or manufactured on tribal land.

California has an interest in promoting economic development and self-sufficiency by Indian tribes.

SEC. 2. Chapter 23 (commencing with Section 26240) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 23. Agreements with Tribal Governments

Article 1. Definitions

26240. (a) “Agreement” means an Indian tribal cannabis agreement authorized under this chapter and entered into between the State of California and an Indian tribe.

“Cannabis regulatory commission” means a commission created by an Indian tribe to enforce the agreement and regulate commercial cannabis activity on tribal land.

“Essential governmental services” means services provided by an Indian tribe that has entered into an agreement, including, but not limited to, health care, early childhood development programs, job placement, mental health treatment, substance use disorder treatment, education, elder care, social services, administration, public facilities, fire, police, courts, sewer, water, environmental and land use, park and wildlife restoration, transportation, utility services, and community and economic development.

“Indian country” shall have the meaning given in Section 1151 of Title 18 of the United States Code.

“Tribe” means an Indian tribe, band, nation, or community wholly or partially located within the geographical boundaries of the State of California that the United States Secretary of the

Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. Sec. 479a).

Article 2. Agreements

26241. (a) The Governor may enter into an agreement with a tribe authorizing commercial cannabis activity between an entity in Indian country and an entity operating with a state license pursuant to this division. The Governor may delegate authority to negotiate this agreement to the Chief of the Bureau of Medical Cannabis Regulation.

(b) An agreement is deemed approved when executed by the Governor or his or her designee and does not require approval by the Legislature.

26242. An agreement described in subdivision (a) of Section 26241 shall contain all of the following conditions:

A tribe authorizing commercial cannabis activity in Indian country shall establish a cannabis regulatory commission that is responsible for regulatory enforcement within the tribe's jurisdiction.

To the extent consistent with federal law, the cannabis regulatory commission shall exercise exclusive regulatory authority over all commercial cannabis activity, by both Indians and non-Indians, in Indian country.

The regulations adopted by the cannabis regulatory commission shall meet or exceed the standards adopted under the state regulatory scheme governing commercial cannabis activity, including all rights and responsibilities under the scheme that are assigned to state or local agencies. A tribe may issue tribal licenses for cultivation, manufacturing, distribution, testing, or retail in Indian country. A tribe may authorize multiple tribal licenses per premise and multiple premises per location. Premises are not required to be separate and distinct.

A tribe is not subject to state cultivation or sales taxes related to commercial cannabis activity if the tribe imposes an equivalent tax on Indians and non-Indians engaging in commercial cannabis activity in Indian country and the tax revenue is used exclusively to fund essential governmental services.

Commercial cannabis activity in Indian country is not subject to any sales or cannabis tax imposed by a local government whose geographical boundaries contain the Indian country. A tribe is encouraged to enter into a good faith agreement with the local government in order to mitigate impacts from increased utilization of public safety services.

A tribe conducting commercial cannabis activity in Indian country, when engaging in sales outside Indian country, shall sell cannabis only to an entity operating with a state license.

A tribe shall maintain exclusive authority over its land use and water resources.

SECTION 1. Section 19605.25 of the Business and Professions Code is amended to read:

19605.25.(a)The board may approve an additional 15 minisatellite wagering sites in each zone, if all of the following conditions are met:

(1)No site is within 20 miles of a racetrack, a satellite wagering facility, or a tribal casino that has a satellite wagering facility. If the proposed minisatellite wagering facility is within 20 miles of one of the above-referenced satellite facilities, then the consent of each facility within a 20-mile radius must be given before the proposed minisatellite wagering facility may be approved by the board.

(2)An agreement in accordance with subdivision (a) of Section 19605.3 has been executed and approved by the board. In addition to the requirements set forth in that provision, the agreement shall specify which components of its racing program, including live, out-of-zone, out-of-state, and out-of-country races, an association or fair will make available to the site. The terms and conditions of the agreement, including all fees payable pursuant to paragraph (3) of that provision, a portion of which may be paid to horsemen in the form of purses, shall be subject to the approval of the horsemen's organization responsible for negotiating purse agreements with the association or fair.

(3)The site is approved by the board.

(4)The wagers are accepted in an area that is accessible only to those who are at least 21 years of age.

(5)The board has approved the accommodation, equipment used in conducting wagering at the site, communications system, technology, and method used by the site to accept wagers and transmit odds, results, and other data related to wagering.

(b)Parimutuel clerks shall be available to service the self-service tote machines at these locations, and to cash wagering vouchers on a regularly scheduled basis.

(c)For purposes of commissions, deductions, and distribution of handle, wagers placed at minisatellite wagering sites shall be treated as if they were placed at satellite wagering facilities authorized under Section 19605, 19605.1, or 19605.2. Section 19608.4 shall apply to minisatellite wagering facilities.

(d)The written consent of the San Mateo County Fair shall be obtained before the approval of any minisatellite wagering site located within a 20-mile radius of its fairground.

(e)Minisatellite wagering facilities created pursuant to this section are not eligible for satellite wagering commission distributions pursuant to Section 19604.

(f)The board, in adopting regulations to implement this section, shall minimize the expense to both the operator of the minisatellite wagering facility and the host racetrack.

(g)If there are more than 15 applications for minisatellite wagering facilities in any zone, the board shall determine which facilities will generate the largest handle, and give priority to the approval of those facilities. The board shall license a minisatellite wagering facility for up to five years, and then review the operation and the size of the handle, and determine if it is in the best interest of horse racing to relicense the facility or, in the alternative, license another minisatellite wagering facility that might generate a greater handle.

(h) Except as may be provided in the agreement required pursuant to paragraph (2) of subdivision (a), no association or fair shall be required to make all or part of its racing program available to a minisatellite wagering facility. Notwithstanding subdivision (e) of Section 19608.2, all costs incurred by the organization executing that agreement in excess of the amounts distributable to the organization from wagers placed at the site on that racing program, shall be borne by the minisatellite wagering facility.

ASSEMBLY BILL No. 948

Introduced by Assembly Member Bonta

February 16, 2017

Bill Text:

SECTION 1. Section 6479.3 of the Revenue and Taxation Code is amended to read:

6479.3. (a) Except as provided in subdivision (k), any person whose estimated tax liability under this part averages ten thousand dollars (\$10,000) or more per month, as determined by the board department pursuant to methods of calculation prescribed by the board, department, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board. department. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.

(b) Any person whose estimated tax liability under this part averages less than ten thousand dollars (\$10,000) per month or any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the board. department.

Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. department. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment amount incorrectly remitted.

Except as provided in Sections 6476 and 6477, any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board department under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

In determining whether a person's estimated tax liability averages ten thousand dollars (\$10,000) or more per month, the board department may consider tax returns filed pursuant to this part and any other information in the board's department's possession.

Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 6591.

The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 6476 and 6477 shall be limited to a maximum of 6 percent of the prepayment amount.

The board department shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

A Until January 1, 2022, a person licensed to engage in commercial cannabis activity under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or commercial marijuana activity under Division 10 (commencing with Section 26000) of the Business and Professions Code, may remit amounts due by a means other than electronic funds transfer, if the board deems it necessary to facilitate collection of amounts due.

(l) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

SEC. 2. Section 6479.3 is added to the Revenue and Taxation Code, to read:

6479.3.(a) Except as provided in subdivision (k), any person whose estimated tax liability under this part averages ten thousand dollars (\$10,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.

(b) Any person whose estimated tax liability under this part averages less than ten thousand dollars (\$10,000) per month or any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the board.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking

day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d)Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e)(1)Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(2)A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment amount incorrectly remitted.

(f)Except as provided in Sections 6476 and 6477, any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

(g)In determining whether a person's estimated tax liability averages ten thousand dollars (\$10,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h)Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 6591.

(i)The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 6476 and 6477 shall be limited to a maximum of 6 percent of the prepayment amount.

(j)The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

(k)Before January 1, 2022, a person issued a seller's permit for a place of business that is a dispensary, as defined in subdivision (n) of Section 19300.5 of the Business and Professions Code, may remit amounts due for retail sales at the dispensary by a means other than electronic funds transfer.

(l)This section shall become operative on January 1, 2021.

SEC. 3.Section 34013 of the Revenue and Taxation Code is amended to read:

34013.(a)The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2), except that subdivision (a) of Section 55050 shall not apply to a person required to pay or collect the tax imposed

by this part if the board deems it necessary to facilitate collection of amounts due. For purposes of this part, the references in the Fee Collection Procedures Law to “fee” shall include the tax imposed by this part, and references to “feepayer” shall include a person required to pay or collect the tax imposed by this part.

(b)The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c)The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.

(d)The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

(e)Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(f)The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board’s request, the Attorney General shall bring the actions.

(g)This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

SEC. 4.Section 34013 is added to the Revenue and Taxation Code, to read:

34013.(a)The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2). For purposes of this part, the references in the Fee Collection Procedures Law to “fee” shall include the tax imposed by this part, and references to “feepayer” shall include a person required to pay or collect the tax imposed by this part.

(b)The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c)The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.

(d)The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code,

and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

(e)Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(f)The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

(g)This section shall become operative on January 1, 2021.

SEC. 2. Section 34013 of the Revenue and Taxation Code is amended to read:

34013. (a) (1) The board department shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the taxes imposed by this part, and references to "feepayer" shall include a person required to pay or collect the taxes imposed by this part.

(b) Until January 1, 2022, subdivision (a) of Section 55050 shall not apply to a person required to pay or collect the tax imposed by this part on a person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code if the department deems it necessary to facilitate the collection of amounts due.

(b)

The board department may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c)

The board department shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag cannabis or cannabis products, or the packages thereof, to designate prior tax payment.

(d)

Until January 1, 2019, the board department may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer, and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be

considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board department may remain in effect for two years from adoption.

(e)

Any person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code.

(f)

The board department may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's department's request, the Attorney General shall bring the actions.

SEC. 5. SEC. 3. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act (Act) by providing the State Board of Equalization with the authority necessary to effectively and efficiently collect the taxes imposed by the Act.

ASSEMBLY BILL No. 963

Introduced by Assembly Member Gipson

February 16, 2017

Bill Text:

SECTION 1. Section 6369.6 is added to the Revenue and Taxation Code, to read:

6369.6. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, medical cannabis, medical cannabis concentrate, edible medical cannabis products, or topical cannabis as those terms are defined in Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code when a person with an identification card or primary caregiver furnishes the seller with both his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

(b) For purposes of this section, "person with an identification card" and "primary caregiver" have the same meanings as those terms are defined in Section 11362.7 of the Health and Safety Code.

Any purchaser that furnishes the seller with a false or falsified identification card shall be liable to the state for the amount of tax that would be due if he or she had not given such a card. In addition to the tax, the purchaser shall be liable to the state for a penalty of 10 percent

of the tax or five hundred dollars (\$500), whichever is greater, for each purchase made for personal gain or to evade the payment of tax. For purposes of this subdivision, a “false or falsified identification card” includes any driver’s license or other identification card issued by a governmental agency, including a card issued under Section 11362.71 of the Health and Safety Code, that has been stolen, altered, forged, duplicated, reproduced, or counterfeited.

A seller is relieved of liability for the sales tax if the purchaser furnishes the seller with valid identification cards described in subdivision (a), and the seller takes the identification cards in good faith.

SEC. 2. Section 6471.5 is added to the Revenue and Taxation Code, to read:

6471.5. Any person required to make prepayment pursuant to Article 1.7 (commencing with Section 6480.50) may not be required to make additional prepayment pursuant to this article, provided that more than 75 percent of the gross receipts of that person are from the retail sale of marijuana or marijuana products.

SEC. 3. Article 1.7 (commencing with Section 6480.50) is added to Chapter 5 of Part 1 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.7. Prepayment of Sales Tax on Marijuana and Marijuana Products

6480.50. For purposes of the imposition of the prepayment of sales tax on marijuana and marijuana products pursuant to this article:

“Marijuana” and “marijuana products” have the same meanings as those terms are defined in Section 34010.

“Cultivator” and “manufacturer” shall have the same meaning as those terms are defined pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code.

“Distribution” shall mean the sale or delivery of marijuana and marijuana products from a wholesaler to a retailer.

“Wholesaler” has the same meaning as that term is defined in Section 34010.

With respect to marijuana and marijuana products, “sale” means the transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of marijuana or marijuana products to a retailer for a consideration, or a distribution without consideration.

6480.51. (a) At any time a wholesaler makes a distribution of marijuana or marijuana products in this state to a retailer, the wholesaler shall collect a prepayment of the retail sales tax, in the following manner:

When the distribution is a sale, the prepayment shall be based on the gross receipts derived from that sale of marijuana or those marijuana products.

If a cultivator or a manufacturer is also the retailer, the prepayment shall be based on the wholesale cost of the marijuana or marijuana products, as determined by the board.

If the wholesaler is not required to hold a seller's permit pursuant to this part, the prepayment shall be based on the wholesale cost, as determined by the board.

(b) (1) Each wholesaler shall report and pay the prepayment amounts to the board, in a form as prescribed by the board, in the period in which the marijuana or marijuana products are distributed. The prepayment amounts shall be collected by the wholesaler from the retailer to which the marijuana or marijuana products are distributed. Subject to any credit or refund due to the retailer, the prepayment amount is deemed to be public moneys that are the property of the State of California. The wholesaler required to collect and remit the prepayment amount shall hold the prepayment amount in trust for the state. The prepayment amount constitutes a debt owed by the wholesaler to this state until reported and paid to the board, until satisfactory proof has been submitted to prove that the retailer of the marijuana or marijuana products has paid the retail sales tax to the board, or until a wholesaler that has consumed the marijuana or marijuana products has paid the use tax to the board on the sales price, if applicable, of the amount consumed.

Each wholesaler shall provide the retailer with an invoice for, or other evidence of the collection of, the prepayment amounts, which shall be separately stated on the invoice.

Each wholesaler shall report to the board, in a form as prescribed by the board and for the period in which the marijuana and marijuana products were distributed, all of the following:

The amount of marijuana and marijuana products distributed, the gross receipts derived from any sale, or the wholesale cost, whichever is applicable, the amount of sales tax prepayments collected by the wholesaler, and any other information deemed necessary by the board.

If the amount of sales tax prepayments collected by the wholesaler is greater than the amount of sales tax prepayments made by the wholesaler, then subject to any credit or refund due to the retailer, the excess is deemed to be public moneys that are the property of the State of California. The wholesaler required to collect and remit the sales tax prepayment shall hold the amount of the excess in trust for the state. The excess constitutes a debt owed by the wholesaler to the state until reported and paid to the board, or until satisfactory proof has been submitted that the retailer of the marijuana or marijuana products has paid the tax to the board.

The amount of a prepayment paid by the retailer shall constitute a credit against its sales and use taxes due and payable for the period in which the retail sale was made. Failure of the wholesaler to report prepayments or a wholesaler's failure to comply with any other duty under this article shall not constitute grounds for denial of the credit to the retailer, either on a temporary or permanent basis or otherwise. To be entitled to the credit, the retailer shall retain for inspection by the board any receipts, invoices, or other documents showing the amount of sales tax prepaid to its wholesaler, together with the evidence of payment.

The rate of the prepayment required to be collected shall be the combined rate of tax imposed pursuant to this part, Part 1.5 (commencing with Section 7200), and Section 35 of Article XIII of the California Constitution on all sales of marijuana or marijuana products sold by wholesalers in this state.

6480.52. (a) If the board determines that it is necessary for the efficient administration of this part, the board may require a wholesaler to provide the board with a list of retailers to which the marijuana or marijuana products were distributed.

(b) In addition to any other reports required under this article, the board may, by rule and otherwise, require additional, other, or supplemental reports, in any form which the board may require, from wholesalers with respect to their distributions of marijuana or marijuana products, which shall include, but not be limited to, the name of the retailer to whom the marijuana or marijuana products was distributed, the retailer's license number issued pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26001) of the Business and Professions Code, a description of the product distributed, including the weight of the marijuana included in each distribution, the date of each sale or distribution, and any gross receipts derived from each sale of marijuana or marijuana product.

Any wholesaler that fails to comply with this section is guilty of a misdemeanor punishable as provided in Section 7153.

6480.53. The wholesaler shall file its prepayment form together with a remittance of the prepayment amounts, if any, required to be collected pursuant to Section 6480.51 payable to the board, on or before the last day of the month following the monthly period to which the prepayment form or each prepayment relates.

6480.54. (a) Any wholesaler that fails to make a timely remittance to the board of the prepayment amounts, if any, required pursuant to Sections 6480.51 and 6480.53 shall also pay a penalty of 10 percent of the amount of the prepayment due but not paid, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the prepayment became due and payable to the state until the date of payment.

(b) The penalty amount specified in subdivision (a) shall be 25 percent if the wholesaler knowingly or intentionally fails to make a timely remittance.

6480.55. (a) The following persons that have paid prepayment amounts either directly to the board or to the wholesaler from which the marijuana or marijuana products were purchased shall be refunded those amounts:

Any retailer that sells marijuana or marijuana products that are exempt from the sales or use tax pursuant to Section 6352 or 6381.

Any retailer that has lost the marijuana or marijuana products through fire, flood, theft, spoilage, or accident, prior to any retail sale.

Any retailer that has paid prepayment amounts on products exempted from the sales and use tax pursuant to Section 6369.6, when the prepayment amounts paid are in excess of the amount due and payable for the period in which the retail sale of those products was made.

(b) In lieu of a refund, the board may authorize a credit to be taken by the person to whom the refund is due upon his or her prepayment form or sales and use tax return.

6480.56. (a) The board may require any wholesaler subject to this article to place with the board any security that the board determines is necessary to ensure compliance with this article. The amount of the security shall be fixed by the board but shall not be greater than three times the estimated average liability of wholesalers required to file returns for monthly periods, determined in any manner that the

board deems proper, or five hundred thousand dollars (\$500,000), whichever amount is less. These amounts apply regardless of the type of security placed with the board. The amount of the security may be increased or decreased by the board subject to the maximum amounts.

(b) The board may sell the security at public auction if it becomes necessary to so do in order to recover any tax or any amount required to be collected or penalty due. Notice of the sale may be served upon the person that placed the security personally or by mail. If service is by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person's address as it appears in the records of the board. However, security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may be sold by the board at a private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amounts due shall be returned to the wholesaler that placed the security.

6480.57. A wholesaler that is not required to hold a seller's permit pursuant to this part shall register with the board on a form prescribed by the board and shall set forth the name under which the wholesaler transacts or intends to transact business, the location of the wholesaler's place or places of business, and other information as the board may require.

6480.58. This article shall become operative on July 1, 2018.

SEC. 4. Section 6592 of the Revenue and Taxation Code is amended to read:

6592. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the penalties provided by Sections 6476, 6477, 6479.3, 6480.4, 6480.8, 6480.54, 6511, 6565, 6591, 7051.2, 7073, and 7074.

(b) Except as provided in subdivision (c) any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

The board shall establish criteria that provides for efficient resolution of requests for relief pursuant to this section.

SEC. 5. Section 6901 of the Revenue and Taxation Code is amended to read:

6901. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. The excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors, if a determination by the board is made in any of the following cases:

Any amount of tax, interest, or penalty was not required to be paid.

Any amount of prepayment of sales tax, interest, or penalty paid pursuant to Article 1.5 (commencing with Section 6480) or Article 1.7 (commencing with Section 6480.50) of Chapter 5 was not required to be paid.

Any amount that is approved as a settlement pursuant to Section 7093.5.

Any overpayment of the use tax by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to Article 1 (commencing with Section 6201) of Chapter 3 shall be credited or refunded by the state to the purchaser. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 6. Section 34010 of the Revenue and Taxation Code is amended to read:

34010. For purposes of this part:

“Board” shall mean the State Board of Equalization or its successor agency.

“Bureau” shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.

“Tax Fund” means the California Marijuana Tax Fund created by Section 34018.

“Marijuana” shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medical cannabis.

“Marijuana products” shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.

“Marijuana flowers” shall mean the dried flowers of the marijuana plant as defined by the board.

“Marijuana leaves” shall mean all parts of the marijuana plant other than marijuana flowers that are sold or consumed.

“Gross receipts” shall have the same meaning as set forth in Section 6012.

“Retail sale” shall have the same meaning as set forth in Section 6007.

“Person” shall have the same meaning as set forth in Section 6005.

“Microbusiness” shall have the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.

“Nonprofit” shall have the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

“Wholesaler” shall mean a person that makes a distribution of marijuana or marijuana products. For purposes of this subdivision and for the imposition of marijuana excise taxes pursuant to this part, “distribution” shall mean sale or delivery of marijuana or marijuana products from a wholesaler to a retailer.

SEC. 7. Section 34011 of the Revenue and Taxation Code is amended to read:

34011. (a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of 15 percent of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10

(commencing with Section 26000) of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.

(b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if nonitemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.

A dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.

The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

SEC. 8. Section 34011.51 is added to the Revenue and Taxation Code, to read:

34011.51. (a) For purposes of the imposition of the prepayment of marijuana excise tax pursuant to this part:

“Arm’s length transaction” is defined as a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies, or partners is presumed not to be made at “arm’s length.”

“Retailer” means a dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code, or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, to sell marijuana or marijuana products directly to a purchaser.

“Sale” means the transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of marijuana or marijuana products to a retailer for a consideration.

(b) At any time that marijuana or marijuana products are distributed to a retailer in this state, the wholesaler shall collect a prepayment of the marijuana excise tax as follows:

When the distribution is a sale, the prepayment shall be based on the gross receipts derived from the sale of marijuana or marijuana products to that retailer in an arm's length transaction.

If a cultivator or a manufacturer is also the retailer, the prepayment shall be based on the wholesale cost of the marijuana and marijuana products, as determined by the board.

Each wholesaler shall report and pay the prepayment amounts to the board, in a form as prescribed by the board, in the period in which the marijuana or marijuana products are distributed. The prepayment amounts shall be collected by the wholesaler from the retailer to which the marijuana or marijuana products are distributed.

Subject to any credit or refund due to the retailer, prepayment amount is deemed to be public moneys that are the property of the State of California and shall be used for the purposes set forth in Sections 34018 and 34019. The wholesaler required to collect and remit the prepayment amount shall hold the prepayment amount in trust for these purposes. The prepayment amount constitutes a debt owed by the wholesaler to this state until reported and paid to the board, or until satisfactory proof has been submitted to prove that the retailer of the marijuana or marijuana products has paid the marijuana excise tax to the board.

Each wholesaler shall provide the retailer with an invoice for, or other evidence of the collection of, the prepayment amounts, which shall be separately stated thereon.

Each wholesaler shall report to the board, using electronic media, for the period in which the marijuana and marijuana products were distributed, all of the following:

The amount of marijuana and marijuana products distributed, the gross receipts derived from the sale or wholesale cost, the amount of marijuana excise tax prepayments collected by the wholesaler, and any other information deemed necessary by the board.

If the amount of marijuana excise tax prepayments collected by the wholesaler is greater than the amount of marijuana excise tax prepayments made by the wholesaler, then subject to any credit or refund due to the retailer, the excess is deemed to be public moneys that are the property of the State of California and shall be used for the purposes set forth in Sections 34018 and 34019. The wholesaler required to collect and remit the marijuana excise tax prepayments shall hold the excess in trust for these purposes. The excess constitutes a debt owed by the wholesaler to the state until reported and paid to the board, or until satisfactory proof has been submitted that the retailer of the marijuana or marijuana products has paid the tax to the board.

The amount of a prepayment paid by the retailer shall constitute a credit against its marijuana excise taxes due and payable for the period in which the sale was made. Failure of the wholesaler to report prepayments or a wholesaler's failure to comply with any other duty under this part shall not constitute grounds for denial of the credit to the retailer, either on a temporary or permanent basis or otherwise. To be entitled to the credit, the retailer shall retain for inspection by the board any receipts, invoices, or other documents showing the amount of marijuana excise tax prepaid to its wholesaler, together with the evidence of payment.

The rate of the prepayment required to be collected shall be ____ on the gross receipts or wholesale cost of the marijuana or marijuana products distributed to a retailer by a wholesaler in this state.

(A) In the case where a wholesaler does not make a sale to a dispensary at the time of distribution, the wholesaler shall maintain a copy of the contract provided in paragraph (3) of subdivision (c) of Section 19326 of the Business and Professions Code, or other information deemed necessary by the board, indicating the price and quantity of marijuana or marijuana products to be sold and any other information deemed necessary by the board.

In the case of a person with a Type 10A, or producing dispensary, license or other person required to be licensed under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26001) of the Business and Professions Code where the cultivator or manufacturer and dispensary or retailer to whom the marijuana or marijuana product is distributed are the same person, a wholesaler shall maintain any information deemed necessary by the board to ascertain wholesale cost.

Returns or reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the prepayment of marijuana excise tax is paid by stamp or other marking pursuant to Section 34011.57, the board may by regulation determine when and how the tax shall be paid.

This section shall become operative on July 1, 2018.

SEC. 9. Section 34011.52 is added to the Revenue and Taxation Code, to read:

34011.52. (a) If the board determines that it is necessary for the efficient administration of this part, the board may require a wholesaler to provide the board with a list of purchasers to which the marijuana or marijuana products were sold.

(b) In addition to any other reports required under this part, the board may, by rule and otherwise, require additional, other, or supplemental reports, in any form which the board may require, from wholesalers with respect to their distribution of marijuana or marijuana products to a retailer, which shall include, but not be limited to, the name of the purchaser, the number of the purchaser's license issued pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code, a description of the product distributed, including the date of each distribution, and the wholesale cost or gross receipts derived from each sale of marijuana or marijuana products.

Any wholesaler that fails to comply with this section is guilty of a misdemeanor punishable as provided in subdivision (e) of Section 34016.

This section shall become operative on July 1, 2018.

SEC. 10. Section 34011.53 is added to the Revenue and Taxation Code, to read:

34011.53. (a) The wholesaler shall file its prepayment form together with a remittance of the prepayment amounts, if any, required to be collected pursuant to Section 34011.51 payable to the State Board of Equalization, on or before the last day of the month following the monthly period to which the prepayment form or each prepayment relates.

(b) This section shall become operative on July 1, 2018.

SEC. 11. Section 34011.54 is added to the Revenue and Taxation Code, to read:

34011.54. (a) Any wholesaler that fails to make a timely remittance to the board of the prepayment amounts, if any, required pursuant to Sections 34011.51 and 34011.53 shall also pay a penalty of 10 percent of the amount of the prepayment due but not paid, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the prepayment became due and payable to the state until the date of payment.

(b) The penalty amount specified in subdivision (a) shall be 25 percent if the wholesaler knowingly or intentionally fails to make a timely remittance.

The board may relieve the penalty imposed by this section in accordance with Section 55044.

This section shall become operative on July 1, 2018.

SEC. 12. Section 34011.55 is added to the Revenue and Taxation Code, to read:

34011.55. (a) Any person that has paid prepayment amounts either directly to the board or to the person from which the marijuana or marijuana products were distributed shall be refunded those amounts with respect to marijuana or marijuana products lost through fire, flood, theft, spoilage, or accident, prior to any retail sale.

(b) In lieu of a refund, the board may authorize a credit to be taken by the person to whom the refund is due upon his or her prepayment form or marijuana excise tax return.

This section shall become operative on July 1, 2018.

SEC. 13. Section 34011.56 is added to the Revenue and Taxation Code, to read:

34011.56. (a) The board may require any wholesaler subject to this part to place with the board any security that the board determines is necessary to ensure compliance with this part. The amount of the security shall be fixed by the board but shall not be greater than three times the estimated average liability of wholesalers required to file returns for monthly periods, determined in any manner that the board deems proper, or five hundred thousand dollars (\$500,000), whichever amount is less. These amounts apply regardless of the type of security placed with the board. The amount of the security may be increased or decreased by the board subject to the maximum amounts.

(b) The board may sell the security at public auction if it becomes necessary to so do in order to recover any tax or any amount required to be collected or penalty due. Notice of the sale may be served upon the person that placed the security personally or by mail. If service is by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person's address as it appears in the records of the board. However, security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may be sold by the board at a private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amounts due shall be returned to the wholesaler that placed the security.

This section shall become operative on July 1, 2018.

SEC. 14. Section 34011.57 is added to the Revenue and Taxation Code, to read:

34011.57. The board may prescribe by regulation a method and manner for prepayment of the marijuana excise tax that utilizes tax stamps or other markings that indicate that all required tax has been paid on the product to which the tax stamp or marking is affixed.

SEC. 15. Section 34012 of the Revenue and Taxation Code is amended to read:

34012. (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code. The tax shall be due after the marijuana is harvested.

The tax for marijuana flowers shall be nine dollars and twenty-five cents (\$9.25) per dry-weight ounce.

The tax for marijuana leaves shall be set at two dollars and seventy-five cents (\$2.75) per dry-weight ounce.

(b) The board may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.

The board may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.

The board may prescribe the following by regulation:

A method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.

A method and manner for collection and remittance of the cultivation tax by wholesalers.

Subject to any credit or refund due to the cultivator all sums of money paid by a person as the cultivation tax are public moneys that are the property of the State of California and shall be used for the purposes set forth in Sections 34018 and 34019. The wholesaler required to collect and remit the cultivation tax shall hold the cultivation tax in trust for these purposes. The collected cultivation tax constitutes a debt owed to the state until reported and paid to the board, or until satisfactory proof has been submitted that the cultivator has paid the cultivation tax to the board. A wholesaler that has collected any amount of cultivation tax in excess of the amount of the cultivation tax actually due from a cultivator, may refund that overpayment to the cultivator, even though the overpayment has already been paid over to the board and a corresponding credit or refund has not yet been secured. The wholesaler may claim a credit for that overpayment against the amount of cultivation tax due upon any other quarterly return, if the credit is claimed in a return dated no later than three years from the date of overpayment.

Every cultivator in this state is liable for the cultivation tax until it has been paid to this state, except that payment to a wholesaler with a permit issued under this part is sufficient to relieve the cultivator from further liability for the tax. Any cultivation

tax collected from a cultivator that has not been remitted to the board shall be deemed public moneys that are the property of the State of California. The collected tax constitutes a debt owed to the state by the wholesaler until reported and paid to the board. Nothing in this part shall impose any obligation upon a wholesaler to take any legal action to enforce the collection of the cultivation tax. The wholesaler shall provide the board with amounts uncollected which total ____ dollars (\$____) or more on a cumulative basis with respect to a single cultivator along with the names, addresses, and reasons of the cultivators refusing to pay the cultivation tax.

The tax required to be collected by the wholesaler from the cultivator shall be stated separately from the price or value of the harvested marijuana on the invoice or other price or value displayed on any proof of sales or documentation of a transaction.

The tax stamps and product bags shall be of the designs, specifications, and denominations as may be prescribed by the board and may be purchased by any licensee under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or under Division 10 (commencing with Section 26000) of the Business and Professions Code.

Subsequent to the establishment of a tax stamp program, the board may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.

Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code shall be responsible for payment of the tax pursuant to regulations adopted by the board. No marijuana may be sold unless the tax has been paid as provided in this part.

All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to marijuana cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code).

Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

SEC. 16. Section 34013 of the Revenue and Taxation Code is amended to read:

34013. (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.

(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.

The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer, and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

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

The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

SEC. 16. Section 34013 of the Revenue and Taxation Code is amended to read:

34013. (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.

(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.

The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer, and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

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

The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

SEC. 17. Section 34013.1 is added to the Revenue and Taxation Code, to read:

34013.1. The board shall create a Criminal Cannabis Enforcement Team for the purpose of combating criminal tax evasion associated with marijuana, marijuana products, and marijuana accessories, as those terms are defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, that may include, but not be limited to, representatives from the following:

(a) The board.

(b) The Franchise Tax Board.

(c) Employment Development Department.

(d) State licensing authorities under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code.

SEC. 19. SEC. 17. Section 34014 of the Revenue and Taxation Code is amended to read:

34014. (a) All persons required to be licensed involved in the cultivation, retail sale, or distribution of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness, distributor, or nonprofit pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

(b) The board may require every licensed dispensary, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on marijuana produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation has been properly prepared, executed, and submitted under this part.

In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

SEC. 20. SEC. 18. Section 34014.1 is added to the Revenue and Taxation Code, to read:

34014.1. (a) The board shall issue a permit to a cultivator, retailer, or wholesaler upon receipt of a completed application and any security required by the board, unless any of the following apply:

The cultivator, retailer, or wholesaler, or if the cultivator, retailer, or wholesaler is not an individual, any person controlling the cultivator, retailer, or wholesaler, has previously been issued a permit that is suspended or revoked by the board for violation of any of the provisions of this division.

The cultivator's, retailer's, or wholesaler's permit was revoked or is subject to revocation proceedings for violation of any of the provisions of this division, unless it has been more than five years since a previous permit for the cultivator, retailer, or wholesaler was revoked.

The cultivator, retailer, or wholesaler is applying for a permit for a premises or business that is the same as that of a cultivator, retailer, or wholesaler whose license was revoked or is subject to revocation proceedings for violation of any of the provisions of this part, unless the person applying for the permit provides the board with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction. For purposes of this section, an "arm's length transaction" is defined as a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies, or partners, or a sale for the primary

purpose of avoiding the effect of the violations of this division that occurred at the cultivator or retailer location, is presumed not to be made at “arm’s length.”

The cultivator, retailer, or wholesaler, or if the cultivator, retailer, or wholesaler is not an individual, any person controlling the cultivator, retailer, or wholesaler, has been convicted of a felony pursuant to Section 34016.1 or 34016.13.

The cultivator, retailer, or wholesaler does not possess all required permits or licenses required under this code.

(b) (1) Any cultivator, retailer, or wholesaler who is denied a permit may petition for a redetermination of the board’s denial of the permit within 30 days after service upon that cultivator, retailer, or wholesaler, of the notice of the denial of the permit. If a petition for redetermination is not filed within the 30-day period, the determination of denial becomes final at the expiration of the 30-day period.

Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at any time prior to the date on which the board issues its order or decision upon the petition for redetermination.

If the petition for redetermination is filed within the 30-day period, the board shall reconsider the determination of the denial and, if the cultivator, retailer, or wholesaler has so requested in the petition, shall grant the cultivator, retailer, or wholesaler an oral hearing and shall give the cultivator, retailer, or wholesaler at least 10 days’ notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

The order or decision of the board upon a petition for redetermination becomes final 30 days after mailing of notice thereof.

SEC. 21. SEC. 19. Section 34015 of the Revenue and Taxation Code is amended to read:

34015. (a) The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp or remitted by the wholesaler pursuant to subdivision (d) of Section 34012 the board may by regulation determine when and how the tax shall be paid.

(b) The board may require every person engaged in the cultivation, distribution, or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person’s inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

SEC. 22. SEC. 20. Section 34016 of the Revenue and Taxation Code is amended to read:

34016. (a) Any peace officer or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

Inspections shall be requested or conducted no more than once in a 24-hour period.

(b) Any person who fails or refuses to allow an inspection shall be guilty of a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.

Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.

Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

Any person required to make, render, sign, or verify any return or report who makes any false or fraudulent return or report with intent to defeat or evade the determination required by law to be made is guilty of a misdemeanor. The person shall for each offense be fined not less than three hundred dollars (\$300) and not more than five thousand dollars (\$5,000), or be imprisoned for not exceeding one year in the county jail, or be subject to both fine and imprisonment, in the discretion of the court.

SEC. 23. SEC. 21. Section 34016.05 is added to the Revenue and Taxation Code, to read:

34016.05. Any person who fails or refuses to file any report required to be made or who fails or refuses to furnish a supplemental report or other data required by the board is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

SEC. 24. SEC. 22. Section 34016.1 is added to the Revenue and Taxation Code, to read:

34016.1. (a) Any person who falsely or fraudulently makes, forges, alters, reuses, or counterfeits any evidence of the cultivation tax or marijuana excise tax imposed by this part, or tampers with any metering machine authorized by regulation under this part, or causes or procures to be falsely or fraudulently made, forged, altered, reused, or counterfeited, any such evidence of the cultivation tax or marijuana excise tax or knowingly and willfully utters, publishes, passes, or tenders as genuine any such false, forged, altered, reused, or counterfeited evidence of the cultivation tax or marijuana excise tax, for the purpose of evading the taxes imposed by this part, is guilty of a felony and subject to imprisonment for two, three, or four years, or to a fine of not less than one thousand dollars (\$1,000) and not more than twenty-five thousand dollars (\$25,000), or to both fine and imprisonment.

(b) Any person who possesses, sells or offers to sell, or buys or offers to buy, any false or fraudulent evidence of the cultivation tax or marijuana excise tax imposed by this part in a dollar amount of less than ____ dollars (\$____) is guilty of a misdemeanor, punishable by a fine not to exceed five thousand dollars (\$5,000) or imprisonment not exceeding one year in a county jail, or by both the fine and imprisonment.

Any person who possesses, sells or offers to sell, or buys or offers to buy, any false or fraudulent evidence of the cultivation tax or marijuana excise tax imposed by this part in a dollar amount of ____ dollars (\$____) or greater, is guilty of a misdemeanor, punishable by a fine not to exceed fifty thousand dollars (\$50,000) or imprisonment not exceeding one year in a county jail, or by both the fine and imprisonment.

The board shall destroy any evidence of the cultivation tax or marijuana excise tax seized under this section.

SEC. 25. SEC. 23. Section 34016.11 is added to the Revenue and Taxation Code, to read:

34016.11. (a) Any person who knowingly possesses, or keeps, stores, or retains for the purpose of sale, or sells or offers to sell, any marijuana flowers, marijuana leaves, marijuana, marijuana products, and any other product subject to tax under this part to which there is no evidence of the cultivation tax or marijuana excise tax authorized to be made upon secure packaging under this part, or on which tax is due but has not been paid, when those products have been obtained from any source whatever, is guilty of a misdemeanor and shall for each offense be fined an amount not to exceed twenty-five thousand dollars (\$25,000), or be imprisoned for a period not to exceed one year in the county jail, or, at the discretion of the court, be subject to both fine and imprisonment in the county jail.

(b) This section shall not apply to a permitted cultivator that possesses, keeps, stores, or retains marijuana flowers, marijuana leaves, or any other product subject to tax pursuant to Section 34012 before the necessary evidence of cultivation tax is affixed.

SEC. 26. SEC. 24. Section 34016.12 is added to the Revenue and Taxation Code, to read:

34016.12. If any cultivator, retailer, or wholesaler is convicted under any provision of this part, the board shall revoke all permits issued to that person under the Sales and Use Tax Law (Part 1 (commencing with Section 6001)).

SEC. 27. SEC. 25. Section 34016.13 is added to the Revenue and Taxation Code, to read:

34016.13. Notwithstanding any other provision of this part, any person who violates this part with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a felony when the amount of tax liability aggregates twenty-five thousand dollars (\$25,000) or more in

any 12-consecutive-month period. The determination shall be approved by the executive director or his or her designee. Each offense shall be punished by a fine of not less than five thousand dollars (\$5,000) and not more than twenty thousand dollars (\$20,000), or imprisonment for 16 months, two years, or three years, or by both the fine and imprisonment in the discretion of the court.

SEC. 28. SEC. 26. Section 34016.14 is added to the Revenue and Taxation Code, to read:

34016.14. Any person convicted of a crime under this part may be charged the costs of investigation and prosecution at the discretion of the court.

SEC. 29. SEC. 27. Section 34016.15 is added to the Revenue and Taxation Code, to read:

34016.15. (a) (1) Restitution orders or any other amounts imposed by a court of competent jurisdiction for criminal offenses upon a person or any other entity that are due and payable to the board may be collected by the board in any manner provided by law for collection of a delinquent cultivation tax or marijuana excise tax liability, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

Amounts imposed by a court of competent jurisdiction as an order of restitution for criminal offenses shall be treated as final and due and payable to the State of California on the date that amount is established on the records of the board.

(b) This part shall apply to amounts collected under this section in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this section, except to the extent that any provision is either inconsistent with this section or is not relevant to this section.

Notwithstanding Chapter 5 (commencing with Section 55221) of Part 30, a refund or credit shall not be allowed for any amounts paid or payments applied under this section.

Amounts authorized to be collected pursuant to this section may accrue interest at the greater of the rate applicable to the amounts being collected or the rate provided under Section 6591.5 from and after the date the amounts are established on the records of the board.

Amounts authorized to be collected pursuant to this section shall not be subject to any statute of limitations set forth in Section 55365.

Notwithstanding Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code, any portion of the amounts authorized to be collected under this section that remain unsatisfied may be collected by the recording of a notice of state tax lien. The board may record or extend a recorded notice of state tax lien at any time until the amount due, including any accrued interest, is paid in full.

SEC. 30. SEC. 28. Section 34018 of the Revenue and Taxation Code is amended to read:

34018. (a) The California Marijuana Tax Fund is hereby created in the State Treasury. All taxes, interest, penalties, and other amounts collected and paid, or otherwise remitted, to the board pursuant to this part, less payment of refunds, shall be credited to the Tax Fund.

(b) Notwithstanding any other law, the California Marijuana Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.

Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered “moneys” for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

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SEC. 31. Section 34019 of the Revenue and Taxation Code is amended to read:

34019.(a) Beginning with fiscal year 2017–2018 the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part, including enforcement activity costs incurred by the board through participation in the Cannabis Criminal Enforcement Team as that participation relates to the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

(2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022–2023.

(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

(7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 (commencing with Section 19300) of Division 8 and Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018–2019 until fiscal year 2028–2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.

(2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.

(3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.

(4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.

(5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

(9)Environmental issues related to marijuana production and the criminal prohibition of marijuana production.

(10)The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11)The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.

(c)The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018–2019 until fiscal year 2022–2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

(d)The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning fiscal year 2018–2019 and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until fiscal year 2022–2023, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor’s Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e)The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

(f)By July 15 of each fiscal year beginning in fiscal year 2018–2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1)Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into

interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, fostercare providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders.

(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I) Construction of community-based youth treatment facilities.

(J)The departments may contract with each county behavioral health program for the provision of services.

(K)Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments or submitted reports prepared by the applicable county to demonstrate and validate need.

(L)The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M)The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.

(N)If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O)The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2)Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A)To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B)To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

(C)To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D)For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E)Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3)Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A)To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B)To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.

(C)To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D)For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022–2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before fiscal year 2022–2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g)Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h)Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027–2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

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

SEC. 33. SEC. 30. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act (Act) by providing the State Board of Equalization with the authority and resources necessary to collect the taxes imposed by the Act and thereby protecting the Act's anticipated funding for education, public health programs, law enforcement training, environmental cleanup, and marijuana business licensing. By providing the board with the authority and resources, this act will simplify compliance with the Act's tax laws, arrest sales of marijuana by criminal operations, level the playing field for marijuana businesses complying with the laws, prevent marijuana businesses from going underground, and further the Act's purposes of curbing illegal growing, distribution, and retail sales of marijuana, while also driving out the illicit market.

ASSEMBLY BILL No. 1002

Introduced by Assembly Member Cooley

(Principal coauthor: Assembly Member Lackey)

February 16, 2017

Bill Text:

SECTION 1. Section 2525.1 of the Business and Professions Code is amended to read:

2525.1. The Medical Board of California shall consult with the Center for Cannabis Research, California Cannabis Research Program, authorized pursuant to Section 11362.9 of the Health and Safety Code, on developing and adopting medical guidelines for the appropriate administration and use of medical cannabis.

SEC. 2. Section 19354 of the Business and Professions Code is amended to read:

19354. The bureau shall contract with the Center for Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, to develop a study that identifies the impact that cannabis has on motor skills.

SEC. 3. Section 11362.9 of the Health and Safety Code is amended to read:

11362.9.(a)(1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering marijuana, its naturally occurring constituents, and synthetic compounds that have effects similar to naturally occurring cannabinoids, as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the Center for Cannabis Research.

(2)The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of marijuana and, if found valuable, shall develop medical guidelines for the appropriate administration and use of marijuana. The studies may include studies to ascertain the effect of marijuana on motor skills and other behavioral and health outcomes.

(b)The program may immediately solicit proposals for research projects to be included in the marijuana studies. Program requirements to be used when evaluating responses to its solicitation for proposals shall include, but not be limited to, all of the following:

(1)Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding marijuana's general medical efficacy and safety.

(2)Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on marijuana.

(3)Proposals shall contain provisions for a patient registry.

(4)Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

(5)Proposals shall contain protocols suitable for research on marijuana, addressing patients diagnosed with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

(6)Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of marijuana.

(7)Proposals shall demonstrate the use of a laboratory capable of analyzing marijuana, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

(c)In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

(1)The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

(2)Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

(d)If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

(e)It is the intent of the Legislature that the program be established as follows:

(1)The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and laboratory facilities for detection and analysis of various naturally occurring and synthetic cannabinoids, as well as storage of specimens.

(2)When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.

(3)The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.

(4)The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.

(5)The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.

(f)All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.

(g)Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, marijuana. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.

(h)The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.

(i)The marijuana studies shall employ state-of-the-art research methodologies.

(j)The program shall ensure that all marijuana used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply marijuana for authorized research. If these federal agencies fail to provide a

supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

(k)The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

(l)(1)To enhance understanding of the efficacy and adverse effects of marijuana as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of marijuana in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of marijuana as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of marijuana, or synthetic compounds that simulate the effects of naturally occurring cannabinoids. The studies may also focus on examining testing methods for detecting harmful contaminants in marijuana, including, but not limited to, mold, bacteria, and mycotoxins that could cause harm to patients.

(2)The program shall examine the safety of marijuana in patients with various medical disorders, including marijuana's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

(3)The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of marijuana as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of marijuana.

(m)(1)Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.

(2)If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

(n)In order to maximize the scope and size of the marijuana studies, the program may do any of the following:

(1)Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the marijuana studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.

(2)Include within the scope of the marijuana studies other marijuana research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of marijuana as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of marijuana and that he or she will have no control over the use of these funds.

(o)The program may cultivate cannabis to be used exclusively for research purposes and may contract with a private entity to provide expertise in cultivating medical cannabis. Any program associated with the Center for Cannabis Research in cannabis cultivation shall be compliant with federal regulations governing cannabis manufacture.

(p)(1)By July 1, 2018, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the marijuana studies.

(2)Thereafter, the program shall issue a report to the Legislature every year detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:

(A)The names and number of diseases or conditions under study.

(B)The number of patients enrolled in each study by disease.

(C)Any scientifically valid preliminary findings.

(q)If the Regents of the University of California implement this section, the President of the University of California, on advice of the director of the program, shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

(r)No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section.

(s)In addition to the studies conducted pursuant to subdivision (a), it is the intent of the Legislature that the state commission objective scientific research by the University of California under the program to study the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), including all of the issues specified in subdivision (b) of Section 34019 of the Revenue and Taxation Code.

(t)This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature.

SEC. 4.Section 34019 of the Revenue and Taxation Code is amended to read:

34019.(a)Beginning with the 2017–18 fiscal year, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

(1)Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

(2)Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering,

and enforcing Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. This paragraph shall remain operative through the 2022–23 fiscal year.

(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(6) Reasonable costs incurred by the Legislative Analyst’s Office for performing duties imposed by Section 34017.

(7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 (commencing with Section 19300) of Division 8 and Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with the 2018–19 fiscal year until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded and shall consider selecting, among other public universities, the University of California and the Center for Cannabis Research authorized pursuant to Section 11362.9 of the Health and Safety Code as a recipient for those funds. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.

(2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.

(3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.

(4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.

(5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short- and long-term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

(9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production.

(10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning with the 2018–19 fiscal year and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor’s Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately

affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e)The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Cannabis Research to further the objectives of the center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

(f)By July 15 of each fiscal year beginning in the 2018–19 fiscal year the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into subtrust accounts, which are hereby created, as follows:

(1)Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A)Prevention and early intervention services including outreach, risk survey, and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B)Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C)Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.

(D)Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E)Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral

health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication, and psychotherapy. When indicated, referrals must be made to other providers.

(F)To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers, and all their children.

(G)Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use, including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H)Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I)Construction of community-based youth treatment facilities.

(J)The departments may contract with each county behavioral health program for the provision of services.

(K)Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments, or submitted reports prepared by the applicable county to demonstrate and validate need.

(L)The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M)The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation, and oversight of the programs.

(N)If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O)The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2)Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A)To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana

cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B)To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale, and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

(C)To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D)For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E)Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3)Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A)To the Department of the California Highway Patrol for conducting training programs for detecting, testing, and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B)To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.

(C)To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health

and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D)For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before the 2022–23 fiscal year pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g)Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h)Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027–28. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

SEC. 2. Section 11362.9 of the Health and Safety Code is amended to read:

11362.9. (a) (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering cannabis cannabis, its naturally occurring constituents, and synthetic compounds that have effects similar to naturally occurring cannabinoids, as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California Cannabis Research Program. Whenever “California Marijuana Research Program” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the California Cannabis Research Program.

The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of cannabis and, if found valuable, shall develop medical guidelines for the appropriate administration and use of cannabis. The studies may include studies to ascertain the effect of cannabis on motor skills. skills and other behavioral and health outcomes.

(b) The program may immediately solicit proposals for research projects to be included in the cannabis studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding cannabis’ general medical efficacy and safety.

Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on cannabis.

Proposals shall contain provisions for a patient registry.

Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

Proposals shall contain protocols suitable for research on cannabis, addressing patients diagnosed with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of cannabis.

Proposals shall demonstrate the use of a laboratory capable of analyzing cannabis, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

It is the intent of the Legislature that the program be established as follows:

The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for laboratory facilities for detection and analysis of various naturally occurring and synthetic cannabinoids, as well as storage of specimens.

When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.

The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.

The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.

The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.

All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.

Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, cannabis. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.

The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.

The cannabis studies shall employ state-of-the-art research methodologies.

The program shall ensure that all cannabis used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply cannabis for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

To enhance understanding of the efficacy and adverse effects of cannabis as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of cannabis in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of cannabis as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of cannabis. cannabis, or synthetic compounds that simulate the effects of naturally occurring cannabinoids. The studies may also focus on

examining testing methods for detecting harmful contaminants in cannabis, including, but not limited to, mold, bacteria, and mycotoxins that could cause harm to patients.

The program shall examine the safety of cannabis in patients with various medical disorders, including cannabis's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of cannabis as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of cannabis.

Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.

If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

In order to maximize the scope and size of the cannabis studies, the program may do any of the following:

Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the cannabis studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.

Include within the scope of the cannabis studies other cannabis research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of cannabis as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of cannabis and that he or she will have no control over the use of these funds.

The program may cultivate cannabis to be used exclusively for research purposes and may contract with a private entity to provide expertise in cultivating medical cannabis. Any program associated with the California Cannabis Research Program in cannabis cultivation shall be compliant with the federal regulations governing cannabis manufacture.

(o)

Within six months of the effective date of this section, By July 1, 2018, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the cannabis studies.

Thereafter, the program shall issue a report to the Legislature every six months year detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:

The names and number of diseases or conditions under study.

The number of patients enrolled in each study by disease.

Any scientifically valid preliminary findings.

(p)

If the Regents of the University of California implement this section, the President of the University of California California, on advice of the director of the program, shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

(q)

No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section.

In addition to the studies conducted pursuant to subdivision (a), it is the intent of the Legislature that the state commission objective scientific research by the University of California under the program to study the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), including all of the issues specified in subdivision (b) of Section 34019 of the Revenue and Taxation Code.

(r)

This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act. Legislature.

SEC. 3. Section 34019 of the Revenue and Taxation Code is amended to read:

34019. (a) Beginning with the 2017–18 fiscal year, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code. This paragraph shall remain operative through the 2022–23 fiscal year.

Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective

duties under Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

Reasonable costs incurred by the Department of Finance for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code.

The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with the 2018–19 fiscal year until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. funded and shall consider selecting, among other public universities, the University of California and the California Cannabis Research Program authorized pursuant to Section 11362.9 of the Health and Safety Code as a recipient of those funds. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

Impacts on public health, including health costs associated with cannabis use, as well as whether cannabis use is associated with an increase or decrease in use of alcohol or other drugs.

The impact of treatment for maladaptive cannabis use and the effectiveness of different treatment programs.

Public safety issues related to cannabis use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of cannabis and cannabis products, and studying the health-related effects among users of varying potency levels of cannabis and cannabis products.

Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis rates of cannabis-related substance use disorders.

Cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax cannabis based on potency, and the structure and function of licensed cannabis businesses.

Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the adult-use cannabis industry and, if so, recommendations as to the most effective measures for preventing such behavior.

The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term short- and long-term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

Environmental issues related to cannabis production and the criminal prohibition of cannabis production.

The geographic location, structure, and function of licensed cannabis businesses, and demographic data, including race, ethnicity, and gender, of license holders.

The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for cannabis-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of cannabis or cannabis products to a more serious offense.

The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products.

The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning with the 2018–19 fiscal year and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor’s Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the

grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center, including the enhanced understanding of the efficacy and adverse effects of cannabis as a pharmacological agent.

By July 15 of each fiscal year beginning in the 2018–19 fiscal year, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust subtrust accounts, which are hereby created, as follows:

Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

Prevention and early intervention services including outreach, risk survey survey, and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, fostercare foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.

Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management,

overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other cooccurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication medication, and psychotherapy. When indicated, referrals must be made to other providers.

To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers caregivers, and all their children.

Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use use, including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

Construction of community-based youth treatment facilities.

The departments may contract with each county behavioral health program for the provision of services.

Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments, or submitted reports prepared by the applicable county to demonstrate and validate need.

The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation, and oversight of the programs.

If the Department of Finance ever determines that funding pursuant to cannabis taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by cannabis cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale, and use of cannabis and cannabis products on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal cultivation, production, sale, and use of cannabis or cannabis products on public lands.

To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of cannabis cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

To the Department of the California Highway Patrol for conducting training programs for detecting, testing testing, and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of cannabis. The department may hire personnel to conduct the training programs specified in this subparagraph.

To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving

under the influence of alcohol and other drugs, including cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis.

To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of cannabis or cannabis products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before the 2022–23 fiscal year pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in the 2027–28 fiscal year. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

SEC. 5. **SEC. 4.** The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act for the following reason:

This act facilitates the Bureau of Marijuana Control’s ability to select a public university capable of researching the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act.

ASSEMBLY BILL No. 1090

Introduced by Assembly Member Cunningham

(Coauthors: Assembly Members Chávez, Quirk-Silva, and Voepel)

(Coauthors: Senators Fuller and Morrell)

February 17, 2017

Bill Text

SECTION 1. Section 11362.3 of the Health and Safety Code is amended to read:

11362.3. (a) Section 11362.1 does not permit any person to:

Smoke or ingest cannabis or cannabis products in a public place, except in accordance with Section 26200 of the Business and Professions Code.

Smoke cannabis or cannabis products in a location where smoking tobacco is prohibited.

Smoke cannabis or cannabis products within 1,000 feet of a school, day care center, or youth center while children are present at the school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of the school, day care center, or youth center while children are present.

Possess an open container or open package of cannabis or cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

Possess, smoke, or ingest cannabis or cannabis products in or upon the grounds of a school, day care center, or youth center while children are present. center.

Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Division 10 (commencing with Section 26000) of the Business and Professions Code.

Smoke or ingest cannabis or cannabis products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

Smoke or ingest cannabis or cannabis products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under 21 years of age are present.

(b) For purposes of this section, the following definitions apply:

“Day care center” has the same meaning as in Section 1596.76.

“Smoke” means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated cannabis or cannabis product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoke” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

“Volatile solvent” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

“Youth center” has the same meaning as in Section 11353.1.

Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

SECTION 1. Section 11362.3 of the Health and Safety Code is amended to read:

11362.3.(a) Nothing in Section 11362.1 shall be construed to permit any person to:

(1) Smoke or ingest marijuana or marijuana products in any public place, except in accordance with Section 26200 of the Business and Professions Code.

(2) Smoke marijuana or marijuana products in a location where smoking tobacco is prohibited.

(3) Smoke marijuana or marijuana products within 1,000 feet of a school, day care center, or youth center while children are present at such a school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of, or Chapter 3.5 (commencing with Section 19300) of Division 8 of, the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present.

(4) Possess an open container or open package of marijuana or marijuana products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(5) Possess, smoke, or ingest marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center.

(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Chapter 3.5 (commencing with Section 19300) of Division 8 of, or Division 10 of, the Business and Professions Code.

(7) Smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(8) Smoke or ingest marijuana or marijuana products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under 21 years of age are present.

(b) For purposes of this section, “day care center” has the same meaning as in Section 1596.76.

(c) For purposes of this section, “smoke” means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoke” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(d)For purposes of this section, “volatile solvent” means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O2 or H2; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Trichloro-ethylene.

(e)For purposes of this section, “youth center” has the same meaning as in Section 11353.1.

(f)Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

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

ASSEMBLY BILL 1096

Introduced by Assembly Member Gray

February 17, 2017

Bill Text:

SECTION 1. Section 19605.25 of the Business and Professions Code is amended to read:

19605.25. (a) The California Horse Racing Board board may approve an additional 15 minisatellite wagering sites in each zone, if all of the following conditions are met:

No site is within 20 miles of a racetrack, a satellite wagering facility, or a tribal casino that has a satellite wagering facility. If the proposed minisatellite wagering facility is within 20 miles of one of the above-referenced satellite facilities, then the consent of each facility within a 20-mile radius must be given before the proposed minisatellite wagering facility may be approved by the board.

An agreement in accordance with subdivision (a) of Section 19605.3 has been executed and approved by the board. In addition to the requirements set forth in that provision, the agreement shall specify which components of its racing program, including live, out-of-zone, out-of-state, and out-of-country races, an association or fair will make available to the site. The terms and condition conditions of the agreement, including all fees payable pursuant to paragraph (3) of that provision, a portion of which may be paid to horsemen in the form of purses, shall be subject to the approval of the horsemen’s organization responsible for negotiating purse agreements with the association or fair.

The site is approved by the board.

The wagers are accepted in an area that is accessible only to those who are at least 21 years of age.

The board has approved the accommodation, equipment used in conducting wagering at the site, communications system, technology, and method used by the site to accept wagers and transmit odds, results, and other data related to wagering.

(b) Parimutuel clerks shall be available to service the self-service tote machines at these locations, and to cash wagering vouchers on a regularly scheduled basis.

(c) Until January 1, 2013, if the proposed minisatellite wagering site is in the northern zone in a fair district where the fair has operated a satellite wagering facility for the previous five years, the approval of the fair must be obtained even if the proposed location is more than 20 miles from the existing satellite wagering facility operated by the fair.

(d)

For purposes of commissions, deductions, and distribution of handle, wagers placed at minisatellite wagering sites shall be treated as if they were placed at satellite wagering facilities authorized under Section 19605, 19605.1, or 19605.2. Section 19608.4 shall apply to minisatellite wagering facilities.

(e)

The written consent of the San Mateo County Fair shall be obtained prior to before the approval of any minisatellite wagering site located within a 20-mile radius of its fairground.

(f)

Minisatellite wagering facilities created pursuant to this section are not eligible for satellite wagering commission distributions pursuant to Section 19604.

(g)

The board, in adopting regulations to implement this section, shall minimize the expense to both the operator of the minisatellite wagering facility and the host racetrack.

(h)

If there are more than 15 applications for minisatellite wagering facilities in any zone, the board shall determine which facilities will generate the largest handle, and give priority to the approval of those facilities. The board shall license a minisatellite wagering facility for up to five years, and then review the operation and the size of the handle, and determine if it is in the best interest of horse racing to relicense the facility or, in the alternative, license another minisatellite wagering facility that might generate a greater handle.

(i)

Except as may be provided in the agreement required pursuant to paragraph (2) of subdivision (a), no association or fair shall be required to make all or part of its racing program available to a minisatellite wagering facility. Notwithstanding subdivision (e) of Section 19608.2, all costs incurred by the organization executing that agreement in excess of

the amounts distributable to the organization from wagers placed at the site on that racing program, shall be borne by the minisatellite wagering facility.

SECTION 1. Chapter 22 (commencing with Section 26212) is added to Division 10 of the Business and Professions Code, to read:

22. Agreements with Tribal Governments

26212. For purposes of this chapter, a “federally recognized sovereign Indian tribe” means an Indian tribe, band, nation, or community wholly or partially located within the geographical boundaries of the State of California that the United States Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. Sec. 479a).

26213.(a) The Governor may enter into an agreement concerning medical and recreational marijuana with a federally recognized sovereign Indian tribe.

(b) An agreement may include provisions regulating the activities of a licensee pursuant to Section 19328 and pursuant to Section 26050 operating on and off the land of a federally recognized sovereign Indian tribe.

(c) An agreement shall include a provision requiring an individual conducting marijuana business activity on the land of the federally recognized sovereign Indian tribe to meet the applicable state and local licensure requirements prescribed by Chapter 3.5 (commencing with Section 19300) of Division 8 and the applicable state and local licensure requirements prescribed by this division that are required of a licensee operating within the jurisdiction of the local government in which the tribal land is located.

(d) The Governor may delegate the authority to negotiate agreements to the Director of the Bureau of Marijuana Control.

ASSEMBLY BILL No. 1120

Introduced by Assembly Members Cooper and Dahle

February 17, 2017

Bill Text:

SECTION 1. Section 11107.2 is added to the Health and Safety Code, to read:

11107.2. (a) It is unlawful for a manufacturer, wholesaler, reseller, retailer, or other person or entity to sell to any one customer more than 600 milliliters of nonodorized butane in any 30-day period.

(b) (1) It is unlawful for manufacturers, wholesalers, resellers, retailers, or other persons or entities to knowingly or negligently sell to any one customer a quantity of nonodorized butane that would cause the customer to exceed 600 milliliters of nonodorized butane purchased from all sellers in any 30-day period.

(2) This subdivision shall not be enforced until a database system described in subdivision (f) is operational, as determined by the Department of Justice.

(3)

The reasonable reliance on information contained in the database described in subdivision (f) (g) is an affirmative defense to the crime in this subdivision.

Subdivisions (a) and (b) shall not be enforced until a database system described in subdivision (g) is operational, as determined by the Department of Justice.

(c)

The limitations in subdivisions (a) and (b) shall not apply to any of the following transactions:

Butane sold to manufacturers, wholesalers, resellers, or retailers solely for the purpose of resale.

Butane sold to a person for use in a lawful commercial enterprise, including, but not limited to, a volatile solvent extraction activity licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code or a medical cannabis collective or cooperative described in subdivision (b) of Section 11362.775 of this code, operating in compliance with all applicable state licensing requirements and local regulations governing that type of business.

The sale of lighters, torch lighters, lighters or other appliances appliances, or lighter refill canisters that contain or use nonodorized butane for fuel and contain less than 250 150 milliliters of nonodorized butane.

(d)

For every sale of nonodorized butane not exempted under subdivision (c) (d) the seller shall record and maintain on the premises of the seller for a period of not less than two years after the date of the sale, the following information:

The name, address, and date of birth of the customer, as obtained from his or her valid driver's license or other government-issued photo identification.

The date and time of the sale.

The brand and quantity of butane purchased.

The full name of the person who processed the sale.

(e)

A violation of any provision of this section is a misdemeanor.

(f)

To assist manufacturers, wholesalers, resellers, and retailers in their efforts to monitor the sales of nonodorized butane, the Department of Justice shall, contingent upon the availability of adequate funds and in collaboration with stakeholders representing the sellers of

nonodorized butane who are required to report and collect information pursuant to this section, develop and maintain an electronic database system for the electronic monitoring of and Internet access to information regarding the amount of butane purchased by individual customers. The database system will allow retailers to automatically synchronize purchases and provide real time alerts of any purchases in violation of this section, and shall be developed in one of the following three ways:

The database system may be based upon the expansion of an existing electronic database.

The database system may be an existing product, which is available for use by retail sellers of nonodorized butane to customers, as determined by the Department of Justice.

The database system may be a newly created product.

The Department of Justice shall post a notification on its Internet Web site when the database described in paragraph (1) is operational.

All manufacturers, wholesalers, resellers, retailers, or other persons or entities selling nonodorized butane to customers shall keep hard copy records of nonodorized butane sales. Any manufacturer, wholesaler, reseller, retailer, or other person or entity not exempted under subdivision (c) (d) that sells nonodorized butane shall electronically submit a report to the Department of Justice upon request of all sales involving nonodorized butane, including all of the information collected pursuant to subdivision (d). (e).

(g)

As used in this section, the following definitions shall apply:

“Customer” means any person or entity other than those described in paragraphs (1) and (2) of subdivision (c) (d) that purchases or acquires nonodorized butane from a seller during a transaction.

“Nonodorized butane” means iso-butane, n-butane, butane, or a mixture of butane and propane of any power that may also use the words “refined,” “pure,” “purified,” “premium,” or “filtered,” to describe the butane or butane mixture, which does not contain ethyl mercaptan or a similar odorant.

“Sell” or “sale” means to furnish, give away, exchange, transfer, deliver, surrender, distribute, or supply, in exchange for money or any other consideration.

“Seller” means any person, business entity, or employee thereof that sells nonodorized butane to any customer within this state.

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

ASSEMBLY BILL No. 1159

Introduced by Assembly Member Chiu

February 17, 2017

Bill Text:

SECTION 1. Section 1550.5 is added to the Civil Code, to read:

1550.5. (a) The Legislature finds and declares all of the following:

The Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorized the use of marijuana for medical purposes in this state.

The Legislature passed the Medical Cannabis Regulation and Safety [Act \(Chapter Act, formerly 3.5](#) (commencing with Section 19300) of Division 8 of the Business and Professions [Code](#)) Code, to regulate and license medical cannabis in the state.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, authorized the consumption of nonmedical marijuana by persons over 21 years of age and provided for the licensure and regulation of certain commercial nonmedical marijuana activities in this state.

[The Legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act \(Division 10 \(commencing with Section 26000\) of the Business and Professions Code\) to consolidate the licensure and regulation of certain commercial activities with respect to medicinal cannabis and nonmedical marijuana, now known as adult-use cannabis.](#)

(b) Notwithstanding any law, including, but not limited to, Sections 1550, 1667, and 1668 and federal law, [medical commercial activity relating to medicinal](#) cannabis or [commercial marijuana activity](#) [adult-use](#) cannabis conducted in compliance with California law and any applicable local standards, requirements, and regulations shall be deemed to be all of the following:

A lawful object of a contract.

Not contrary to, an express provision of law, any policy of express law, or good morals.

Not against public policy.

SEC. 2. Section 956 of the Evidence Code is amended to read:

956. (a) There is no privilege under this article if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(b) This exception to the privilege granted by this article shall not apply to legal services rendered in compliance with state and local laws on [medical](#) medicinal cannabis or [adult use](#)

of marijuana, adult-use cannabis, and confidential communications provided for the purpose of rendering those services are confidential communications between client and lawyer, as defined in Section 952, provided the lawyer also advises the client on conflicts with respect to federal law.

ASSEMBLY BILL No. 1244

Introduced by Assembly Member Voepel

February 17, 2017

Bill Text:

SECTION 1. Article 6 (commencing with Section 108670) is added to Chapter 5 of Part 3 of Division 104 of the Health and Safety Code, to read:

Article 6. Butane Gas

108670. (a) No person shall distribute, sell, exchange, expose for sale, or offer for sale within the state any butane gas or product containing butane gas which does not have an odorant added.

(b) As used in this section, “odorant” means a chemical with a distinctive odor which is added to a gas for the purpose of providing a warning of the presence of the gas.

SECTION 1. It is the intent of the Legislature to enact legislation relating to the use of butane in the production of concentrated cannabis.

ASSEMBLY BILL No. 1254

Introduced by Assembly Member Wood

February 17, 2017

Bill Text:

SECTION 1. Section 12025 of the Fish and Game Code is amended to read:

12025. (a) (1) In addition to any penalties imposed by any other law, a person found to have violated the code sections described in subparagraphs (A) to (K), inclusive, in connection with the production or cultivation of a controlled substance on land under the management of the Department of Parks and Recreation, the Department of Fish and Wildlife, the Department of Forestry and Fire Protection, the State Lands Commission, a regional park district, the United States Forest Service, or the United States Bureau of Land Management, or within the respective ownership of a timberland production zone, as defined in Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code, of more than 50,000 acres, or while trespassing on other public or private land

in connection with the production or cultivation of a controlled substance, shall be liable for a civil penalty as follows:

A person who violates Section 1602 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars (\$10,000) for each violation.

A person who violates Section 5650 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars (\$40,000) for each violation.

A person who violates Section 5652 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars (\$40,000) for each violation.

A person who violates subdivision (a) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars (\$40,000) for each violation.

A person who violates paragraph (1) of subdivision (h) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars (\$40,000) for each violation.

A person who violates subdivision (b) of Section 374.8 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars (\$40,000) for each violation.

A person who violates Section 384a of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars (\$10,000) for each violation.

A person who violates subdivision (a) of Section 4571 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars (\$10,000) for each violation.

A person who violates Section 4581 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars (\$10,000) for each violation.

A person who violates Section 2000 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars (\$10,000) for each violation.

A person who violates Section 2002 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars (\$10,000) for each violation.

Each day that a violation of a code section described in this subdivision occurs or continues to occur shall constitute a separate violation.

(b) (1) In addition to any penalties imposed by any other law, a person found to have violated the code sections described in this subdivision in connection with the production or cultivation of a controlled substance on land that the person owns, leases, or otherwise uses or occupies with the consent of the landowner shall be liable for a civil penalty as follows:

A person who violates Section 1602 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars (\$8,000) for each violation.

A person who violates Section 5650 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars (\$20,000) for each violation.

A person who violates Section 5652 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars (\$20,000) for each violation.

A person who violates subdivision (a) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars (\$20,000) for each violation.

A person who violates paragraph (1) of subdivision (h) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars (\$20,000) for each violation.

A person who violates subdivision (b) of Section 374.8 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars (\$20,000) for each violation.

A person who violates Section 384a of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars (\$10,000) for each violation.

A person who violates subdivision (a) of Section 4571 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars (\$8,000) for each violation.

A person who violates Section 4581 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars (\$8,000) for each violation.

A person who violates Section 2000 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars (\$8,000) for each violation.

A person who violates Section 2002 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars (\$8,000) for each violation.

Each day that a violation of a code section described in this subdivision occurs or continues to occur shall constitute a separate violation.

(c) The civil penalty imposed for each separate violation pursuant to this section is in addition to any other civil penalty imposed for another violation of this section, or any violation of any other law.

All civil penalties imposed or collected by a court for a separate violation pursuant to this section shall not be considered to be fines or forfeitures, as described in Section 13003, and shall be apportioned in the following manner:

Thirty percent shall be distributed to the county in which the violation was committed pursuant to Section 13003. The county board of supervisors shall first use any revenues from those penalties to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation.

Thirty percent shall be distributed to the investigating agency to be used to reimburse the cost of any investigation directly related to the violations described in this section.

If the department receives reimbursement pursuant to this paragraph for activities funded pursuant to subdivision (f) of Section 4629.6 of the Public Resources Code, the reimbursement funds shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, if there is an unpaid balance for a loan authorized by subdivision (f) of Section 4629.6 of the Public Resources Code.

Forty percent shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, and used for grants authorized pursuant to Section 4629.6 of the Public Resources Code that improve forest health by remediating former marijuana growing operations.

Civil penalties authorized pursuant to this section may be imposed administratively by the department if all of the following occur:

The chief deputy director or law enforcement division assistant chief in charge of marijuana-related enforcement issues a complaint to any person or entity on which an administrative civil penalty may be imposed pursuant to this section. The complaint shall allege the act or failure to act that constitutes a violation, any facts related to natural resources impacts, the provision of law authorizing the civil penalty to be imposed, and the proposed penalty amount.

The complaint and order is served by personal notice or certified mail and informs the party served that the party may request a hearing not later than 20 days from the date of service. If a hearing is requested, it shall be scheduled before the director or his or her designee, which designee shall not be the chief deputy or assistant chief issuing the complaint and order. A request for a hearing shall contain a brief statement of the material facts the party claims support his or her contention that an administrative penalty should not be imposed or that an administrative penalty of a lesser amount is warranted. A party served with a complaint pursuant to this subdivision waives his or her right to a hearing if a hearing is not requested within 20 days of service of the complaint, in which case the order imposing the administrative penalty shall become final.

The director, or his or her designee, shall control the nature and order of hearing proceedings. Hearings shall be informal in nature, and need not be conducted according to the technical rules relating to evidence. The director or his or her designee shall issue a final order within

45 days of the close of the hearing. A copy of the final order shall be served by certified mail upon the party served with the complaint.

A party may obtain review of the final order by filing a petition for a writ of mandate with the superior court within 30 days of the date of service of the final order. The administrative penalty shall be due and payable to the department within 60 days after the time to seek judicial review has expired, or, where the party did not request a hearing of the order, within 20 days after the order imposing an administrative penalty becomes final.

The department may adopt regulations to implement this subdivision.

All administrative penalties imposed or collected by the department for a separate violation pursuant to this section shall not be considered to be fines or forfeitures, as described in Section 13003, and shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, to repay any unpaid balance of a loan authorized by subdivision (f) of Section 4629.6 of the Public Resources Code. Any remaining funds from administrative penalties collected pursuant to this section shall be apportioned in the following manner:

Fifty percent shall be deposited into the Timber Regulation and Forest Restoration Fund for grants authorized pursuant to subdivision (h) of Section 4629.6 of the Public Resources Code, with priority given to grants that improve forest health by remediating former marijuana growing operations.

Fifty percent shall be deposited into the Fish and Game Preservation Fund.

Any civil penalty imposed pursuant to this section for the violation of an offense described in subparagraph (D), (E), or (F) of paragraph (1) of subdivision (a) or subparagraph (D), (E), or (F) of paragraph (1) of subdivision (b) for which the person was convicted shall be offset by the amount of any restitution ordered by a criminal court.

For purposes of this section, “controlled substance” has the same meaning as defined in Section 11007 of the Health and Safety Code.

SEC. 2. Section 1847 of the Water Code is amended to read:

1847.(a) A person or entity may be liable for a violation of any of the requirements of subdivision (b) in an amount not to exceed the sum of the following:

(1) Five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of that person.

(2) Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

(b) Liability may be imposed for any of the following violations:

(1) Violation of a limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

(2) Failure to submit information, or making a material misstatement in information submitted, under subdivision (a), (b), or (c) of Section 19332.2 of the Business and Professions Code.

(3) Violation of any requirement imposed under subdivision (e) of Section 19332.2 of the Business and Professions Code.

(4) Diversion or use of water for cannabis cultivation for which a license is required, but has not been obtained, under Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.

(c) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

(d) Civil liability may be imposed administratively by the board pursuant to Section 1055.

(e)(1) A person or entity who violates paragraph (4) of subdivision (b) shall be guilty of a misdemeanor punishable as follows:

(A) For the first violation by a fine not to exceed one thousand dollars (\$1,000), or imprisonment in a county jail for not more than six months, or by both that fine and imprisonment.

(B) For any second or subsequent violation, or for a violation that occurs during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions, by a fine not to exceed five thousand dollars (\$5,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(2) Enforcement pursuant to this subdivision does not preclude enforcement pursuant to subdivision (a).

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

ASSEMBLY BILL 1420

Introduced by Assembly Member Aguiar-Curry

(Principal coauthor: Senator Dodd)

February 17, 2017

Bill Text:

SECTION 1. Section 1602.1 is added to the Fish and Game Code, to read:

1602.1. (a) (1) Notwithstanding subdivision (a) of Section 1602, an entity that submits a registration of water use made pursuant to Section 1228.3 of the Water Code that has been approved by the State Water Resources Control Board is deemed to have given the notification required by paragraph (1) of

subdivision (a) of Section 1602, and shall not be required to obtain an agreement from the department for the activity that the registration covers for the term of the registration, if all of the following occur:

The fee specified in paragraph (3) of subdivision (a) of Section 1602 is submitted to the department with the registration.

The entity submits to the department a copy of any conditions imposed by the department pursuant to paragraph (2) of subdivision (a) of Section 1228.6 of the Water Code.

The department notifies the entity in writing that the exemption in this paragraph applies to the registered water use.

The department shall notify the entity in writing whether the exemption in this paragraph applies to the registered water use within 60 days of receiving the registration and fee.

If the department determines that an entity has failed to comply with any of the department conditions described in paragraph (1), the failure shall not constitute a violation of this chapter, and the exemption provided in paragraph (1), upon written notice by the department, shall no longer apply and the entity shall comply with Section 1602.

(b) (1) An entity that submits a renewal of registration or amended registration made pursuant to Section 1228.5 or 1228.7 of the Water Code that has been approved by the State Water Resources Control Board is deemed to have given the notification required by paragraph (1) of subdivision (a) of Section 1602, and shall not be required to obtain an agreement from the department for the activity that the registration covers for the term of the renewed or amended registration, if all of the following occur:

The fee specified in paragraph (3) of subdivision (a) of Section 1602 is submitted to the department with the renewal of registration or amended registration, as applicable.

The entity submits to the department a copy of any conditions imposed by the department pursuant to paragraph (2) of subdivision (a) of Section 1228.6 of the Water Code.

The department determines the conditions described in subparagraph (B), together with any other conditions in the renewed or amended registration, will protect fish and wildlife resources that may be substantially adversely affected by the activity that the renewed or amended registration authorizes.

The department notifies the entity in writing that the exemption in this paragraph applies to the registered water use.

The department shall notify the entity in writing whether the exemption in paragraph (1) applies to the registered water use within 60 days of receiving the registration and fee.

If the department determines the conditions described in paragraph (1), together with any other conditions in the renewed or amended registration, will not protect fish and wildlife resources that may be substantially adversely affected by the activity that the renewed or amended registration authorizes, the department shall modify the existing conditions, or add new conditions to the renewed or amended registration, and notify the entity in writing that

the exemption in paragraph (1) applies to the registered water use with the modified or new conditions, which shall become part of the renewed or amended registration.

If the department determines that an entity has failed to comply with any of the department conditions described in paragraph (1) or (3), the failure shall not constitute a violation of this chapter, and the exemption provided in paragraph (1), upon written notice by the department, shall no longer apply and the entity shall comply with Section 1602.

SEC. 2. Section 1229 of the Water Code is amended to read:

1229. (a) The board is not required to adopt general conditions for small irrigation use pursuant to subdivision (a) of Section 1228.6 and this section until the board determines that funds are available for that purpose.

(b) A registration for small irrigation use pursuant to this article is not authorized until the board establishes general conditions for small irrigation use pursuant to subdivision (a) of Section 1228.6 to protect instream beneficial uses.

(c) The board may establish general conditions for some methods of diversion or categories of small irrigation use before establishing general conditions for other methods or categories, in which case a registration for small irrigation use is authorized only for those methods or categories for which the board has established the general conditions for the protection of instream beneficial uses.

Except as necessary to adopt principles and guidelines implementing paragraph (1) of subdivision (a) of Section 1259.4 or 13149, and subject to subdivision (a), the board shall give priority to adopting, on or before June 30, 2021, general conditions that permit a registrant to store water for small irrigation use during times of high streamflow in exchange for that registrant reducing diversions during periods of low streamflow for diversions from coastal streams entering the Pacific Ocean and streams entering the San Francisco Bay, not including the Sacramento River and San Joaquin River, for the following:

Off-stream storage reservoirs.

On-stream storage reservoirs located on stream reaches where fish are not present, if the reservoirs will not substantially affect fish habitat in downstream reaches where fish are present.

An action of the board pursuant to this subdivision shall be deemed an action taken for the protection of the environment for purposes of Section 15308 of Title 14 of the California Code of Regulations, if those actions do not result in the relaxation of existing streamflow standards.

SEC. 3. Section 1229.1 of the Water Code is amended to read:

1229.1.(a)This article does not apply to those stream segments for which the Director of Fish and Wildlife establishes proposed streamflow requirements pursuant to Section 10002 of the Public Resources Code, notwithstanding the July 1, 1989, deadline for preparation of the requirements.

1229.1. (a) If the Director of Fish and Wildlife establishes proposed streamflow requirements for a stream segment pursuant to Section 10002 of the Public Resources Code, regardless of whether those requirements were proposed before July 1, 1989, a registration for that stream segment pursuant to this article is not authorized until the board establishes instream flow requirements as a part of the general conditions applicable to that stream segment. The establishment of those instream flow

requirements shall be done after the board considers the proposed streamflow requirements, if proposed by the Director of Fish and Wildlife.

(b) Notwithstanding subdivision (a), this article applies to a registration filed before the Director of Fish and Wildlife establishes proposed streamflow requirements for the source of water supply for the registration. registration may be renewed even if the board has not yet adopted instream flow requirements. The conditions for renewal under subdivision (c) of Section 1228.5 may include any conditions the Department of Fish and Wildlife determines to be necessary to protect stream-related fish and wildlife resources on a source of water supply for which the Director of Fish and Wildlife has established proposed streamflow requirements pursuant to Section 10002 of the Public Resources Code.

ASSEMBLY BILL No. 1516

Introduced by Assembly Member Cunningham

February 17, 2017

Bill Text:

SECTION 1.

Section 303 of the Business and Professions Code is amended to read:

303.

There is in the department a Division of Consumer Services under the supervision and control of a chief. The chief shall be appointed by the Governor and shall serve at his or her pleasure. His or her compensation shall be fixed by the director in accordance with law.

SEC. 2.

Section 2221.1 of the Business and Professions Code is amended to read:

2221.1.

The board and the California Board of Podiatric Medicine shall investigate and may take disciplinary action, including, but not limited to, revocation or suspension of licenses, against physicians and surgeons and all others licensed or regulated by the board, or by the California Board of Podiatric Medicine, whichever is applicable, who, except for good cause, knowingly fail to protect patients by failing to follow infection control guidelines of the applicable board, thereby risking transmission of blood-borne infectious diseases from the physician and surgeon or other health care provider licensed or regulated by the applicable board to patients, from patients, and from patient to physician and surgeon or other health care provider regulated by the applicable board. In so doing, the boards shall consider referencing the standards, regulations, and guidelines of the State Department of ~~Health Services~~ **Public Health** developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section ~~6300~~; **6300**) of Division ~~5~~; **5** of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board and the California Board of Podiatric Medicine shall consult with the ~~Board of Dental Examiners~~ **Board of California**, the Board of Registered Nursing, and the

Board of Vocational Nursing and Psychiatric ~~Technicians~~, **Technicians of the State of California** to encourage appropriate consistency in the implementation of this section.

Subdivision (a) ~~shall~~ **does** not apply to an organ transplant performed within the standard of care and in compliance with subdivision (d) of Section 1644.5 of the Health and Safety Code.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates to follow infection control guidelines and of the most recent scientifically recognized safeguards for minimizing the transmission of blood-borne infectious diseases.

SEC. 3.

Section 4927 of the Business and Professions Code is amended to read:

4927.

As used in this chapter, unless the context otherwise requires:

“Board” means the Acupuncture ~~“Board”~~, **Board**.

“Person” means any individual, organization, or corporate body, except that only individuals may be licensed under this chapter.

“Acupuncturist” means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked.

“Acupuncture” means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain ~~control~~, **control** for the treatment of certain diseases or dysfunctions of the ~~body~~ **body**, and includes the techniques of electroacupuncture, cupping, and moxibustion.

SEC. 4.

Section 7542 of the Business and Professions Code is amended to read:

7542.

A licensee and qualified manager who in the course of his or her employment or business carries a deadly weapon shall complete a course of training in the exercise of the powers to arrest as specified in Section 7583.7 and a course of training in the carrying and use of firearms as specified in Article 4 (commencing with Section 7583) of Chapter 11.5. A licensee or qualified manager shall not carry or use a firearm unless he or she has met the requirements of Sections 7583.23, 7583.24, and 7583.28 and has in his or her possession a valid firearms qualification card. A licensee or qualified manager who possesses a valid firearms qualification card shall comply with, and be subject to, Sections 7583.25, 7583.26, 7583.27, 7583.30, 7583.31, 7583.32, and 7583.37. A licensee or qualified manager who possesses a valid firearms qualification card may carry a firearm capable of being concealed upon the person in a concealed manner if he or she complies with applicable provisions set forth in Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6 of the Penal Code.

If a firearms qualification card is denied, the denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a review by the Private Investigator Disciplinary Review Committee to contest the denial, the review shall be requested of the director within 30 days following the issuance of the denial. A review or hearing shall be held pursuant to Section 7519.3. However, no review or hearing shall be granted to an individual who is otherwise prohibited by law from carrying a firearm.

If a firearms qualification card is denied on the basis of the results of an assessment pursuant to [Section 7583.47](#), the denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires to contest the denial, the applicant shall request a hearing within 30 days of the issuance of the denial.

Appeals of denials pursuant to this subdivision shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5.

Section 7596.4 of the Business and Professions Code is amended to read:

7596.4.

If a firearms permit is denied, the denial of the permit shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a review by the Alarm Company Operator Disciplinary Review Committee, the review shall be requested within 30 days of the issuance of the denial.

A review or hearing shall be held pursuant to Section 7591.19. However, no review or hearing shall be granted to an individual who is otherwise prohibited by law from carrying a firearm.

If a firearms permit is denied on the basis of the results of an assessment required for a permit associated with a security guard registration pursuant to [Section 7583.47](#), the denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires to contest the denial, the applicant shall request a hearing within 30 days of the issuance of the denial.

Appeals of denials pursuant to this subdivision shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 6.

Section 10177 of the Business and Professions Code is amended to read:

10177.

The commissioner may suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

Procured, or attempted to procure, a real estate license or license renewal, for himself or herself or a salesperson, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

Notwithstanding paragraph (1), and with the recognition that sentencing may not occur for months or years following the entry of a guilty plea, the ~~commission~~ [commissioner](#) may suspend the license of a real estate licensee upon the entry by the licensee of a guilty plea to any of the crimes described in paragraph (1). If the guilty plea is withdrawn, the suspension shall be rescinded and the license reinstated to its status prior to the suspension. The bureau shall notify a person whose license is subject

to suspension pursuant to this paragraph of his or her right to have the issue of the suspension heard in accordance with Section 10100.

Knowingly authorized, directed, connived at, or aided in the publication, advertisement, distribution, or circulation of a material false statement or representation concerning his or her designation or certification of special education, credential, trade organization membership, or business, or concerning a business opportunity or a land or subdivision, as defined in Chapter 1 (commencing with Section 11000) of Part 2, offered for sale.

Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

Willfully used the term “realtor” or a trade name or insignia of membership in a real estate organization of which the licensee is not a member.

Acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license, or either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked or suspended for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, or suspension by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and only upon an express finding of a violation of law by the agency or entity.

Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

Used his or her employment by a governmental agency in a capacity giving access to records, other than public records, in a manner that violates the confidential nature of the records.

Engaged in any other conduct, whether of the same or a different character than specified in this section, that constitutes fraud or dishonest dealing.

Violated any of the terms, conditions, restrictions, and limitations contained in an order granting a restricted license.

Solicited or induced the sale, lease, or listing for sale or lease of residential property on the ground, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools due to the present or prospective entry into the neighborhood of a person or persons having a characteristic listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those characteristics are defined in Sections 12926 and 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, ~~nothing in~~ paragraph (1) shall ~~not~~ be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of

Section 51 and Section 4760 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

Violated the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or regulations of the Commissioner of Corporations pertaining thereto.

Violated the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) or the regulations of the Commissioner of Corporations pertaining thereto.

Failed to disclose to the buyer of real property, in a transaction in which the licensee is an agent for the buyer, the nature and extent of a licensee's direct or indirect ownership interest in that real property. The direct or indirect ownership interest in the property by a person related to the licensee by blood or marriage, by an entity in which the licensee has an ownership interest, or by any other person with whom the licensee has a special relationship shall be disclosed to the buyer.

Violated Article 6 (commencing with Section 10237).

Violated or failed to comply with Chapter 2 (commencing with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code, ~~related~~ relating to mortgages.

If a real estate broker that is a corporation has not done any of the foregoing acts, either directly or through its employees, agents, officers, directors, or persons owning or controlling 10 percent or more of the corporation's stock, the commissioner ~~may~~ shall not deny the issuance or delay the renewal of a real estate license to, or suspend or revoke the real estate license of, the corporation, provided that any offending officer, director, or stockholder, who has done any of the foregoing acts individually and not on behalf of the corporation, has been completely disassociated from any affiliation or ownership in the corporation. A decision by the commissioner to delay the renewal of a real estate license shall toll the expiration of that license until the results of any pending disciplinary actions against that licensee are ~~final~~, final or until the licensee voluntarily surrenders his, her, or its license, whichever is earlier.

SEC. 7.

The heading of Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code is amended to read:

CHAPTER 3.5. Medical Cannabis Regulation and Safety ~~act~~ Act

SEC. 8.

Section 19604 of the Business and Professions Code is amended to read:

19604.

The board may authorize a racing association, racing fair, betting system, or multijurisdictional wagering hub to conduct advance deposit wagering in accordance with this section. Racing associations, racing fairs, and their respective horsemen's organizations may form a partnership, joint venture, or any other affiliation in order to further the purposes of this section.

As used in this section, the following definitions apply:

“Advance deposit wagering” (ADW) means a form of parimutuel wagering in which a person residing within California or outside of this state establishes an account with an ADW provider, and subsequently issues wagering instructions concerning the funds in this account, thereby authorizing the ADW provider holding the account to place wagers on the account owner's behalf.

“ADW provider” means a licensee, betting system, or multijurisdictional wagering hub, located within California or outside this state, that is authorized to conduct advance deposit wagering pursuant to this section.

“Betting system” means a business conducted exclusively in this state that facilitates parimutuel wagering on races it simulcasts and other races it offers in its wagering menu.

“Breed of racing” means as follows:

With respect to associations and fairs licensed by the board to conduct thoroughbred, fair, or mixed breed race meetings, “breed of racing” shall mean thoroughbred.

With respect to associations licensed by the board to conduct quarter horse race meetings, “breed of racing” shall mean quarter horse.

With respect to associations and fairs licensed by the board to conduct standardbred race meetings, “breed of racing” shall mean standardbred.

“Contractual compensation” means the amount paid to an ADW provider from advance deposit wagers originating in this state. Contractual compensation includes, but is not limited to, hub fee payments, and may include host fee payments, if any, for out-of-state and out-of-country races. Contractual compensation is subject to the following requirements:

Excluding contractual compensation for host fee payments, contractual compensation shall not exceed 6.5 percent of the amount wagered.

The host fee payments included within contractual compensation shall not exceed 3.5 percent of the amount wagered. Notwithstanding this provision, the host fee payment with respect to wagers on the Kentucky Derby, Preakness Stakes, Belmont Stakes, and selected Breeders’ Cup Championship races may be negotiated by the ADW provider, the racing associations accepting wagers on those races pursuant to Section 19596.2, and the horsemen’s organization.

In order to ensure fair and consistent market access fee distributions to associations, fairs, horsemen, and breeders, for each breed of racing, the percentage of wagers paid as contractual compensation to an ADW provider pursuant to the terms of a hub agreement with a racing association or fair when that racing association or fair is conducting live racing shall be the same as the percentage of wagers paid as contractual compensation to that ADW provider when that racing association or fair is not conducting live racing.

“Horsemen’s organization” means, with respect to a particular racing meeting, the organization recognized by the board as responsible for negotiating purse agreements on behalf of horsemen participating in that racing meeting.

“Hub agreement” means a written agreement providing for contractual compensation paid with respect to advance deposit wagers placed by California residents on a particular breed of racing conducted outside of California. In the event a hub agreement exceeds a term of two years, then an ADW provider, one or more racing associations or fairs that together conduct no fewer than five weeks of live racing for the breed covered by the hub agreement, and the horsemen’s organization responsible for negotiating purse agreements for the breed covered by the hub agreement shall be signatories to the hub agreement. A hub agreement is required for an ADW provider to receive contractual compensation for races conducted outside of California.

“Hub agreement arbitration” means an arbitration proceeding pursuant to which the disputed provisions of the hub agreement pertaining to the hub or host fees from wagers on races conducted outside of California provided pursuant to paragraph (2) of subdivision (b) are determined in accordance with the provisions of this paragraph. If a hub agreement arbitration is requested, all of the following shall apply:

The ADW provider shall be permitted to accept advance deposit wagers from California residents.

The contractual compensation received by the ADW provider shall be the contractual compensation specified in the hub agreement that is the subject of the hub agreement arbitration.

The difference between the contractual compensation specified in subparagraph (B) and the contractual compensation determined to be payable at the conclusion of the hub agreement arbitration shall be calculated and paid within 15 days following the arbitrator's decision and order. The hub agreement arbitration shall be held as promptly as possible, but in no event more than 60 days following the demand for that arbitration. The arbitrator shall issue a decision no later than 15 days following the conclusion of the arbitration. A single arbitrator jointly selected by the ADW provider and the party requesting a hub agreement arbitration shall conduct the hub agreement arbitration. However, if the parties cannot agree on the arbitrator within seven days of issuance of the written demand for arbitration, then the arbitrator shall be selected pursuant to the Streamlined Arbitration Rules and Procedures of the Judicial Arbitration and Mediation Services, or pursuant to the applicable rules of its successor organization. In making the hub agreement arbitration determination, the arbitrator shall be required to choose between the contractual compensation of the hub agreement agreed to by the ADW provider or whatever different terms for the hub agreement were proposed by the party requesting the hub agreement arbitration. The arbitrator shall not be permitted to impose new, different, or compromised terms to the hub agreement. The arbitrator's decision shall be final and binding on the parties. If an arbitration is requested, either party may bring an action in state court to compel a party to go into arbitration or to enforce the decision of the arbitrator. The cost of the hub agreement arbitration, including the cost of the arbitrator, shall be borne in equal shares by the parties to the hub agreement and the party or parties requesting a hub agreement arbitration. The hub agreement arbitration shall be administered by the Judicial Arbitration and Mediation Services pursuant to its Streamlined Arbitration Rules and Procedures or its successor organization.

"Incentive awards" means those payments provided for in Sections 19617.2, 19617.7, 19617.8, 19617.9, and 19619. The amount determined to be payable for incentive awards under this section shall be payable to the applicable official registering agency and thereafter distributed as provided in this chapter.

"Licensee" means a racing association or fair licensed to conduct a live racing meet in this state, or affiliation thereof, authorized under this section.

"Market access fee" means the amount of advance deposit wagering handle remaining after the payment of winning wagers, and after the payment of contractual compensation, if any, to an ADW provider. Market access fees shall be distributed in accordance with subdivision (f).

"Multijurisdictional wagering hub" means a business conducted in more than one jurisdiction that facilitates parimutuel wagering on races it simulcasts and other races it offers in its wagering menu.

"Racing fair" means a fair authorized by the board to conduct live racing.

"Zone" means the zone of the state, as defined in Section 19530.5, except as modified by ~~the provisions of~~ subdivision (f) of Section 19601. For these purposes, the central and southern zones shall together be considered one zone.

Wagers shall be accepted according to the procedures set forth in this subdivision.

~~No~~-An ADW provider shall **not** accept wagers or wagering instructions on races conducted in California from a resident of California unless all of the following conditions are met:

The ADW provider is licensed by the board.

A written agreement allowing those wagers exists with the racing association or fair conducting the races on which the wagers are made.

The agreement referenced in subparagraph (B) shall have been approved in writing by the horsemen's organization responsible for negotiating purse agreements for the breed on which the wagers are made in accordance with the **federal** Interstate Horseracing Act of 1978 (15 U.S.C. Sec. 3001 et seq.), regardless of the location of the ADW provider, whether in California or otherwise, including, without limitation, any and all requirements contained therein with respect to written consents and required written agreements of horsemen's groups to the terms and conditions of the acceptance of those wagers and any arrangements as to the exclusivity between the host racing association or fair and the ADW provider. For purposes of this subdivision, the substantive provisions of the **federal** Interstate Horseracing Act of 1978 shall be taken into account without regard to whether, by its own terms, that act is applicable to advance deposit wagering on races conducted in California accepted from residents of California.

~~No~~-An ADW provider shall **not** accept wagers or wagering instructions on races conducted outside of California from a resident of California unless all of the following conditions are met:

The ADW provider is licensed by the board.

There is a hub agreement between the ADW provider and one or both of (i) one or more racing associations or fairs that together conduct no fewer than five weeks of live racing on the breed on which wagering is conducted during the calendar year during which the wager is placed, and (ii) the horsemen's organization responsible for negotiating purse agreements for the breed on which wagering is conducted.

If the parties referenced in clauses (i) and (ii) of subparagraph (B) are both signatories to the hub agreement, then no party shall have the right to request a hub agreement arbitration.

If only the party or parties referenced in clause (i) of subparagraph (B) is a signatory to the hub agreement, then the signatories to the hub agreement shall, within five days of execution of the hub agreement, provide a copy of the hub agreement to the horsemen's organization responsible for negotiating purse agreements for the breed on which wagering is conducted for each race conducted outside of California on which California residents may place advance deposit wagers. Before receipt of the hub agreement, the horsemen's organization shall sign a nondisclosure agreement with the ADW provider agreeing to hold confidential all terms of the hub agreement. If the horsemen's organization wants to request a hub agreement arbitration, it shall send written notice of its election to the signatories to the hub agreement within 10 days after receipt of the copy of the hub agreement, and shall provide its alternate proposal to the hub and host fees specified in the hub agreement with that written notice. If the horsemen's organization does not provide that written notice within the 10-day period, then no party shall have the right to request a hub agreement arbitration. If the

horsemen's organization does provide that written notice within the 10-day period, then the ADW provider shall have 10 days to elect in writing to do one of the following:

Abandon the hub agreement.

Accept the alternate proposal submitted by the horsemen's organization.

Proceed with a hub agreement arbitration.

If only the party referenced in clause (ii) of subparagraph (B) is a signatory to the hub agreement, then the signatories to the hub agreement shall, within five days of execution of the hub agreement, provide written notice of the host and hub fees applicable pursuant to the hub agreement for each race conducted outside of California on which California residents may place advance deposit wagers, which notice shall be provided to all racing associations and fairs conducting live racing of the same breed covered by the hub agreement. If any racing association or fair wants to request a hub agreement arbitration, it shall send written notice of its election to the signatories to the hub agreement within 10 days after receipt of the notice of host and hub fees. It shall also provide its alternate proposal to the hub and host fees specified in the hub agreement with the notice of its election. If more than one racing association or fair provides notice of their request for hub agreement arbitration, those racing associations or fairs, or both, shall have a period of five days to jointly agree upon which of their alternate proposals shall be the official proposal for purposes of the hub agreement arbitration. If one or more racing associations or fairs that together conduct no fewer than five weeks of live racing on the breed on which wagering is conducted during the calendar year during which the wager is placed does not provide written notice of their election to arbitrate within the 10-day period, then no party shall have the right to request a hub agreement arbitration. If a valid hub agreement arbitration request is made, then the ADW provider shall have 10 days to elect in writing to do one of the following:

Abandon the hub agreement.

Accept the alternate proposal submitted by the racing associations or fairs.

Proceed with a hub agreement arbitration.

The results of a hub agreement arbitration elected pursuant to this subdivision shall be binding on all other associations and fairs conducting live racing ~~on~~ of that breed.

The acceptance thereof is in compliance with the provisions of the [federal](#) Interstate Horseracing Act [of 1978](#) (15 U.S.C. Sec. 3001 et seq.), regardless of the location of the ADW provider, whether in California or otherwise, including, without limitation, any and all requirements contained therein with respect to written consents and required written agreements of horsemen's groups to the terms and conditions of the acceptance of the wagers and any arrangements as to the exclusivity between the host racing association or fair and the ADW provider.

An advance deposit wager may be made only by the ADW provider holding the account pursuant to wagering instructions issued by the owner of the funds communicated by telephone call or through other electronic media. The ADW provider shall ensure the identification of the account's owner by using methods and technologies approved by the board. An ADW provider that accepts wagering instructions concerning races conducted in California, or accepts wagering instructions originating in California, shall provide a full accounting and verification of the source of the wagers thereby made, including the postal ZIP Code and breed of the source of the wagers, in the form of a daily download of parimutuel data to a database designated by the board. The daily download shall be delivered in a

timely basis using file formats specified by the database designated by the board, and shall include any and all data necessary to calculate and distribute moneys according to the rules and regulations governing California parimutuel wagering. All reasonable costs associated with the creation, provision, and transfer of this data shall be borne by the ADW provider.

(A) The board shall develop and adopt rules to license and regulate all phases of operation of advance deposit wagering for ADW providers operating in California, including advance deposit wagering activity that takes place within a minisatellite wagering facility. The board may recover costs associated with the licensing or regulation of advance deposit wagering activities in a minisatellite wagering facility either directly from the ADW provider or through an appropriate increase in the funding formula devised by the board pursuant to paragraph (1) of subdivision (a) of Section 19616.51.

The board shall not approve an application for an original or renewal license as an ADW provider unless the entity, if requested in writing by a bona fide labor organization no later than 90 days before licensing, has entered into a contractual agreement with that labor organization that provides all of the following:

The labor organization has historically represented employees who accept or process any form of wagering at the nearest horse racing meeting located in California.

The agreement establishes the method by which the ADW provider will agree to recognize and bargain in good faith with a labor organization that has demonstrated majority status by submitting authorization cards signed by those employees who accept or process any form of wagering for which a California ADW license is required.

The agreement requires the ADW provider to maintain its neutrality concerning the choice of those employees who accept or process any form of wagering for which a California ADW license is required whether or not to authorize the labor organization to represent them with regard to wages, hours, and other terms and conditions of employment.

The agreement applies to those classifications of employees who accept or process wagers for which a California ADW license is required whether the facility is located within or outside of California.

The agreement required by subparagraph (B) shall not be conditioned by either party upon the other party agreeing to matters outside the requirements of subparagraph (B).

The requirement in subparagraph (B) shall not apply to an ADW provider that has entered into a collective bargaining agreement with a bona fide labor organization that is the exclusive bargaining representative of employees who accept or process parimutuel wagers on races for which an ADW license is required whether the facility is located within or outside of California.

Permanent state or county employees and nonprofit organizations that have historically performed certain services at county, state, or district fairs may continue to provide those services.

Parimutuel clerks employed by racing associations or fairs or employees of ADW providers who accept or process any form of wagers who are laid off due to lack of work shall have preferential hiring rights for new positions with their employer in occupations whose duties include accepting or processing any form of wagers, or the operation, repair, service, or maintenance of equipment that accepts or processes any form of wagering at a racetrack,

satellite wagering facility, or ADW provider licensed by the board. The preferential hiring rights established by this subdivision shall be conditioned upon the employee meeting the minimum qualification requirements of the new job.

The board shall develop and adopt rules and regulations requiring ADW providers to establish security access policies and safeguards, including, but not limited to, the following:

The ADW provider shall use board-approved methods to perform location and age verification confirmation with respect to persons establishing an advance deposit wagering account.

The ADW provider shall use personal identification numbers (PINs) or other technologies to ~~assure~~ ensure that only the accountholder has access to the advance deposit wagering account.

The ADW provider shall provide for withdrawals from the wagering account only by means of a check made payable to the accountholder and sent to the address of the accountholder or by means of an electronic transfer to an account held by the verified accountholder or the accountholder may withdraw funds from the wagering account at a facility approved by the board by presenting verifiable account identification information.

The ADW provider shall allow the board access to its premises to visit, investigate, audit, and place expert accountants and other persons it deems necessary for the purpose of ensuring that its rules and regulations concerning credit authorization, account access, and other security provisions are strictly complied with. To ensure that the amounts retained from the parimutuel handle are distributed under law, rules, or agreements, any ADW provider that accepts wagering instructions concerning races conducted in California or accepts wagering instructions originating in California shall provide an independent “agreed-upon procedures” audit for each California racing meeting, within 60 days of the conclusion of the race meeting. The auditing firm to be used and the content and scope of the audit, including host fee obligations, shall be set forth in the applicable agreement. The ADW provider shall provide the board, horsemen’s organizations, and the host racing association with an annual parimutuel audit of the financial transactions of the ADW provider with respect to wagers authorized pursuant to this section, prepared in accordance with generally accepted auditing standards and the requirements of the board. Any and all reasonable costs associated with those audits shall be borne by the ADW provider.

The board shall prohibit advance deposit wagering advertising that it determines to be deceptive to the public. The board shall also require, by regulation, that every form of advertising contain a statement that minors are not allowed to open or have access to advance deposit wagering accounts.

In order for a licensee, betting system, or multijurisdictional wagering hub to be approved by the board as an ADW provider, it shall meet both of the following requirements:

All wagers thereby made shall be included in the appropriate parimutuel pool under a contractual agreement with the applicable host track.

The amounts deducted from advance deposit wagers shall be in accordance with the provisions of this chapter.

After the payment of contractual compensation, the amounts received as market access fees from advance deposit wagers, which shall not be considered for purposes of Section 19616.51, shall be distributed as follows:

An amount equal to 0.0011 multiplied by the amount handled on advance deposit wagers originating in California for each racing meeting shall be distributed to the Center for Equine Health to establish the Kenneth L. Maddy Fund for the benefit of the School of Veterinary Medicine at the University of California at Davis.

An amount equal to 0.0003 multiplied by the amount handled on advance deposit wagers originating in California for each racing meeting shall be distributed to the Public Employment Relations Board to cover costs associated with audits conducted pursuant to Section 19526 and for purposes of reimbursing the State Mediation and Conciliation Service for costs incurred pursuant to this section. However, if that amount would exceed the costs of the Public Employment Relations Board, the amount distributed to that board shall be reduced, and that reduction shall be forwarded to an organization designated by the racing association or fair described in subdivision (a) for the purpose of augmenting a compulsive gambling prevention program specifically addressing that problem.

An amount equal to 0.00165 multiplied by the amount handled on advance deposit wagers that originate in California for each racing meeting shall be distributed as follows:

One-half of the amount shall be distributed to supplement the trainer-administered pension plans for backstretch personnel established pursuant to Section 19613. Moneys distributed pursuant to this subparagraph shall supplement, and not supplant, moneys distributed to that fund pursuant to Section 19613 or any other provision of law.

One-half of the amount shall be distributed to the welfare fund established for the benefit of horsemen and backstretch personnel pursuant to subdivision (b) of Section 19641. Moneys distributed pursuant to this subparagraph shall supplement, and not supplant, moneys distributed to that fund pursuant to Section 19641 or any other provision of law.

With respect to wagers on each breed of racing that originate in California, an amount equal to 2 percent of the first two hundred fifty million dollars (\$250,000,000) of handle from all advance deposit wagers originating from within California annually, an amount equal to 1.5 percent of the next two hundred fifty million dollars (\$250,000,000) of handle from all advance deposit wagers originating from within California annually, an amount equal to 1 percent of the next two hundred fifty million dollars (\$250,000,000) of handle from all advance deposit wagers originating from within California annually, and an amount equal to 0.50 percent of handle from all advance deposit wagers originating from within California in excess of seven hundred fifty million dollars (\$750,000,000) annually, shall be distributed as satellite wagering commissions. Satellite wagering facilities that were not operational in 2001, other than one each in the Cities of Inglewood and San Mateo, and two additional facilities each operated by the Alameda County Fair and the Los Angeles County Fair and their partners and other than existing facilities that are relocated, are not eligible for satellite wagering commission distributions under this section. The satellite wagering facility commissions calculated in accordance with this subdivision shall be distributed to each satellite wagering facility and racing association or fair in the zone in which the wager originated in the same relative proportions that the satellite wagering facility or the racing association or fair generated satellite commissions during the previous calendar year. If there is a reduction in the satellite wagering commissions pursuant to this section, the benefits therefrom shall be distributed equitably as purses and commissions to all associations and racing fairs generating advance

deposit wagers in proportion to the handle generated by those associations and racing fairs. If a satellite wagering facility is permanently closed other than for renovation or remodeling, or if a satellite wagering facility is unwilling or unable to accept all of the signals that are available to that facility, the commissions otherwise provided for in this subdivision that would be payable to that facility shall be proportionately reduced to take into account the time that satellite wagering is no longer conducted by that facility, or the payment of those commissions shall be eliminated entirely if the facility is permanently closed, and, in either case, the satellite wagering commissions not paid shall be proportionately redistributed to the other eligible satellite wagering facilities. For purposes of this section, the purse funds distributed pursuant to Section 19605.72 shall be considered to be satellite wagering facility commissions attributable to thoroughbred races at the locations described in that section.

After the distribution of the amounts set forth in paragraphs (1) to (4), inclusive, the remaining market access fees from advance deposit wagers originating in California shall be as follows:

With respect to wagers on each breed of racing, the amount remaining shall be distributed to the racing association or fair that is conducting live racing ~~on~~ of that breed during the calendar period in the zone in which the wager originated. That amount shall be allocated to that racing association or fair as commissions, to horsemen participating in that racing meeting in the form of purses, and as incentive awards, in the same relative proportion as they were generated or earned during the prior calendar year at that racing association or fair on races conducted or imported by that racing association or fair after making all deductions required by applicable law. Notwithstanding any other law, the distributions with respect to each breed of racing set forth in this subparagraph may be altered upon the approval of the board, in accordance with an agreement signed by the respective associations, fairs, horsemen's organizations, and breeders organizations receiving those distributions.

If the provisions of Section 19601.2 apply, then the amount distributed to the applicable racing associations or fairs shall first be divided between those racing associations or fairs in direct proportion to the total amount wagered in the applicable zone on the live races conducted by the respective association or fair. Notwithstanding this requirement, when the provisions of subdivision (b) of Section 19607.5 apply to the 2nd District Agricultural Association in Stockton or the California Exposition and State Fair in Sacramento, then the total amount distributed to the applicable racing associations or fairs shall first be divided equally, with 50 percent distributed to applicable fairs and 50 percent distributed to applicable associations.

Notwithstanding any provisions of this section to the contrary, with respect to wagers on out-of-state and out-of-country thoroughbred races conducted after 6 p.m., Pacific standard time, 50 percent of the amount remaining shall be distributed as commissions to thoroughbred associations and racing fairs, as thoroughbred and fair purses, and as incentive awards in accordance with subparagraph (A), and the remaining 50 percent, together with the total amount remaining from advance deposit wagering originating from California out-of-state and out-of-country harness and quarter horse races conducted after 6 p.m., Pacific standard time, shall be distributed as commissions on a pro rata basis to the applicable licensed quarter horse association and the applicable licensed harness association, based upon the amount handled in state, both on- and off-track, on each breed's own live races in the previous year by that association, or its predecessor association. One-half of the amount thereby received by each association shall be retained by that association as a commission, and the other one-half of the

money received shall be distributed as purses to the horsemen participating in its current or next scheduled licensed racing meeting.

Notwithstanding any provisions of this section to the contrary, with respect to wagers on out-of-state and out-of-country nonthoroughbred races conducted before 6 p.m., Pacific standard time, 50 percent of the amount remaining shall be distributed as commissions as provided in subparagraph (C) for licensed quarter horse and harness associations, and the remaining 50 percent shall be distributed as commissions to the applicable thoroughbred associations or fairs, as thoroughbred and fair purses, and as incentive awards in accordance with subparagraph (A).

Notwithstanding any provision of this section to the contrary, the distribution of market access fees pursuant to this subparagraph may be altered upon the approval of the board, in accordance with an agreement signed by all parties whose distributions would be affected.

A racing association, a fair, a satellite wagering facility, or a minisatellite wagering facility may enter into an agreement with an ADW provider to accept and facilitate the placement of any wager from a patron at its facility that a California resident could make through that ADW provider. Deductions from wagers made pursuant to this agreement shall be distributed in accordance with the provisions of this chapter governing wagers placed at that facility, except that the board may authorize alternative distributions as agreed to by the ADW provider, the operator of the facility accepting the wager, the association or fair conducting that breed of racing in the zone where the wager is placed, and the respective horsemen's organization.

Any issue concerning the interpretation or application of this section shall be resolved by the board.

Amounts distributed under this section shall be proportionally reduced by an amount equal to 0.00295 multiplied by the amount handled on advance deposit wagers originating in California for each racing meeting, except for harness racing meetings, provided that the amount of this reduction shall not exceed two million dollars (\$2,000,000). The method used to calculate the reduction in proportionate share shall be approved by the board. The amount deducted shall be distributed as follows:

Fifty percent of the money to the board to establish, and to administer jointly with the organization certified as the majority representative of California-licensed jockeys pursuant to Section 19612.9, a defined contribution retirement plan for California-licensed jockeys who retired from racing on or after January 1, 2009.

A person becomes a participant in the retirement plan when he or she is licensed as a jockey in California.

The remaining 50 percent of the money shall be distributed as follows:

Seventy percent shall be distributed to supplement the trainer-administered pension plans for backstretch personnel established pursuant to Section 19613. Moneys distributed pursuant to this subparagraph shall supplement, and not supplant, moneys distributed to that fund pursuant to Section 19613 or any other provision of law.

Thirty percent shall be distributed to the welfare fund established for the benefit of horsemen and backstretch personnel pursuant to subdivision (b) of Section 19641. Moneys distributed pursuant to this subparagraph shall supplement, and not supplant, moneys distributed to that fund pursuant to Section 19641 or any other provision of law.

Amounts distributed under this section shall be proportionally reduced by an amount equal to 0.00295 multiplied by the amount handled on advance deposit wagers originating in California for each harness racing meeting, provided that the amount of this reduction shall not exceed five hundred thousand dollars (\$500,000). The method used to calculate the reduction in proportionate share shall be approved by the board. The amount deducted shall be distributed as follows:

First to the welfare fund established for the benefit of horsemen and backstretch personnel, pursuant to subdivision (b) of Section 19641, and administered by the organization representing the horsemen participating in the race meeting, in the amount requested by the welfare fund. Moneys distributed pursuant to this paragraph shall supplement, and not supplant, moneys distributed to that fund pursuant to Section 19641 or any other provision of law.

The amount remaining, if any, shall be utilized for the benefit of the horsemen as specified in a written agreement between the racing association that conducts the live harness race meeting and the organization representing the horsemen participating in the race meeting.

Notwithstanding subdivision (j), amounts generated that were deducted from amounts handled on advance deposit wagering for harness racing meetings pursuant to subdivision (i), as that section read before the enactment of subdivision (j), that have been held in trust by the California Exposition and State Fair shall be distributed as follows:

Fifty percent to the harness racing horsemen who participated in the racing meeting that concluded June 16, 2012, in the form of purses.

Fifty percent to the California Exposition and State Fair in the form of commissions.

SEC. 9.

Section 19619 of the Business and Professions Code is amended to read:

19619.

Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a California Standardbred Sires Stakes Program is hereby established for standardbred horses bred in the State of California.

Horses eligible to race in the California Standardbred Sires Stakes Program shall be the offspring of a registered California standardbred stallion standing in California during an entire breeding season, or the offspring of a registered standardbred stallion standing in Iowa, ~~Wisconsin, Minnesota, Michigan, or Maine~~, **Maine, Michigan, Minnesota, or Wisconsin**, or the Province of Alberta, Canada.

Responsibility for the California Standardbred Sires Stakes Program is with the board. Administration of the California Standardbred Sires Stakes Program is the responsibility of the California Standardbred Sires Stakes Committee. The committee shall consist of five members and one alternate selected from and by the California Harness Horsemen's Association.

Administrative expenses of the committee in any given year shall not exceed 4 percent of that year's income to the California Standardbred Sires Stakes Program, and all expenses shall be approved by the board.

The board may do all that is necessary to ensure that the California Standardbred Sires Stakes Program is appropriately administered and shall prepare, issue, and adopt rules and regulations providing for all of the following:

Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded.

Nominating, sustaining, and entry fees for horses and races.

Registration and certification of California stallions, mares bred to those stallions, and foals produced thereby.

Any other matter that is considered to be necessary and appropriate for the proper administration and implementation of the California Standardbred Sires Stakes Program.

The funds for the California Standardbred Sires Stakes Program made available pursuant to Section 19491.7 and the nominating, sustaining, and entry fees provided for in this section shall be deposited with the California Standardbred Sires Stakes Committee. The committee shall distribute the funds deposited with it in accordance with this section for the purposes of the program in the manner approved by the board.

Pursuant to Section 19491.7, the breakage used to fund the California Standardbred Sires Stakes Program and to increase purses shall be divided in accordance with the following criteria:

	California Standardbred	
	Sires Stakes Program	Purses
1977	10%	90%
1978	20%	80%
1979	25%	75%
1980	50%	50%
January 1 to June 30, 1981	75%	25%
July 1, 1981, and thereafter	100%	0%

An amount equal to 10 percent of the total purses raced for in the California sires stakes races shall be awarded to the standardbred breeders of the horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse.

An amount equal to 2 percent of the total purses raced for in the California sires stakes races shall be awarded to the owners of the registered California standardbred stallions that sired horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse so sired.

Notwithstanding subdivision (b), the board may establish a series of races for two-year-old and three-year-old fillies that are wholly owned by a California resident on the first day of January of the year that they become two years old and are wholly owned by a California resident on the day of the race.

The balance of the remaining funds, including nominating, sustaining, and entry fees, and after the expenditures described in subdivisions (e), (g), (h), and (i) have been

made, shall be allocated to purses for races comprising the California Standardbred Sires Stakes Program.

The schedule of races that shall comprise the California Standardbred Sires Stakes Program during each year shall be set by the board in accordance with the following criteria:

California standardbred sires stakes races shall be scheduled for two-year-old or three-year-old trotters and two-year-old and three-year-old pacers at the discretion of the California Standardbred Sires Stakes Committee, except that no two-year-old races shall be held before the first day of June of any year. Races for four-year-old or aged trotters and four-year-old or aged pacers may also be scheduled.

Base purses for each set of races conducted during any given year at any race meeting shall be determined by the committee.

In each division of each race in the California standardbred sires stakes races, the purse shall be divided in the following manner:

1st	50%
2nd	25%
3rd	12%
4th	8%
5th	5%

SEC. 10.

The heading of Division 8.6 (commencing with Section 22970) of the Business and Professions Code is amended to read:

DIVISION 8.6. ~~CALIFORNIA~~ CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003

SEC. 11.

Section 22973.3 of the Business and Professions Code is amended to read:

22973.3.

Notwithstanding any other law, an application for a license for the sale of a tobacco product, as defined in subdivision (d) of Section 22950.5, that is not subject to a tax imposed by the Cigarette and Tobacco Products Tax Law pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code shall be filed on a form prescribed by the board and shall include the following:

The name, address, and telephone number of the applicant.

The business name, address, and telephone number of each retail location. For applicants who control more than one retail location, an address for receipt of correspondence or notices from the board, such as a headquarters or corporate office of the retailer, shall also be included on the application and listed on the license. Citations issued to licensees shall be forwarded to all addressees on the license.

A statement by the applicant affirming that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this division or any rule of the board applicable to the applicant or pertaining to the manufacture, sale, or distribution of cigarettes or tobacco products. If the applicant is unable to affirm this statement, the application shall contain a statement by the applicant of the nature of any violation or the reasons that will prevent the applicant from complying with the requirements with respect to the statement.

If any other licenses or permits have been issued by the board or the Department of Alcoholic Beverage Control to the applicant, the license or permit number of those licenses or permits then in effect.

A statement by the applicant that the contents of the application are complete, true, and correct. Any person who signs a statement pursuant to this subdivision that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in ~~the~~ a county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and the fine.

The signature of the applicant.

Any other information the board may require.

The board may investigate to determine the truthfulness and completeness of the information provided in the application. The board may issue a license without further investigation to an applicant for a retail location if the applicant holds a valid license from the Department of Alcoholic Beverage Control for that same location.

The board shall provide electronic means for applicants to download and submit applications.

A fee of two hundred sixty-five dollars (\$265) shall be submitted with each application. An applicant that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses with an application license fee of two hundred sixty-five dollars (\$265) per location. The fee shall be for the period provided in subdivision (d) of Section 22972 and shall not be prorated.

Every retailer shall file an application for renewal of its license, accompanied with a fee of two hundred sixty-five dollars (\$265) per retail location in the form and manner prescribed by the board.

The board shall report back to the Legislature no later than January 1, 2019, regarding the adequacy of funding for the Cigarette and Tobacco Products Licensing Act of 2003 with regard to tobacco products for which a license is required by this section. The report shall include data and recommendations about whether the annual licensing fee funding levels are set at an appropriate level to maintain an effective enforcement program.

The report required by paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

This section ~~shall apply~~ **applies** to a retailer who sells a tobacco product, as defined in subdivision (d) of Section 22950.5, that is not subject to a tax imposed by the Cigarette and Tobacco Products Tax Law pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code, and who does not already possess a valid license to sell cigarettes or tobacco products issued pursuant to Section 22972.

A retailer that possesses a valid license to sell cigarettes and tobacco products issued pursuant to Section 22972 may also sell under that license a tobacco product, as defined in subdivision (d) of Section

22950.5, that is not subject to a tax imposed by the Cigarette and Tobacco Products Tax Law pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code.

This section shall become operative January 1, 2017.

SEC. 12.

Section 22977.1 of the Business and Professions Code is amended to read:

22977.1.

Every distributor and every wholesaler shall file an application, as prescribed in Section 22977, on or before April 15, 2004. Each application shall be accompanied by a fee of one thousand dollars (\$1,000) for each location. The fee shall be for a calendar year and may not be prorated. Subject to meeting the requirements of this section and Section 22977.2, the board shall issue a license.

Every distributor and every wholesaler who commences business after the last day of May 2004, or who commences selling or distributing cigarettes or tobacco products at a new or different place of business in this state after the last day of May 2004, shall file with the board an application as prescribed in Section 22977 at least 30 days prior to commencing such business or commencing such sales or distributions; and all distributors and all wholesalers that fail to timely file an application for a license under subdivision (a) shall file with the board an application as prescribed in Section 22977. Each application shall be accompanied by a fee of one thousand two hundred dollars (\$1,200) for each location. The fee shall be for a calendar year and may not be prorated. Subject to Section 22977.2, the board, within 30 days after receipt of an application and payment of the proper ~~fee~~ fee, shall issue a license.

For calendar years beginning on and after January 1, 2005, and before January 1, 2017, every distributor and every wholesaler shall file an application for renewal of the license prescribed in Section 22977, accompanied with a fee of one thousand dollars (\$1,000) for each location where cigarettes and tobacco products are sold, in the form and manner as prescribed by the board. For calendar years beginning on and after January 1, 2017, the fee accompanying an application for renewal of the license prescribed in Section 22977 shall be one thousand two hundred dollars (\$1,200) for each location where cigarettes and tobacco products are sold.

SEC. 13.

Section 25600.3 of the Business and Professions Code is amended to read:

25600.3.

A nonretail licensee shall not offer, fund, produce, sponsor, promote, furnish, or redeem any type of coupon.

A licensee authorized to sell alcoholic beverages at retail shall not accept, redeem, possess, or utilize any type of coupon that is funded, produced, sponsored, promoted, or furnished by a nonretail licensee.

For purposes of this section:

“Nonretail licensee” means any person who ~~own~~ owns or holds any interest, directly or indirectly, in any license, authorization, or permit issued pursuant to this division that authorizes the manufacture, production, rectification, importation, or wholesaling of alcoholic beverages, except for a brewpub restaurant license issued pursuant to Section 23396.3.

“Cider” has the same meaning set forth in Section 4.21(e)(5) of Title 27 of the Code of Federal Regulations.

“Perry” has the same meaning set forth in Section 4.21(e)(5) of Title 27 of the Code of Federal Regulations.

“Coupon” means any method by which a consumer receives an instant discount at the time of a purchase of any item if an alcoholic beverage purchase is required in connection with such purchase that is funded, produced, sponsored, promoted, or furnished, either directly or indirectly, by a nonretail licensee, including, but not limited to, a paper coupon, a digital coupon, an instant redeemable coupon (IRC), or an electronic coupon commonly referred to as a scan or scanback. “Coupon” does not include:

A mail-in rebate by which the consumer purchases an item and submits required information in order to receive a rebate or discount from the nonretail licensee.

A discount that is offered and funded by a distilled spirits manufacturer, distilled manufacturer’s agent, brandy manufacturer, brandy importer, distilled spirits rectifier general, holder of an out-of-state distilled spirits shipper certificate, distilled spirits importer general, distilled spirits importer, rectifier, brandy wholesaler, distilled spirits wholesaler, or a holder of a craft distiller’s license, regardless of other licenses held, that offers a discount on the purchase of a distilled spirits product if beer, malt beverages, or wine products are not advertised in connection with the coupon.

A discount that is offered and funded by a beer manufacturer on the purchase of beer, malt beverages, cider, or perry at the licensed premises of production or other licensed premises owned or leased and operated by the beer manufacturer.

A discount that is offered and funded by a winegrower on the purchase of wine sold directly by the winegrower to a consumer at or from the licensed premises of production or other licensed premises owned or leased and operated by the winegrower or through the Internet where a consumer buys directly from a winegrower.

A discount offered and funded by a beer and wine wholesaler, a beer and wine importer, a wine importer general, or a wine broker that offers a discount on the purchase of a nonalcoholic beverage item if beer, malt beverages, or wine products are not advertised in connection with the discount.

Until and including March 31, 2017, a nonretail licensee may reimburse a licensee authorized to sell alcoholic beverages at retail for any coupon providing a consumer with an instant discount at the time of purchase of wine, if beer, malt beverages, cider, or perry are not advertised in connection with such coupon, that is otherwise prohibited by this section, that was received, accepted, or possessed by such licensee authorized to sell alcoholic beverages at retail on or before December 31, 2016.

~~Nothing in this~~ This section is not intended to preclude or prevent or otherwise restrict an on-sale or off-sale retail licensee that is not also a nonretail licensee from offering, funding, producing, sponsoring, promoting, furnishing, or redeeming a discount to consumers on the purchase of alcoholic beverages that is not otherwise prohibited by this section or any other provision of law.

SEC. 14.

Section 19 of the Civil Code is amended to read:

19.

~~Section Nineteen.~~ Every person who has actual notice of circumstances sufficient to put a prudent ~~man~~ person upon inquiry as to a particular ~~fact, fact~~ has constructive notice of the fact itself in all cases in which, by prosecuting such inquiry, he ~~or she~~ might have learned ~~such that~~ fact.

SEC. 15.

Section 54.27 of the Civil Code is amended to read:

54.27.

An attorney who provides a prelitigation letter to an education entity shall do both of the following:

Include the attorney's State Bar license number in the prelitigation letter.

Within five business days of providing the prelitigation letter, send a copy of the prelitigation letter to the California Commission on Disability Access.

An attorney who sends or serves a complaint against an education entity shall do both of the following:

Send a copy of the complaint and submit information about the complaint in a standard format specified by the California Commission on Disability Access to the commission within five business days of sending or serving the complaint.

Notify the California Commission on Disability Access within five business days of judgment, settlement, or dismissal of the claim or claims alleged in the complaint of the following information in a standard format specified by the commission:

The date of the judgment, settlement, or dismissal.

Whether or not the construction-related accessibility violations alleged in the complaint were remedied in whole or in part after the plaintiff filed a complaint.

If the construction-related accessibility violations alleged in the complaint were not remedied in whole or in part after the plaintiff filed a complaint, whether or not another favorable result was achieved after the plaintiff filed the complaint.

A violation of paragraph (2) of subdivision (a) or subdivision (b) shall constitute cause for the imposition of discipline of an attorney if a copy of the prelitigation letter, complaint, or notification of a case outcome is not sent to the California Commission on Disability Access within five business days. In the event the State Bar of California receives information indicating that an attorney has failed to send a copy of the prelitigation letter, complaint, or notification of a case outcome to the California Commission on Disability Access within five business days, the State Bar of California shall investigate to determine whether paragraph (2) of subdivision (a) or subdivision (b) has been violated.

Notwithstanding subdivisions (a) and (b), an attorney is not required to send to the California Commission on Disability Access a copy of any subsequent prelitigation letter or amended complaint in the same dispute following the initial prelitigation letter or complaint, unless that subsequent prelitigation letter or amended complaint alleges a new construction-related accessibility claim.

A prelitigation letter or notification of a case outcome sent to the California Commission on Disability Access shall be for the informational purposes of Section 8299.08 of the Government Code.

The California Commission on Disability Access shall review and report on the prelitigation letters, complaints, and notifications of case outcomes it receives in the same manner as provided in Section 8299.08 of the Government Code.

Paragraph (2) of subdivision (a) and subdivision (b) ~~shall~~ **does** not apply to a prelitigation letter or complaint sent or filed by an attorney employed or retained by a qualified legal services project or a qualified support center, as defined in Section 6213 of the Business and Professions Code, when acting within the scope of employment in asserting a construction-related accessibility claim. The Legislature finds and declares that qualified legal services projects and support centers are extensively regulated by the State Bar of California, and that there is no evidence of any abusive use of demand letters or complaints by these organizations. The Legislature further finds that, in light of the evidence of the extraordinarily small number of construction-related accessibility cases brought by regulated legal services programs, and given the resources of those programs, exempting regulated legal services programs from the requirements of this section to report to the California Commission on Disability Access will not affect the purpose of the reporting to, and tabulation by, the commission of all other construction-related accessibility claims.

~~Nothing in this~~ **This** section ~~applies~~ **does not apply** to a claim for money or damages against a public entity governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code or ~~makes~~ **make** the requirements of this section applicable to such a claim.

For purposes of this section, the following terms have the following meanings:

“Complaint” means a civil complaint that is filed or is to be filed with a court and is sent to or served upon a defendant on the basis of one or more construction-related accessibility claims.

“Construction-related accessibility claim” or “claim” means any claim of a violation of any construction-related accessibility standard, as defined in paragraph (6) of subdivision (a) of Section 55.52, with respect to a public building, public facility, or other public place of an education entity. “Construction-related accessibility claim” does not include a claim of interference with housing within the meaning of paragraph (2) of subdivision (b) of Section 54.1, or any claim of interference caused by something other than the construction-related accessibility condition of the property, including, but not limited to, the conduct of any person.

“Education entity” means the Regents of the University of California, the Trustees of the California State University and the California State University, the ~~California Community Colleges Office~~ **office** of the Chancellor ~~and of~~ the California Community Colleges, a K-12 school district, or any local education agency.

“Prelitigation letter” means a prelitigation written document that alleges the site is in violation of one or more construction-related accessibility standards, as defined in paragraph (6) of subdivision (a) of Section 55.52 and is provided to the education entity whether or not the attorney intends to file a complaint, or eventually files a complaint, in state or federal court. A prelitigation letter does not include a claim for money or damages against a local public entity governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 16.

Section 56.06 of the Civil Code is amended to read:

56.06.

Any business organized for the purpose of maintaining medical information, as defined in subdivision ~~(g)~~ **(j)** of Section 56.05, in order to make the information available to an individual or to a provider of health care at the request of the individual or a provider of health care, for purposes of allowing the individual to manage his or her information, or for the diagnosis and treatment of the individual, shall be deemed to be a provider of health care subject to the requirements of this part. However, ~~nothing in~~ this section shall **not** be construed to make a business specified in this subdivision a provider of health care for purposes of any law other than this part, including laws that specifically incorporate by reference the definitions of this part.

Any business that offers software or hardware to consumers, including a mobile application or other related device that is designed to maintain medical information, as defined in subdivision (j) of Section 56.05, in order to make the information available to an individual or a provider of health care at the request of the individual or a provider of health care, for purposes of allowing the individual to manage his or her information, or for the diagnosis, treatment, or management of a medical condition of the individual, shall be deemed to be a provider of health care subject to the requirements of this part. However, ~~nothing in~~ this section shall ~~not~~ be construed to make a business specified in this subdivision a provider of health care for purposes of any law other than this part, including laws that specifically incorporate by reference the definitions of this part.

Any business described in subdivision (a) or (b) shall maintain the same standards of confidentiality required of a provider of health care with respect to medical information disclosed to the business.

Any business described in subdivision (a) or (b) ~~shall be~~ is subject to the penalties for improper use and disclosure of medical information prescribed in this part.

SEC. 17.

Section 2079.13 of the Civil Code is amended to read:

2079.13.

As used in Sections ~~2079.7~~, 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

“Agent” means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained.

“Associate licensee” means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker’s agent in connection with acts requiring a real estate license and to function under the broker’s supervision in the capacity of an associate licensee.

The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions.

“Buyer” means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. “Buyer” includes vendee or lessee.

“Commercial real property” means all real property in the state, except single-family residential real property, dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, mobilehomes, as defined in Section 798.3, or recreational vehicles, as defined in Section 799.29.

“Dual agent” means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction.

“Listing agreement” means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer.

“Listing agent” means a person who has obtained a listing of real property to act as an agent for compensation.

“Listing price” is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent.

“Offering price” is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property.

“Offer to purchase” means a written contract executed by a buyer acting through a selling agent that becomes the contract for the sale of the real property upon acceptance by the seller.

“Real property” means any estate specified by subdivision (1) or (2) of Section 761 in property that constitutes or is improved with one to four dwelling units, any commercial real property, any leasehold in these types of property exceeding one year’s duration, and mobilehomes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code.

“Real property transaction” means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.

“Sell,” “sale,” or “sold” refers to a transaction for the transfer of real property from the seller to the ~~buyer~~, buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year’s duration.

“Seller” means the transferor in a real property ~~transaction~~, transaction and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. “Seller” includes both a vendor and a lessor.

“Selling agent” means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real ~~property~~, property or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.

“Subagent” means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, “subagent” does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

SEC. 18.

Section 4777 of the Civil Code is amended to read:

4777.

For the purposes of this section:

“Adjacent separate interest” means a separate interest that is directly beside, above, or below a particular separate interest or the common area.

“Authorized agent” means an individual, organization, or other entity that has entered into an agreement with the association to act on the association’s behalf.

“Broadcast application” means spreading pesticide over an area greater than two square feet.

“Electronic delivery” means delivery of a document by electronic means to the electronic address at, or through which, an owner of a separate interest has authorized electronic delivery.

“Licensed pest control operator” means anyone licensed by the state to apply pesticides.

“Pest” means a living organism that causes damage to property or economic loss, or transmits or produces diseases.

“Pesticide” means any substance, or mixture of substances, that is intended to be used for controlling, destroying, repelling, or mitigating any pest or organism, excluding antimicrobial pesticides as defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).

An association or its authorized agent that applies any pesticide to a separate interest or to the common area without a licensed pest control operator shall provide the owner and, if applicable, the tenant of an affected separate interest and, if making broadcast applications, or using total release foggers or aerosol sprays, the owner and, if applicable, the tenant in an adjacent separate interest that could reasonably be impacted by the pesticide use with written notice that contains the following statements and information using words with common and everyday meaning:

The pest or pests to be controlled.

The name and brand of the pesticide product proposed to be used.

“State law requires that you be given the following information:

CAUTION – PESTICIDES ARE TOXIC CHEMICALS. The California Department of Pesticide Regulation and the United States Environmental Protection Agency allow the unlicensed use of certain pesticides based on existing scientific evidence that there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized.

If within 24 hours following application of a pesticide, a person experiences symptoms similar to common seasonal illness comparable to influenza, the person should contact a physician, appropriate licensed health care provider, or the California Poison Control System (1-800-222-1222).

For further information, contact any of the following: for Health Questions – the County Health Department (telephone number) and for Regulatory Information – the Department of Pesticide Regulation (916-324-4100).”

The approximate date, time, and frequency with which the pesticide will be applied.

The following notification:

“The approximate date, time, and frequency of this pesticide application is subject to change.”

At least 48 hours prior to application of the pesticide to a separate interest, the association or its authorized agent shall provide individual notice to the owner and, if applicable, the tenant of the separate interest and notice to an owner and, if applicable, the tenant occupying any adjacent separate interest that is required to be notified pursuant to paragraph (1).

At least 48 hours prior to application of the pesticide to a common area, the association or its authorized agent shall, if practicable, post the written notice described in paragraph (1) in a conspicuous place in or around the common area in which the pesticide is to be applied.

Otherwise, if not practicable, the association or its authorized agent shall provide individual notice to the owner and, if applicable, the tenant of the separate interest that is adjacent to the common area.

If the pest poses an immediate threat to health and safety, thereby making compliance with notification prior to the pesticide application unreasonable, the association or its authorized agent shall post the written notice as soon as practicable, but not later than one hour after the pesticide is applied.

Notice to tenants of separate interests shall be provided, in at least one of the following ways:

First-class mail.

Personal delivery to a tenant 18 years of age or older.

Electronic delivery, if an electronic mailing address has been provided by the tenant.

Upon receipt of written notification, the owner of the separate interest or the tenant may agree in writing or, if notification was delivered electronically, the tenant may agree through electronic delivery, to allow the association or authorized agent to apply a pesticide immediately or at an agreed upon time.

Prior to receipt of written notification, the association or authorized agent may agree orally to an immediate pesticide application if the owner or, if applicable, the tenant requests that the pesticide be applied before the 48-hour notice of the pesticide product proposed to be used.

With respect to an owner or, if applicable, a tenant entering into an oral agreement for immediate pesticide application, the association or authorized agent, no later than the time of pesticide application, shall leave the written notice specified in paragraph (1) in a conspicuous place in the separate interest or at the entrance of the separate interest in a manner in which a reasonable person would discover the notice.

If any owner or, if applicable, any tenant of a separate interest or an owner or, if applicable, a tenant of an adjacent separate interest is also required to be notified pursuant to this subparagraph, the association or authorized agent shall provide that person with this notice as soon as practicable after the oral agreement is made authorizing immediate pesticide application, but in no case later than commencement of application of the pesticide.

A copy of a written notice provided pursuant to paragraph (1) shall be attached to the minutes of the board meeting immediately subsequent the application of the pesticide.

SEC. 19.

Section 9 of the Code of Civil Procedure is amended to read:

9.

~~Section Nine.~~ When a limitation or period of time prescribed in any existing statute for acquiring a right or barring a remedy, or for any other purpose, has begun to run before this ~~Code~~ **code** goes into effect, and the same or any limitation is prescribed in this ~~Code,~~ **code**, the time ~~which~~ **that** has already run shall be deemed part of the time prescribed as such limitation by this ~~Code.~~ **code.**

SEC. 20.

Section 26 of the Code of Civil Procedure is amended to read:

26.

~~Section Twenty-six.~~ An obligation is a legal duty, by which one person is bound to do or not to do a certain thing, and arises ~~from:~~ from either of the following:

~~One—Contract; or,~~(a) Contract.

~~Two—Operation of law.~~(b) Operation of law.

SEC. 21.

Section 469 of the Code of Civil Procedure is amended to read:

469.

~~Section Four Hundred and Sixty-nine. No variance~~ Variance between the allegation in a pleading and the proof ~~is to~~ shall not be deemed material, unless it has actually misled the adverse party to his or her prejudice in maintaining his or her action or defense upon the merits. ~~Whenever~~ If it appears that a party has been so misled, the ~~Court~~ court may order the pleading to be amended, upon such terms as may be just.

SEC. 22.

Section 1002 of the Code of Civil Procedure is amended to read:

1002.

Notwithstanding any other law, a provision within a settlement agreement that prevents the disclosure of factual information related to the action is prohibited in any civil action the factual foundation for which establishes a cause of action for civil damages for any of the following:

An act that may be prosecuted as a felony sex offense.

An act of childhood sexual abuse, as defined in Section 340.1.

An act of sexual exploitation of a minor, as defined in Section 11165.1 of the Penal Code, or conduct prohibited with respect to a minor pursuant to Section 311.1, 311.5, or 311.6 of the Penal Code.

An act of sexual assault, as defined in paragraphs (1) to (9), inclusive, of subdivision (e) of Section 15610.63 of the Welfare and Institutions Code, against an elder or dependent adult, as defined in Sections 15610.23 and ~~15610.7~~ 15610.27 of the Welfare and Institutions Code.

Notwithstanding any other law, in a civil action described in paragraphs (1) to (4), inclusive, of subdivision (a), a court shall not enter, by stipulation or otherwise, an order that restricts the disclosure of information in a manner that conflicts with subdivision (a).

Subdivisions (a) and (b) do not preclude an agreement preventing the disclosure of any medical information or personal identifying information, as defined in subdivision (b) of Section 530.55 of the Penal Code, regarding the victim of the offense listed in subdivision (a) or of any information revealing the nature of the relationship between the victim and the defendant. This subdivision shall not be construed to limit the right of a crime victim to disclose this information.

Except as authorized by subdivision (c), a provision within a settlement agreement that prevents the disclosure of factual information related to the action described in subdivision (a) that is entered into on or after January 1, 2017, is void as a matter of law and against public policy.

An attorney's failure to comply with the requirements of this section by demanding that a provision be included in a settlement agreement that prevents the disclosure of factual information related to the action described in subdivision (a) that is not otherwise authorized by subdivision (c) as a condition of settlement, or advising a client to sign an agreement that includes such a provision, may be grounds for professional discipline and the State Bar of California shall investigate and take appropriate action in any such case brought to its attention.

SEC. 23.

Section 2282 of the Corporations Code is amended to read:

2282.

When an aggrieved person obtains a final judgment in a court of competent jurisdiction against a corporation based upon the corporation's fraud, misrepresentation, or deceit, made with intent to defraud, or obtains a criminal restitution order against an agent based upon the agent's fraud, misrepresentation, or deceit, made with intent to defraud while acting in the agent's capacity as the corporation's officer or director, the aggrieved person may, upon the judgment becoming final and after diligent collection efforts are made, file an application with the Secretary of State for payment from the fund, within the limitations specified in Section 2289, for the amount unpaid on the judgment that represents the awarded actual and direct loss, any awarded compensatory damages, and awarded costs to the claimant in the final judgment, excluding punitive damages.

The application shall be delivered in person or by certified mail to the Secretary of State not later than 18 months after the judgment has become final.

The application shall be made on a form prescribed by the Secretary of State and shall include each of the following:

The name and address of the claimant.

If the claimant is represented by an attorney for the application, the name, business address, and telephone number of the attorney. If the claimant is not represented by an attorney for the application, a telephone number where the claimant can be reached during regular business hours shall be included.

The name and address of the corporation and the agent, if any.

The identification of the final judgment, the amount of the claim that remains unreimbursed from any source, and an explanation of the claim's computation.

A copy of a final judgment and a copy of the civil complaint and any amendments thereto upon which the judgment finding fraud, misrepresentation, or deceit, made with the intent to defraud, was made shall be deemed to satisfy compliance with the requirements prescribed in this paragraph. The claimant may also provide any additional documentation that he or she believes may help the Secretary of State in evaluating the application, including, but not limited to, evidence submitted to the court in the underlying judgment or a detailed narrative statement of facts in explanation of the allegations of the complaint upon which the underlying judgment is based.

If the final judgment is a criminal restitution order, the claimant shall provide the charging document and the restitution order, and if the defendant is an agent, documentation showing the defendant named in the restitution order is an agent as defined in this chapter.

A description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied to satisfaction of the judgment. A court's determination or finding of the judgment debtor's insolvency or lack of assets to pay the claimant shall be deemed to satisfy the requirements prescribed in this paragraph.

Each of the following representations by the claimant:

That the claimant is not a spouse, registered domestic partner, or an immediate family member of an employee, officer, director, managing agent, or other principal of the corporation nor a personal representative of the ~~spouse~~ spouse, registered domestic partner, or an immediate family member of an employee, officer, director, managing agent, or other principal of the corporation.

That the claimant has complied with all of the requirements of this section.

That the judgment underlying the claim meets the requirements of subdivisions (a) and ~~(b) of Section 2282~~, (b), including all of the following:

That the judgment was for fraud, misrepresentation, or deceit by the corporation or the agent of the corporation, with the intent to defraud.

That the judgment is unpaid in part or in whole.

That the underlying judgment and debt have not been discharged in bankruptcy, or the underlying judgment is statutorily nondischargeable, or, in the case of a bankruptcy proceeding that is open at or after the time of the filing of the application, that the judgment and debt have been declared to be nondischargeable by the judge or stipulated as nondischargeable by the parties in the proceeding and that the claimant has been granted permission by the bankruptcy court to proceed with collection or otherwise proceed with the claimant's claims against the judgment debtor or debtors.

That the claimant does not have a pending claim and has not collected on the final judgment from any other restitution fund. If the claimant has a pending claim or has collected from another fund, a description of the nature of the pending claim and the recovery amounts from any restitution fund.

Except as provided in paragraphs (2), (3), and (4) the Secretary of State shall not condition an award of payment from the fund upon a claimant providing any additional information or documents other than those prescribed in subdivision (c).

If the final judgment in favor of the claimant was by default, stipulated, a consent judgment, or pursuant to Section 594 of the Code of Civil Procedure or if the action against the corporation or its agent was defended by a trustee in bankruptcy, the Secretary of State may request additional documents and information from the claimant to determine whether the claim is valid.

If the final judgment does not expressly set forth the amount of damages that were awarded for actual loss and compensatory damages that are payable from the fund pursuant to Section 2289, the Secretary of State may ask the claimant to provide copies of documentation pertaining to the amount of the actual and direct loss and the awarded compensatory damages or both of those findings. For purposes of this section, "sufficient proof of money damages" may include any of the following: copies of bank account statements showing or confirming particular

transactions, copies of the front and back of checks made payable to the corporation that have been negotiated, credit card statements showing or confirming particular transactions, or similar documentation demonstrating financial loss directly resulting from the fraudulent acts by the corporation or its agent and the amount of compensatory damages awarded by the court.

If there is no court determination or finding of the insolvency of the judgment debtor or lack of assets to pay the claimant, the Secretary of State may request additional information and documentation from the claimant to determine what assets, if any, are available to satisfy the final judgment.

The Secretary of State shall include with the application form a notice to the claimant of his or her obligation to protect the underlying judgment from discharge in bankruptcy, to be appended to the application.

If a claimant is a spouse, registered domestic partner, or an immediate family member of an employee, officer, director, managing agent, or other principal of the corporation, or is a personal representative of the spouse, registered domestic partner, or an immediate family member of an employee, officer, director, managing agent, or other principal of the corporation, the claimant shall not be precluded for that reason alone from receiving an award where the claimant can otherwise meet the requirements of this section.

SEC. 24.

Section 16955 of the Corporations Code is amended to read:

16955.

A domestic partnership, other than a limited partnership, may convert to a registered limited liability [partnership](#) by the vote of the partners possessing a majority of the interests of its partners in the current profits of the partnership or by a different vote as may be required in its partnership agreement.

When such a conversion takes effect, all of the following apply:

All property, real and personal, tangible and intangible, of the converting partnership remains vested in the converted registered limited liability partnership.

All debts, obligations, liabilities, and penalties of the converting partnership continue as debts, obligations, liabilities, and penalties of the converted registered limited liability partnership.

Any action, suit, or proceeding, civil or criminal, then pending by or against the converting partnership may be continued as if the conversion had not occurred.

To the extent provided in the agreement of conversion and in this chapter, the partners of a partnership shall continue as partners in the converted registered limited liability partnership.

A partnership that has been converted to a registered limited liability partnership pursuant to this chapter is the same person that existed prior to the conversion.

SEC. 25.

Section 8482.8 of the Education Code is amended to read:

8482.8.

If there is a significant barrier to pupil participation in a program established pursuant to this article at the school of attendance, a grantee may request approval from the department to transfer program services to another schoolsite within the same local educational agency. The schoolsite to which the program will be transferred shall satisfy either of the following requirements:

The schoolsite shall agree to receive pupils from, and have an existing grant of the same type as, the transferring school.

The schoolsite shall not have a 10-percent lower percentage of pupils eligible for free or reduced-price meals than the transferring school. If the proposed schoolsite is not yet open, feeder school free or reduced-price meal data, as determined by the department, shall be considered in evaluating the proposed transfer.

The schoolsite shall not increase the funding at the proposed schoolsite above the maximum after school grant amount established in subparagraph (C) of paragraph (1) of subdivision (a) of Section 8483.7. An applicant that requests approval to transfer program services shall describe the manner in which the applicant intends to provide safe, supervised transportation; ensure communication among teachers in the regular school program, staff in the before school and after school components of the program, and parents of pupils; and coordinate the educational and literacy component of the before and after school components of the program with the regular school programs of participating pupils.

For purposes of this article, a significant barrier to pupil participation in the before or after school component of a program established pursuant to this chapter means any of the following:

Fewer than 20 pupils participating in the component of the program.

Extreme transportation constraints, including, but not limited to, desegregation bussing, bussing for magnet or open enrollment schools, or pupil dependence on public transportation.

A local educational agency opens a new schoolsite and either merges an existing schoolsite into the new schoolsite or splits an existing schoolsite's pupils with the new schoolsite so that the existing schoolsite before or after school component of the program is subject to a grant reduction pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 8483.7.

In addition to the authority to transfer funds among school programs pursuant to Sections 8483.7 and 8483.75, and in addition to the flexibility provided by subdivisions (a) and (b), a program grantee that is temporarily prevented from operating a program established pursuant to this article at the program site due to natural disaster, civil unrest, or imminent danger to pupils or staff may shift program funds to the sites of other programs established pursuant to this article to meet attendance targets during that time period.

If a program grantee is temporarily prevented from operating its entire program due to natural disaster, civil unrest, or imminent danger to pupils or staff, the department may approve a request by the grantee for ~~student~~ pupil attendance credits equal to the average annual attendance that the grantee would have received if it had been able to operate its entire program during that time period.

Upon the request of a program grantee, the department may approve other unforeseen events as qualifying a program grantee to use the authority provided by subdivisions (c) and (d).

SEC. 26.

Section 17296 of the Education Code is amended to read:

17296.

Notwithstanding any other ~~provision of law, any law,~~ a school-based facility providing social services or support services, or health care, that is established through agreements with local governments and school districts pursuant to Chapter 5 (commencing with Section 8800) of Part 6 or as part of an integrated children's services program pursuant to Chapter ~~12.9~~ 12.82 (commencing with Section 18986.40) of Part 6 of Division 9 of the Welfare and Institutions Code, respectively, is located on school property, and meets all the requirements of the Uniform Building Code and has been approved by the building department of the appropriate local jurisdiction, as well as those of the appropriate local

jurisdiction, shall not be required to obtain approval of plans by the Department of General Services pursuant to Section 17295.

SEC. 27.

Section 22955.1 of the Education Code is amended to read:

22955.1.

Notwithstanding Section 13340 of the Government Code, commencing July 1, 2003, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 2.017 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5, and shall be divided into four equal payments. The payments shall be made on, or the following business day after, July 1, October 1, December 15, and April 15 of each fiscal year.

Commencing July 1, 2014, the amount of the appropriation required under subdivision (a) shall increase by the following percentages of the creditable compensation upon which that appropriation is based:

On July 1, 2014, by 1.437 percent.

On July 1, 2015, by 2.874 percent.

On July 1, 2016, by 4.311 percent.

For fiscal year 2017–18 and each fiscal year thereafter, the board shall increase or decrease the percentage specified in this subdivision from the percentage paid during the prior fiscal year to reflect the contribution required to eliminate the remaining unfunded actuarial obligation, as determined by the board based upon a recommendation from its actuary. If a rate increase is required, the adjustment may be for no more than 0.50 percent per year of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based. At any time when there is not an unfunded actuarial obligation as determined by the board, the percentage specified in this subdivision shall be reduced to zero.

Pursuant to Section 22001 and case law, members are entitled to a financially sound retirement system. It is the intent of the Legislature that this section shall provide the retirement fund stable and full funding over the long term.

This section continues in effect but in a somewhat different form, fully performs, and does not in any way unreasonably impair, the contractual obligations determined by the court in California ~~Teachers'~~ Teachers Association v. ~~Cory, Cory~~ (1984) 155 Cal.App.3d 494.

Subdivision (b) shall not be construed to be applicable to any unfunded actuarial obligation resulting from any benefit increase or change in contribution rate under this part that occurs after July 1, 1990, except that state contributions made pursuant to subdivision (b) shall be allocated to reduce the unfunded actuarial obligation resulting from the benefits and contribution rates in effect as of July 1, 1990.

The provisions of this section shall be construed and implemented to be in conformity with the judicial intent expressed by the court in California ~~Teachers'~~ Teachers Association v. ~~Cory, Cory~~ (1984) 155 Cal.App.3d 494.

Except as described in paragraph (2), this section shall become inoperative on July 1, 2046, and as of January 1, 2047, is repealed.

Notwithstanding paragraph (1), on July 1 of the first fiscal year after a 30-day notice has been sent to the Joint Legislative Budget Committee and the Controller in compliance with subdivision (d) of Section 22957, this section shall become inoperative and, as of the following January 1, is repealed.

SEC. 28.

Section 35710 of the Education Code is amended to read:

35710.

For all other petitions to transfer territory, if the county committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 35753 substantially are met, the county committee may approve the ~~petition and, if approved,~~ petition. ~~If the petition is approved, the county committee~~ shall notify the county superintendent of ~~schools~~ schools, who shall call an election in the territory of the affected ~~districts~~ districts, as determined by the county committee, to be conducted at the next election of any ~~kind~~ kind, in accordance with ~~either one~~ of the following:

Section 1002 of the Elections Code and Part 4 (commencing with Section 5000) of Division 1 of Title ~~1~~ 1 of this code.

Division 4 (commencing with Section 4000) of the Elections Code.

A county committee also may approve a petition to form one or more new districts if the requirements of subdivision (a), and the following conditions, are met:

Each county superintendent of schools with jurisdiction over an affected district elects to grant approval authority to the county committee on school district organization for which he or she is secretary pursuant to Section 4012, and that county committee chooses to accept that authority.

The governing board of each of the affected districts consents to the petition.

The secretary of the county committee designated as the lead agency pursuant to Section 35710.3 ~~or subdivision (a) of Section 35520.5~~ enters into an agreement on behalf of the county committee for any or all affected districts to share among those districts the costs of complying with the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

A petition to form one or more new districts that meets the conditions described in subdivision (b), but is not approved by the county committee, shall be transmitted to the state board pursuant to subdivision (a) of Section 35707 and heard by the state board pursuant to Section 35708. The state board, rather than the county committee, shall be the lead agency, as defined in Section 21067 of the Public Resources Code, for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for each petition transmitted pursuant to this subdivision, including a petition disapproved by the county committee after determining the project is exempt from the California Environmental Quality Act pursuant to paragraph (5) of subdivision (b) of Section 21080 of the Public Resources Code.

SEC. 29.

Section 41580 of the Education Code is amended to read:

41580.

The sum of two hundred million dollars (\$200,000,000) is hereby appropriated from the General Fund to the Superintendent for transfer by the Controller to Section A of the State School Fund for allocation by the Superintendent to establish the College Readiness Block Grant in the manner and for the purposes set forth in this section.

The College Readiness Block Grant is hereby established for the purposes of providing California's high school pupils, particularly unduplicated pupils as defined in Sections 42238.01 and 42238.02, additional supports to increase the number who enroll at institutions of higher education and complete an undergraduate degree within four years.

The Superintendent shall allocate an equal amount per unduplicated pupil enrolled in grades ~~9 through 12~~ **to 12, inclusive**, during the 2015–16 fiscal year to school districts, county offices of education, and charter schools. No school district, county office of education, or charter school serving at least one unduplicated pupil in grades ~~9 through 12~~ **to 12, inclusive**, during the 2015–16 fiscal year shall receive a total allocation of less than ~~seventy-five~~ **seventy-five** thousand dollars (\$75,000). A school district, county office of education, or charter school shall be eligible for an allocation pursuant to this subdivision only for unduplicated pupils, as defined in Sections 42238.01 and 42238.02, attending a school that is currently accredited or in the process of obtaining accreditation from the Accrediting Commission for Schools, Western Association of Schools and Colleges. These funds are available for expenditure or encumbrance through the 2018–19 fiscal year.

Block grant funds apportioned to eligible local educational agencies shall be used for activities that directly support pupil access and successful matriculation to institutions of higher education. Eligible activities may include, but are not limited to, the following:

- Providing teachers, administrators, and counselors with professional development opportunities to improve pupil A–G course completion rates, pupil college-going rates, and college readiness of pupils, including providing for the development of honors and Advanced Placement courses.

- Beginning or increasing counseling services to pupils and their families regarding college admission requirements and financial aid programs.

- Developing or purchasing materials that support college readiness, including materials that support high performance on assessments required for admittance to a postsecondary educational institution.

- Developing comprehensive advising plans to support pupil completion of A–G course requirements.

- Implementing collaborative partnerships between high schools and postsecondary educational institutions that support pupil transition to postsecondary education, including, but not limited to, strengthening existing partnerships with the University of California and the California State University to establish early academic outreach and college preparatory programs.

- Providing subsidies to unduplicated pupils, as defined in Sections 42238.01 and 42238.02, to pay fees for taking ~~advanced placement exams~~ **Advanced Placement examinations**.

- Expanding access to coursework or other opportunities to satisfy A–G course requirements to all pupils, including, but not necessarily limited to, pupils enrolled in schools identified by the department as high schools with 75 percent or greater enrollment of unduplicated pupils, pursuant to subdivision (g). These opportunities may include, but shall not be limited to, new or expanded partnerships with other secondary or postsecondary educational institutions.

As a condition for receiving funds under this article, a school district, county office of education, or charter school shall develop a plan describing how the funds will increase or improve services for unduplicated pupils to ensure college readiness. The plan shall include information regarding how it aligns with the school district's local control and accountability plan required pursuant to Section 52060, the county superintendent of schools' local control and accountability plan required pursuant to

Section 52066, or the charter school's local control and accountability plan required pursuant to Section 47605 or 47605.6 and Section 47606.5. The plan shall also include a description of the extent to which all pupils within the school district, county office of education, or charter school, particularly unduplicated pupils, as defined in Sections 42238.01 and 42238.02, will have access to A–G courses approved by the University of California. In order to ensure community and stakeholder input, the plan shall be discussed at a regularly scheduled meeting by the governing board of the school district, county board of education, or governing body of the charter school and adopted at a subsequent regularly scheduled meeting.

As a condition for receiving funds under this article, grant recipients shall report to the Superintendent by January 1, 2017, on how they will measure the impact of the funds received on their unduplicated pupils' access and successful matriculation to institutions of higher education, as identified within their plan. The department shall compile the information reported pursuant to this subdivision and submit a report to the appropriate policy and fiscal committees of the Legislature on or before April 30, 2017, and shall update the state board on the contents of that report at a regularly scheduled meeting of the state board.

The Superintendent shall annually post on ~~its~~ the department's Internet Web site a list of each school with a percentage of unduplicated pupils in grades 9 to 12, inclusive, of at least 75 percent of the school's total enrollment in grades 9 to 12, inclusive.

For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the 2015–16 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for the 2015–16 fiscal year.

SEC. 30.

Section 44253.4 of the Education Code is amended to read:

44253.4.

The commission shall issue an authorization for a teacher to provide all of the following services to limited-English-proficient pupils:

Instruction for English language development in preschool, kindergarten, grades 1 to 12, inclusive, and classes organized primarily for adults, except when the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit pursuant to Sections 8363 and 44252.7, a children's center supervision permit pursuant to Section 8363, or a designated subjects teaching credential in adult education pursuant to Section 44260.2. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional ~~permit,~~ permit or a children's center supervision permit, ~~then~~ instruction for English language development shall be limited to the programs authorized by that permit. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a designated subjects teaching credential in adult education, ~~then~~ instruction for English language development shall be limited to classes organized primarily for adults.

Specially designed content instruction delivered in English in the subjects and at the levels authorized by the teacher's prerequisite credential or permit used to satisfy the requirement specified in paragraph (1) of subdivision (b).

Content instruction delivered in the pupil's primary language in the subjects and at the levels authorized by the teacher's prerequisite credential or permit used to satisfy the requirement specified in paragraph (1) of subdivision (b).

Instruction for primary language development in preschool, kindergarten, grades 1 to 12, inclusive, and classes organized primarily for adults, except when the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit, a children's center supervision permit, or a designated subjects teaching credential in adult education. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit or a children's center supervision permit, ~~then~~ instruction for primary language development is limited to the programs authorized by that permit. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a designated subjects teaching credential in adult education, ~~then~~ instruction for primary language development is limited to classes organized primarily for adults.

The minimum requirements for the authorization, which may be completed at the same time as the initial preparation for the prerequisite credential or at a later date, shall include both of the following:

Possession of a valid California teaching credential, services credential, visiting faculty permit, children's center instructional permit, or children's center supervision permit which credential or permit authorizes the holder to provide instruction to pupils in preschool, kindergarten, any of grades 1 to 12, inclusive, or classes primarily organized for adults, except for the following:

Emergency credentials or permits.

Exchange credentials as specified in Section 44333.

District intern credentials as specified in Section 44325.

Sojourn certificated employee credentials as specified in Section 44856.

Teacher education internship credentials as specified in Article 3 (commencing with Section 44450) of Chapter 3.

Passage of one or more examinations, or by completing an approved program that consists of coursework or a combination of coursework and examinations, that the commission determines is necessary for demonstrating the knowledge, skills, and language proficiency required for effective delivery of the services included in the authorization.

To earn the authorization, teachers who hold the authorization described in Section 44253.3, or in Article 3.5 (commencing with Section 44475) of Chapter 3, as that section and that article existed on December 31, 1992, shall not be required to pass examinations that primarily assess the skills and knowledge necessary for effective delivery of the services included in the authorizations they possess.

The authorization shall remain valid as long as the prerequisite credential or permit specified in paragraph (1) of subdivision (b) remains valid.

The commission initially shall issue authorizations for languages spoken by the largest numbers of limited-English-proficient pupils for which there are reasonable numbers of teachers or potential teachers who speak those languages. The commission shall explore alternative ways to make authorizations available for other languages.

A teacher who possesses a credential or permit described in paragraph (1) of subdivision ~~(b)~~ (b), and who is able to present a valid out-of-state credential or certificate that authorizes content instruction

delivered in a pupil's primary ~~language~~ language, may qualify for the authorization issued pursuant to this section by submitting an application and a fee to the commission.

SEC. 31.

Section 44259.1 of the Education Code is amended to read:

44259.1.

An integrated program of professional preparation shall enable candidates for teaching credentials to engage in professional preparation, concurrently with subject matter preparation, while completing baccalaureate degrees at regionally accredited postsecondary educational institutions. An integrated program shall provide opportunities for candidates to complete intensive field experiences, including student teaching, in public elementary and secondary schools early in the undergraduate sequence. The development and implementation of an integrated program shall be based on intensive collaboration among subject matter departments and education units within postsecondary educational institutions and local public elementary and secondary school districts.

A postsecondary educational institution may offer a four-year or five-year integrated program of professional preparation that allows a student to earn a baccalaureate degree and a preliminary multiple or single subject teaching credential, or an education specialist instruction credential authorizing the holder to teach special education, including student teaching requirements, concurrently and within four or five years of study.

The commission shall encourage postsecondary educational institutions to offer integrated programs of professional preparation that follow the guidelines developed pursuant to this section. In approving integrated programs, the commission shall not compromise or reduce its standards of subject matter preparation pursuant to Article 6 (commencing with Section 44310) or its standards of professional preparation pursuant to paragraph (3) of subdivision (b) of Section 44259.

The commission shall, as part of its accreditation process, collect information about integrated programs of professional preparation, including which postsecondary educational institutions offer integrated programs of professional preparation and the number and type of credentials the programs produce.

Commencing with the 2005–06 school year, an integrated program offered by the California State University shall be designed to concurrently lead to a preliminary multiple subject or single subject teaching credential, or an education specialist instruction credential authorizing the holder to teach special education, and a baccalaureate degree. Recommendation for each shall be contingent upon satisfactory completion of the requirements for each.

By July 1, 2004, the Chancellor of the California State University, in consultation with California State University faculty members, shall develop a framework defining appropriate balance for an integrated program of general education, subject matter preparation, and professional education courses, for both lower division and upper division students, including an appropriate range of units to be taken in professional education courses. In developing the framework, the Chancellor of the California State University and California State University faculty members shall consult with the Academic Senate for ~~the~~ California Community Colleges on matters related to the effective and efficient use of, and appropriate role for, lower division coursework in an integrated program.

By January 1, 2005, the Chancellor of the California State University and the Chancellor of the California Community Colleges shall collaboratively ensure that both of the following occur:

Lower division coursework completed by a community college student transferring to a California State University integrated program is articulated with the corresponding coursework of the California State University.

The articulated community college lower division coursework is accepted as the equivalent to the coursework offered to students who enter that integrated program as freshman students.

Commencing with the 2005–06 school year, each campus of the California State University shall invite the community colleges in its region that send significant numbers of transfer students to that campus to enter into articulation agreements. These articulation agreements shall be based on a fully transferable education curriculum that is developed pursuant to the framework developed under paragraph (2) of subdivision (b). Approval of one or more of the articulation agreements will enable the coursework of a community college student to be accepted as the equivalent to the coursework offered to students who enter that integrated program as freshman students.

A postbaccalaureate program of professional preparation shall enable candidates for teaching credentials to commence and complete professional preparation after they have completed baccalaureate degrees at regionally accredited postsecondary educational institutions. The development and implementation of a postbaccalaureate program of professional preparation shall be based on intensive collaboration among the postsecondary educational institution and local public elementary and secondary school districts.

The commission shall develop and implement a program to award grants of up to two hundred fifty thousand dollars (\$250,000) each to postsecondary educational institutions for the development of transition plans to guide the creation of four-year integrated programs of professional preparation including student teaching.

A postsecondary educational institution awarded a grant under this subdivision may use the transition plan to create a new four-year integrated program of professional preparation or to adapt an existing integrated program of professional preparation to a four-year integrated program of professional preparation.

A postsecondary educational institution awarded a grant under this subdivision may use grant funds for any proper purpose in support of planning for a four-year integrated program of professional preparation, including, but not limited to, any of the following:

To provide faculty release time to redesign existing courses.

To provide program coordinators to assist in collaboration with subject-matter professors and pedagogy professors.

To create summer courses for students in a four-year integrated program of professional preparation.

To recruit individuals for participation as students in four-year integrated programs of professional preparation.

In awarding grants pursuant to the program, the commission shall grant priority to proposals for the establishment of four-year integrated programs of professional preparation designed to do both of the following:

Produce teachers with either an education specialist instruction credential authorizing the holder to teach special education or a single subject teaching credential in the areas of mathematics or science, or teaching in the area of bilingual education.

Partner with a California ~~Community College~~ community college to create a four-year integrated program of professional preparation.

As a condition of the receipt of a grant, a postsecondary educational institution shall provide to the commission program and outcome data for at least three years after receiving the grant. The information shall include program design and features, the number of graduates, the number and type of credentials earned, the time taken to earn a degree and credential, and any other information the commission may require for the purpose of documenting the effect of the grant and identifying effective practices in program design and implementation.

The requirements of this subdivision are contingent upon the appropriation of funds for the purposes of this subdivision in the annual Budget Act or another statute.

The commission may use up to one hundred thousand dollars (\$100,000) to administer the grants pursuant to Department of Finance approval.

SEC. 32.

Section 44265.6 of the Education Code is amended to read:

44265.6.

Upon the request of an employing school district, county office of ~~education~~ education, or state special school, the Commission on Teacher Credentialing shall determine specific requirements for and issue a one-year specialist instruction emergency permit, solely for the purpose of instructing deaf or hard-of-hearing pupils, to a prelingually deaf candidate upon medical or other appropriate professional verifications.

The applicant is exempted from the requirements in Section 44252 and subdivision (b) of Section 44830.

“Prelingually deaf” means, for purposes of this section, ~~as~~ having suffered a hearing loss before three years of age that prevents the processing of linguistic information through hearing, with or without amplification.

The emergency specialist instruction permit issued under this section authorizes the holder to teach deaf and hard-of-hearing pupils who are enrolled in state special schools or in special classes for pupils who are deaf or hard of hearing.

A one-year specialist instruction emergency permit issued pursuant to subdivision (a) may be reissued at the request of the employing school district, county office of ~~education~~ education, or state special school in accordance with criteria determined by the Commission on Teacher Credentialing.

SEC. 33.

Section 44332.5 of the Education Code is amended to read:

44332.5.

A school district that may issue warrants pursuant to Section 42647 may, at its discretion, provide for the registration of a valid certification or other document authorizing the holder to serve in a position requiring certification qualifications as an employee of the school district.

A school district shall not provide for the registration of a valid certification or other document authorizing the holder to serve in a position requiring certification qualifications as an employee of the school district until the school district has obtained a certificate of clearance from the commission.

During any period when summary criminal history information is not available from the Federal Bureau of Investigation, an applicant for an initial credential, certificate, or permit shall not be employed in a position requiring certification qualifications until he or she has met the minimum requirements for a temporary certificate of clearance. A temporary certificate of clearance or a credential, certificate, or permit authorizing service in the public schools shall be issued when the applicant has:

Made full disclosure of all facts necessary to establish his or her true identity.

Made a statement under penalty of perjury that he or she has not been convicted of a crime which would constitute grounds for the denial of the credential, permit, or certificate applied for.

An applicant shall not be required to disclose, and the Committee of Credentials shall not inquire into or consider, any acts or omissions not related to the applicant's fitness to teach or to perform other duties for which he or she is certificated, or that is related to his or her competence to perform the duties authorized by his or her credential.

Paid to the commission the amount of twelve dollars (\$12) or the fees or costs ~~which~~ that have been or will be assessed by the Federal Bureau of Investigation for the issuance of its summary criminal history of the applicant when this information is once again made available to the commission. The fees authorized by this paragraph shall be applicable to all credentials, permits, and certificates ~~which~~ that were applied for or issued after October 1, 1981.

Upon receipt of a statement from the Federal Bureau of Investigation that it has no summary criminal history information on the applicant, or upon receipt of the summary criminal history information and clearance by the Committee of Credentials, a temporary certificate of clearance shall be converted to a regular certificate of clearance.

SEC. 34.

Section 44332.6 of the Education Code is amended to read:

44332.6.

Before issuing a temporary certificate pursuant to Section 44332, a county board of education or city and county board of education shall obtain a certificate of clearance from the commission and shall not issue a temporary certificate if the applicant has been convicted of a violent or serious felony.

Before issuing a temporary certificate of clearance pursuant to Section 44332.5, a school district shall obtain a certificate of clearance from the commission and shall not issue a temporary certificate of clearance if the applicant has been convicted of a violent or serious felony.

This section applies to any violent or serious offense ~~which~~ that, if committed in this ~~state~~ state, would have been punishable as a violent or serious felony.

For purposes of this section, a violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code and a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code.

Notwithstanding subdivision (a), a person shall not be denied a temporary certificate or a temporary certificate of clearance solely on the basis that he or she has been convicted of a violent or serious felony if the person has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

Notwithstanding subdivision (a), a person shall not be denied a temporary certificate or a temporary certificate of clearance solely on the basis that the person has been convicted of a serious felony that is not also a violent felony, if that person can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he or she has been rehabilitated for the purposes of school employment for at least one year. If the offense in question occurred outside this state, then the person may seek a finding of rehabilitation from the court in the school district in which he or she is a resident.

Notwithstanding paragraph (1) of subdivision (a), a county board of education or city and county board of education may issue a temporary certificate to an employee currently and continuously employed by a school district within the county who is serving under a valid credential and has applied for a renewal of that credential or for an additional credential without obtaining a certificate of clearance from the commission for that employee.

Notwithstanding paragraph (2) of subdivision (a), a county board of education or city and county board of education may issue a temporary certificate of clearance to an employee currently and continuously employed by a school district within the county who is serving under a valid credential and has applied for a renewal of that credential or for an additional credential without obtaining a certificate of clearance from the commission for that employee.

SEC. 35.

Section 48204 of the Education Code is amended to read:

48204.

Notwithstanding Section 48200, a pupil complies with the residency requirements for school attendance in a school district if he or she is any of the following:

A pupil placed within the boundaries of that school district in a regularly established licensed children's institution or a licensed foster home as defined in Section 56155.5, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in a home or institution described in subparagraph (A) shall provide evidence to the school that the placement or commitment is pursuant to law.

A pupil who is a foster child who remains in his or her school of origin pursuant to subdivisions (f) and (g) of Section 48853.5.

A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.

A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the home of the caregiver, unless the school district determines from actual facts that the pupil is not living in the home of the caregiver.

A pupil residing in a state hospital located within the boundaries of that school district.

A pupil whose parent or legal guardian resides outside of the boundaries of that school district but is employed and lives with the pupil at the place of his or her employment within the boundaries of the school district for a minimum of three days during the school week.

A school district may deem a pupil to have complied with the residency requirements for school attendance in the school district if at least one parent or the legal guardian of the pupil is physically employed within the boundaries of that school district for a minimum of 10 hours during the school week.

This subdivision does not require the school district within which at least one parent or the legal guardian of a pupil is employed to admit the pupil to its schools. A school district shall not, however, refuse to admit a pupil under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

The school district in which the residency of either the parents or the legal guardian of the pupil is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the school district determines that the transfer would negatively impact the court-ordered or voluntary desegregation plan of the school district.

The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the school district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

The governing board of a school district that prohibits the transfer of a pupil pursuant to paragraph (2), (3), or (4) is encouraged to identify, and communicate in writing to the parents or the legal guardian of the pupil, the specific reasons for that determination and is encouraged to ensure that the determination, and the specific reasons for the determination, are accurately recorded in the minutes of the board meeting in which the determination was made.

The average daily attendance for pupils admitted pursuant to this subdivision is calculated pursuant to Section 46607.

Unless approved by the sending school district, this subdivision does not authorize a net transfer of pupils out of a school district, calculated as the difference between the number of pupils exiting the school district and the number of pupils entering the school district, in a fiscal year in excess of the following amounts:

For a school district with an average daily attendance for that fiscal year of less than ~~501~~, 501 pupils, 5 percent of the average daily attendance of the school district.

For a school district with an average daily attendance for that fiscal year of 501 pupils or more, but less than ~~2,501~~, 2,501 pupils, 3 percent of the average daily attendance of the school district or 25 pupils, whichever amount is greater.

For a school district with an average daily attendance of 2,501 pupils or more, 1 percent of the average daily attendance of the school district or 75 pupils, whichever amount is greater.

Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district the boundaries of which include the location where at least one parent or the legal guardian of a pupil is physically employed, the pupil does not have to reapply in the next school year to attend a school within that school district and the governing board of the school district shall allow the pupil to attend

school through grade 12 in that school district if the parent or legal guardian so chooses and if at least one parent or the legal guardian of the pupil continues to be physically employed by an employer situated within the attendance boundaries of the school district, subject to paragraphs (2) to (7), inclusive.

SEC. 36.

Section 48204.3 of the Education Code is amended to read:

48204.3.

For purposes of this section, the following definitions apply:

“Active military duty” means full-time military duty status in the active uniformed service of the United States, including **by** members of the California National Guard and the State Military Reserve on active duty orders pursuant to Title 10 or 32 of the United States Code or Part 1 (commencing with Section 100) of Division 2 of the Military and Veterans Code.

“Military installation” means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense or the United States Coast Guard.

“Parent” means the natural or adoptive parent or guardian of a dependent child.

Notwithstanding Section 48200, a pupil complies with the residency requirements for school attendance in a school district, if he or she is a pupil whose parent is transferred or is pending transfer to a military installation within the boundaries of the school district while on active military duty pursuant to an official military order.

A school district shall accept applications by electronic means for enrollment, including enrollment in a specific school or program within the school district, and course registration for pupils described in subdivision (b).

The parent shall provide proof of residence within 10 days after the published arrival date provided on official documentation.

For purposes of paragraph (1), a parent may use any of the following addresses as related to his or her military move:

A temporary on-base billeting facility.

A purchased or leased home or apartment.

Federal government or public-private venture off-base military housing.

SEC. 37.

Section 48240 of the Education Code is amended to read:

48240.

The governing board of each school district and each county superintendent of schools shall appoint a supervisor of attendance and any assistant supervisors of attendance as may be necessary to supervise the attendance of pupils in the school district or county. The governing board of the school district or county superintendent of schools shall prescribe the duties of the supervisor of attendance and assistant supervisors of attendance to include, among other duties that may be required, those specific duties related to compulsory full-time education, truancy, work permits, compulsory continuation education, and opportunity schools, classes, and programs, now required of the attendance supervisors by this chapter and Article 4 (commencing with Section 48450) of Chapter 3 and Article 2 (commencing with Section 48640) of Chapter 4 of this part.

It is the intent of the Legislature that in performing his or her duties, the supervisor of attendance ~~promotes~~ promote a culture of attendance and ~~establishes~~ establish a system to accurately track pupil attendance in order to achieve all of the following:

Raise the awareness of school personnel, parents, guardians, caregivers, community partners, and local businesses of the effects of chronic absenteeism and truancy and other challenges associated with poor attendance.

Identify and respond to grade level or pupil subgroup patterns of chronic absenteeism or truancy.

Identify and address factors contributing to chronic absenteeism and habitual truancy, including suspension and expulsion.

Ensure that pupils with attendance problems are identified as early as possible to provide applicable support services and interventions.

Evaluate the effectiveness of strategies implemented to reduce chronic absenteeism rates and truancy rates.

The supervisor of attendance may provide support services and interventions, which may include, but are not limited to, any or all of the following:

A conference between school personnel, the pupil's parent or guardian, and the pupil.

Promoting cocurricular and extracurricular activities that increase pupil connectedness to school, such as tutoring, mentoring, the arts, service learning, or athletics.

Recognizing pupils who achieve excellent attendance or demonstrate significant improvement in attendance.

Referral to a school nurse, school counselor, school psychologist, school social worker, and other pupil support personnel for case management and counseling.

Collaboration with child welfare services, law enforcement, courts, public health care agencies, or government agencies, or medical, mental health, and oral health care providers to receive necessary services.

Collaborating with school study teams, guidance teams, school attendance review teams, or other intervention-related teams to assess the attendance or behavior problem in partnership with the pupil and his or her parents, guardians, or caregivers.

In schools with significantly higher rates of chronic absenteeism, identify barriers to attendance that may require schoolwide strategies rather than case management.

Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program for an individual with exceptional needs, as that term is defined in Section 56026, or plan adopted for a qualified handicapped person, as that term is defined in regulations promulgated by the United States Department of Education pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794).

Referral to a school attendance review board established by the county or by a school district pursuant to Section 48321 or to the probation department pursuant to Section 48263.

Referral to a truancy mediation program operated by the county's district attorney or probation officer pursuant to Section 48260.6.

SEC. 38.

Section 51225.3 of the Education Code, as amended by Section 1 of Chapter 53 of the Statutes of 2016, is amended to read:

51225.3.

A pupil shall complete all of the following while in grades 9 to 12, inclusive, in order to receive a diploma of graduation from high school:

At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified:

Three courses in English.

Two courses in mathematics. If the governing board of a school district requires more than two courses in mathematics for graduation, the governing board of the school district may award a pupil up to one mathematics course credit pursuant to Section 51225.35.

Two courses in science, including biological and physical sciences.

Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics; and a one-semester course in economics.

One course in visual or performing arts, foreign language, or, commencing with the 2012–13 school year, career technical education.

For purposes of satisfying the requirement specified in this subparagraph, a course in American Sign Language shall be deemed a course in foreign language.

For purposes of this subparagraph, “a course in career technical education” means a course in a district-operated career technical education program that is aligned to the career technical model curriculum standards and framework adopted by the state board, including courses through a regional occupational center or program operated by a county superintendent of schools or pursuant to a joint powers agreement.

This subparagraph does not require a school or school district that currently does not offer career technical education courses to start new career technical education programs for purposes of this section.

If a school district or county office of education elects to allow a career technical education course to satisfy the requirement imposed by this subparagraph, the governing board of the school district or county office of education, before offering that alternative to pupils, shall notify parents, teachers, pupils, and the public at a regularly scheduled meeting of the governing board of all of the following:

The intent to offer career technical education courses to fulfill the graduation requirement specified in this subparagraph.

(II) The impact that offering career technical education courses, pursuant to this subparagraph, will have on the availability of courses that meet the eligibility requirements for admission to the California State University and the University of California, and whether the career technical education courses to be offered pursuant to this subparagraph are approved to satisfy those eligibility requirements. If a school district elects to allow a career technical education course to satisfy the requirement imposed by this subparagraph, the school district shall comply with subdivision (m) of Section 48980.

(III) The distinction, if any, between the high school graduation requirements of the school district or county office of education, and the eligibility requirements for admission to the California State University and the University of California.

Two courses in physical education, unless the pupil has been exempted pursuant to the provisions of this code.

Other coursework requirements adopted by the governing board of the school district.

The governing board, with the active involvement of parents, administrators, teachers, and pupils, shall adopt alternative means for pupils to complete the prescribed course of study that may include practical demonstration of skills and competencies, supervised work experience or other outside school experience, career technical education classes offered in high schools, courses offered by regional occupational centers or programs, interdisciplinary study, independent study, and credit earned at a postsecondary educational institution. Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to pupils, parents, and the public.

On or before July 1, 2017, the department shall submit a comprehensive report to the appropriate policy committees of the Legislature on the addition of career technical education courses to satisfy the requirement specified in subparagraph (E) of paragraph (1) of subdivision (a), including, but not limited to, the following information:

A comparison of the pupil enrollment in career technical education courses, foreign language courses, and visual and performing arts courses for the 2005–06 to 2011–12 school years, inclusive, to the pupil enrollment in career technical education courses, foreign language courses, and visual and performing arts courses for the 2012–13 to 2016–17 school years, inclusive.

The reasons, reported by school districts, that pupils give for choosing to enroll in a career technical education course to satisfy the requirement specified in subparagraph (E) of paragraph (1) of subdivision (a).

The type and number of career technical education courses that were conducted for the 2005–06 to 2011–12 school years, inclusive, compared to the type and number of career technical education courses that were conducted for the 2012–13 to 2016–17 school years, inclusive.

The number of career technical education courses that satisfied the subject matter requirements for admission to the University of California or the California State University.

The extent to which the career technical education courses chosen by pupils are aligned with the California Career Technical Education [Model Curriculum](#) Standards, and prepare pupils for employment, advanced training, and postsecondary education.

The number of career technical education courses that also satisfy the visual and performing arts requirement, and the number of career technical education courses that also satisfy the foreign language requirement.

Annual pupil dropout and graduation rates for the 2011–12 to 2014–15 school years, inclusive.

For purposes of completing the report described in subdivision (c), the Superintendent may use existing state resources and federal funds. If state or federal funds are not available or sufficient, the Superintendent may apply for and accept grants, and receive donations and other financial support from public or private sources for purposes of this section.

For purposes of completing the report described in subdivision (c), the Superintendent may accept support, including, but not limited to, financial and technical support, from high school reform

advocates, teachers, chamber organizations, industry representatives, research centers, parents, and pupils.

This section shall become inoperative on the earlier of the following two dates:

On July 1, immediately following the first fiscal year after the enactment of the act that adds this paragraph in which the number of career technical education courses that, as determined by the department, satisfy the foreign language requirement for admission to the California State University and the University of California is at least twice the number of career technical education courses that meet these admission requirements as of January 1, 2012. This section shall be repealed on the following January 1, unless a later enacted statute, that becomes operative on or before that date, deletes or extends the dates on which it becomes inoperative and is repealed. It is the intent of the Legislature that new career technical education courses that satisfy the foreign language requirement for admission to the California State University and the University of California focus on world languages aligned with career preparation, emphasizing real-world application and technical content in related career and technical education courses.

On July 1, 2022, and, as of January 1, 2023, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2023, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 39.

Section 52052.3 of the Education Code is amended to read:

52052.3.

As part of the alternative accountability system for schools developed pursuant to subdivision (g) of Section 52052, or any successor system, the Superintendent and the state board shall allow no more than 10 dropout recovery high schools, as defined in subdivision (b), to report, in lieu of other indicators, the results of an individual pupil growth model that is proposed by the school and certified by the Superintendent pursuant to subdivision (c).

For purposes of this section, “dropout recovery high school” means a school offering instruction in any of grades 9 to 12, inclusive, in which 50 percent or more of its pupils are either designated as dropouts pursuant to the exit and withdrawal codes developed by the department or left a school and were not otherwise enrolled in a school for a period of at least 180 days and the school provides instruction in partnership with any of the following:

The federal Workforce Innovation and Opportunity Act (Public Law 113-128).

Federally affiliated Youthbuild programs (29 U.S.C. [Sec. 3226](#) et seq.).

Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.

The California Conservation Corps or local conservation corps certified by the California Conservation Corps pursuant to Section 14406 or 14507.5 of the Public Resources Code.

A dropout recovery high school shall submit to the Superintendent a certification that the high school meets the criteria specified in subdivision (b) and provide a summary of data derived from the California Longitudinal Pupil Achievement Data System pursuant to Chapter 10 (commencing with Section 60900) of Part 33 to support that designation. A dropout recovery high school

shall also submit a proposed individual pupil growth model, and the Superintendent shall review and certify that model if it meets all of the following criteria:

The model measures learning based on valid and reliable nationally normed or criterion-referenced reading and mathematics tests.

The model measures skills and knowledge aligned with state standards.

The model measures the extent to which a pupil scored above an expected amount of growth based on the individual pupil's initial achievement score.

The model demonstrates the extent to which a school is able to accelerate learning on an annual basis.

This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 40.

Section 56601 of the Education Code is amended to read:

56601.

Each special education local plan area shall submit to the Superintendent at least annually information, in a form and manner prescribed by the Superintendent and developed in consultation with the special education local plan areas, in order for the Superintendent to carry out the evaluation responsibilities pursuant to Section 56602. This information shall include other statistical data, program information, and fiscal information that the Superintendent may require. The Superintendent shall use this information to answer questions from the Legislature and other state and federal agencies on program, policy, and fiscal issues of statewide interest.

In order to assist the state in evaluating the effectiveness of special education programs, including transition and work experience programs, the Superintendent shall, commencing with the 2017–18 fiscal year and phased in over a two-year period, assign a ~~student~~ pupil identification number to individuals with exceptional needs for purposes of evaluating special education programs and related services. The Superintendent shall not disclose personally identifiable, individual pupil records to any person, institution, agency, or organization except as authorized by Section 1232g of Title 20 of the United States Code and Part 99 of Title 34 of the Code of Federal Regulations.

SEC. 41.

Section 60227 of the Education Code is amended to read:

60227.

For purposes of this section, a followup adoption is any adoption other than the primary adoption that occurs within the eight-year cycle established pursuant to subdivision (b) of Section 60200.

Before conducting a followup adoption in a given subject area, the department shall post an appropriate notice on the department's Internet Web site pursuant to subdivision (c) and notify all publishers or manufacturers known to produce basic instructional materials in that subject area.

The notice shall specify that each publisher or manufacturer choosing to participate in the followup adoption shall be assessed a fee based on the number of programs the publisher or manufacturer indicates will be submitted for review and the number of grade levels proposed to be covered by each program.

The fee shall offset the cost of conducting the followup adoption process and shall reflect the department's best estimate of the cost. The department shall take reasonable steps to limit costs of the followup adoption and to keep the fee modest, recognizing that some of the work necessary for the primary adoption need not be duplicated.

The department, before incurring substantial costs for the followup adoption, shall require that a publisher or manufacturer who wishes to participate in the followup adoption first declare the intent to submit one or more specific programs for the followup adoption and specify the specific grade levels to be covered by each program. After a publisher or manufacturer has declared the intent to submit one or more programs and the grade levels to be covered by each program, the department shall assess a fee. The fee shall be payable by the publisher or manufacturer even if the publisher or manufacturer subsequently chooses to withdraw a program or reduce the number of grade levels covered. A submission by a publisher or manufacturer shall not be reviewed for purposes of adoption, either in a followup adoption or in any other primary or followup adoption conducted thereafter, until the fee assessed has been paid in full.

It is the intent of the Legislature that the fee not be so substantial that it prevents small publishers or manufacturers from participating in a followup adoption.

Upon the request of a small publisher or manufacturer, the state board may reduce the fee for participation in the followup adoption.

For purposes of this section, "small publisher" and "small manufacturer" mean an independently owned or operated publisher or manufacturer who is not dominant in its field of operation, and who, together with its affiliates, has 100 or fewer employees, and has average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years.

Revenue derived from fees charged pursuant to subdivision (e) shall be budgeted as reimbursements and subject to review through the annual budget process and may be used to pay costs associated with any adoption and any costs associated with the review of instructional materials.

If the department determines that there is little or no interest by publishers and manufacturers in participating in a followup adoption, the department shall recommend to the state board that the followup adoption not be conducted and the state board may choose not to conduct the followup adoption.

General ~~fund~~ Fund revenue shall not be used for the cost of conducting a followup adoption pursuant to this section.

This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 42.

Section 60605.5 of the Education Code is amended to read:

60605.5.

In consultation with the Instructional Quality Commission, the Superintendent shall recommend to the state board revisions to the World Language Content Standards for California Public Schools adopted by the state board in 2009 pursuant to Section 60605.3.

These recommended revisions shall be based on the work of the group of experts convened pursuant to subdivision (b).

On or before January 31, 2019, the Superintendent, in consultation with the Instructional Quality Commission, shall present his or her recommended revisions to the state board.

In consultation with the Instructional Quality Commission and the state board, the Superintendent shall select a group of experts in this subject area to assist the Superintendent in developing recommended revisions pursuant to this section. A majority of this group of experts shall be current public school elementary or secondary classroom teachers who have a professional teaching credential that is valid under state law.

Before presenting his or her recommended revisions to the state board pursuant to paragraph (3) of subdivision (a), the Superintendent, in consultation with the Instructional Quality Commission, shall hold a minimum of two public hearings in order for the public to provide input on the recommended revisions.

The public hearings ~~and meetings~~ required by this subdivision shall be held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

On or before March 31, 2019, the state board shall adopt, reject, or modify the recommended revisions.

If the state board modifies the recommended revisions, it shall do both of the following:

It shall explain, in writing, to the Governor and the Legislature the reasons for those modifications.

It shall, in a meeting conducted pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), provide written reasons for its modifications. The state board shall not adopt its modified revisions at the same meeting it provides its written reasons, but, instead, shall adopt these modified revisions at a subsequent meeting conducted on or before May 31, 2019.

If the state board rejects the recommended revisions, the state board shall transmit to the Superintendent, the Governor, and the appropriate policy and fiscal committees of the Legislature a detailed written explanation of its reasons for rejecting the recommended revisions.

If the state board adopts revisions to the World Language Content Standards [for California Public Schools](#) pursuant to paragraph (1) of subdivision (d) or subparagraph (B) of paragraph (2) of subdivision (d), the state board shall consider adopting curriculum framework and evaluation criteria for instructional materials that are aligned to the revised World Language Content Standards [for California Public Schools](#) on or before September 30, 2020, based on any recommendations the Instructional Quality Commission may make.

If the state board adopts revisions to the World Language Content Standards [for California Public Schools](#) pursuant to paragraph (1) of subdivision (d) or subparagraph (B) of paragraph (2) of subdivision (d), the state board may adopt instructional materials for kindergarten and grades 1 to 8, inclusive, that are aligned to the revised World Language Content Standards [for California Public Schools](#) on or before January 31, 2022, based on any recommendations the Instructional Quality Commission may make.

SEC. 43.

Section 67102 of the Education Code is amended to read:

67102.

As used in this chapter, the following terms have the following meanings:

An “academic year” is July 1 to June 30, inclusive. The starting date of a session shall determine the academic year in which it is included.

“CSAAVE” is the California State Approving Agency for Veterans Education.

“Qualifying institution” means a degree-granting institution that complies with paragraphs (2), (3), and (4), or a ~~nondegree-granting~~ ~~non-degree-granting~~ institution that complies with paragraphs (2) and (4).

(A) The institution shall provide information on where to access California license examination passage rates for the most recent available year from graduates of its undergraduate programs leading to employment for which passage of a California licensing examination is required, if that data is electronically available through the Internet Web site of a California licensing or regulatory agency. For purposes of this paragraph, “provide” may exclusively include placement of an Internet Web site address labeled as an access point for the data on the passage rates of recent program graduates on the Internet Web site where enrollment information is also located, on an Internet Web site that provides centralized admissions information for postsecondary educational systems with multiple campuses, or on applications for enrollment or other program information distributed to prospective students.

The institution shall be responsible for certifying to CSAAVE compliance with the requirements of subparagraph (A).

A degree-granting institution shall provide evidence of accreditation of the institution and of all degree programs to CSAAVE. The accrediting agency shall be recognized by the United States Department of Education. An unaccredited degree-granting institution participating in the Title 38 award program on January 1, 2015, shall satisfy both of the following to remain eligible to receive Title 38 awards:

The institution shall obtain and provide evidence to CSAAVE of its candidacy or preaccreditation status, with an accrediting agency recognized by the United States Department of Education, by January 1, 2016, for the institution to be eligible for Title 38 awards for the academic year of 2015–16 or 2016–17, or both.

The institution shall obtain and provide evidence to CSAAVE of accreditation from the accrediting agency with which it had candidacy or preaccreditation status by January 1, 2017, for the institution to be eligible for Title 38 awards for the academic year of 2017–18, and each academic year thereafter.

If an unaccredited degree-granting institution participating in the Title 38 award program fails to satisfy the accreditation requirements provided in clause (i) of subparagraph (A), a veteran enrolled in a degree program offered by the institution prior to January 1, 2016, shall remain eligible for Title 38 awards through his or her completion of that degree program. If an unaccredited degree-granting institution participating in the Title 38 award program fails to satisfy the accreditation requirements provided in clause (ii) of subparagraph (A), a veteran enrolled in a degree program offered by the institution prior to January 1, 2017, shall remain eligible for Title 38 awards through his or her completion of that degree program.

An unaccredited degree-granting institution that does not satisfy the accreditation requirements provided in clause (i) of subparagraph (A), shall not enroll any new Title 38 eligible students to any of its degree programs after January 1, 2016. An unaccredited ~~degree-granting~~ ~~degree-granting~~ institution that does not satisfy the accreditation requirements provided in clause (ii) of subparagraph (A), shall not enroll any new Title 38 students to any of its degree programs after January 1, 2017, without first providing these prospective students with the following written disclosure:

“If you choose to attend this institution, you will not be eligible to receive a Title 38 award because this institution did not satisfy one or more of the accreditation requirements to receive Title 38 awards.”

An institution that obtains and provides evidence to CSAAVE of accreditation from the Committee of Bar Examiners pursuant to Sections 6046.7 and 6060.6 of the Business and Professions Code does not have to comply with subparagraphs (A), (B), and (C), if the institution complies with both of the following:

The institution provides disclosures to applicants of the school of the institution’s admissions data, tuition, fees, financial aid, conditional scholarships, refund policies, average class size of each required course, number of clinical offerings, number of full-time and part-time faculty, technically trained librarians, [and](#) administrators, enrollment data, bar passage data, and employment outcomes for graduates.

For purposes of this clause, CSAAVE may develop a standardized information report template or use a standardized information report template developed by the State Bar.

For purposes of this clause, the following terms have the following meanings:

(ia) “Admissions data” means information from the most recently enrolled fall semester class including the total number of applications, the total number of accepted students, and the 75th, 50th, and 25th percentile scores for the undergraduate grade point averages and law school admission test scores of admitted students.

(ib) “Bar passage data” means the most current cumulative bar pass rates defined and reported by the examining committee of the State Bar.

(ic) “Conditional scholarship” means any financial aid award, the retention of which is dependent upon the student maintaining a minimum grade point average or class standing other than that ordinarily required to remain in good academic standing.

(id) “Employment outcomes for graduates” means the results of a survey by the law school, taken three years after graduation, that breaks down the employment rate of graduates in each of the first three years after graduation, including the rate of employment of graduates in jobs where a juris doctor degree is required by the employer and the rate of employment of graduates in jobs where a juris doctor degree is an advantage in employment.

(ie) “Enrollment data” means information about the number of students who are admitted to the school per class per year for the past three years, the number of students who transfer to and from the school per class per year for the past three years, and the number of students who do not continue to attend the school each year for the past three years on either a voluntary or involuntary basis.

The institution is in compliance with all applicable CSAAVE rules and regulations and is in good standing with the Committee of Bar Examiners.

The institution shall be one of the following to be eligible for Title 38 awards:

A campus of the California Community Colleges, the California State University, or the University of California.

An independent institution of higher education, as defined in subdivision (b) of Section 66010.

For purposes of the 2015–16 award year, a private postsecondary educational institution, as defined in Section 94858.

For purposes of the 2016–17 award year, and every award year thereafter, a private postsecondary educational institution, as defined in Section 94858, that has an approval to operate from the Bureau for Private Postsecondary Education, is subject to the regulatory oversight and enforcement of student protections provided by the bureau, and has its approval to operate certified by CSAAVE.

An institution described in subdivision (i) of Section 94874 that satisfies all of the requirements provided in Section 94947.

An institution that is accredited by the Committee of Bar Examiners pursuant to Sections 6046.7 and 6060.7 of the Business and Professions Code.

SEC. 44.

The heading of Chapter 16 (commencing with Section 67380) of Part 40 of Division 5 of Title 3 of the Education Code, as renumbered by Section 9 of Chapter 8 of the Statutes of 1993, is amended and renumbered to read:

CHAPTER 15.5. Student Safety

SEC. 45.

Section 67432 of the Education Code is amended to read:

67432.

The California Promise is hereby established to support California State University students in earning a baccalaureate degree within four academic years of the student's first year of enrollment or, for transfer ~~students~~ students, within two academic years of the student's first year of enrollment to the campus.

SEC. 46.

Section 67434 of the Education Code is amended to read:

67434.

The trustees shall develop and implement a California Promise program that complies with this part.

Commencing with the 2017–18 academic year, a minimum of eight campuses shall have established a California Promise program by which the campus enters into a pledge with a qualifying student who is enrolled at the campus and who is not a transfer student to support the student in earning a baccalaureate degree within four academic years of the academic year of the student's first year of enrollment.

Commencing with the 2017–18 academic year, a minimum of 15 campuses shall have established a California Promise program by which the campus enters into a pledge with a qualifying transfer student to support the student in earning a baccalaureate degree program within two academic years of the student's first year of enrollment to the campus, as applicable.

Commencing with the 2018–19 academic year, a minimum of 20 campuses shall have established a California Promise program by which the campus enters into a pledge with a qualifying transfer student to support the student in earning a baccalaureate degree within two academic years of the student's first year of enrollment to the campus, as applicable.

(e)To

To be a qualifying entering student or transfer student at the California State University, ~~the student must~~ a student shall comply with both of the following:

Be a California resident for purposes of in-state tuition eligibility.

Commit to completing at least 30 semester units or the quarter equivalent per academic year. Units completed by the student during a summer term may count towards the previous or following academic year as determined by the trustees.

Each College Promise program shall be reviewed by a graduation initiative advisory committee of the campus or a committee with similar functions designated by the president of the campus.

A campus shall guarantee participation in the program to, at a minimum, any student who is any of the following:

A low-income student. For purposes of this section, “low-income student” shall have the same meaning as specified in Section 89295.

A student who has graduated from a high school located in a community that is underrepresented in college attendance.

A student who is a first-generation college student.

A transfer student.

It is the intent of the Legislature that the California Promise program at each campus accommodate as many students into the program as feasible and in consideration of available funding.

Support provided by a California State University campus to a student who participates in the California Promise program shall include, but not necessarily be limited to, both of the following:

Priority registration in coursework.

For purposes of this paragraph, a student shall not receive priority registration in coursework under the program if he or she qualifies for priority registration under another policy or program, as determined by the campus or the Office of the Chancellor of the California State University.

A graduation initiative advisory committee of the campus, or a committee with similar functions designated by the president of the campus, shall consider pre-existing priority registration policies when implementing this section.

Academic advisement that includes monitoring the student’s academic progress.

The trustees shall develop application criteria, administrative guidelines, and additional requirements, including how campuses will measure student success, for purposes of implementing and administering the California Promise program.

As a condition of continued participation in a California Promise program, a student may be required to demonstrate both of the following:

Completion of at least 30 semester units, or the quarter equivalent, in each prior academic year.

Attainment of a grade point average in excess of a standard established by the campus.

In implementing this part, the trustees shall take into consideration the report on graduation rates required pursuant to Item 6610-001-0001 of Section 2.00 of the Budget Act of 2016.

The trustees shall submit a report to the appropriate policy and fiscal committees of the Legislature by July 1, 2021, that includes all of the following:

The number of students participating in the program in total, by campus, and disaggregated based on the following:

Whether the student entered as a first-time freshman or a transfer student.

Whether the student is a first-generation college student.

Whether the student is a recipient of financial aid under the Federal Pell Grant Program (20 U.S.C. Sec. 1070a) or the Cal Grant Program established in Chapter 1.7 (commencing with Section 69430) of Part 42.

According to the student's ethnicity.

The total number of students who graduated in four academic years for students who entered as first-time freshmen, and two academic years, for students who entered as transfer students, in total, by campus, and disaggregated based on the characteristics identified in clauses (i) to (iv), inclusive, ~~of~~ of subparagraph (A).

The report required by paragraph (1) shall include a summary description of significant differences in the implementation of the California Promise program at each campus.

The trustees shall submit recommendations to the appropriate policy and fiscal committees of the Legislature by March 15, 2017, regarding potential financial incentives that could benefit students who participate in the California Promise program.

A student who successfully completes his or her associate degree for transfer at a community college shall be guaranteed participation in the California Promise program at the California State University transfer campus, if established.

The trustees shall make every effort to close the achievement gap and encourage broad participation in a California Promise program that reflects the demographic populations served by the campus.

SEC. 47.

Section 92965 of the Education Code is amended to read:

92965.

With funds appropriated in Item 6440-001-0001 of Section 2.00 of the Budget Act of 2016, the University of California shall make one-time expenditures for activities to expand or accelerate economic development in the state in ways that are aligned with other efforts to support innovation and entrepreneurship.

From the funds specified in subdivision (a), two million two hundred thousand dollars (\$2,200,000) shall be allocated to each of the following campuses of the University of California:

Berkeley.

Davis.

Irvine.

Los Angeles.

Merced.

Riverside.

San Diego.

San Francisco.

Santa Barbara.

Santa Cruz.

The Regents of the University of California shall designate an external advisory body, whose members have demonstrated expertise in innovation and entrepreneurship, to encourage the effective use of the funds specified in subdivision (b) through planning and oversight.

A campus shall not expend the funds specified in subdivision (b) until the external advisory body has certified that the chancellor of the campus has demonstrated all of the following:

That the funds will be used only for the costs of activities that support the expansion or acceleration of economic development in the state, such as any of the following benefits for entrepreneurs:

Business training.

Mentorship.

Proof-of-concept grants.

Work space.

Laboratory space.

Equipment.

That the funds will be spent only after the uses and beneficiaries have been determined through a transparent, inclusive, and fair process.

That private funds will also be used for these activities, with the intent that the amount of private funds will be at least equal to the amount specified in subdivision (b).

That any financial benefit that results from the use of these funds, including any revenues generated with these ~~funds~~ funds, be accounted for and also used on these activities.

That a credible plan has been developed to support any ongoing activities beyond the one-time expenditures of these funds.

The external advisory body shall notify the Director of Finance and the Legislature, no fewer than 10 days before providing certification pursuant to subdivision (d) of its intent to do so.

On or before November 30, 2017, the Regents of the University of California shall report to the Director of Finance and the Legislature on the specific activities at each campus supported by these funds.

The report shall be submitted to the Legislature pursuant to Section 9795 of the Government Code.

SEC. 48.

Section 3017 of the Elections Code is amended to read:

3017.

All vote by mail ballots cast under this division shall be voted on or before the day of the election. After marking the ballot, the vote by mail voter shall do any of the following: (1) return the ballot by mail or in person to the elections official who issued the ballot, (2) return the ballot in person to a member of a precinct board at a polling place or vote center within the state, or (3) return the ballot to a vote by mail ballot dropoff location within the state that is provided pursuant to Section 3025 or 4005. However, a vote by mail voter who is unable to return the ballot may designate any person to return the ballot to the elections official who issued the ballot, to the precinct board at a polling place or vote center within the state, or to a vote by mail ballot dropoff location within the state that is provided pursuant to Section 3025 or 4005. The ballot ~~must, however,~~ **must** be received by the elections official who issued the ballot, the precinct board, or the vote by mail ballot dropoff location before the close of the polls on election day. If a vote by mail ballot is returned to a precinct board at a polling place or vote center, or to a vote by mail ballot dropoff location, that is located in a county that is not the county of the elections official who issued the ballot, the elections official for the county in which the vote by mail ballot is returned shall forward the ballot to the elections official who issued the ballot no later than eight days after receipt.

The elections official shall establish procedures to ensure the secrecy of a ballot returned to a precinct polling place and the security, confidentiality, and integrity of any personal information collected, stored, or otherwise used pursuant to this section.

On or before March 1, 2008, the elections official shall establish procedures to track and confirm the receipt of voted vote by mail ballots and to make this information available by means of online access using the county's elections division Internet Web site. If the county does not have an elections division Internet Web site, the elections official shall establish a toll-free telephone number that may be used to confirm the date a voted vote by mail ballot was received.

The provisions of this section are mandatory, not directory, and a ballot shall not be counted if it is not delivered in compliance with this section.

A person designated to return a vote by mail ballot shall not receive any form of compensation based on the number of ballots that the person ~~has returned~~ **returns** and ~~no~~ **an** individual, group, or organization shall **not** provide compensation on this basis.

For purposes of this paragraph, "compensation" means any form of monetary payment, goods, services, benefits, promises or offers of employment, or any other form of consideration offered to another person in exchange for returning another voter's vote by mail ballot.

~~Any~~ **A** person in charge of a vote by mail ballot and who knowingly and willingly engages in criminal acts related to that ballot as described in Division 18 (commencing with Section 18000), including, but not limited to, fraud, bribery, intimidation, and tampering with or failing to deliver the ballot in a timely fashion, is subject to the appropriate punishment specified in that division.

SEC. 49.

Section 10010 of the Elections Code is amended to read:

10010.

A political subdivision that changes from an at-large method of election to a district-based election, or that establishes district-based elections, shall do all of the following before a public hearing at which the governing body of the political subdivision votes to approve or defeat an ordinance establishing district-based elections:

Before drawing a draft map or maps of the proposed boundaries of the districts, the political subdivision shall hold at least two public hearings over a period of no more than ~~thirty~~ 30 days, at which the public is invited to provide input regarding the composition of the districts. Before these hearings, the political subdivision may conduct outreach to the public, including to non-English-speaking communities, to explain the districting process and to encourage public participation.

After all draft maps are drawn, the political subdivision shall publish and make available for release at least one draft map and, if members of the governing body of the political subdivision will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections. The political subdivision shall also hold at least two additional hearings over a period of no more than 45 days, at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable. The first version of a draft map shall be published at least seven days before consideration at a hearing. If a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven days before being adopted.

In determining the final sequence of the district elections conducted in a political subdivision in which members of the governing body will be elected at different times to provide for staggered terms of office, the governing body shall give special consideration to the purposes of the California Voting Rights Act of ~~2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of this code)~~, 2001, and it shall take into account the preferences expressed by members of the districts.

This section applies to, but is not limited to, a proposal that is required due to a court-imposed change from an at-large method of election to a district-based election.

For purposes of this section, the following terms have the following meanings:

“At-large method of election” has the same meaning as set forth in subdivision (a) of Section 14026.

“District-based election” has the same meaning as set forth in subdivision (b) of Section 14026.

“Political subdivision” has the same meaning as set forth in subdivision (c) of Section 14026.

Before commencing an action to enforce Sections 14027 and 14028, a prospective plaintiff shall send by certified mail a written notice to the clerk of the political subdivision against which the action would be brought asserting that the political subdivision’s method of conducting elections may violate the California Voting Rights ~~Act~~. Act of 2001.

A prospective plaintiff shall not commence an action to enforce Sections 14027 and 14028 within 45 days of the political subdivision’s receipt of the written notice described in paragraph (1).

Before receiving a written notice described in paragraph (1), or within 45 days of receipt of a notice, a political subdivision may pass a resolution outlining its intention to transition from at-large to district-based elections, specific steps it will undertake to facilitate this transition, and an estimated time frame for doing so.

If a political subdivision passes a resolution pursuant to subparagraph (A), a prospective plaintiff shall not commence an action to enforce Sections 14027 and 14028 within 90 days of the resolution's passage.

If a political subdivision adopts an ordinance establishing district-based elections pursuant to subdivision (a), a prospective plaintiff who sent a written notice pursuant to [paragraph \(1\) of subdivision \(e\)](#) before the political subdivision passed its resolution of intention may, within 30 days of the ordinance's adoption, demand reimbursement for the cost of the work product generated to support the notice. A prospective plaintiff shall make the demand in writing and shall substantiate the demand with financial documentation, such as a detailed invoice for demography services. A political subdivision may request additional documentation if the provided documentation is insufficient to corroborate the claimed costs. A political subdivision shall reimburse a prospective plaintiff for reasonable costs claimed, or in an amount to which the parties mutually agree, within 45 days of receiving the written demand, except as provided in paragraph (2). In all cases, the amount of the reimbursement shall not exceed the cap described in paragraph (3).

If more than one prospective plaintiff is entitled to reimbursement, the political subdivision shall reimburse the prospective plaintiffs in the order in which they sent a written notice pursuant to paragraph (1) of subdivision (e), and the 45-day time period described in paragraph (1) shall apply only to reimbursement of the first prospective plaintiff who sent a written notice. The cumulative amount of reimbursements to all prospective plaintiffs shall not exceed the cap described in paragraph (3).

The amount of reimbursement required by this section is capped at \$30,000, as adjusted annually to the Consumer Price Index for All Urban Consumers, ~~U.S.~~ [United States](#) city average, as published by the United States Department of Labor.

SEC. 50.

Section 21534 of the Elections Code is amended to read:

21534.

The commission shall establish single-member supervisorial districts for the board pursuant to a mapping process using the following criteria as set forth in the following order of priority:

Districts shall comply with the United States Constitution and each district shall have a reasonably equal population with other districts for the board, except where deviation is required to comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.) or allowable by law.

Districts shall comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.).

Districts shall be geographically contiguous.

The geographic integrity of any city, local neighborhood, or local community of interest shall be respected in a manner that minimizes its division to the extent possible without violating the requirements of paragraphs (1) to (3), inclusive. A community of interest is a contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

To the extent practicable, and where this does not conflict with paragraphs (1) to (4), inclusive, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant areas of population.

The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for purposes of favoring or discriminating against an incumbent, political candidate, or political party.

The commission shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

Before the commission draws a map, the commission shall conduct at least seven public hearings, to take place over a period of no fewer than 30 days, with at least one public hearing held in each supervisorial district.

After the commission draws a draft map, the commission shall do both of the following:

- Post the map for public comment on the Internet Web site of the County of Los Angeles.

- Conduct at least two public hearings to take place over a period of no fewer than 30 days.

The commission shall establish and make available to the public a calendar of all public hearings described in paragraphs (2) and (3). Hearings shall be scheduled at various times and days of the week to accommodate a variety of work schedules and to reach as large an audience as possible.

Notwithstanding Section 54954.2 of the Government Code, the commission shall post the agenda for the public hearings described in paragraphs (2) and (3) at least seven days before the hearings. The agenda for a meeting required by paragraph (3) shall include a copy of the draft map.

The commission shall arrange for the live translation of a hearing held pursuant to this chapter in an applicable language if a request for translation is made at least 24 hours before the hearing.

For purposes of this paragraph, an “applicable language” means a language for which the number of residents of the County of Los Angeles who are members of a language minority is greater than or equal to 3 percent of the total voting age residents of the county.

The commission shall take steps to encourage county residents to participate in the redistricting public review process. These steps may include:

- Providing information through media, social media, and public service announcements.

- Coordinating with community organizations.

- Posting information on the Internet Web site of the County of Los Angeles that explains the redistricting process and includes a notice of each public hearing and the procedures for testifying during a hearing or submitting written testimony directly to the commission.

The board shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide to the public ready access to redistricting data and computer software equivalent to what is available to the commission members.

The board shall provide ~~for~~ reasonable funding and staffing for the commission.

All records of the commission relating to redistricting, and all data considered by the commission in drawing a draft map or the final map, are public records.

The commission shall adopt a redistricting plan adjusting the boundaries of the supervisorial districts and shall file the plan with the county elections official before August 15 of the year following the year in which each decennial federal census is taken.

The plan shall be effective 30 days after it is filed with the county elections official.

The plan shall be subject to referendum in the same manner as ordinances.

The commission shall issue, with the final map, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria described in subdivisions (a) and (b).

SEC. 51.

Section 21535 of the Elections Code is amended to read:

21535.

A commission member shall be ineligible for a period of five years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this state. A commission member shall be ineligible for a period of three years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature, or any individual legislator, or to register as a federal, ~~state~~ state, or local lobbyist in this state.

SEC. 52.

Section 23002 of the Elections Code is amended to read:

23002.

This section applies to advisory redistricting commissions.

Notwithstanding any other law, the local jurisdiction may prescribe the manner in which members are appointed to the commission.

A person who is an elected official of the local jurisdiction, or a family member, staff member, or paid campaign staff of an elected official of the local jurisdiction, shall not be appointed to serve on the commission.

The commission shall submit a report to the legislative body ~~of its findings on~~ documenting the need for changes to the boundaries, and its recommended changes, within six months after the final population figures determined in each federal decennial census have been released, but in any event not later than August 1 of the year following the year in which the census is taken.

SEC. 53.

Section 452.5 of the Evidence Code is amended to read:

452.5.

The official acts and records specified in subdivisions (c) and (d) of Section 452 include any computer-generated official court records, as specified by the Judicial Council, that relate to criminal convictions, when the record is certified by a clerk of the superior court pursuant to Section 69844.5 of the Government Code at the time of computer entry.

An official record of conviction certified in accordance with subdivision (a) of Section 1530, or an electronically digitized copy thereof, is admissible under Section 1280 to prove the

commission, attempted commission, or solicitation of a criminal offense, prior conviction, service of a prison term, or other act, condition, or event recorded by the record.

For purposes of this subdivision, “electronically digitized copy” means a copy that is made by scanning, photographing, or otherwise exactly reproducing a document, is stored or maintained in a digitized format, and meets either of the following requirements:

The copy bears an electronic signature or watermark unique to the entity responsible for certifying the document.

The copied document ~~that is copied~~ is an official record of conviction, certified in accordance with subdivision (a) of Section 1530, that is transmitted by the clerk of the superior court in a manner showing that the copy was prepared and transmitted by that clerk of the superior court. A seal, signature, or other indicia of the court shall constitute adequate showing.

SEC. 54.

Section 754 of the Evidence Code is amended to read:

754.

As used in this section, “individual who is deaf or hard of hearing” means an individual with a hearing loss so great as to prevent his or her understanding language spoken in a normal tone, but does not include an individual who is hard of hearing provided with, and able to fully participate in the proceedings through the use of, an assistive listening system or computer-aided transcription equipment provided pursuant to Section 54.8 of the Civil Code.

In a civil or criminal action, including an action involving a traffic or other infraction, a small claims court proceeding, a juvenile court proceeding, a family court proceeding or service, or a proceeding to determine the mental competency of a person, in a court-ordered or court-provided alternative dispute resolution, including mediation and arbitration, or in an administrative hearing, where a party or witness is an individual who is deaf or hard of hearing and the individual who is deaf or hard of hearing is present and participating, the proceeding shall be interpreted in a language that the individual who is deaf or hard of hearing understands by a qualified interpreter appointed by the court or other appointing authority, or as agreed upon.

For purposes of this section, “appointing authority” means a court, department, board, commission, agency, licensing or legislative body, or other body for proceedings requiring a qualified interpreter.

For purposes of this section, “interpreter” includes an oral interpreter, a sign language interpreter, or a deaf-blind interpreter, depending upon the needs of the individual who is deaf or hard of hearing.

For purposes of this section, “intermediary interpreter” means an individual who is deaf or hard of hearing, or a hearing individual who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language or between American Sign Language and other foreign languages by acting as an intermediary between the individual who is deaf or hard of hearing and the qualified interpreter.

For purposes of this section, “qualified interpreter” means an interpreter who has been certified as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as qualified to administer tests to court interpreters for individuals who are deaf or hard of hearing.

If the appointed interpreter is not familiar with the use of particular signs by the individual who is deaf or hard of hearing or his or her particular variant of sign language, the court or other appointing

authority shall, in consultation with the individual who is deaf or hard of hearing or his or her representative, appoint an intermediary interpreter.

Before July 1, 1992, the Judicial Council shall conduct a study to establish the guidelines pursuant to which it shall determine which testing organizations, agencies, or educational institutions will be approved to administer tests for certification of court interpreters for individuals who are deaf or hard of hearing. It is the intent of the Legislature that the study obtain the widest possible input from the public, including, but not limited to, educational institutions, the judiciary, linguists, members of the State Bar of California, court interpreters, members of professional interpreting organizations, and members of the deaf and hard of hearing communities. After obtaining public comment and completing its study, the Judicial Council shall publish these guidelines. By January 1, 1997, the Judicial Council shall approve one or more entities to administer testing for court interpreters for individuals who are deaf or hard-~~or~~ of hearing. Testing entities may include educational institutions, testing organizations, joint powers agencies, or public agencies.

Commencing July 1, 1997, court interpreters for individuals who are deaf or hard of hearing shall meet the qualifications specified in subdivision (f).

Persons appointed to serve as interpreters under this section shall be paid, in addition to actual travel costs, the prevailing rate paid to persons employed by the court to provide other interpreter services unless such service is considered to be a part of the person's regular duties as an employee of the state, county, or other political subdivision of the state. Except as provided in subdivision (j), payment of the interpreter's fee shall be a charge against the court. Payment of the interpreter's fee in administrative proceedings shall be a charge against the appointing board or authority.

Whenever a peace officer or any other person having a law enforcement or prosecutorial function in a criminal or quasi-criminal investigation or non-court proceeding questions or otherwise interviews an alleged victim or witness who demonstrates or alleges deafness or hearing loss, a good faith effort to secure the services of an interpreter shall be made without any unnecessary delay, unless either the individual who is deaf or hard of hearing affirmatively indicates that he or she does not need or cannot use an interpreter, or an interpreter is not otherwise required by Title II of the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder. Payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, in which the action is pending.

A statement, written or oral, made by an individual who the court finds is deaf or hard of hearing in reply to a question of a peace officer, or any other person having a law enforcement or prosecutorial function in a criminal or quasi-criminal investigation or proceeding, shall not be used against that individual who is deaf or hard of hearing unless the question was accurately interpreted and the statement was made knowingly, voluntarily, and intelligently and was accurately interpreted, or the court finds that either the individual could not have used an interpreter or an interpreter was not otherwise required by Title II of the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder and that the statement was made knowingly, voluntarily, and intelligently.

In obtaining services of an interpreter for purposes of subdivision (j) or (k), priority shall be given to first obtaining a qualified interpreter.

~~Nothing in subdivision~~ Subdivisions (j)-~~or~~ and (k) shall ~~not~~ be deemed to supersede the requirement of subdivision (b) for use of a qualified interpreter for an individual who is deaf or hard of hearing participating as a party or witness in a trial or hearing.

In an action or proceeding in which an individual who is deaf or hard of hearing is a participant, the appointing authority shall not commence the action or proceeding until the appointed interpreter is in full view of and spatially situated to assure proper communication with the participating individual who is deaf or hard of hearing.

Each superior court shall maintain a current roster of qualified interpreters certified pursuant to subdivision (f).

SEC. 55.

Section 14103 of the Financial Code is amended to read:

14103.

The bylaws shall prescribe the manner in which the business of the credit union shall be conducted with reference to the following matters:

The purpose of the credit union.

The qualification for membership.

Determination of the month, ~~time~~ **time**, and place of the annual meeting; the manner of conducting meetings; the method by which members shall be notified of meetings; and the number of members which shall constitute a quorum.

The authorized number of directors, the number of directors necessary to constitute a quorum, and the powers and duties of officers elected by the directors.

The membership, powers, and duties of the supervisory or audit committee, as applicable.

The membership, powers, and duties of the credit committee or if applicable, the general powers, ~~responsibilities~~ **responsibilities**, and duties of the credit manager.

The manner in which the bylaws may be amended.

SEC. 56.

Section 14556 of the Financial Code is amended to read:

14556.

The board of directors may, by resolution, establish an audit committee in lieu of a supervisory committee. An audit committee that meets all the requirements of this section shall be deemed to satisfy the requirements for a supervisory committee set forth in Sections 14550 to 14555, inclusive, or in any applicable bylaw provision.

The vote of the board of directors to establish an audit committee in lieu of a supervisory committee shall be affirmed by a majority vote of members voting. Following the affirmative vote of the membership, the supervisory committee shall be deemed dissolved upon the appointment of an audit committee by the board of directors.

The audit committee shall consist of at least three persons, provided that it is an odd number, each of whom shall be a member of the credit union and appointed by a majority of the board of directors. The audit committee may be comprised of directors, or both directors and ~~non-directors~~ **nondirectors**, provided that no less than a majority of the members of the audit committee at any given time shall be comprised of directors. ~~No~~ **A** member of the audit committee shall ~~not~~ serve as a member of the credit committee, as the credit manager, as the board chairman, or as an employee of the credit union.

The audit committee shall carry out the responsibilities set forth in subdivision (c) of Section 14551 and Sections 14551.5 and 14553 and shall:

Ensure that the credit union complies with Section 14252.

Ensure that the credit union maintains an effective internal audit program, including a system of internal controls and individuals with sufficient training and experience to adequately and timely review all key areas of a credit union's operations.

The board of directors may, by subsequent resolution, reestablish a supervisory committee in lieu of an audit committee, which shall be affirmed by membership vote. The audit committee shall be deemed dissolved upon the election of a supervisory committee by the membership.

SEC. 57.

Section 22370 of the Financial Code is amended to read:

22370.

Any loan made pursuant to this section shall comply with the following requirements:

The loan shall be unsecured.

Interest on the loan shall accrue on a simple-interest basis, through the application of a daily periodic rate to the actual unpaid principal balance each day.

The licensee shall disclose the following to the consumer in writing, in a typeface no smaller than 12-point type, at the time of application:

The amount borrowed; the total dollar cost of the loan to the consumer if the loan is paid back on time, including the sum of the administrative fee, principal amount borrowed, and interest payments; the corresponding annual percentage rate, calculated in accordance with Federal Reserve Board Regulation Z (12 C.F.R. ~~226~~; [226.1 et seq.](#)); the periodic payment amount; the delinquency fee schedule; and the following statement: "Repaying your loan early will lower your borrowing costs by reducing the amount of interest you will pay. This loan has no prepayment penalty."

A statement that the consumer has the right to rescind the loan by notifying the licensee of the consumer's intent to rescind the loan and returning the principal advanced by the end of the business day following the date the loan is consummated.

A licensee may provide the borrower with the disclosures required by paragraph (3) in a mobile or other electronic application, on which the size of the typeface of the disclosure can be manually modified by a prospective borrower, if the prospective borrower is given the option to print the disclosure in a typeface of at least 12-point size or is provided by the licensee with a hardcopy of the disclosure in a typeface of at least 12-point size before the loan is consummated.

The loan shall have a minimum principal amount upon origination of three hundred dollars (\$300) and a term of not less than the following:

Ninety days for loans whose principal balance upon origination is less than five hundred dollars (\$500).

One hundred twenty days for loans whose principal balance upon origination is at least five hundred dollars (\$500), but is less than one thousand five hundred dollars (\$1,500).

One hundred eighty days for loans whose principal balance upon origination is at least one thousand five hundred dollars (\$1,500).

As an alternative to the charges authorized by Section 22303 or 22304, a licensee approved by the commissioner to participate in the program may contract for and receive charges for a loan made pursuant to this section at an annual simple interest rate not to exceed the following:

The lesser of 36 percent or the sum of 32.75 percent plus the United States prime lending rate, as of the date of loan origination, on that portion of the unpaid principal balance of the loan up to and including, but not in excess of, one thousand dollars (\$1,000). The interest rate calculated as of the date of loan origination shall be fixed for the life of the loan.

The lesser of 35 percent or the sum of 28.75 percent plus the United States prime lending rate, as of the date of loan origination, on that portion of the unpaid principal balance of the loan in excess of one thousand dollars (\$1,000), but less than two thousand five hundred dollars (\$2,500). The interest rate calculated as of the date of loan origination shall be fixed for the life of the loan.

As to any loan made under this section, a licensee approved by the commissioner to participate in the program may contract for and receive an administrative fee, which shall be fully earned immediately upon making the loan, in an amount not to exceed the applicable of the following:

Seven percent of the principal amount, exclusive of the administrative fee, or ninety dollars (\$90), whichever is less, on the first loan made to a borrower.

Six percent of the principal amount, exclusive of the administrative fee, or seventy-five dollars (\$75), whichever is less, on the second and subsequent loans made to that borrower.

A licensee shall not charge the same borrower an administrative fee more than once in any four-month period.

For purposes of this section, “refinance” means the replacement or revision of an existing loan contract with a borrower that results in an extension of additional principal to that borrower. A licensee shall not refinance a loan made under this section, unless all of the following conditions are met at the time the borrower submits an application to refinance:

The borrower has repaid at least 60 percent of the outstanding principal remaining on his or her loan.

The borrower is current on his or her outstanding loan.

The licensee underwrites the new loan in accordance with paragraph (4) of subdivision (g).

If the loan proceeds of both the original loan and the refinance loan are to be used for personal, family, or household purposes, the borrower has not previously refinanced the outstanding loan more than once.

Notwithstanding paragraph (3), an administrative fee shall not be contracted for or received in connection with the refinancing of a loan unless at least eight months have elapsed since the receipt of a previous administrative fee paid by the borrower. With the exception of a loan that is refinanced, only one administrative fee may be contracted for or received until the loan has been repaid in full. Section 22305 shall not apply to any loan made under this section.

Notwithstanding subdivision (a) of Section 22320.5, a licensee approved by the commissioner to participate in the program may require reimbursement from a borrower for the actual insufficient funds fees incurred by that licensee due to actions of the borrower, and may contract for and receive a delinquency fee that is one of the following amounts:

For a period of delinquency of not less than seven days, an amount not in excess of fourteen dollars (\$14).

For a period of delinquency of not less than 14 days, an amount not in excess of twenty dollars (\$20).

If a licensee opts to impose a delinquency fee, it shall use the delinquency fee schedule described in subdivision (d), subject to all of the following:

No more than one delinquency fee may be imposed per delinquent payment.

No more than two delinquency fees may be imposed during any period of 30 consecutive days.

No delinquency fee may be imposed on a borrower who is 180 days or more past due if that fee would result in the sum of the borrower's remaining unpaid principal balance, accrued interest, and delinquency fees exceeding 180 percent of the original principal amount of the borrower's loan.

The licensee or any of its wholly owned subsidiaries shall attempt to collect a delinquent payment for a period of at least 30 days following the start of the delinquency before selling or assigning that unpaid debt to an independent party for collection.

The licensee shall develop and implement policies and procedures designed to respond to questions raised by applicants and borrowers regarding their loans, including those involving finders, and to address customer complaints as soon as reasonably practicable.

The following ~~shall apply~~ applies to a loan made by a licensee pursuant to this section:

Prior to disbursement of loan proceeds, the licensee shall either (A) offer a credit education program or seminar to the borrower that has been previously reviewed and approved by the commissioner for use in complying with this section; or (B) invite the borrower to a credit education program or seminar offered by an independent third party that has been previously reviewed and approved by the commissioner for use in complying with this section. The borrower shall not be required to participate in either of these education programs or seminars. A credit education program or seminar offered pursuant to this paragraph shall be provided at no cost to the borrower.

The licensee shall report each borrower's payment performance to at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, upon acceptance as a data furnisher by that consumer reporting agency. For purposes of this section, a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis is one that meets the definition in Section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)). Any licensee that is accepted as a data furnisher after admittance into the program must report all borrower payment performance since its inception of lending under the program, as soon as practicable after its acceptance into the program, but in no event more than six months after its acceptance into the program.

The commissioner may approve a licensee for the program, before that licensee has been accepted as a data furnisher by a consumer reporting agency, if the commissioner

has a reasonable expectation, based on information supplied by the licensee, of both of the following:

The licensee will be accepted as a data furnisher, once it achieves a lending volume required of data furnishers of its type by a consumer reporting agency.

That lending volume will be achieved within the first six months of the licensee commencing lending.

Notwithstanding subparagraph (A), the commissioner shall withdraw approval for pilot program participation from any licensee that fails to become accepted as a data furnisher by a consumer reporting agency within six months of commencing lending under the pilot program.

The licensee shall provide each borrower with the name of the consumer reporting agency or agencies to which it will report the borrower's payment history. A licensee that is accepted as a data furnisher after admittance into the program shall notify its borrowers, as soon as practicable following acceptance as a data furnisher, regarding the name of the consumer reporting agency or agencies to which it will report that borrower's payment history.

The licensee shall underwrite each loan to determine a borrower's ability and willingness to repay the loan pursuant to the loan terms, and shall not make a loan if it determines, through its underwriting, that the borrower's total monthly debt service payments, at the time of origination, including the loan for which the borrower is being considered, and across all outstanding forms of credit that can be independently verified by the licensee, exceed 50 percent of the borrower's gross monthly income.

(i) The licensee shall seek information and documentation pertaining to all of a borrower's outstanding debt obligations during the loan application and underwriting process, including loans that are self-reported by the borrower but not available through independent verification. The licensee shall verify that information using a credit report from at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis or through other available electronic debt verification services that provide reliable evidence of a borrower's outstanding debt obligations.

Notwithstanding the verification requirement in subparagraph (A), the licensee shall request from the borrower and include all information obtained from the borrower regarding outstanding deferred deposit transactions in the calculation of the borrower's outstanding debt obligations.

The licensee shall not be required to consider, for purposes of debt-to-income ratio evaluation, loans from friends or family.

The licensee shall also verify the borrower's income that the licensee relies on to determine the borrower's debt-to-income ratio using information from either of the following:

Electronic means or services that provide reliable evidence of the borrower's actual income.

Internal Revenue Service Form W-2, tax returns, payroll receipts, bank statements, or other third-party documents that provide reasonably reliable evidence of the borrower's actual income.

The licensee shall notify each borrower, at least two days prior to each payment due date, informing the borrower of the amount due, and the payment due date. Notification may be provided by any means mutually acceptable to the borrower and the licensee. A borrower shall have the right to opt out of this notification at any time, upon electronic or written request to the licensee. The licensee shall notify each borrower of this right prior to disbursing loan proceeds.

Notwithstanding Sections 22311 to 22315, inclusive, no person, in connection with, or incidental to, the making of any loan made pursuant to this article, may offer, sell, or require the borrower to contract for “credit insurance” as defined in paragraph (1) of subdivision (a) of Section 22314 or insurance on tangible personal or real property of the type specified in Section 22313.

Notwithstanding Sections 22311 to 22315, inclusive, no licensee, finder, or any other person that participates in the origination of a loan under this article shall refer a borrower to any other person for the purchase of “credit insurance” as defined in paragraph (1) of subdivision (a) of Section 22314 or insurance on tangible personal or real property of the type specified in Section 22313.

~~No~~A licensee shall ~~not~~ require, as a condition of providing the loan, that the borrower waive any right, penalty, remedy, forum, or procedure provided for in any law applicable to the loan, including the right to file and pursue a civil action or file a complaint with or otherwise communicate with the commissioner or any court or other public entity, or that the borrower agree to resolve disputes in a jurisdiction outside of California or to the application of laws other than those of California, as provided by law. Any waiver by a borrower must be knowing, voluntary, and in writing, and expressly not made a condition of doing business with the licensee. Any waiver that is required as a condition of doing business with the licensee shall be presumed involuntary, unconscionable, against public policy, and unenforceable. The licensee has the burden of proving that a waiver of any rights, penalties, forums, or procedures was knowing, voluntary, and not made a condition of the contract with the borrower.

~~No~~A licensee shall ~~not~~ refuse to do business with or discriminate against a borrower or applicant on the basis that the borrower or applicant refuses to waive any right, penalty, remedy, forum, or procedure, including the right to file and pursue a civil action or complaint with, or otherwise notify, the commissioner or any court or other public entity. The exercise of a person’s right to refuse to waive any right, penalty, remedy, forum, or procedure, including a rejection of a contract requiring a waiver, shall not affect any otherwise legal terms of a contract or an agreement.

This subdivision ~~shall~~ ~~does~~ not apply to any agreement to waive any right, penalty, remedy, forum, or procedure, including any agreement to arbitrate a claim or dispute, after a claim or dispute has arisen. ~~Nothing in this~~ This subdivision ~~shall~~ ~~does not~~ affect the enforceability or validity of any other provision of the contract.

This section ~~shall~~ ~~does~~ not apply to any loan of a bona fide principal amount of two thousand five hundred dollars (\$2,500) or more as determined in accordance with Section 22251. For purposes of this subdivision, “bona fide principal amount” shall be determined in accordance with Section 22251.

SEC. 58.

Section 31603 of the Food and Agricultural Code is amended to read:

31603.

“Vicious dog” means ~~any~~ ~~either~~ of the following:

Any dog that, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being.

Any dog previously determined to be and currently listed as a potentially dangerous dog that, after its owner or keeper has been notified of this determination, continues the behavior described in Section 31602 or is maintained in violation of Section 31641, 31642, or 31643.

SEC. 59.

Section 46003 of the Food and Agricultural Code is amended to read:

46003.

The secretary shall establish an advisory committee, which shall be known as the California Organic Products Advisory Committee, for the purpose of advising the secretary with respect to his or her responsibilities under this act.

The advisory committee shall advise the secretary on education, outreach, and technical assistance for producers.

The advisory committee shall be comprised of 15 members. Each member may have an alternate. Six members and their alternates shall be producers, at least one of whom shall be a producer of meat, fowl, fish, dairy products, or eggs. Two members and their alternates shall be processors, one member and his or her alternate shall be wholesale distributors, one member and his or her alternate shall be representatives of an accredited certifying agency operating in the state, one member and his or her alternate shall be consumer representatives, one member and his or her alternate shall be environmental representatives, two members and their alternates shall be technical representatives with scientific credentials related to agricultural chemicals, toxicology, or food science, and one member and his or her alternate shall be retail representatives. Except for the consumer, environmental, and technical representatives, the members of the advisory committee and their alternates shall have derived a substantial portion of their business income, wages, or salary as a result of services they provide that directly result in the production, handling, processing, or retailing of products sold as organic for at least three years preceding their appointment to the advisory committee. The consumer and environmental representatives and their alternates shall not have a financial interest in the direct sales or marketing of the organic product industry and shall be members or employees of representatives of recognized nonprofit organizations whose principal purpose is the protection of consumer health or protection of the environment. The technical representatives and their alternates shall not have a financial interest in the production, handling, processing, or marketing of the organic products industry. The technical representatives may be involved in organic research or technical review providing they have no financial benefit from results of the research project or technical review.

An alternate member shall serve at an advisory committee meeting only in the absence of, and shall have the same powers and duties as, the category ~~whom~~ that he or she is representing as alternate, except for duties and powers as an officer of the committee. The number of alternates present who are not serving in the capacity of a member shall not be considered in determining a quorum.

An alternate member may serve at an advisory committee subcommittee meeting only in the absence of, and shall have the same powers and duties as, the member whom he or she is designated as alternate, except for duties and powers as a subcommittee chairperson.

The members of the advisory committee and their alternates shall be reimbursed for the reasonable expenses actually incurred in the performance of their duties, as determined by the advisory committee and approved by the secretary.

The secretary or his or her representative, the State Public Health Officer or his or her representative, and a county agricultural commissioner may serve as ex officio members of the advisory committee.

SEC. 60.

Section 46004.1 of the Food and Agricultural Code is amended to read:

46004.1.

Unless defined pursuant to the National Organic Program (NOP), the following words and phrases, when used in this act, shall have the following meanings:

“Accredited certification agency” means an entity accredited by the United States Department of Agriculture to certify operations as compliant with the federal organic standards.

“Act” means the California Organic Food and Farming Act. It also means the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the regulations adopted pursuant to the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.).

“Categorical products” means categories of products of like commodity, such as apples, salad products, etc., and does not require ~~variety-specific~~ variety-specific information.

“Certified operation” means a producer, handler, or retail food establishment that is certified organic by an accredited certification ~~agency~~ agency, as authorized by the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and implemented pursuant to the National Organic Program.

“Data” means the information provided annually by persons registered under the act, including certified organic acreage and gross sales of certified organic products.

“Department” means the State Department of Public Health.

“Director” means the director and State Public Health Officer for the State Department of Public Health.

“Enforcement authority” means the governmental unit with primary enforcement jurisdiction, as provided in Section 46008.

“Exempt handler” means a handling operation that sells agricultural products as “organic” but whose gross agricultural income from organic sales totals five thousand dollars (\$5,000) or less annually.

“Exempt operation” means a production or handling operation that sells agricultural products but is exempt from certification under federal organic standards.

“Exempt producer” means a production operation that sells agricultural products as “organic” but whose gross agricultural income from organic sales totals five thousand dollars (\$5,000) or less annually.

“Federal organic standards” means the federal regulations governing production, labeling, and marketing of organic products as authorized by the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and implemented pursuant to the National Organic Program (7 C.F.R. ~~205~~ Sec. 205.1 et seq.), and any amendments to the federal act or regulations made subsequent to the enactment of this chapter.

“Handle” means to sell, process, or package agricultural products.

“Handler” means any person engaged in the business of handling agricultural products, but does not include final retailers of agricultural products that do not process agricultural products.

“Handling operation” means any operation or portion of an operation, except final retailers of agricultural products that do not process agricultural ~~products~~ products, that (1) receives or otherwise acquires agricultural products, and (2) processes, packages, or stores agricultural products.

“Inspection” means the act of examining and evaluating production or handling operation to determine compliance with state and federal law.

“National Organic Program” or “NOP” means the National Organic Program established pursuant to the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the regulations adopted for implementation.

“Person” means any individual, firm, partnership, trust, corporation, limited liability company, company, estate, public or private institution, association, organization, group, city, county, city and county, political subdivision of this state, other governmental agency within the state, and any representative, agent, or agency of any of the foregoing.

“Processing” means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes packaging, canning, jarring, or otherwise enclosing food in a container.

“Producer” means a person who engages in the business of growing or producing food, fiber, feed, and other agricultural-based consumer products.

“Prohibited substance” means a substance the use of which in any aspect of organic production or handling is prohibited or not provided for in state or federal law.

“Residue testing” means an official or validated analytical procedure that detects, identifies, and measures the presence of chemical substances, their metabolites, or degradation products in or on raw or processed agricultural products.

“Retail food establishment” means a restaurant, delicatessen, bakery, grocery store, or any retail outlet with an in-store restaurant, delicatessen, bakery, salad bar, or other eat-in or carry-out service of processed or prepared raw and ~~ready-to-eat food.~~ ready-to-eat food.

“Secretary” means the Secretary of Food and Agriculture.

“State Organic Program” or “SOP” means a state program that meets the requirements of Section 6506 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.), is approved by the Secretary of the United States Department of Agriculture, and is designed to ensure that a product that is sold or labeled as organically produced under the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) is produced and handled using organic methods.

“USDA” means the United States Department of Agriculture.

SEC. 61.

Section 46013.2 of the Food and Agricultural Code is amended to read:

46013.2.

To the extent feasible, the secretary, in consultation with the director, shall coordinate the registration and annual fee collection procedures of this section with similar licensing or registration procedures applicable to registrants.

The secretary shall deny a registration submission that is incomplete or not in compliance with this act.

A registrant shall, within a reasonable time, notify the secretary of any change in the information reported on the registration form and shall pay any additional fee owed if that change results in a higher fee owed than that previously paid.

At the request of any person, the secretary or county agricultural commissioner shall provide the following:

The name and address of the registrant.

The nature of the registrant's business.

The names of all certification organizations or governmental entities, if any, providing certification pursuant to the NOP and this act.

The secretary or county agricultural commissioner may charge a reasonable fee for the cost of reproducing this information. Except as provided in this subdivision, a registration form is exempt from Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

The secretary, in consultation with the California Organic Products Advisory Committee, may suspend the registration program set forth in this section if the secretary determines that income derived from registration fees is insufficient to support a registration enforcement program.

A registration is considered legal and valid until revoked, suspended, or until the expiration of the registration.

The registration revocation process shall be in conjunction with other provisions of this act. The secretary or county agricultural commissioner's office may initiate the revocation process for failure to comply with the NOP or this act. Any person against whom the action is being taken shall have the opportunity to appeal the action and be afforded the opportunity to be heard in an administrative appeal. This appeal shall be administered by either the state or county agricultural commissioner's office.

~~When~~**If** the registration fee is not paid within 60 days from the expiration date, the account shall be considered closed and the registration voided. A notification shall be sent to the registrant and the certifier, if applicable, notifying them the registrant is no longer able to market products as organic until the account is paid in full.

Any producer, handler, processor, or certification agency subject to this chapter that does not pay the fee within 10 days of the date on which the fee is due and payable shall pay a penalty of 10 percent of the total amount determined to be due plus interest at the rate of 1.5 percent per month on the unpaid balance.

SEC. 62.

Section 52255.5 of the Food and Agricultural Code is amended to read:

52255.5.

"Noncommercial seed sharing activity" means the receiving or giving away of seed by a noncommercial entity without the creation of a contractual obligation or an expectation to receive anything of value in return. This definition does not prohibit a noncommercial entity engaging in noncommercial seed sharing activity from receiving the progeny of the seeds it distributes to the extent that the activity does not violate the federal Plant Variety Protection Act (7 U.S.C. [Sec. 2321 et seq.](#)). Noncommercial seed sharing activity does not include receiving, storing, or distributing patented seed.

SEC. 63.

Section 52289 of the Food and Agricultural Code is amended to read:

52289.

The department may post information on its Internet Web site about noncommercial seed sharing activity that includes, but is not limited to, the following:

Germination or varietal purity standards.

Compliance with the federal Plant Variety Protection Act (7 U.S.C. [Sec. 2321 et seq.](#)).

Best practices for entities participating in noncommercial seed sharing activities, including public disclosure.

SEC. 64.

Section 67132 of the Food and Agricultural Code is amended to read:

67132.

Upon the finding of nine voting members of the commission if the commission consists of three or four districts, or of 10 voting members of the commission if the commission consists of five districts, that this chapter has not tended to effectuate its declared purposes, the commission may recommend to the secretary that the operations of the commission ~~shall~~ be suspended, provided that the suspension shall not become effective until the expiration of the current marketing season. The secretary shall, upon receipt of the recommendation, or upon a petition filed with him or her requesting the suspension, signed by 15 percent of the producers by number who produced not less than 15 percent of the volume in the immediately preceding year, cause a referendum to be conducted among the listed producers to determine if the operation of this chapter and the operations of the commission shall be suspended, and shall establish a referendum period, which shall not be less than 10 days nor more than 60 days in duration. The secretary is authorized to prescribe any additional procedure necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers, on a list established by the ~~secretary~~ secretary, marketing 40 percent of the total volume marketed by all producers during the last completed marketing season, participate in the referendum, the secretary shall suspend this chapter upon the expiration of the current marketing season, if he or she finds either one of the following:

Sixty-five percent or more of the producers who voted in the referendum voted in favor of the suspension, and the producers so voting marketed 51 percent or more of the total quantity of avocados marketed in the preceding marketing season by all of the producers who voted in the referendum.

Fifty-one percent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed 65 percent or more of the total quantity of avocados marketed in the preceding season by all of the producers who voted in the referendum.

SEC. 65.

Section 4216.24 of the Government Code is amended to read:

4216.24.

The Safe Energy Infrastructure and Excavation Fund is hereby established in the State Treasury. Moneys deposited into the fund shall be used, upon appropriation by the Legislature, to cover the operational expenses of the board and for the purposes specified in subdivision ~~(b)~~ (c) of Section 4216.17, except that revenues derived from penalties imposed pursuant to Section 4216.6 shall not be used for operational expenses.

SEC. 66.

Section 7514.7 of the Government Code is amended to read:

7514.7.

Every public investment fund shall require each alternative investment vehicle in which it invests to make the following disclosures at least annually:

The fees and expenses that the public investment fund pays directly to the alternative investment vehicle, the fund manager, or related parties.

The public investment fund's pro rata share of fees and expenses not included in paragraph (1) that are paid from the alternative investment vehicle to the fund manager or related parties. The

public investment fund may independently calculate this information based on information contractually required to be provided by the alternative investment vehicle to the public investment fund. If the public investment fund independently calculates this information, then the alternative investment vehicle shall not be required to provide the information identified in this paragraph.

The public investment fund's pro rata share of carried interest distributed to the fund manager or related parties.

The public investment fund's pro rata share of aggregate fees and expenses paid by all of the portfolio companies held within the alternative investment vehicle to the fund manager or related parties.

Any additional information described in subdivision (b) of Section 6254.26.

Every public investment fund shall disclose the information provided pursuant to subdivision (a) at least once annually in a report presented at a meeting open to the public. The public investment fund's report required pursuant to this subdivision shall also include the gross and net rate of return of each alternative investment vehicle, since inception, in which the public investment fund participates. The public investment fund may report the gross and net rate of return and information required by subdivision (a) based on its own calculations or based on calculations provided by the alternative investment vehicle.

For purposes of this section:

"Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, or absolute return fund.

"Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure through which a public investment fund invests in an alternative investment.

"Fund manager" means the general partner, managing manager, adviser, or other person or entity with primary investment decisionmaking authority over an alternative investment vehicle and related parties of the fund manager.

"Carried interest" means any share of profits from an alternative investment vehicle that is distributed to a fund manager, general partner, or related parties, including allocations of alternative investment vehicle profits received by a fund manager in consideration of having waived fees that it might otherwise have been entitled to receive.

"Portfolio companies" means individual portfolio investments made by the alternative investment vehicle.

"Gross rate of return" means the internal rate of return for the alternative investment vehicle prior to the reduction of fees and expenses described in subdivision (a).

"Public investment fund" means any fund of any public pension or retirement system, including that of the University of California.

"Operational person" means any operational partner, senior ~~adviser~~, ~~adviser~~, or other consultant or employee whose primary activity for a relevant entity is to provide operational or back office support to any portfolio company of any alternative investment vehicle, account, or fund managed by a related person.

“Related person” means any current or former employee, manager, or partner of any related entity that is involved in the investment activities or accounting and valuation functions of the relevant entity or any of their respective family members.

“Related party” means:

Any related person.

Any operational person.

Any entity more than 10 percent of the ownership of which is held directly or indirectly, whether through other entities or trusts, by a related person or operational person regardless if the related person or operational person participates in the carried interest received by the general partner or the special limited partner.

Any consulting, legal, or other service provider regularly engaged by portfolio companies of an alternative investment vehicle, account, or fund managed by a related person and that also provides advice or services to any related person or relevant entity.

“Relevant entity” means the general partner, any separate carry vehicle, the investor ~~adviser~~, ~~adviser~~, any of the investment ~~adviser’s~~ ~~adviser’s~~ parent or subsidiary entities, or any similar entity related to any other alternative investment vehicle, account, or fund advised or managed by any current or former related person.

This section ~~shall apply~~ ~~applies~~ to all new contracts the public investment fund enters into on or after January 1, 2017, and to all existing contracts pursuant to which the public investment fund makes a new capital commitment on or after January 1, 2017.

With respect to existing contracts not covered by paragraph (1), the public investment fund shall undertake reasonable efforts to obtain the information described in subdivision (a) and comply with the reporting requirements contained in subdivision (b) with respect to any information obtained after January 1, 2017.

SEC. 67.

Section 8455 of the Government Code is amended and renumbered to read:

~~8455.~~8345.

The Department of General Services shall apply for federal funds made available through the federal Community Access to Emergency ~~Devices~~ ~~Defibrillation~~ Act of 2002 (Public Law 107-188) for the purchase of automated external defibrillators to be located within state-owned and leased buildings.

Subject to the receipt of federal funds for this purpose, the Department of General Services shall, in consultation with the Emergency Medical Services Authority, the American Red Cross, and the American Heart Association, develop and adopt policies and procedures relative to the placement and use of automated external defibrillators in state-owned and leased buildings and ensure that training is consistent with Section 1797.196 of the Health and Safety Code and the regulations adopted pursuant to that section. In these consultations, the department may consider all of the following:

Whether the public has access to the state-owned or leased building.

Placement within the building that maximizes access to the device.

The manufacturer’s and the medical community’s directions regarding placement and use of the device.

The appropriate oversight and maintenance of the device at a particular location.

Whether to require those who are trained to use the automated external defibrillators pursuant to Emergency Medical Services Authority standards to receive cardiopulmonary resuscitation training.

The policies and procedures adopted pursuant to this section shall be consistent with Section 3400 of Title 8 of the California Code of Regulations.

SEC. 68.

The heading of Article 5 (commencing with Section 8585) of Chapter 7 of Division 1 of Title 2 of the Government Code is amended to read:

Article 5. ~~California Emergency Management Agency~~ Office of Emergency Services

SEC. 69.

Section 8590.7 of the Government Code is amended to read:

8590.7.

There is hereby created in the State Treasury the Human Trafficking Victims Assistance Fund. Moneys in the fund, including any interest earned, shall only be expended to support programs for victims of human trafficking pursuant to the requirements of this article and for reimbursement of costs incurred by the office in connection with its duties under this section. Of the amounts appropriated to the fund, no more than 5 percent shall be applied for reimbursement of costs incurred by the office in connection with its ~~duties~~ duties.

The office shall do all of the following:

- Be responsible for overseeing the grant program.

- Award grants based on the following:

 - The capability of the qualified nonprofit organization to provide comprehensive services.

 - The stated goals and objectives of the qualified nonprofit organization.

 - The number of people to be served and the needs of the community.

 - Evidence of community support.

 - Other criteria the office deems appropriate that is consistent with the requirements of this paragraph.

- Publish deadlines and written procedures for qualified nonprofit organizations to apply for the grants.

SEC. 70.

Section 8593.2 of the Government Code is amended to read:

8593.2.

The Office of Emergency Services shall investigate the feasibility of establishing a toll-free 800 telephone hotline, including TDD (telecommunications device for the deaf) accessibility, which would be accessible to the public, including deaf, hard-of-hearing, and ~~non-English-speaking~~ non-English-speaking persons, for use during nonemergency and emergency periods to respond to inquiries about emergency preparedness and disaster status.

SEC. 71.

Section 8920 of the Government Code is amended to read:

8920.

~~No~~-A Member of the Legislature, state elective or appointive officer, or judge or justice ~~shall~~, **shall not**, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, ~~which that~~ is in substantial conflict with the proper discharge of his **or her** duties in the public interest and of his responsibilities as prescribed in the laws of this state.

~~No~~-A Member of the Legislature shall **not** do any of the following:

Accept other employment ~~which that~~ he **or she** has reason to believe will either impair his **or her** independence of judgment as to his **or her** official duties or require ~~him, him or her~~, **him or her**, or induce ~~him, him or her~~, **him or her**, to disclose confidential information acquired by him **or her** in the course of and by reason of his **or her** official duties.

Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him **or her** in the course of and by reason of his **or her** official duties or use any such information for the purpose of pecuniary gain.

Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of monetary value, or portion thereof, in consideration of his **or her** appearing, agreeing to appear, or taking any other action on behalf of another person before any state board or agency.

This subdivision shall not be construed to prohibit a member who is an attorney at law from practicing in that capacity before any court or before the Workers' Compensation Appeals Board and receiving compensation therefor. This subdivision ~~shall does not act to~~ prohibit a member from acting as an advocate without compensation or making inquiry for information on behalf of a constituent before a state board or agency, or from engaging in activities on behalf of another which require purely ministerial acts by the board or agency and which in no way require the board or agency to exercise any discretion, or from engaging in activities involving a board or agency which are strictly on his or her own behalf. The prohibition contained in this subdivision ~~shall does~~ not apply to a partnership or firm of which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from the transaction. The prohibition contained in this subdivision as it read immediately prior to January 1, 1983, ~~shall does~~ not apply in connection with any matter pending before any state board or agency on or before January 2, 1967, if the affected Member of the Legislature was an attorney of record or representative in the matter prior to January 2, 1967. The prohibition contained in this subdivision, as amended and operative on January 1, 1983, ~~shall does~~ not apply to any activity of any Member in connection with a matter pending before any state board or agency on January 1, 1983, which was not prohibited by this section prior to that date, if the affected Member of the Legislature was an attorney of record or representative in the matter prior to January 1, 1983.

Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance or other matter related to the legislative process, except fees for speeches or published works on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which ~~no~~ payment or reimbursement is **not** made by the State of California.

Participate, by voting or any other action, on the floor of either house, in committee, or elsewhere, in the passage or defeat of legislation in which he **or she** has a personal interest, except as follows:

(+)

If, on the vote for final passage by the house of which he or she is a member, of the legislation in which he or she has a personal interest, he or she first files a ~~statement~~ ~~(which statement, which~~ shall be entered verbatim on the ~~journal)~~ journal, stating in substance that he or she has a personal interest in the legislation to be voted on and, notwithstanding that interest, he or she is able to cast a fair and objective vote on that legislation, he or she may cast his or her vote without violating any provision of this article.

(ii)

If the member believes that, because of his or her personal interest, he or she should abstain from participating in the vote on the legislation, he or she shall so advise the presiding officer ~~prior to~~ before the commencement of the vote and shall be excused from voting on the legislation without any entry on the journal of the fact of his or her personal interest. ~~In the event~~ If a rule of the house requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the journal a simple statement that the member was excused from voting on the legislation pursuant to law.

~~The provisions of this~~

This section ~~do~~ does not apply to persons who are members of the state civil service as ~~defined~~ described in Article VII of the California Constitution.

SEC. 72.

Section 8921 of the Government Code is amended to read:

8921.

A person subject to this article has an interest ~~which that~~ is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this article, if he or she has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity. He or she does not have an interest ~~which that~~ is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this article, if any benefit or detriment accrues to him or her as a member of a business, profession, occupation, or group to no greater extent than any other member of that business, profession, occupation, or group.

SEC. 73.

Section 8922 of the Government Code is amended to read:

8922.

A person subject to ~~the provisions of~~ this article ~~shall not be deemed to be~~ is not engaged in any activity ~~which that~~ is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state, or does not have a personal interest, arising from any situation, within the scope of this article, solely by reason of ~~any either~~ of the following:

His or her relationship to any potential beneficiary of any situation is one ~~which that~~ is defined as a remote interest by Section 1091 or is otherwise not deemed to be a prohibited interest by Section 1091.1 or 1091.5.

Receipt of a campaign contribution regulated, received, reported, and accounted for pursuant to Title 9 (commencing with Section 81000), so long as the contribution is not made on the understanding or

agreement, in violation of law, that the person's vote, opinion, judgment, or action will be influenced ~~thereby~~ by the contribution.

SEC. 74.

Section 8924 of the Government Code is amended to read:

8924.

~~No~~An employee of either house of the Legislature ~~shall~~ shall not, during the time he or she is so employed, commit any act or engage in any activity prohibited by ~~any provision of~~ this article. The provisions of this article and Article 3 (commencing with Section 8940) ~~which that~~ are applicable to a Member of the Legislature are also applicable to any employee of either house of the Legislature.

~~Nothing in this~~ This part shall not be construed to prohibit an employee of either house of the Legislature from serving in an elective or appointive office of ~~any a~~ a regional or local public agency.

SEC. 75.

Section 9111 of the Government Code is amended to read:

9111.

The Joint Rules Committee may participate in the work of the National Conference of State ~~Legislative Leaders~~ Legislatures. The following Members of the Legislature are authorized to act as members of the committee for the purpose of attending meetings of the conference: (1) the President pro Tempore of the Senate, and one Member of the Senate from each of the two major political parties, appointed by the Senate Committee on Rules, and (2) the Speaker, Speaker pro Tempore, Majority Floor Leader, and Minority Floor Leader of the Assembly, and the ~~Chairman~~ chairperson of the Assembly Committee on Rules.

The committee may pay annually from the ~~Contingent Operating~~ Funds of the Assembly and Senate its proportionate share of the expenses of the National Conference of State ~~Legislative Leaders~~ Legislatures, in participation with other states, to the extent that funds are appropriated for that purpose.

SEC. 76.

Section 12587.1 of the Government Code is amended to read:

12587.1.

The Registry of Charitable Trusts Fund is hereby established in the State Treasury, to be administered by the Department of Justice.

Notwithstanding any other provision of law, all registration fees, registration renewal fees, and late fees or other fees paid to the Department of Justice pursuant to this article, ~~former~~ Section 2850 of the Probate Code, or Section 320.5 of the Penal Code, shall be deposited in the Registry of Charitable Trusts Fund.

Moneys in the fund, upon appropriation by the Legislature, shall be used by the Attorney General to operate and maintain the Attorney General's Registry of Charitable Trusts ~~and Registry of Conservators, Guardians, and Trustees~~, and provide public access via the Internet to reports filed with the Attorney General.

Moneys in the fund, upon appropriation by the Legislature, shall be used by the Attorney General to enforce the registration and reporting provisions.

SEC. 77.

Section 12588 of the Government Code is amended to read:

12588.

The Attorney General may investigate transactions and relationships of corporations and trustees subject to this article for the purpose of ascertaining whether or not the purposes of the corporation or trust are being carried out in accordance with the terms and provisions of the articles of incorporation or other instrument. ~~He~~ **The Attorney General** may require any agent, trustee, fiduciary, beneficiary, institution, association, or corporation, or other person to appear, at a named time and place, in the county designated by the Attorney General, where the person resides or is found, to give information under oath and to produce books, memoranda, papers, documents of title, and evidence of assets, liabilities, receipts, or disbursements in the possession or control of the person ordered to appear.

SEC. 78.

Section 12589 of the Government Code is amended to read:

12589.

When the Attorney General requires the attendance of any person, as provided in Section 12588, ~~he~~ **the Attorney General** shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least 14 days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena and, upon application of the Attorney General, obedience to the order may be enforced by the superior court in the county where the person receiving it resides or is found, in the same manner as though the notice were a subpoena. The court, after hearing, for cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend or postpone all or any part of its provisions.

SEC. 79.

Section 12591 of the Government Code is amended to read:

12591.

The Attorney General may institute appropriate proceedings to secure compliance with this article and to invoke the jurisdiction of the court. The powers and duties of the Attorney General provided in this article are in addition to ~~his~~ **the Attorney General's** existing powers and duties. ~~Nothing in this~~ **This** article ~~shall~~ **does not** impair or restrict the jurisdiction of any court with respect to any of the matters covered by it, except that ~~no~~ **a** court shall **not** have jurisdiction to modify or terminate any trust of property for charitable purposes unless the Attorney General is a party to the proceedings.

SEC. 80.

Section 15643 of the Government Code, as amended by Section 1 of Chapter 404 of the Statutes of 2015, is amended to read:

15643.

The board shall proceed with the surveys of the assessment procedures and practices in the 10 largest counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.

The surveys of the 10 largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. The 10 largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.

The board shall, commencing January 1, 2016, and each of the next four calendar years, do all of the following:

Survey the assessment procedures of one qualified county or city and county and conduct a sample of assessments on the local assessment roll of another qualified county or city and county.

For purposes of this paragraph, “qualified county or city and county” means the 11th to the 20th, inclusive, largest counties and cities and counties. The 11th to the 20th, inclusive, largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 2015 and every fifth calendar year thereafter.

The qualified counties and cities and counties shall be stratified and selected at random by the board, in consultation with the California Assessors’ Association.

Survey the assessment procedures of three qualified counties or cities and counties and conduct a sample of assessments on the local assessment roll of two other qualified counties or cities and counties.

For purposes of this paragraph, “qualified counties or cities and counties” means the 21st to the 58th, inclusive, largest counties and cities and counties. The 21st to the 58th, inclusive, largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year 2015 and every fifth calendar year thereafter.

Conduct a sample of assessments on the local assessment roll in a county or city ~~or~~ and county that the board determines has significant assessment problems pursuant to Section 75.60 of the Revenue and Taxation Code.

The qualified counties and cities and counties shall be stratified and selected at random by the board, in consultation with the California Assessors’ Association.

The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.

When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

SEC. 81.

Section 18152 of the Government Code is amended to read:

18152.

The method and manner of taking, subscribing, and filing the oath by a person appointed to a State position not in the ~~State state~~ civil service shall be as provided in Article ~~4, 4~~ (commencing with Section 1360) of Chapter ~~2, 2~~ of Division ~~4, 4~~ of Title 1.

SEC. 82.

Section 20931 of the Government Code is amended to read:

20931.

Credit for prior service shall be granted to each member who was employed by the state, but not by the university, at the time of becoming a ~~member-~~ member. Credit for prior service shall be granted to each

state member who, on or before the effective date of his or her retirement under this ~~system~~ **system**, becomes entitled to be credited with five years or more of current service rendered as a state member.

The status under this system of each state member who qualifies for credit for prior service under this section shall be adjusted to what it would have been if the prior service had been credited to the member at the date he or she became a member of this system.

SEC. 83.

Section 20969.3 of the Government Code is amended to read:

20969.3.

A member who was involuntarily terminated and who is subsequently reinstated to that employment, pursuant to an administrative, arbitral, or judicial proceeding, shall be reinstated with all retirement benefits that the member otherwise would have accrued. Administrative proceedings also include proceedings before the governing board of a school district, a charter school, a county office of education, or a community college district.

Reinstatement of benefits shall be effective as of the date from which salary is awarded in the administrative, arbitral, or judicial ~~proceedings~~ **proceeding**. Contributions shall be made for any period for which salary is awarded in the administrative, arbitral, or judicial ~~proceedings~~ **proceeding** in the amount that the member would have contributed had his or her employment not been terminated, and he or she shall receive credit as state service, as defined in Section 20069, for the period for which salary is awarded and contributions are received.

This section ~~shall apply~~ **applies** to members who were subject to an involuntary termination effective on or after January 1, 2017.

An employer of the member described in subdivision (a) shall notify the board of the final decision ordering the member's reinstatement to employment within five days of the date the decision becomes final. The notification shall include the date of involuntary termination and the date on which the member was reinstated to employment after the decision.

SEC. 84.

Section 27521 of the Government Code is amended to read:

27521.

A postmortem examination or autopsy conducted at the discretion of a coroner, medical examiner, or other agency upon an unidentified body or human remains is subject to this section.

A postmortem examination or autopsy shall include, but shall not be limited to, the following procedures:

- Taking of all available fingerprints and palm prints.

- A dental examination consisting of dental charts and dental X-rays of the deceased person's teeth, which may be conducted on the body or human remains by a qualified dentist as determined by the coroner.

- The collection of tissue, including a hair sample, or body fluid samples for future DNA testing, if necessary.

- Frontal and lateral facial photographs with the scale indicated.

- Notation and photographs, with a scale, of significant scars, marks, tattoos, clothing items, or other personal effects found with or near the body.

Notations of observations pertinent to the estimation of the time of death.

Precise documentation of the location of the remains.

The postmortem examination or autopsy of the unidentified body or remains may include full body X-rays.

At the sole and exclusive discretion of a coroner, medical examiner, or other agency tasked with performing an autopsy pursuant to Section 27491, an electronic image system, including, but not limited to, an X-ray computed tomography scanning system, may be used to fulfill the requirements of subdivision (b) or of a postmortem examination or autopsy required by other law, ~~including~~ including, but not limited to, Section 27520.

~~Nothing in this subdivision imposes~~ This subdivision does not impose a duty upon any coroner, medical examiner, or other agency tasked with performing autopsies pursuant to Section 27491 to use an electronic image system to perform autopsies or to acquire the capability to do so.

A coroner, medical examiner, or other agency tasked with performing an autopsy pursuant to Section 27491 shall not use an electronic imaging system to conduct an autopsy in any investigation where the circumstances surrounding the death afford a reasonable basis to suspect that the death was caused by or related to the criminal act of another and it is necessary to collect evidence for presentation in a court of law. If the results of an autopsy performed using electronic imaging provides the basis to suspect that the death was caused by or related to the criminal act of another, and it is necessary to collect evidence for presentation in a court of law, then a dissection autopsy shall be performed in order to determine the cause and manner of death.

An autopsy may be conducted using an X-ray computed tomography scanning system notwithstanding the existence of a certificate of religious belief properly executed in accordance with Section 27491.43.

The coroner, medical examiner, or other agency performing a postmortem examination or autopsy shall prepare a final report of investigation in a format established by the Department of Justice. The final report shall list or describe the information collected pursuant to the postmortem examination or autopsy conducted under subdivision (b).

The body of an unidentified deceased person shall not be cremated or buried until the jaws (maxilla and mandible with teeth), or other bone sample if the jaws are not available, and other tissue samples are retained for future possible use. Unless the coroner, medical examiner, or other agency performing a postmortem examination or autopsy has determined that the body of the unidentified deceased person has suffered significant deterioration or decomposition, the jaws shall not be removed until immediately before the body is cremated or buried. The coroner, medical examiner, or other agency responsible for a postmortem examination or autopsy shall retain the jaws and other tissue samples for one year after a positive identification is made, and no civil or criminal challenges are pending, or indefinitely.

If the coroner, medical examiner, or other agency performing a postmortem examination or autopsy with the aid of the dental examination and any other identifying findings is unable to establish the identity of the body or human remains, the coroner, medical examiner, or other agency shall submit dental charts and dental X-rays of the unidentified deceased person to the Department of Justice on forms supplied by the Department of Justice within 45 days of the date the body or human remains were discovered.

If the coroner, medical examiner, or other agency performing a postmortem examination or autopsy with the aid of the dental examination and other identifying findings is unable to establish the identity

of the body or human remains, the coroner, medical examiner, or other agency shall submit the final report of investigation to the Department of Justice within 180 days of the date the body or human remains were discovered. The final report of investigation shall list or describe the information collected pursuant to the postmortem examination or autopsy conducted under subdivision (b), and any anthropology report, fingerprints, photographs, and autopsy report.

SEC. 85.

Section 30025 of the Government Code is amended to read:

30025.

The Local Revenue Fund 2011 is hereby created in the State Treasury and shall receive all revenues, less refunds, derived from the taxes described in ~~Sections 6051.15 and 6201.15~~ **Section 6051.15 of the Revenue and Taxation Code**; revenues as may be allocated to the fund pursuant to Sections 11001.5 and 11005 of the Revenue and Taxation Code; and other moneys that may be specifically appropriated to the fund.

(A) The Trial Court Security Account, the Local Community Corrections Account, the Local Law Enforcement Services Account, the Mental Health Account, the District Attorney and Public Defender Account, the Juvenile Justice Account, the Health and Human Services Account, the Reserve Account, and the Undistributed Account are hereby created within the Local Revenue Fund 2011.

On September 15, 2012, all of the funds in the Trial Court Security Account, the Local Community Corrections Account, the Local Law Enforcement Services Account, the District Attorney and Public Defender Account, and the Juvenile Justice Account shall be distributed to the appropriate successor subaccounts and special accounts as provided in paragraph (3), and on September 30, 2012, are abolished.

On September 30, 2012, the Health and Human Services Account is abolished.

On January 1, 2013, the Reserve Account and the Undistributed Account described in subparagraph (A) are abolished.

(A) The Support Services Account, the Law Enforcement Services Account, and the Sales and Use Tax Growth Account are hereby created within the Local Revenue Fund 2011.

The Protective Services Subaccount, the Behavioral Health Subaccount, and the County Intervention Support Services Subaccount are hereby created within the Support Services Account.

The Trial Court Security Subaccount, the Enhancing Law Enforcement Activities Subaccount, the Community Corrections Subaccount, the District Attorney and Public Defender Subaccount, and the Juvenile Justice Subaccount are hereby created within the Law Enforcement Services Account.

The Enhancing Law Enforcement Activities Growth Special Account is hereby created within the Enhancing Law Enforcement Activities Subaccount.

The Support Services Growth Subaccount and the Law Enforcement Services Growth Subaccount are hereby created within the Sales and Use Tax Growth Account.

The Protective Services Growth Special Account and the Behavioral Health Services Growth Special Account are created within the Support Services Growth Subaccount.

The Women and Children's Residential Treatment Services Special Account is hereby created in the Behavioral Health Subaccount for the Women and Children's Residential Services Treatment Program as described in Chapter 2.1 (commencing

with Section 11757.65) of ~~the Welfare and Institutions Code~~. Part 1 of Division 10.5 of the Health and Safety Code.

The Trial Court Security Growth Special Account, the Community Corrections Growth Special Account, the District Attorney and Public Defender Growth Special Account, and the Juvenile Justice Growth Special Account are hereby created within the Law Enforcement Services Growth Subaccount.

On September 15, 2012, the funds in the following accounts and subaccounts, and funds that subsequently would have been deposited in the following accounts and subaccounts, shall be transferred as follows:

Funds in the Trial Court Security Account shall be transferred to the Trial Court Security Subaccount.

Funds in the Local Community Corrections Account shall be transferred to the Community Corrections Subaccount.

Funds in the Local Law Enforcement Services Account shall be transferred to the Enhancing Law Enforcement Activities Subaccount.

Funds in the District Attorney and Public Defender Account shall be transferred to the District Attorney and Public Defender Subaccount.

Funds in the Juvenile Justice Account shall be transferred to the Juvenile Justice Subaccount.

(A) The Youthful Offender Block Grant Subaccount and the Juvenile Reentry Grant Subaccount are hereby created within the Juvenile Justice Account.

On September 15, 2012, all of the funds in the Youthful Offender Block Grant Subaccount and the Juvenile Reentry Grant Subaccount shall be distributed to the appropriate successor special accounts as provided in paragraph (3), and on September 30, 2012, the subaccounts are abolished.

The Youthful Offender Block Grant Special Account and the Juvenile Reentry Grant Special Account are hereby created within the Juvenile Justice Subaccount.

On September 15, 2012, the funds in the following subaccounts, and funds that subsequently would have been deposited in the following subaccounts, shall be transferred as follows:

Funds in the Youthful Offender Block Grant Subaccount shall be transferred to the Youthful Offender Block Grant Special Account.

Funds in the Juvenile Reentry Grant Subaccount shall be transferred to the Juvenile Reentry Grant Special Account.

(A) The Adult Protective Services Subaccount, the Foster Care Assistance Subaccount, the Foster Care Administration Subaccount, the Child Welfare Services Subaccount, the Adoptions Subaccount, the Adoption Assistance Program Subaccount, the Child Abuse Prevention Subaccount, the Women and Children's Residential Treatment Services Subaccount, the Drug Court Subaccount, the Nondrug Medi-Cal Substance Abuse Treatment Services Subaccount, and the Drug Medi-Cal Subaccount are hereby created within the Health and Human Services Account within the Local Revenue Fund 2011.

On September 15, 2012, all of the funds in the Adult Protective Services Subaccount, the Foster Care Assistance Subaccount, the Foster Care Administration Subaccount,

the Child Welfare Services Subaccount, the Adoptions Subaccount, the Adoption Assistance Program Subaccount, the Child Abuse Prevention Subaccount, the Women and Children's Residential Treatment Services Subaccount, the Drug Court Subaccount, the Nondrug Medi-Cal Substance Abuse Treatment Services Subaccount, and the Drug Medi-Cal Subaccount shall be distributed to the appropriate successor subaccounts as provided in paragraph (2), and on September 30, 2012, the subaccounts named in this paragraph are abolished.

On September 15, 2012, the funds in the following subaccounts, and funds that subsequently would have been deposited in the following subaccounts, shall be transferred as follows:

Funds in the Adult Protective Services Subaccount, the Foster Care Assistance Subaccount, the Foster Care Administration Subaccount, the Child Welfare Services Subaccount, the Adoptions Subaccount, the Adoption Assistance Program Subaccount, and the Child Abuse Prevention Subaccount shall be transferred to the Protective Services Subaccount.

Funds in the Drug Court Subaccount, the Nondrug Medi-Cal Substance Abuse Treatment Services Subaccount, and the Drug Medi-Cal Subaccount shall be transferred to the Behavioral Health Subaccount.

Funds in the Women and Children's Residential Treatment Services Subaccount shall be transferred to the Women and Children's Residential Treatment Services Special Account.

Funds transferred to the Local Revenue Fund 2011 and its accounts, subaccounts, and special accounts are, notwithstanding Section 13340, continuously appropriated and shall be allocated pursuant to statute exclusively for Public Safety Services as defined in subdivision (i) and as further limited by statute. The moneys derived from taxes described in subdivision (a) and deposited in the Local Revenue Fund 2011 shall be available to reimburse the General Fund for moneys that are advanced to the Local Revenue Fund 2011. Additionally, all funds deposited in the Local Revenue Fund 2011 and its accounts shall be available to pay for state costs incurred during the 2011–12 fiscal year from state agency or department appropriations authorized in the Budget Act of 2011 for the realignment of Public Safety Services programs during the 2011–12 legislative session. The Department of Finance is authorized to determine the time, manner, and amount to be reimbursed pursuant to this subdivision, provided that reimbursement shall be made no later than December 1, 2012.

Each county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 for the county or city and county.

(A) Each county treasurer, city and county treasurer, or other appropriate official shall create the Local Community Corrections Account, the Trial Court Security Account, the District Attorney and Public Defender Account, the Juvenile Justice Account, the Health and Human Services Account, and the Supplemental Law Enforcement Services Account within the County Local Revenue Fund 2011 for the county or city and county.

On September 15, 2012, each county treasurer, city and county treasurer, or other appropriate official shall distribute all of the funds in the Local Community Corrections Account, the Trial Court Security Account, the District Attorney and Public Defender Account, the Juvenile Justice Account, the Health and Human Services Account, and the Supplemental Law Enforcement Services Account within the County Local Revenue Fund 2011 for the county or city and county to the appropriate successor accounts as provided in paragraphs (7) and (8), and on September 30, 2012, each county treasurer, city and county treasurer, or other appropriate official shall abolish the accounts described in subparagraph (A).

Each county treasurer, and city and county treasurer, or other appropriate official, shall create the Support Services Account and the Law Enforcement Services Account within the County Local Revenue Fund 2011 for the county or city and county.

Each county treasurer, and city and county treasurer, or other appropriate official, shall create the Protective Services Subaccount and the Behavioral Health Subaccount within the Support Services Account.

Any county or city and county may only annually reallocate money between subaccounts in the Support Services Account, provided that the reallocation may not exceed 10 percent of the amount deposited in the immediately preceding fiscal year in the subaccount in the Support Services Account with the lowest balance.

A county or city and county shall, at a regularly scheduled public hearing of its governing body, document that any decision to make any change in its allocation between the Protective Services Subaccount or Behavioral Health Subaccount moneys among services, facilities, programs, or providers as a result of reallocating funds pursuant to subparagraph (A) was based on the most cost-effective use of available resources to maximize client outcomes.

~~Any~~ A reallocation made pursuant to this paragraph shall ~~only~~ be in effect ~~only~~ for the fiscal year in which the reallocation is made, and the reallocation shall be neither a permanent allocation nor a permanent funding source for any program or service receiving funds from the reallocation.

~~Any~~ A county or city and county that reallocates funds pursuant to this paragraph shall forward a copy of the documentation in subparagraph (B) to the Controller. The Controller shall make an annual report to the fiscal committees of the Legislature of transfers made and shall forward copies of the documentation to other interested parties upon request.

Notwithstanding subparagraph (A), ~~any~~ a county authorized to operate an integrated and comprehensive county health and human services system pursuant to Chapter 12.95 (commencing with Section 18989), Chapter 12.96 (commencing with Section ~~18986.60~~; 18990), or Chapter 12.991 (commencing with Section ~~18986.86~~ 18991) of Part 6 of Division 9 of the Welfare and Institutions Code may reallocate money between the Protective Services Subaccount and the Behavioral Health Subaccount within the Support Services Account of the County Local Revenue Fund 2011 established pursuant to paragraph (3), consistent with the provisions and restrictions contained in Chapter 12.95 (commencing with Section 18989), Chapter 12.96 (commencing with Section ~~18986.60~~; 18990), or Chapter 12.991 (commencing with Section ~~18986.86~~ 18991) of Part 6 of Division 9 of the Welfare and Institutions Code.

A reallocation made pursuant to clause (i) shall be in effect for only the fiscal year in which the reallocation is made and the reallocation shall be neither a permanent allocation nor a permanent funding source for any program or service receiving funds from the reallocation.

A county or city and county that reallocates funds pursuant to clause (i) shall make a report to the Department of Finance and the Secretary of California Health and Human Services describing the reallocation made for that fiscal year.

The Counties of Alameda, Los Angeles, Marin, San Diego, San Francisco, and San Joaquin shall create, within the Behavioral Health Subaccount created pursuant to this paragraph, a County Women and Children's Residential Treatment Services Special Account.

Each county treasurer, city and county treasurer, or other appropriate official shall create the following subaccounts and special accounts for each respective county or city and county:

The Trial Court Security Subaccount, the Enhancing Law Enforcement Activities Subaccount, the Community Corrections Subaccount, the District Attorney and Public Defender Subaccount, the Juvenile Justice Subaccount, and the Local Innovation Subaccount within the Law Enforcement Services Account.

The Youthful Offender Block Grant Special Account and the Juvenile Reentry Grant Special Account within the Juvenile Justice Subaccount.

Each county treasurer, city and county treasurer, or other appropriate official shall create, if so directed by the board of supervisors, a Support Services Reserve Subaccount in the Support Services Account.

A county's or city and county's board of supervisors shall have the authority to reallocate funds from the Protective Services Subaccount or the Behavioral Health Subaccount, or both, to the Support Services Reserve Subaccount in an amount equal to, or less than, 5 percent of the total funds allocated to those subaccounts from the corresponding State Treasury subaccounts for the immediately preceding fiscal year, provided that no reallocation may occur that would cause the Support Services Reserve Subaccount to exceed 5 percent of the total funds allocated to the Protective Services Subaccount and the Behavioral Health Subaccount from the corresponding State Treasury subaccounts for the immediately preceding fiscal year. The county's or city and county's board of supervisors shall have the authority to spend moneys deposited in the Support Services Reserve Subaccount as they would any funds in the Protective Services Subaccount or the Behavioral Health Subaccount. The authorization to make this reallocation or to appropriate the funding may only be made in a duly noticed public meeting. The county or city and county shall document any reallocations that occurred in the previous fiscal year by September 30 and shall forward a copy of the documentation to the Controller. The Controller shall make an annual report to the fiscal committees of the Legislature of reallocations made and shall forward copies of the documentation to other interested parties upon request.

On September 15, 2012, each county treasurer, city and county treasurer, or other appropriate official shall distribute all of the funds in the Local Community Corrections Account, the Trial Court Security Account, the District Attorney and Public Defender Account, the Juvenile Justice Account, the Youthful Offender Block Grant Subaccount, the Juvenile Reentry Grant Subaccount, and the Supplemental Law Enforcement Services Account within the County Local Revenue Fund 2011 for the county or city and county to the appropriate successor subaccounts and special accounts as follows:

Funds in the Local Community Corrections Account shall be transferred to the Community Corrections Subaccount.

Funds in the Trial Court Security Account shall be transferred to the Trial Court Security Subaccount.

Funds in the District Attorney and Public Defender Account shall be transferred to the District Attorney and Public Defender Subaccount.

Funds in the Juvenile Justice Account shall be transferred to the Juvenile Justice Subaccount.

Funds in the Youthful Offender Block Grant Subaccount shall be transferred to the Youthful Offender Block Grant Special Account.

Funds in the Juvenile Reentry Grant Subaccount shall be transferred to the Juvenile Reentry Grant Special Account.

Funds in the Supplemental Law Enforcement Services Account shall be transferred to the Enhancing Law Enforcement Activities Subaccount.

On September 15, 2012, each county treasurer, city and county treasurer, or other appropriate official shall distribute the funds in the Health and Human Services Account within the County Local Revenue Fund 2011 for the county or city and county to the appropriate successor accounts and subaccounts as follows:

Funds that a county or city and county received from the Adult Protective Services Subaccount, the Foster Care Assistance Subaccount, the Foster Care Administration Subaccount, the Child Welfare Services Subaccount, the Adoptions Subaccount, the Adoption Assistance Program Subaccount, and the Child Abuse Prevention Subaccount in the Local Revenue Fund 2011 shall be transferred to the Protective Services Subaccount in the County Local Revenue Fund 2011.

Funds that a county or city and county received from the Drug Court Subaccount, the Nondrug Medi-Cal Substance Abuse Treatment Services Subaccount, and the Drug Medi-Cal Subaccount in the Local Revenue Fund 2011 shall be transferred to the Behavioral Health Subaccount in the County Local Revenue Fund 2011.

Funds that a county or city and county received from the Women and Children's Residential Treatment Services Subaccount shall be transferred to the Women and Children's Residential Treatment Services Special Account within the Behavioral Health Subaccount.

The moneys in the County Local Revenue Fund 2011 for each county or city and county and its accounts shall be exclusively used for Public Safety Services as defined in subdivision (i) and as further described in this section.

The moneys in and transferred from the Trial Court Security Account, and the moneys in its successor subaccount and special account, the Trial Court Security Subaccount and the Trial Court Security Growth Special Account, shall be used exclusively to fund trial court security provided by county sheriffs. No general county administrative costs may be charged to this account, including, but not limited to, the costs of administering the account.

The moneys in and transferred from the Local Community Corrections Account, and the moneys in its successor subaccount and special account, the Community Corrections Subaccount and the Community Corrections Growth Special Account, shall be the source of funding for the provisions of Chapter 15 of the Statutes of 2011. This funding shall not be used by local agencies to supplant other funding for Public Safety Services. This account, subaccount, and special account shall be the source of funding for the Postrelease Community Supervision Act of 2011, as enacted by Section 479 of Chapter 15 of the Statutes of 2011, and to fund the housing of parolees in county jails.

The moneys in and transferred from the District Attorney and Public Defender Account, and the moneys in its successor subaccount and special account, the District Attorney and Public Defender Subaccount and the District Attorney and Public Defender Growth Special Account, shall be used exclusively to fund costs associated with revocation proceedings involving

persons subject to state parole and the Postrelease Community Supervision Act of 2011 (Title 2.05 (commencing with Section 3450) of Part 3 of the Penal Code), and may be used to fund planning, implementation, and training costs for those proceedings. The moneys shall be allocated equally by the county or city and county to the district attorney's office and county public defender's office, or where no public defender's office is established, to the county for distribution for the same purpose.

The moneys in and transferred from the Juvenile Justice Account, and the moneys in its successor subaccount and special account, the Juvenile Justice Subaccount and the Juvenile Justice Growth Special Account, shall only be used to fund activities in connection with the grant programs described in this paragraph.

The Youthful Offender Block Grant Subaccount, and its successor, the Youthful Offender Block Grant Special Account, shall be used to fund grants solely to enhance the capacity of county probation, mental health, drug and alcohol, and other county departments to provide appropriate rehabilitative, housing, and supervision services to youthful offenders, subject to Sections 731.1, 733, 1766, and 1767.35 of the Welfare and Institutions Code. Counties, in expending an allocation from this subaccount or special account, shall provide all necessary services related to the custody and parole of the offenders.

The Juvenile Reentry Grant Subaccount, and its successor, the Juvenile Reentry Grant Special Account, shall be used to fund grants exclusively to address local program needs for persons discharged from the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. County probation departments, in expending the Juvenile Reentry Grant allocation, shall provide evidence-based supervision and detention practices and rehabilitative services to persons who are subject to the jurisdiction of the juvenile court, and who were committed to and discharged from the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. "Evidence-based" refers to supervision and detention policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals on probation or under postrelease supervision. The funds allocated from this subaccount or special account shall supplement existing services and shall not be used by local agencies to supplant any existing funding for existing services provided by those entities. The funding provided from this subaccount or special account is intended to provide payment in full for all local government costs of the supervision, programming, education, incarceration, or any other cost resulting from persons discharged from custody or held in local facilities pursuant to the provisions of Chapter 729 of the Statutes of 2010.

The moneys in and transferred from the Supplemental Law Enforcement Services Account, and the moneys in its successor subaccount, the Enhancing Law Enforcement Activities Subaccount, and moneys in the Enhancing Law Enforcement Activities Growth Special Account, shall be used to provide grants and funding to local law enforcement as provided by statute.

Notwithstanding any other provision of this section, the moneys in the Local Innovation Subaccount shall be used to fund local needs. The board of supervisors of a county or city and county shall have the authority to spend money deposited in the Local Innovation Subaccount as it would any funds in the Juvenile Justice Subaccount, the District Attorney and Public Defender Subaccount, the Community Corrections Subaccount, or the Trial Court Security Subaccount.

The moneys in and transferred from the Health and Human Services Account and its subaccounts and the moneys in its successor account, the Support Services Account, and the moneys in the Protective Services Subaccount and the Behavioral Health Subaccount shall be used only to fund activities performed in connection with the programs described in this subdivision. Except as provided in subdivisions (c) and (d), as restricted by subdivision (e), of Section 30026.5, counties and cities and counties shall pay 100 percent of the nonfederal costs of the programs described in this subdivision using funds allocated from the Local Revenue Fund, the Local Revenue Fund 2011, and any required matching expenditures. Funds shall be used in a manner that maintains eligibility for federal funding.

The moneys in the Protective Services Subaccount and the Protective Services Growth Special Account shall be used exclusively to fund the following:

Adult protective services described in statute and regulation.

Foster care grants and services as those services are described in statute, regulation, and the Title IV-E Child Welfare Waiver Demonstration Capped Allocation Project.

The administrative costs of foster care services as those services are described in statute, regulation, and the Title IV-E Child Welfare Waiver Demonstration Capped Allocation Project.

The costs of child welfare services as those services are described in statute, regulation, and the Title IV-E Child Welfare Waiver Demonstration Capped Allocation Project.

The costs connected with providing adoptive services, including agency adoptions, as described in statute and regulation, including the costs incurred by the county or city and county if the county or city and county elects to contract with the state to provide those services.

The costs of child abuse prevention, intervention, and treatment services as those costs and services are described in statute and regulation.

The administrative costs and payments for families adopting children with special needs.

The moneys in the Behavioral Health Subaccount and the Behavioral Health Services Growth Special Account shall be used exclusively to fund the following:

Residential perinatal drug services and treatment as those services and treatment are described in statute and regulation.

(ii) Drug court operations and services as those costs are currently permitted and described by statute and regulation.

Nondrug Medi-Cal substance abuse treatment programs, as described in statute and regulation.

The Drug Medi-Cal program as that program is described in statute, regulation, or the State Plan or its amendment or amendments.

Medi-Cal specialty mental health services, including the Early and Periodic Screening, Diagnosis, and Treatment Program and mental health managed care, as described in statute, regulation, the managed care waiver provisions of Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396n), or the State Plan or its amendment or amendments.

The moneys in the Women and Children's Residential Treatment Services Special Account shall be used exclusively to fund the Women and Children's Residential

Treatment Services program, as described in Chapter 2.1 (commencing with Section 11757.65) of ~~the Welfare and Institutions Code~~. [Part 1 of Division 10.5 of the Health and Safety Code](#).

The moneys in the Reserve Account shall be used to fund entitlements paid from the Foster Care Assistance Subaccount, the Drug Medi-Cal Subaccount, and the Adoption Assistance Program Subaccount of the Health and Human Services Account after the funding of any entitlements for the 2011–12 fiscal year, and not later than December 1, 2012.

The moneys in the Undistributed Account shall be used to reimburse the General Fund for costs incurred and expenditures made by the state on behalf of any local government entity in providing Public Safety Services, as defined in subdivision (i), after all 2011–12 costs have been reimbursed, but not later than December 1, 2012.

For purposes of this section, “Public Safety Services” ~~shall include~~ [includes](#) all of the following:

Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.

Providing mental health services to children and adults in order to reduce failure in school, harm to themselves and others, homelessness, and preventable incarceration or institutionalization.

Preventing, treating, and providing recovery services for substance abuse.

The realignment moneys collected by the state and distributed to the local governmental entities pursuant to this article shall be considered state funds for the purposes of the political subdivision provision of the nonfederal share of Medicaid expenditures for purposes of Section 5001(g)(2) of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) and Section ~~100201(c)(6)~~ [10201\(c\)\(6\)](#) of the federal Patient Protection and Affordable Care Act (Public Law 111-148). Although the realignment moneys shall be considered state proceeds of taxes, they are not General Fund revenues.

The receipt of funding by each county or city and county pursuant to this chapter shall be contingent upon the creation of the accounts, subaccounts, and special accounts required by this chapter in each county’s, or city and county’s treasury.

SEC. 86.

Section 31462.05 of the Government Code is amended to read:

31462.05.

For a member who is subject to the California Public Employees’ Pension Reform Act of 2013 ([Article 4 \(commencing with Section 7522\) of Chapter 21 of Division 7 of Title 1](#)) for all or any portion of his or her membership in the county retirement system, “final compensation” as defined in Section 7522.32 shall apply.

If a member has less than three years of service, that member's final compensation shall be determined by dividing the total compensation by the number of months of service credited to the member and multiplying by 12.

When determining final compensation for a member who does not have three consecutive years of earned pensionable compensation due to an absence, the compensation for any absence shall be based on the pensionable compensation of the position held by the member immediately prior to the absence.

SEC. 87.

Section 31653 of the Government Code is amended to read:

31653.

Notwithstanding ~~the provisions of~~ this article, the governing board of the county or district may elect to contribute for any member of this system who is absent from and reenters the service of the county or district pursuant to Section ~~31649 of this code~~, 31649 amounts equal to the contributions that would have been made by the member and the member's employer to the system on the basis of the member's compensation earnable at the commencement of the absence, if the member had not been so absent.

If the governing board elects to make any member's contributions pursuant to this section:

Any such member who exercises or did exercise the right to contribute to the system during the period of military service shall have those contributions refunded or credited to that member's account.

Any such member who withdraws or has withdrawn accumulated contributions during military service and who does not or did not redeposit the amount withdrawn upon return to employment with the county or district is entitled to be credited with any contribution the governing board elects to make, and to receive credit for service during the period of absence for military service, the same as if the member had not withdrawn accumulated contributions, and the rate for future contributions shall be based upon the member's age at the commencement of the absence for military service.

The contributions made by the governing board pursuant to this section shall be available only for the purpose of retirement for service or for disability, and shall be made available only for the purpose of retirement, and a member resigning from the service of the county or district after reinstatement from military service shall be entitled to withdraw only that portion of accumulated contributions personally made by the member.

This section shall be retroactively applied to extend its benefits to such members of this system as the governing board may determine whose absence from county service on military service commenced on or after September 16, 1940, and who return or have returned to this service upon the termination of their military service.

This section ~~shall~~ **does** not apply to a member who is subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing **with** Section 7522) of Chapter 21 of Division 7 of Title 1).

SEC. 88.

Section 50079 of the Government Code is amended to read:

50079.

Subject to Section 4 of Article XIII A of the California Constitution, any school district may impose qualified special taxes within the district pursuant to the procedures established in Article 3.5 (commencing with Section 50075) and any other applicable procedures provided by law.

As used in this section, “qualified special taxes” means special taxes that apply uniformly to all taxpayers or all real property within the school district, except that “qualified special taxes” may include taxes that provide for an exemption from those taxes for any or all of the following taxpayers:

Persons who are 65 years of age or older.

Persons receiving Supplemental Security Income for a disability, regardless of age.

Persons receiving Social Security Disability Insurance benefits, regardless of age, whose yearly income does not exceed 250 percent of the 2012 federal poverty guidelines issued by the United States Department of Health and Human Services.

“Qualified special taxes” do not include special taxes imposed on a particular class of property or taxpayers.

The amendments made to this section by Chapter ~~371~~ 81 of the Statutes of 2015 are declaratory of existing law.

Any exemption granted pursuant to subdivision (b) shall remain in effect until the taxpayer becomes ineligible. If the taxpayer becomes ineligible for the exemption for any reason, a new exemption may be granted in the same manner.

SEC. 89.

Section 65057 of the Government Code is amended to read:

65057.

The California Initiative to Advance Precision Medicine is hereby established in the office. In establishing the initiative, the office shall incorporate agreements and partnerships regarding precision medicine entered into by the office prior to January 1, 2016.

The office shall develop, implement, and evaluate demonstration projects on precision medicine in collaboration with public, nonprofit, and private entities. A demonstration project may focus on one or more disease areas, and an award of funds under any appropriation of funds to the office for precision medicine shall be based on criteria that include, but are not limited to, the following:

The potential for tangible benefit to patients within two to five years, including the likelihood that the study will have an immediate impact on patients.

The depth and breadth of data available in the disease focus areas across institutions.

The prospects for efficient and effective data integration and analysis.

The expertise of potential team members.

The resources available for the project outside of the initiative, including the potential for leveraging nonstate funding.

The clinical and commercial potential of the project.

The potential to reduce health disparities.

The potential to scale and leverage multiple electronic health records systems.

The potential to develop the use of tools, measurements, and data, including publicly generated and available data.

A demonstration project that is selected by the office shall advance greater understanding in at least one of the following areas, or in another area that is determined by the office to be necessary to advance precision medicine:

The application of precision medicine to specific disease areas.

The challenges of system interoperability.

Economic analysis.

Standards for sharing data or protocols across institutions.

The federal and state regulatory environment.

The clinical environment.

Challenges relating to data, tools, and infrastructure.

The protection of privacy and personal health information.

The potential for reducing health disparities.

Methods and protocols for patient engagement.

The office shall develop concrete metrics and goals for demonstration projects, monitor their progress, and comprehensively evaluate projects upon completion.

On or before January 1, 2017, and annually thereafter, the office shall submit a report to the Legislature that provides an update of the demonstration projects selected. Upon completion of a demonstration project, the office shall submit an evaluation of the demonstration project to the Legislature. A demonstration project is deemed complete when it has completed the agreed upon tasks and deliverables, and the project funding has been completed.

A written report made pursuant to subparagraph (A) shall be made in compliance with Section 9795.

The office shall develop an inventory of precision medicine assets, including projects, data sets, and experts. In developing the inventory, the office shall assemble knowledge across broad disease areas. The office shall use the inventory to inform strategic areas for the future development of precision medicine-related projects.

The office may enter into agreements with public entities, or with nonprofit or not-for-profit organizations for the purpose of jointly administering the programs established under the initiative or to administer any provision of this section.

The office shall create and post on a publicly available Internet Web site guidelines for an award of funds made under any appropriation of funds to the office for precision medicine. The guidelines shall include, but are not limited to, the following:

- (A) Eligibility requirements.
- (B) A competitive, merit-based application process that allows public and private academic and nonprofit institutions to submit proposals as principal investigators.
- (C) A comprehensive peer-reviewed selection process.
- (D) Requirements regarding the use of awarded funds.
- (E) Requirements regarding the use and sharing of research data and findings.
- (F) Requirements for the protection of privacy and personal health information.

The office shall solicit public, nonprofit, and private sector input for any additional guidelines for an award of funds made pursuant to this section.

The office shall establish standards that require a grant to be subject to an intellectual property agreement that balances the opportunity of the state to benefit from the patents, royalties, and licenses that result from basic research, therapy development, and clinical trials against the need to ensure that the agreement does not unreasonably hinder essential medical research.

The office may receive nonstate funds in furtherance of the initiative. “In furtherance of the initiative” means that funds may be used to award additional demonstration projects under the same terms and conditions as state funds in the initiative, held in reserve for follow-on funding of any awardees, or used to fund other nondemonstration project activities in a proportion no greater than 20 percent of the total of nonstate funds received over the term of the commitment. The office shall return unexpended nonstate funds to the source before January 1, 2020.

Up to 30 percent of any amount appropriated to the office for precision medicine may be held by the office until an equivalent amount of nonstate matching funds is identified and received. Amounts subject to nonstate match may be released in increments as determined by the office.

Up to 10 percent of any amount appropriated to the office for precision medicine may be used by the office for administrative costs.

The office shall recruit a precision medicine expert selection committee to represent various precision medicine-related skills, such as bioinformatics, statistics, health economics, patient engagement, and genomics. The Legislature may make nominations for the selection committee to the office for consideration.

Members of the selection committee shall be deemed to not be interested in any contract, including any award of funds by the committee, pursuant to this section.

Prior to the selection committee's deliberative process, the office shall notify the Legislature of the selection of the committee members.

The selection committee established in subdivision (k) shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), except during the deliberative process as it relates to reviewing and ranking proposals and making final selections.

The selection committee shall report on the justification for selecting the demonstration projects that are awarded funding and provide a list of the demonstration projects that were not selected. This report shall be posted on the Internet Web site created in subdivision (e).

Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), the office may implement or interpret this article without taking any regulatory action.

SEC. 90.

Section 65073 of the Government Code is amended to read:

65073.

The department shall consult with, coordinate its activities with, and make a draft of its proposed plan, and each update, available **for review and comment** to the California Transportation Commission, the Strategic Growth Council, the State Air Resources Board, the State Energy Resources Conservation and Development Commission, the air quality management districts, public transit operators, and the regional transportation planning ~~agencies for review and comment.~~ **agencies.** The department shall also provide an opportunity for input by the general public. Prior to adopting the plan or update, the department shall make a final draft available to the Legislature and Governor for review and comment. The commission may present the results of its review and comment to the Legislature and the Governor. The Governor shall adopt the plan and submit the plan to the Legislature and the Secretary of the United States Department of Transportation.

SEC. 91.

Section 65850.6 of the Government Code is amended to read:

65850.6.

A ~~collocation~~ **colocation** facility shall be a permitted use not subject to a city or county discretionary permit if it satisfies the following requirements:

The ~~collocation~~ **colocation** facility is consistent with requirements for the wireless telecommunications ~~collocation~~ **colocation** facility pursuant to subdivision (b) on which the ~~collocation~~ **colocation** facility is proposed.

The wireless telecommunications ~~collocation~~ **colocation** facility on which the ~~collocation~~ **colocation** facility is proposed was subject to a discretionary permit by the city or county and an environmental impact report was certified, or a negative declaration or mitigated negative declaration was adopted for the wireless telecommunications ~~collocation~~ **colocation** facility in compliance with the California

Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources ~~Code~~); ~~Code~~); the requirements of Section 21166 do not ~~apply~~; ~~apply~~; and the ~~collocation~~ ~~collocation~~ facility incorporates required mitigation measures specified in that environmental impact report, negative declaration, or mitigated negative declaration.

A wireless telecommunications ~~collocation~~ ~~collocation~~ facility, where a subsequent ~~collocation~~ ~~collocation~~ facility is a permitted use not subject to a city or county discretionary permit pursuant to subdivision (a), shall be subject to a city or county discretionary permit issued on or after January 1, 2007, and shall comply with all of the following:

City or county requirements for a wireless telecommunications ~~collocation~~ ~~collocation~~ facility that specifies types of wireless telecommunications facilities that are allowed to include a ~~collocation~~ ~~collocation~~ facility, or types of wireless telecommunications facilities that are allowed to include certain types of ~~collocation~~ ~~collocation~~ facilities; height, location, bulk, and size of the wireless telecommunications ~~collocation~~ ~~collocation~~ facility; percentage of the wireless telecommunications ~~collocation~~ ~~collocation~~ facility that may be occupied by ~~collocation~~ ~~collocation~~ facilities; and aesthetic or design requirements for the wireless telecommunications ~~collocation~~ ~~collocation~~ facility.

City or county requirements for a proposed ~~collocation~~ ~~collocation~~ facility, including any types of ~~collocation~~ ~~collocation~~ facilities that may be allowed on a wireless telecommunications ~~collocation~~ ~~collocation~~ facility; height, location, bulk, and size of allowed ~~collocation~~ ~~collocation~~ facilities; and aesthetic or design requirements for a ~~collocation~~ ~~collocation~~ facility.

State and local requirements, including the general plan, any applicable community plan or specific plan, and zoning ordinance.

The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) through certification of an environmental impact report, or adoption of a negative declaration or mitigated negative declaration.

The city or county shall hold at least one public hearing on the discretionary permit required pursuant to subdivision (b) and notice shall be given pursuant to Section 65091, unless otherwise required by this division.

For purposes of this section, the following definitions apply:

~~“Collocation”~~ ~~“Collocation”~~ facility” means the placement or installation of wireless facilities, including antennas, and related equipment, on, or immediately adjacent to, a wireless telecommunications ~~collocation~~ ~~collocation~~ facility.

“Wireless telecommunications facility” means equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.

“Wireless telecommunications ~~collocation~~ ~~collocation~~ facility” means a wireless telecommunications facility that includes ~~collocation~~ ~~collocation~~ facilities.

The Legislature finds and declares that a ~~collocation~~ ~~collocation~~ facility, as defined in this section, has a significant economic impact in California and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, but is a matter of statewide concern.

With respect to the consideration of the environmental effects of radio frequency emissions, the review by the city or county shall be limited to that authorized by Section 332(c)(7) of Title 47 of the United States Code, or as that section may be hereafter amended.

SEC. 92.

Section 66474.02 of the Government Code is amended to read:

66474.02.

Before approving a tentative map, or a parcel map for which a tentative map was not required, for an area located in a state responsibility area or a very high fire hazard severity zone, as both are defined in Section 51177, a legislative body of a county shall, except as provided in subdivision (b), make the following three findings:

A finding supported by substantial evidence in the record that the design and location of each lot in the subdivision, and the subdivision as a whole, are consistent with any applicable regulations adopted by the State Board of Forestry and Fire Protection pursuant to Sections 4290 and 4291 of the Public Resources Code.

A finding supported by substantial evidence in the record that structural fire protection and suppression services will be available for the subdivision through any of the following entities:

A county, city, special district, political subdivision of the state, or another entity organized solely to provide fire protection services that is monitored and funded by a county or other public entity.

The Department of Forestry and Fire Protection by contract entered into pursuant to Section 4133, 4142, or 4144 of the Public Resources Code.

A finding ~~that that~~, to the extent practicable, ingress and egress for the subdivision ~~meets~~ meet the regulations regarding road standards for fire equipment access adopted pursuant to Section 4290 of the Public Resources Code and any applicable local ordinance.

Subdivision (a) does not apply to the approval of a tentative map, or a parcel map for which a tentative map was not required, that would subdivide land identified in the open space element of the general plan for the managed production of resources, including, but not limited to, forest land, rangeland, agricultural land, and areas of economic importance for the production of food or fiber, if the subdivision is consistent with the open space purpose and if, for the subdivision of land that would result in parcels that are 40 acres or smaller in size, those parcels are subject to a binding and recorded restriction prohibiting the development of a habitable, industrial, or commercial building or structure. All other structures shall comply with defensible space requirements described in Section 51182 of this code or Section 4291 of the Public Resources Code.

Any later approval to remove a binding restriction placed as a condition of a tentative map, or a parcel map for which a tentative map was not required, that would allow the development of a building or structure for a parcel that has previously been exempted from the requirements of subdivision (a) pursuant to paragraph (1) of this subdivision shall be subject to the requirements of subdivision (a).

This section ~~shall~~ does not supersede regulations established by the State Board of Forestry and Fire Protection or local ordinances that provide equivalent or more stringent minimum requirements than those contained within this section.

SEC. 93.

Section 68203 of the Government Code is amended to read:

68203.

On July 1, 1980, and on July 1 of each year thereafter, the salary of each justice and judge named in Sections 68200 to 68202, inclusive, and 68203.1 shall be increased by the amount that is produced by multiplying the then current salary of each justice or judge by the average percentage salary increase for the current fiscal year for California state employees; provided, that in any fiscal year in which the Legislature places a dollar limitation on salary increases for state employees the same limitation shall apply to judges in the same manner applicable to state employees in comparable wage categories.

For the purposes of this section, average percentage salary increases for California state employees shall be those increases as reported by the Department of Human Resources to the ~~State~~ Controller in a pay letter.

For purposes of this section the average percentage salary increase for the current fiscal year for California state employees shall be reduced by the average percentage salary decrease resulting from the furlough or enrollment in a personal leave program of California state employees in that current fiscal year, as determined by the Department of Human Resources, in consultation with the Department of Finance.

If the reduction required pursuant to paragraph (2) results in a percentage that is equal to or less than zero, the salary of each justice and judge named in Sections 68200 to 68202, inclusive, and 68203.1 shall not be increased.

Persons working for the California State University system, the judicial branch, or the Legislature are not considered California state employees for purposes of this subdivision.

The salary increase for judges and justices made on July 1, 1980, for the 1980–81 fiscal year, shall ~~in~~ ~~no case~~ not exceed 5 percent.

On January 1, 2001, the salary of the justices and judges named in Sections 68200 to 68202, inclusive, shall be increased by the amount that is produced by multiplying the salary of each justice and judge as of December 31, 2000, by 8½ percent.

On January 1, 2007, the salary of the justices and judges identified in Sections 68200 to 68202, inclusive, and 68203.1 shall also be increased by the amount that is produced by multiplying the salary of each justice and judge as of December 31, 2006, by 8.5 percent.

Notwithstanding Article 2 (commencing with Section 3287) of Chapter 1 of Title 2 of Part 1 of Division 4 of the Civil Code, Chapter 5 (commencing with Section 685.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure, any other law, or any court judgment that has not been finally determined upon appeal as of the date this subdivision is enacted, any award of interest on an order to pay unpaid salary or judicial retiree benefits pursuant to this section shall not exceed the rate of interest accrued on moneys in the Pooled Money Investment Account.

SEC. 94.

Section 70395 of the Government Code is amended to read:

70395.

Notwithstanding any other law, the Judicial Council may sell the property, at fair market value and upon the terms and conditions and subject to the reservations the Judicial Council deems in the best interests of the state, if all of the following requirements are satisfied:

The sale complies with Section ~~70391 of the Government Code~~, 70391 as applicable.

The Judicial Council consults with the County of Los Angeles concerning the sale of the property.

The Judicial Council offers the County of Los Angeles the right to purchase the property at fair market value before otherwise offering the property for sale.

Notwithstanding any other law, the net proceeds from the sale of the property shall be deposited into the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established by Section ~~70371.5 of the Government Code~~. 70371.5.

For purposes of this act, “property” means the San Pedro superior courthouse located at 505 South Centre Street, in the City of Los Angeles and the County of Los Angeles, Assessor Parcel Number 7455-013-901.

The disposition of the property authorized in this section does not constitute a sale or other disposition of surplus state property within the meaning of Section 9 of Article III of the California Constitution and ~~shall is not be~~ subject to subdivision (g) of Section ~~11011 of the Government Code~~. 11011 of this code.

SEC. 95.

Section 82002 of the Government Code is amended to read:

82002.

“Administrative action” means either of the following:

The proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding, ~~which shall include~~ including any proceeding governed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

With regard only to placement agents, the decision by any state agency to enter into a contract to invest state public retirement system assets on behalf of a state public retirement system.

“Ratemaking proceeding” means, for the purposes of a proceeding before the Public Utilities Commission, any proceeding in which it is reasonably foreseeable that a rate will be established, including, but not limited to, general rate cases, performance-based ratemaking, and other ratesetting mechanisms.

“Quasi-legislative proceeding” means, for purposes of a proceeding before the Public Utilities Commission, any proceeding that involves consideration of the establishment of a policy that will apply generally to a group or class of persons, including, but not limited to, rulemakings and investigations that may establish rules affecting an entire industry.

SEC. 96.

Section 655.1 of the Harbors and Navigation Code is amended to read:

655.1.

As used in this section, “mechanically propelled vessel” means any vessel actively propelled by machinery, whether or not the machinery is the principal source of propulsion.

A peace officer, having reasonable cause to believe that any person was operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, who lawfully arrests the person for any violation of subdivision (b), (c), (d), (e), or (f) of Section 655, may request that person to submit to chemical testing of his or her blood, breath, or urine for the purpose of determining the drug or alcoholic content of the blood.

The arrested person shall be advised of all of the following:

A criminal complaint may be filed against him or her for operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug.

He or she has a right to refuse chemical testing.

An officer has the authority to seek a search warrant compelling the arrested person to submit a blood sample as described in paragraph (16) of subdivision (a) of Section 1524 of the Penal Code.

He or she does not have the right to have an attorney present before stating whether he or she will submit to the chemical testing, before deciding which chemical test or tests to take, or during the administration of the chemical test or tests chosen.

If the person is lawfully arrested for operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of an alcoholic beverage and submits to the chemical testing, the person has the choice of whether the chemical test shall be of his or her blood or breath and the person shall be advised by the arresting officer that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing the chosen test, the person shall submit to the remaining test. If a blood or breath test, or both, are unavailable, then subdivision (n) applies.

If the person is lawfully arrested for operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of any drug or the combined influence of an alcoholic beverage and any drug and submits to the chemical testing, the person has the choice of whether the chemical test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the arresting officer has reasonable cause to believe that the person was operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of any drug, or the combined influence of an alcoholic beverage and any drug, and if the arresting officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The arresting officer shall state in his or her report the facts upon which that belief and that clear indication are based. The person shall have the choice of submitting to and completing a blood or urine test, and shall be advised by the arresting officer that he or she is requested to submit to an additional test, and that he or she may choose a test of either blood or urine. If the person arrested is either incapable, or states that he or she is incapable, of completing either chosen chemical test, the person shall submit to and complete the other remaining chemical test.

A person who chooses to submit to a breath test shall be advised before or after the breath test that the breath-testing equipment does not retain any sample of the breath, and that no breath sample will be available after the breath test which could be analyzed later by the person or any other person.

The person shall also be advised that, because no breath sample is retained, the person will be given an opportunity to provide a blood or urine sample that will be retained at no cost to the person so that there will be something retained that may be subsequently analyzed for the alcoholic content of the ~~persons's~~ person's blood. If the person completes a breath test and wishes to provide a blood or urine sample to be retained, the sample shall be collected and retained in the same manner as if the person had chosen a blood or urine test initially.

The person shall also be advised that the blood or urine sample may be tested by either party in any criminal prosecution. The failure of either party to perform this chemical test shall place

no duty upon the opposing party to perform the chemical test nor affect the admissibility of any other evidence of the drug or alcoholic content of the blood of the person arrested.

If the person is lawfully arrested for any offense allegedly committed in violation of subdivision (b), (c), (d), (e), or (f) of Section 655, and because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular chemical test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of submitting to those chemical tests ~~which that~~ are available at the facility to which that person has been transported. In this event, the arresting officer shall advise the person of those chemical tests ~~which that~~ are available at the medical facility, and that the person's choice is limited to those chemical tests ~~which that~~ are available.

Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal may be subjected to chemical testing of his or her blood, breath, or urine for the purpose of determining the drug or alcoholic content of the blood, whether or not the person is advised of the information specified in paragraph (2) of subdivision (b).

Any person who is afflicted with hemophilia is exempt from the blood test provided for in this section.

Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test provided for in this section.

A person lawfully arrested for any offense allegedly committed while the person was operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 may request the arresting officer to have a chemical test made of his or her blood or breath for the purpose of determining the drug or alcoholic content of the blood and, if so requested, the arresting officer shall have the chemical test performed. However, if a blood or breath test, or both, are unavailable, then subdivision (n) applies.

Any chemical test of blood, breath, or urine to determine the percentage, by weight, of alcohol in the blood shall be performed in accordance with Section 23158 of the Vehicle Code.

~~Nothing in this section limits~~ This section does not limit the authority of a peace officer to gather evidence from a person lawfully arrested for a violation of subdivision (b), (c), (d), (e), or (f) of Section 655.

If a blood or breath test is not available under paragraph (1) of subdivision (c) or under subdivision (k), the person shall submit to the remaining test in order to determine the percentage, by weight, of alcohol in the person's blood. If both the blood and breath tests are unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test.

SEC. 97.

Section 443.2 of the Health and Safety Code is amended to read:

443.2.

An individual who is an adult with the capacity to make medical decisions and with a terminal disease may make a request to receive a prescription for an aid-in-dying drug if all of the following conditions are satisfied:

The individual's attending physician has diagnosed the individual with a terminal disease.

The individual has voluntarily expressed the wish to receive a prescription for an aid-in-dying drug.

The individual is a resident of California and is able to establish residency through any of the following means:

Possession of a California ~~driver~~ driver's license or other identification issued by the State of California.

Registration to vote in California.

Evidence that the person owns or leases property in California.

Filing of a California tax return for the most recent tax year.

The individual documents his or her request pursuant to the requirements set forth in Section 443.3.

The individual has the physical and mental ability to self-administer the aid-in-dying drug.

A person shall not be considered a "qualified individual" under the provisions of this part solely because of age or disability.

A request for a prescription for an aid-in-dying drug under this part shall be made solely and directly by the individual diagnosed with the terminal disease and shall not be made on behalf of the patient, including, but not limited to, through a power of attorney, an advance health care directive, a conservator, health care agent, surrogate, or any other legally recognized health care decisionmaker.

SEC. 98.

Section 1250.11 of the Health and Safety Code is amended to read:

1250.11.

The State Department of Public Health ~~Services~~ shall develop written guidelines and regulations as necessary to minimize the risk of transmission of blood-borne infectious diseases from health care worker to patient, from patient to patient, and from patient to health care worker. In so doing, the ~~state~~ department shall consider the recommendations made by the federal Centers for Disease Control and Prevention for preventing transmission of HIV and Hepatitis B. The ~~state~~ department shall also take into account existing regulations of the ~~state~~ department as well as standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section ~~6300~~); 6300) of Division ~~5~~; 5 of the Labor Code) regarding infection control to prevent infection or disease as a result of the transmission of blood-borne pathogens. In so doing, the ~~state~~ department shall consult with the Medical Board of California, the Dental Board of ~~Dental Examiners, California~~, and the Board of Registered Nursing as well as associations representing health care professions, associations of licensed health facilities, organizations ~~which~~ that advocate on behalf of those infected with ~~HIV~~ HIV, and organizations representing consumers of health care. The department shall complete its review of the need for guidelines and regulations by January 1, 1993.

SEC. 99.

Section 1256.1 of the Health and Safety Code is amended to read:

1256.1.

~~No~~ A general acute care hospital shall not hold itself out directly or indirectly by any sign, brochure, or advertisement as providing any service or services ~~which~~ that require a supplemental or special service unless that general acute care hospital has first obtained a supplemental or special service approval from the State Department of Public Health ~~Services~~ to operate ~~such a~~ that service.

SEC. 100.

Section 1259 of the Health and Safety Code is amended to read:

1259.

The Legislature finds and declares that California is becoming a land of people whose languages and cultures give the state a global quality. The Legislature further finds and declares that access to basic health care services is the right of every resident of the state, and that access to information regarding basic health care services is an essential element of that right.

Therefore, it is the intent of the Legislature that when language or communication barriers exist between patients and the staff of any general acute care hospital, arrangements shall be made for interpreters or bilingual professional staff to ensure adequate and speedy communication between patients and staff.

As used in this section:

“Interpreter” means a person fluent in English and in the necessary second language, who can accurately speak, read, and readily interpret the necessary second language, or a person who can accurately sign and read sign language. Interpreters shall have the ability to translate the names of body parts and to describe competently symptoms and injuries in both languages. Interpreters may include members of the medical or professional staff.

“Language or communication barriers” means:

With respect to spoken language, barriers that are experienced by individuals who are limited-English-speaking or non-English-speaking individuals who speak the same primary language and who comprise at least 5 percent of the population of the geographical area served by the hospital or of the actual patient population of the hospital. In cases of dispute, the ~~state department~~ [State Department of Public Health](#) shall determine, based on objective data, whether the 5 percent population standard applies to a given hospital.

With respect to sign language, barriers that are experienced by individuals who are deaf and whose primary language is sign language.

To ensure access to health care information and services for limited-English-speaking or non-English-speaking residents and deaf residents, licensed general acute care hospitals shall:

Review existing policies regarding interpreters for patients with limited-English proficiency and for patients who are deaf, including the availability of staff to act as interpreters.

(i) Adopt and review annually a policy for providing language assistance services to patients with language or communication barriers. The policy shall include procedures for providing, to the extent possible, as determined by the hospital, the use of an interpreter whenever a language or communication barrier exists, except when the patient, after being informed of the availability of the interpreter service, chooses to use a family member or friend who volunteers to interpret. The procedures shall be designed to maximize efficient use of interpreters and minimize delays in providing interpreters to patients. The procedures shall ensure, to the extent possible, as determined by the hospital, that interpreters are available, either on the premises or accessible by telephone, 24 hours a day.

The hospital shall, on or before July 1, 2016, and every January 1 thereafter, make the updated policy and a notice of availability of language assistance services available to the public on its Internet Web site. The notice shall be in English and in the other languages most commonly spoken in the hospital’s service area. For purposes of this paragraph, the hospital shall make the notice available in the language of individuals who meet the definition of having a language barrier pursuant to subparagraph (A) of

paragraph (2) of subdivision (b); however, a hospital is not required to make the notice available in more than five languages other than English.

The hospital shall, on or before July 1, 2016, and every January 1 thereafter, transmit to the ~~state~~ department a copy of the updated policy and shall include a description of its efforts to ensure adequate and speedy communication between patients with language or communication barriers and staff.

The ~~state~~ department shall make the updated policy available to the public on its Internet Web site.

Develop, and post in conspicuous locations, notices that advise patients and their families of the availability of interpreters, the procedure for obtaining an ~~interpreter~~ interpreter, and the telephone numbers where complaints may be filed concerning interpreter service problems, including, but not limited to, a ~~T.D.D.~~ TDD number for the deaf or hard of hearing. The notices shall be posted, at a minimum, in the emergency room, the admitting area, the entrance, and in outpatient areas. Notices shall inform patients that interpreter services are available upon request, shall list the languages for which interpreter services are available, shall instruct patients to direct complaints regarding interpreter services to the ~~state~~ department, and shall provide the local address and telephone number of the ~~state~~ department, including, but not limited to, a ~~T.D.D.~~ TDD number for the deaf or hard of hearing.

Identify and record a patient's primary language and dialect on one or more of the following: patient medical chart, hospital bracelet, bedside notice, or nursing card.

Prepare and maintain as needed a list of interpreters who have been identified as proficient in sign language and in the languages of the population of the geographical area serviced who have the ability to translate the names of body parts, injuries, and symptoms.

Notify employees of the hospital's commitment to provide interpreters to all patients who request them.

Review all standardized written forms, waivers, documents, and informational materials available to patients upon admission to determine which to translate into languages other than English.

Consider providing its nonbilingual staff with standardized picture and phrase sheets for use in routine communications with patients who have language or communication barriers.

Consider developing community liaison groups to enable the hospital and the limited-English-speaking and deaf communities to ensure the adequacy of the interpreter services.

Noncompliance with this section shall be reportable to licensing authorities.

Section 1290 does not apply to this section.

SEC. 101.

Section 1502 of the Health and Safety Code is amended to read:

1502.

As used in this chapter:

“Community care facility” means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally

impaired, incompetent persons, and abused or neglected children, and includes the following:

“Residential facility” means any family home, group care facility, or similar facility determined by the department, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

“Adult day program” means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

“Therapeutic day services facility” means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

“Foster family agency” means any public agency or private organization, organized and operated on a nonprofit basis, engaged in any of the following:

- Recruiting, certifying, approving, and training of, and providing professional support to, foster parents and resource families.

- Coordinating with county placing agencies to find homes for foster children in need of care.

- Providing services and supports to licensed or certified foster parents, county-approved resource families, and children to the extent authorized by state and federal law.

“Foster family home” means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

“Small family home” means any residential facility, in the licensee’s family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

“Social rehabilitation facility” means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

“Community treatment facility” means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure

containment. Program components shall be subject to program standards developed and enforced by the State Department of Health Care Services pursuant to Section 4094 of the Welfare and Institutions Code.

~~Nothing in this~~ This section shall ~~not~~ be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

“Full-service adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

- Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

- Assesses the birth parents, prospective adoptive parents, or child.

- Places children for adoption.

- Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a full-service adoption agency shall be accredited and in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

“Noncustodial adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

- Assesses the prospective adoptive parents.

- Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

- Cooperatively supervises ~~adoption~~ adoptive placements with a full-service ~~adoptive adoption~~ agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a noncustodial adoption agency shall be accredited and in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

“Transitional shelter care facility” means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.

“Transitional housing placement provider” means an organization licensed by the department pursuant to Section 1559.110 of this code and Section 16522.1 of the Welfare and Institutions Code to provide transitional housing to foster children at least 16 years of age and not more than 18 years of age, and nonminor dependents, as defined in subdivision (v) of Section 11400

of the Welfare and Institutions Code, to promote their transition to adulthood. A transitional housing placement provider shall be privately operated and organized on a nonprofit basis.

“Group home” means a residential facility that provides 24-hour care and supervision to children, delivered at least in part by staff employed by the licensee in a structured environment. The care and supervision provided by a group home shall be nonmedical, except as otherwise permitted by law.

“Runaway and homeless youth shelter” means a group home licensed by the department to operate a program pursuant to Section 1502.35 to provide voluntary, ~~short-term~~, ~~short-term~~ shelter and personal services to runaway youth or homeless youth, as defined in paragraph (2) of subdivision (a) of Section 1502.35.

“Enhanced behavioral supports home” means a facility certified by the State Department of Developmental Services pursuant to Article 3.6 (commencing with Section 4684.80) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, and licensed by the State Department of Social Services as an adult residential facility or a group home that provides 24-hour nonmedical care to individuals with developmental disabilities who require enhanced behavioral supports, staffing, and supervision in a homelike setting. An enhanced behavioral supports home shall have a maximum capacity of four consumers, shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home- and community-based services funding.

“Community crisis home” means a facility certified by the State Department of Developmental Services pursuant to Article 8 (commencing with Section 4698) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, and licensed by the State Department of Social Services pursuant to Article 9.7 (commencing with Section 1567.80), as an adult residential facility, providing 24-hour nonmedical care to individuals with developmental disabilities receiving regional center service, in need of crisis intervention services, and who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center, Sonoma Developmental Center, an acute general hospital, acute psychiatric hospital, an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5 of the Welfare and Institutions Code, or an out-of-state placement. A community crisis home shall have a maximum capacity of eight consumers, as defined in subdivision (a) of Section 1567.80, shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home- and community-based services funding.

“Crisis nursery” means a facility licensed by the department to operate a program pursuant to Section 1516 to provide short-term care and supervision for children under six years of age who are voluntarily placed for temporary care by a parent or legal guardian due to a family crisis or stressful situation.

“Short-term residential therapeutic program” means a residential facility operated by a public agency or private organization and licensed by the department pursuant to Section 1562.01 that provides an integrated program of specialized and intensive care and supervision, services and supports, treatment, and ~~short-term~~, ~~short-term~~ 24-hour care and supervision to children. The care and supervision provided by a short-term residential therapeutic program shall be nonmedical, except as otherwise permitted by law. Private short-term residential therapeutic programs shall be organized and operated on a nonprofit basis.

“Private alternative boarding school” means a group home licensed by the department to operate a program pursuant to Section 1502.2 to provide youth with 24-hour residential care and supervision, which, in addition to providing educational services to youth, provides, or

holds itself out as providing, behavioral-based services to youth with social, emotional, or behavioral issues. The care and supervision provided by a private alternative boarding school shall be nonmedical, except as otherwise permitted by law.

“Private alternative outdoor program” means a group home licensed by the department to operate a program pursuant to Section 1502.21 to provide youth with 24-hour residential care and supervision, which provides, or holds itself out as providing, behavioral-based services in an outdoor living setting to youth with social, emotional, or behavioral issues. The care and supervision provided by a private alternative outdoor program shall be nonmedical, except as otherwise permitted by law.

“Department” or “state department” means the State Department of Social Services.

“Director” means the Director of Social Services.

SEC. 102.

Section 1502.2 of the Health and Safety Code is amended to read:

1502.2.

Commencing January 1, 2018, the department shall license private alternative boarding schools, as defined in paragraph (19) of subdivision (a) of Section 1502, as a group home pursuant to this chapter. A licensed private alternative boarding school shall comply with all provisions of this chapter that are applicable to group homes, unless otherwise indicated, and with this section.

A licensed private alternative boarding school shall comply with all of the following:

It shall be owned and operated on a nonprofit basis by a private nonprofit corporation or a nonprofit organization.

It shall prepare and maintain a ~~current~~, **current** written plan of operation, as defined by the department.

It shall offer 24-hour, nonmedical care and supervision to youth who voluntarily consent to being admitted to the program and who are voluntarily admitted by his or her parent or legal guardian.

It shall not admit a child younger than 12 years of age.

It shall not admit a youth who has been assessed by a licensed mental health professional as seriously emotionally disturbed, unless the youth does not require care in a licensed health facility and the State Department of Health Care Services has certified the facility as a program that meets the standards to provide mental health treatment services for a child having a serious emotional disturbance, as set forth in Section 4096.5 of the Welfare and Institutions Code.

It shall provide each prospective youth and his or her parent or legal guardian with an accurate written description of the programs and services to be provided. If it advertises or promotes special care, programming, or environments for persons with behavioral, emotional, or social challenges, the written description shall include how its programs and services are intended to achieve the advertised or promoted claims.

It shall ensure that all individuals providing behavioral-based services to youth at the facility are licensed or certified by the appropriate agency, department, or accrediting body, as specified by the department in regulation.

It shall not use secure containment or manual or mechanical restraints.

If it offers access to, or holds itself out as offering access to, mental health services, it shall ensure that those services are provided by a licensed mental health provider.

If it advertises or includes in its marketing materials reference to providing alcohol or substance abuse treatment, it shall ensure that the treatment is provided by a licensed or certified alcoholism or drug abuse recovery or treatment facility.

A private alternative boarding school shall submit a staff training plan to the department as part of its plan of operation. In addition to the training required of group home staff, the staff training plan shall include, but not be limited to, training in all of the following subject areas:

Youth rights, as described in subdivision (d).

Physical and psychosocial needs of youth.

Appropriate responses to emergencies, including an emergency intervention plan.

Cultural competency and sensitivity in issues relating to the lesbian, gay, bisexual, and transgender communities.

Laws pertaining to residential care facilities for youth.

A youth admitted to a licensed private alternative boarding school shall be accorded the following rights and any other rights adopted by the department in regulations, a list of which shall be publicly posted and accessible to youth. The personal rights enumerated in Section 84072 of Title 22 of the California Code of Regulations shall not apply.

To be accorded dignity in his or her personal relationships with staff, youth, and other persons.

To live in a safe, healthy, and comfortable environment where he or she is treated with respect.

To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

To be granted a reasonable level of personal privacy in accommodations, personal care and assistance, and visits.

To confidential care of his or her records and personal information, and to approve release of those records ~~prior to~~ before release, except as otherwise authorized or required by law.

To care, supervision, and services that meet his or her individual needs and that are delivered by staff who are sufficient in numbers, qualifications, and competency to meet his or her needs and ensure his or her safety.

To be served food and beverages of the quality and in the quantity necessary to meet his or her nutritional and physical needs.

To present grievances and recommend changes in policies, procedures, and services to the facility's staff, management, and governing authority, or any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions.

To have the licensee take prompt actions to respond to grievances presented pursuant to clause (i).

To be able to contact parents or legal guardians, including visits and scheduled and unscheduled private telephone conversations, written correspondence, and electronic communications, unless prohibited by court order.

To be fully informed, as evidenced by the youth's written acknowledgment, ~~prior to~~, before, or at the time of, admission at the facility, of all the rules governing the youth's conduct and responsibilities.

To receive in the admission agreement information that details the planned programs and services for the youth.

To have his or her parents or legal guardians remove him or her from the facility.

To consent to have visitors or telephone calls during reasonable hours, privately and without prior notice, if the visitors or telephone calls do not disrupt planned activities and are not prohibited by court order or by the youth's parent or legal guardian.

To be free of corporal punishment, physical restraints of any kind, and deprivation of basic necessities, including education, as a punishment, deterrent, or incentive.

To have caregivers who have received instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care.

To be free from acts that seek to change his or her sexual orientation, including efforts to change his or her gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

To have fair and equal access to all available services, placement, care, treatment, and benefits and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

To be free from abusive, humiliating, degrading, or traumatizing actions.

Paragraph (1) shall not be interpreted to require a licensed private alternative boarding school to take any action that would impair the health or safety of youth in the facility.

A licensed private alternative boarding school is not an eligible placement option pursuant to Section 319, 361.2, 450, or 727 of the Welfare and Institutions Code.

A licensed private alternative boarding school shall not be eligible for a rate pursuant to Section 11462 of the Welfare and Institutions Code.

This section does not apply to any facility operated, licensed, or certified by the Department of Corrections and Rehabilitation and its Division of Juvenile Justice, the California Conservation Corps, the Military Department, or any other governmental entity or to a boarding school that solely focuses on academics.

On or before January 1, 2018, the department shall adopt regulations to implement this section, in consultation with interested parties, including representatives of private alternative boarding schools, former residents of private alternative boarding schools, and advocates for youth. Until regulations are adopted and become effective pursuant to the Administrative Procedure ~~Act, Chapter~~ Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government ~~Code, Code~~), a private alternative boarding school shall be governed by the regulations applicable to

group ~~homes~~, homes in Chapter 5 (commencing with Section 84000) of Division 6 of Title 22 of the California Code of Regulations.

The department may adopt emergency regulations to implement this section. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

A private alternative boarding school operating ~~prior to~~ before January 1, 2018, shall comply with licensing requirements on or before July 1, 2018.

For the purpose of this section, “youth” means a person who is 12 to 17 years of age, inclusive, or a person who is 18 years of age if he or she is completing high school or its equivalent.

SEC. 103.

Section 1502.21 of the Health and Safety Code is amended to read:

1502.21.

Commencing January 1, 2019, the department shall license private alternative outdoor programs, as defined in paragraph (20) of subdivision (a) of Section 1502, as a group home pursuant to this chapter. A private alternative outdoor program shall comply with the provisions of this chapter that are applicable to group homes, unless otherwise indicated, and with this section.

A licensed private alternative outdoor program shall comply with all of the following:

It shall be owned and operated on a nonprofit basis by a private nonprofit corporation or a nonprofit organization.

It shall prepare and maintain a current, written plan of operation, as defined by the department.

It shall offer 24-hour, nonmedical care and supervision to youth who voluntarily consent to being admitted to the program and who are voluntarily admitted by his or her parent or legal guardian.

It shall have a ratio of one staff person to every four youths.

It shall not admit a child who is younger than 12 years of age.

It shall not admit a youth who has been assessed by a licensed mental health professional as seriously emotionally disturbed, unless the youth does not require care in a licensed health facility and the State Department of Health Care Services has certified the program as a program that meets the standards to provide mental health treatment services for a child having a serious emotional disturbance, as set forth in Section 4096.5 of the Welfare and Institutions Code.

It shall provide each prospective youth and his or her parent or legal guardian with an accurate written description of the programs and services to be provided. If it advertises or promotes special care, programming, or environments for persons with behavioral, emotional, or social challenges, the written description shall include how its programs and services are intended to achieve the advertised or promoted claims.

It shall ensure that all individuals providing behavioral-based services to youth in the program are licensed or certified by the appropriate agency, department, or accrediting body, as specified by the department in regulation.

It shall not use secure containment or manual or mechanical restraints.

If it offers access to, or holds itself out as offering access to, mental health services, it shall ensure that those services are provided by a licensed mental health provider.

If it advertises or includes in its marketing materials reference to providing alcohol or substance abuse treatment, it shall ensure that the treatment is provided by a licensed or certified alcoholism or drug abuse recovery or treatment facility.

In addition to the training required of group home staff by department regulations, a staff member of a licensed private alternative outdoor program who supervises youth shall receive an additional number of hours of initial and annual training, to be determined by the department in regulations developed in consultation with stakeholders.

A private alternative outdoor program shall submit a staff training plan to the department as part of its plan of operation. The staff training plan shall provide for the number of additional initial and annual training hours required by paragraph (1) and shall include, but not be limited to, training in all of the following subject areas:

Youth rights, as described in subdivision (d).

Physical and psychosocial needs of youth.

Appropriate responses to emergencies, including an emergency intervention plan.

Cultural competency and sensitivity in issues relating to the lesbian, gay, bisexual, and transgender communities.

Laws pertaining to residential care facilities for youth.

Low-impact camping.

Navigation skills.

Water, food, and shelter procurement.

Recognition of poisonous plants.

Wilderness first aid.

Health issues related to acclimation and exposure.

Report writing and log maintenance.

A youth admitted to a licensed private alternative outdoor program shall be accorded the following rights and any other rights adopted by the department by regulation, a list of which shall be publicly posted and accessible to youth. The personal rights enumerated in Section 84072 of Title 22 of the California Code of Regulations shall not apply.

To be accorded dignity in his or her personal relationships with staff, youth, and other persons.

To live in a safe, healthy, and comfortable environment where he or she is treated with respect.

To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

To be granted a reasonable level of personal privacy in accommodations, personal care and assistance, and visits.

To confidential care of his or her records and personal information, and to approve release of those records ~~prior to~~ before release, except as otherwise authorized or required by law.

To care, supervision, and services that meet his or her individual needs and that are delivered by staff who are sufficient in numbers, qualifications, and competency to meet his or her needs and ensure his or her safety.

To be served food and beverages of the quality and in the quantity necessary to meet his or her nutritional and physical needs.

To present grievances and recommend changes in policies, procedures, and services to the program's staff, management, and governing authority, or any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions.

To have the licensee take prompt actions to respond to grievances presented pursuant to clause (i).

To be able to contact parents or legal guardians, including visits and scheduled and unscheduled private telephone conversations, written correspondence, and electronic communications, unless prohibited by court order.

To be fully informed, as evidenced by the youth's written acknowledgment, ~~prior to~~ before, or at the time of, admission in the program, of all the rules governing the youth's conduct and responsibilities.

To receive in the admission agreement information that details the planned programs and services for the youth.

To have his or her parents or legal guardians remove him or her from the program.

To consent to have visitors or telephone calls during reasonable hours, privately and without prior notice, provided the visitors or telephone calls do not disrupt planned activities and are not prohibited by court order or by the youth's parent or legal guardian.

To be free of corporal punishment, physical restraints of any kind, and deprivation of basic necessities, including education, as a punishment, deterrent, or incentive.

To have caregivers who have received instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care.

To be free from acts that seek to change his or her sexual orientation, including efforts to change his or her gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

To have fair and equal access to all available services, placement, care, treatment, and benefits and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

To be free from abusive, humiliating, degrading, or traumatizing actions.

Paragraph (1) shall not be interpreted to require a licensed private alternative outdoor program to take any action that would impair the health or safety of youth in the program.

A licensed private alternative outdoor program is not an eligible placement option pursuant to Section 319, 361.2, 450, or 727 of the Welfare and Institutions Code.

A licensed private alternative outdoor program shall not be eligible for a rate pursuant to Section 11462 of the Welfare and Institutions Code.

This section does not apply to programs operated, licensed, or certified by the Department of Corrections and Rehabilitation and its Division of Juvenile Justice, the California Conservation Corps, or the Military Department, programs operated by any governmental entity, any organized camp as defined in Section 18897, outdoor activities for youth designed to be primarily recreational, including, but not limited to, activities organized by Outward Bound, Boy Scouts, Girl Scouts, Camp Fire, or other similar organizations, or any camp exclusively serving children with a medical diagnosis for a physical condition or illness, including, but not limited to, cancer, muscular dystrophy, or burn injuries.

On or before January 1, 2019, the department shall adopt regulations to implement this section in consultation with interested parties, including representatives of private alternative outdoor programs, former participants in private alternative outdoor programs, and advocates for youth. Regulations adopted pursuant to this section shall be contained in the regulations applicable to group homes in Chapter 5 (commencing with Section 84000) of Division 6 of Title 22 of the California Code of Regulations.

The department may adopt emergency regulations to implement this section. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

A private alternative outdoor program operating ~~prior~~ before January 1, 2019, shall comply with licensing requirements on or before July 1, 2019.

For the purpose of this section, “youth” means a person who is 12 to 17 years of age, inclusive, or a person who is 18 years of age if he or she is completing high school or its equivalent.

SEC. 104.

Section 1505 of the Health and Safety Code is amended to read:

1505.

This chapter does not apply to any of the following:

Any health facility, as defined by Section 1250.

Any clinic, as defined by Section 1202.

Any juvenile placement facility approved by the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or any juvenile hall operated by a county.

Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

Any child day care facility, as defined in Section 1596.750.

Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend solely upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

A private alternative boarding school or private alternative outdoor program, as defined in subdivision (a) of Section 1502, that uses prayer or spiritual means as a component of its programming or services in addition to behavioral-based services is subject to licensure under this chapter.

Any school dormitory or similar facility determined by the department, except a private alternative boarding school or private alternative outdoor ~~program~~ **program**, as defined in subdivision (a) of Section 1502.

Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

Recovery houses or other similar facilities providing group living arrangements for adults recovering from alcoholism or drug addiction ~~where~~ **when** the facility provides no care or supervision.

Any alcoholism or drug abuse recovery or treatment ~~facility~~ **facility**, as defined in Section 11834.02.

Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department. For purposes of this chapter, arrangements for the receiving and care of persons by a relative shall include relatives of the child for the purpose of keeping sibling groups together.

Any home of a relative caregiver of children who are placed by a juvenile court, supervised by the county welfare or probation department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.

Any home of a nonrelative extended family member, as described in Section 362.7 of the Welfare and Institutions Code, providing care to children who are placed by a juvenile court, supervised by the county welfare or probation department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.

On and after January 1, 2012, any supervised independent living placement for nonminor dependents, as defined in subdivision (w) of Section 11400 of the Welfare and Institutions Code, who are placed by the juvenile court, supervised by the county welfare department, probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1 of the Welfare and Institutions Code, and whose placement is approved pursuant to subdivision (k) of Section 11400 of the Welfare and Institutions Code.

A Transitional Housing Program-Plus, as defined in subdivision (s) of Section 11400 of the Welfare and Institutions Code, that serves only eligible former foster youth over 18 years of age who have exited from the foster care system on or after their 18th birthday, and that has obtained certification from the applicable county in accordance with subdivision (c) of Section 16522 of the Welfare and Institutions Code.

Any supported living arrangement for individuals with developmental disabilities, as defined in Section 4689 of the Welfare and Institutions Code.

Any family home agency, family home, or family teaching home as defined in Section 4689.1 of the Welfare and Institutions Code, that is vendored by the State Department of Developmental Services and that does any of the following:

As a family home approved by a family home agency, provides 24-hour care for one or two adults with developmental disabilities in the residence of the family home provider or providers and the family home provider or providers' family, and the provider is not licensed by the State Department of Social Services or the State Department of Public Health or certified by a licensee of the State Department of Social Services or the State Department of Public Health.

As a family teaching home approved by a family home agency, provides 24-hour care for a maximum of three adults with developmental disabilities in independent residences, whether contiguous or attached, and the provider is not licensed by the State Department of Social Services or the State Department of Public Health or certified by a licensee of the State Department of Social Services or the State Department of Public Health.

As a family home agency, engages in recruiting, approving, and providing support to family homes.

~~No part of this~~ This subdivision shall ~~not~~ be construed as establishing by implication either a family home agency or family home licensing category.

Any facility in which only Indian children who are eligible under the federal Indian Child Welfare Act ~~(Chapter 21 (commencing with Section 1901) of Title 25 of the United States Code)~~ (25 U.S.C. Sec. 1901 et seq.) are placed and that is one of the following:

An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.

A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.

(A) Any housing occupied by elderly or disabled persons, or both, that is initially approved and operated under a regulatory agreement pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d (3) of Public Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services.

Any housing that qualifies for a low-income housing credit pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42) or that is subject to the requirements for rental dwellings for low-income families pursuant to Section 8 of Public Law 93-383 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled persons, or both, where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services.

The project owner or operator to which paragraph (1) applies may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator.

A resource family, as defined in Section 16519.5 of the Welfare and Institutions Code.

Any similar facility determined by the director.

SEC. 105.

Section 1522.41 of the Health and Safety Code is amended to read:

1522.41.

The department, in consultation and collaboration with county placement officials, group home provider organizations, the Director of Health Care Services, and the Director of Developmental Services, shall develop and establish an administrator certification training program to ensure that administrators of group home facilities have appropriate training to provide the care and services for which a license or certificate is issued.

The department shall develop and establish an administrator certification training program to ensure that administrators of short-term residential therapeutic program facilities have appropriate training to provide the care and services for which a license or certificate is issued.

In addition to any other requirements or qualifications required by the department, an administrator of a group home or short-term residential therapeutic program shall successfully complete a specified department-approved training certification program, pursuant to subdivision (c), prior to employment.

In those cases when the individual is both the licensee and the administrator of a facility, the individual shall comply with all of the licensee and administrator requirements of this section.

Failure to comply with this section shall constitute cause for revocation of the license of the facility.

The licensee shall notify the department within 10 days of any change in administrators.

The administrator certification programs for group homes shall require a minimum of 40 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

- Laws, regulations, and policies and procedural standards that impact the operations of the type of facility for which the applicant will be an administrator.

- Business operations.

- Management and supervision of staff.

- Psychosocial and educational needs of the facility residents, including, but not limited to, the information described in subdivision (d) of Section 16501.4 of the Welfare and Institutions Code.

- Community and support services.

- Physical needs of facility residents.

- Assistance with self-administration, storage, misuse, and interaction of medication used by facility residents.

- Resident admission, retention, and assessment procedures, including the right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

- Instruction on cultural competency and sensitivity and related best practices for providing adequate care for children across diverse ethnic and racial backgrounds, as well as children identifying as lesbian, gay, bisexual, or transgender.

- Nonviolent emergency intervention and reporting requirements.

- Basic instruction on the existing laws and procedures regarding the safety of foster youth at school and the ensuring of a harassment- and violence-free school environment contained in [former](#) Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code.

The administrator certification programs for short-term residential therapeutic programs shall require a minimum of 40 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

Laws, regulations, and policies and procedural standards that impact the operations of the type of facility for which the applicant will be an administrator.

Business operations and management and supervision of staff, including staff training.

Physical and psychosocial needs of the children, including behavior management, ~~de-escalation~~ deescalation techniques, and trauma informed crisis management planning.

Permanence, well-being, and educational needs of the children.

Community and support services, including accessing local behavioral and mental health supports and interventions, substance use disorder treatments, and culturally relevant services, as appropriate.

Understanding the requirements and best practices regarding psychotropic medications, including, but not limited to, court authorization, uses, benefits, side effects, interactions, assistance with self-administration, misuse, documentation, storage, and metabolic monitoring of children prescribed psychotropic medications.

Admission, retention, and assessment procedures, including the right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

The federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of children covered by the act, and the best interests of Indian children as including culturally appropriate, child-centered practices that respect Native American history, culture, retention of tribal membership, and connection to the tribal community and traditions.

Instruction on cultural competency and sensitivity and related best practices for providing adequate care for children across diverse ethnic and racial backgrounds, as well as children identifying as lesbian, gay, bisexual, or transgender.

Nonviolent emergency intervention and reporting requirements.

Basic instruction on the existing laws and procedures regarding the safety of foster youth at school and the ensuring of a harassment- and violence-free school environment contained in former Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code.

Administrators who possess a valid group home license, issued by the department, are exempt from completing an approved initial certification training program and taking a written test, provided the individual completes 12 hours of classroom instruction in the following uniform core of knowledge areas:

Laws, regulations, and policies and procedural standards that impact the operations of a short-term residential therapeutic program.

Authorization, uses, benefits, side effects, interactions, assistance with self-administration, misuse, documentation, and storage of medications.

Metabolic monitoring of children prescribed psychotropic medications.

Admission, retention, and assessment procedures, including the right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

The federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of children covered by the act, and the best interests of Indian children as including culturally appropriate, child-centered practices that respect Native American history, culture, retention of tribal membership, and connection to the tribal community and traditions.

Instruction on cultural competency and sensitivity and related best practices for providing adequate care for children across diverse ethnic and racial backgrounds, as well as children identifying as lesbian, gay, bisexual, or transgender.

Physical and psychosocial needs of children, including behavior management, deescalation techniques, and trauma informed crisis management planning.

Individuals applying for administrator certification under this section shall successfully complete an approved administrator certification training program, pass a written test administered by the department within 60 days of completing the program, and submit to the department the documentation required by subdivision (f) within 30 days after being notified of having passed the test. The department may extend these time deadlines for good cause. The department shall notify the applicant of his or her test results within 30 days of administering the test.

The department shall not begin the process of issuing a certificate until receipt of all of the following:

- A certificate of completion of the administrator training required pursuant to this chapter.

- The fee required for issuance of the certificate. A fee of one hundred dollars (\$100) shall be charged by the department to cover the costs of processing the application for certification.

- Documentation from the applicant that he or she has passed the written test.

- Submission of fingerprints pursuant to Section 1522. The department may waive the submission for those persons who have a current clearance on file.

- That person is at least 21 years of age.

It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator of a group home or short-term residential therapeutic program. Any person willfully making any false representation as being a certified administrator or facility manager is guilty of a misdemeanor.

Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the core of knowledge specified in subdivision (c). No more than one-half of the required 40 hours of continuing education necessary to renew the certificate may be satisfied through online courses. All other continuing education hours shall be completed in a classroom setting. For purposes of this section, an individual who is a group home or short-term residential therapeutic program administrator and who is required to complete the continuing education hours required by the regulations of the State Department of Developmental Services, and approved by the regional center, may have up to 24 of the required continuing education course hours credited toward the 40-hour

continuing education requirement of this section. The department shall accept for certification, community college course hours approved by the regional centers.

Every administrator of a group home or short-term residential therapeutic program shall complete the continuing education requirements of this subdivision.

Certificates issued under this section shall expire every two years on the anniversary date of the initial issuance of the certificate, except that any administrator receiving his or her initial certification on or after July 1, 1999, shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.

To renew a certificate, the certificate holder shall, on or before the certificate expiration date, request renewal by submitting to the department documentation of completion of the required continuing education courses and pay the renewal fee of one hundred dollars (\$100), irrespective of receipt of the department's notification of the renewal. A renewal request postmarked on or before the expiration of the certificate shall be proof of compliance with this paragraph.

A suspended or revoked certificate shall be subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall submit proof of compliance with paragraphs (1) and (2) of this subdivision, and shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension. Delinquency fees, if any, accrued subsequent to the time of its revocation or suspension and prior to an order for reinstatement, shall be waived for a period of 12 months to allow the individual sufficient time to complete the required continuing education units and to submit the required documentation. Individuals whose certificates will expire within 90 days after the order for reinstatement may be granted a three-month extension to renew their certificates during which time the delinquency fees shall not accrue.

A certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of a certification training program, passing any test that may be required of an applicant for a new certificate at that time, and paying the appropriate fees provided for in this section.

A fee of twenty-five dollars (\$25) shall be charged for the reissuance of a lost certificate.

A certificate holder shall inform the department of his or her employment status and change of mailing address within 30 days of any change.

Unless otherwise ordered by the department, the certificate shall be considered forfeited under either of the following conditions:

The department has revoked any license held by the administrator after the department issued the certificate.

The department has issued an exclusion order against the administrator pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, after the department issued the

certificate, and the administrator did not appeal the exclusion order or, after the appeal, the department issued a decision and order that upheld the exclusion order.

The department, in consultation and collaboration with county placement officials, provider organizations, the State Department of Health Care Services, and the State Department of Developmental Services, shall establish, by regulation, the program content, the testing instrument, the process for approving administrator certification training programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to conduct certification training programs and continuing education courses. The department may also grant continuing education hours for continuing courses offered by accredited educational institutions that are consistent with the requirements in this section. The department may deny vendor approval to any agency or person in any of the following circumstances:

The applicant has not provided the department with evidence satisfactory to the department of the ability of the applicant to satisfy the requirements of vendorization set out in the regulations adopted by the department.

The applicant person or agency has a conflict of interest in that the person or agency places its clients in group homes or short-term residential therapeutic programs.

The applicant public or private agency has a conflict of interest in that the agency is mandated to place clients in group homes or short-term residential therapeutic programs and to pay directly for the services. The department may deny vendorization to this type of agency only as long as there are other vendor programs available to conduct the certification training programs and conduct education courses.

The department may authorize vendors to conduct the administrator's certification training program pursuant to this section. The department shall conduct the written test pursuant to regulations adopted by the department.

The department shall prepare and maintain an updated list of approved training vendors.

The department may inspect administrator certification training programs and continuing education courses, including online courses, at no charge to the department, to determine if content and teaching methods comply with regulations. If the department determines that any vendor is not complying with the requirements of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved list.

The department shall establish reasonable procedures and timeframes not to exceed 30 days for the approval of vendor training programs.

The department may charge a reasonable fee, not to exceed one hundred fifty dollars (\$150) every two years, to certification program vendors for review and approval of the initial 40-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee, not to exceed one hundred dollars (\$100) every two years, for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

A vendor of online programs for continuing education shall ensure that each online course contains all of the following:

An interactive portion in which the participant receives feedback, through online communication, based on input from the participant.

Required use of a personal identification number or personal identification information to confirm the identity of the participant.

A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the vendor for a period of three years and be available to the department upon demand. Any person who certifies as true any material matter pursuant to this clause that he or she knows to be false is guilty of a misdemeanor.

~~Nothing in this~~ This subdivision ~~shall~~ does not prohibit the department from approving online programs for continuing education that do not meet the requirements of subparagraph (A) if the vendor demonstrates to the department's satisfaction that, through advanced technology, the course and the course delivery meet the requirements of this section.

The department shall establish a registry for holders of certificates that shall include, at a minimum, information on employment status and criminal record clearance.

Notwithstanding any law to the contrary, vendors approved by the department who exclusively provide either initial or continuing education courses for certification of administrators of a group home or short-term residential therapeutic program as defined by regulations of the department, an adult residential facility as defined by regulations of the department, or a residential care facility for the elderly as defined in subdivision ~~(k)~~ (p) of Section 1569.2, shall be regulated solely by the department pursuant to this chapter. No other state or local governmental entity ~~shall be~~ is responsible for regulating the activity of those vendors.

SEC. 106.

Section 1531.1 of the Health and Safety Code is amended to read:

1531.1.

A residential facility licensed as an adult residential facility, group home, short-term residential therapeutic program, small family home, foster family home, or a family home certified by a foster family agency may install and utilize delayed egress devices of the time delay type.

As used in this section, "delayed egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.

Within the 30 seconds of delay, facility staff may attempt to redirect a resident who attempts to leave the facility.

Any person accepted by a residential facility or family home certified by a foster family agency utilizing delayed egress devices shall meet all of the following conditions:

The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

An interdisciplinary team, through the ~~Individual Program Plan~~ individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with delayed egress

devices, and that but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive state hospital or state developmental center placement.

The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress devices.

The facility shall provide staff training regarding the use and operation of the egress control devices utilized by the facility, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.

The plan shall include, but shall not be limited to, all of the following:

A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.

A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.

A description of the facility's emergency evacuation procedures.

Delayed egress devices shall not substitute for adequate staff. Except for facilities operating in accordance with Section 1531.15, the capacity of the facility shall not exceed six residents.

Emergency fire and earthquake drills shall be conducted at least once every three months on each shift, and shall include all facility staff providing resident care and supervision on each shift.

SEC. 107.

Section 1797.197a of the Health and Safety Code is amended to read:

1797.197a.

For purposes of this section, the following definitions shall apply:

"Anaphylaxis" means a potentially life-threatening hypersensitivity or allergic reaction to a substance.

Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

Causes of anaphylaxis may include, but are not limited to, insect stings or bites, foods, drugs, and other allergens, as well as idiopathic or exercise-induced anaphylaxis.

“Authorized entity” means any for-profit, nonprofit, or government entity or organization that employs at least one person or utilizes at least one volunteer or agent that has voluntarily completed a training course as described in subdivision (c).

“Epinephrine auto-injector” means a disposable delivery device designed for the automatic injection of a premeasured dose of epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

“Lay rescuer” means any person who has met the training standards and other requirements of this section but who is not otherwise licensed or certified to use an epinephrine auto-injector on another person.

“Prehospital emergency medical care person” has the same meaning as defined in paragraph (2) of subdivision (a) of Section 1797.189.

A prehospital emergency medical care person or lay rescuer may use an epinephrine auto-injector to render emergency care to another person if all of the following requirements are met:

The epinephrine auto-injector is legally obtained by prescription from an authorized health care provider or from an authorized entity that acquired the epinephrine auto-injector pursuant to subdivision (e).

The epinephrine auto-injector is used on another, with the expressed or implied consent of that person, to treat anaphylaxis.

The epinephrine auto-injector is stored and maintained as directed by the manufacturer’s instructions for that product.

The person using the epinephrine auto-injector has successfully completed a course of training with an authorized training provider, as described in subdivision (c), and has current certification of training issued by the provider.

The epinephrine auto-injectors obtained by prehospital emergency medical care personnel pursuant to Section 4119.3 of the Business and Professions Code shall be used only when functioning outside the course of the person’s occupational duties, or as a volunteer, pursuant to this section.

The Emergency Medical Services System is activated as soon as practicable when an epinephrine auto-injector is used.

The authorized training providers shall be approved, and the minimum standards for training and the use and administration of epinephrine auto-injectors pursuant to this section shall be established and approved, by the authority. The authority may designate existing training standards for the use and administration of epinephrine auto-injectors by prehospital emergency medical care personnel to satisfy the requirements of this section.

The minimum training and requirements shall include all of the following components:

Techniques for recognizing circumstances, signs, and symptoms of anaphylaxis.

Standards and procedures for proper storage and emergency use of epinephrine auto-injectors.

Emergency followup procedures, including activation of the Emergency Medical Services System, by calling the emergency-~~9-1-1~~ 911 telephone number or otherwise alerting and summoning more advanced medical personnel and services.

Compliance with all regulations governing the training, indications, use, and precautions concerning epinephrine auto-injectors.

Written material covering the information required under this provision, including the manufacturer product information sheets on commonly available models of epinephrine auto-injectors.

Completion of a training course in cardiopulmonary resuscitation and the use of an automatic external defibrillator (AED) for infants, children, and adults that complies with regulations adopted by the authority and the standards of the American Heart Association or the American Red Cross, and a current certification for that training.

Training certification shall be valid for no more than two years, after which recertification with an authorized training provider is required.

The director may, in accordance with regulations adopted by the authority, deny, suspend, or revoke any approval issued under this subdivision or may place any approved training provider on probation upon a finding by the director of an imminent threat to public health and safety, as evidenced by any of the following:

Fraud.

Incompetence.

The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of training program directors or instructors.

Conviction of any crime that is substantially related to the qualifications, functions, or duties of training program directors or instructors. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this section or the regulations promulgated by the authority pertaining to the review and approval of training programs in anaphylaxis and the use and administration of epinephrine auto-injectors, as described in this subdivision.

The authority shall assess a fee pursuant to regulation sufficient to cover the reasonable costs incurred by the authority for the ongoing review and approval of training and certification under subdivision (c).

The fees shall be deposited in the Specialized First Aid Training Program Approval Fund, which is hereby created in the State Treasury. All moneys deposited in the fund shall be made available, upon appropriation, to the authority for purposes described in paragraph (1).

The authority may transfer unused portions of the Specialized First Aid Training Program Approval Fund to the Surplus Money Investment Fund. Funds transferred to the Surplus Money Investment Fund shall be placed in a separate trust account, and shall be available for transfer to the Specialized First Aid Training Program Approval Fund, together with the interest earned, when requested by the authority.

The authority shall maintain a reserve balance in the Specialized First Aid Training Program Approval Fund of 5 percent of annual revenues. Any increase in the fees deposited in the Specialized First Aid Training Program Approval Fund shall be effective upon determination by the authority that additional moneys are required to fund expenditures pursuant to subdivision (c).

An authorized health care provider may issue a prescription for an epinephrine auto-injector to a prehospital emergency medical care person or a lay rescuer for the purpose of rendering emergency care to another person upon presentation of a current epinephrine auto-injector certification card issued by the authority demonstrating that the person is trained and qualified to administer an epinephrine auto-injector pursuant to this section or any other law.

An authorized health care provider may issue a prescription for an epinephrine auto-injector to an authorized entity if the authorized entity submits evidence it employs at least one person, or utilizes at least one volunteer or agent, who is trained and has a current epinephrine auto-injector certification card issued by the authority demonstrating that the person is qualified to administer an epinephrine auto-injector pursuant to this section.

An authorized entity that possesses and makes available epinephrine auto-injectors shall do both of the following:

Create and maintain on its premises an operations plan that includes all of the following:

The name and contact number for the authorized health care provider who prescribed the epinephrine auto-injector.

Where and how the epinephrine auto-injector will be stored.

The names of the designated employees or agents who have completed the training program required by this section and who are authorized to administer the epinephrine auto-injector.

How and when the epinephrine auto-injector will be inspected for an expiration date.

The process to replace the expired epinephrine auto-injector, including the proper disposal of the expired epinephrine auto-injector or used epinephrine auto-injector in a sharps container.

Submit to the authority, in a manner identified by the authority, a report of each incident that involves the use of an epinephrine auto-injector, not more than 30 days after each use. The authority shall annually publish a report that summarizes all reports submitted to it under this subdivision.

This section ~~shall~~ **does** not apply to a school district or county office of education, or its personnel, that provides and utilizes epinephrine auto-injectors to provide emergency medical aid pursuant to Section 49414 of the Education Code.

This section shall not be construed to limit or restrict the ability of prehospital emergency medical care personnel, under any other statute or regulation, to administer epinephrine, including the use of epinephrine auto-injectors, or to require additional training or certification beyond what is already required under the other statute or regulation.

SEC. 108.

Section 9002 of the Health and Safety Code is amended to read:

9002.

The definitions in Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 apply to this part. Further, as used in this part, the following terms have the following meanings:

“Active militia” means the active militia as defined by Section 120 of the Military and Veterans Code.

“Armed services” means the armed services as defined by Section 18540 of the Government Code.

“Board of trustees” means the legislative body of a district.

“District” means a public cemetery district created pursuant to this part or any of its statutory predecessors.

“Domestic partner” means two adults who have chosen to share one another’s lives in an intimate and committed relationship of mutual caring, and are qualified and registered with the Secretary of State as domestic partners in accordance with Division 2.5 ([commencing with Section 297](#)) of the Family Code.

“Family member” means any spouse, by marriage or otherwise, domestic partner, child or stepchild, by natural birth or adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix “grand” or “great,” or the spouse of any of these persons.

“Firefighter” means a firefighter as defined by Section 1797.182.

“Interment right” means the rights held by the owner to use or control the use of a plot authorized by this part, for the interment of human remains, including both of the following rights:

To determine the number and identity of any person or persons to be interred in the plot within a cemetery in conformance with all applicable regulations adopted by the cemetery district.

To control the placement, design, wording, and removal of memorial markers in compliance with all applicable regulations adopted by the cemetery district.

An interment right is a transferable property interest, and is governed by Chapter 5.5 ([commencing with Section 9069.10](#)).

“Nonresident” means a person who does not reside within a district or does not pay property taxes on property located in a district.

“Peace officer” means a peace officer as defined by Section 830 of the Penal Code.

“Principal county” means the county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district.

“Voter” means a voter as defined by Section 359 of the Elections Code.

SEC. 109.

Section 11362.775 of the Health and Safety Code is amended to read:

11362.775.

Subject to subdivision (d), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate **cannabis** for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

A collective or cooperative that operates pursuant to this section and manufactures medical **cannabis** products shall not, solely on the basis of that fact, be subject to state criminal sanctions under Section 11379.6 if the collective or cooperative abides by all of the following requirements:

The collective or cooperative does either or both of the following:

Utilizes only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

Utilizes only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:

The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(ii) The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.

A licensed engineer certifies that the system ~~was~~ **is** commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).

The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

The collective or cooperative receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility.

The collective or cooperative meets required fire, safety, and building code requirements in one or more of the following:

The California Fire Code.

The National Fire Protection Association (NFPA) standards.

International Building Code (IBC).

The International Fire Code (IFC).

Other applicable standards, including complying with all applicable fire, safety, and building codes in processing, handling, and storage of solvents or gasses.

The collective or cooperative is in possession of a valid seller's permit issued by the State Board of Equalization.

The collective or cooperative is in possession of a valid local license, permit, or other authorization specific to the manufacturing of medical **cannabis** products, and in compliance with any additional conditions imposed by the city or county issuing the local license, permit, or other authorization.

For purposes of this section, "manufacturing" means compounding, converting, producing, deriving, processing, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, medical **cannabis** products.

This section shall remain in effect only until one year after the Bureau of Medical **Cannabis** Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medical **Cannabis** Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code).

This section is repealed one year after the date upon which the notice is posted pursuant to subdivision (d).

SEC. 110.

Section 11375.7 of the Health and Safety Code is amended to read:

11375.7.

Unless otherwise excluded pursuant to this section, a person charged with a misdemeanor pursuant to paragraph (3) of subdivision (b) of Section 11357.5 or paragraph (3) of subdivision (b) of [Section 11375.5](#) shall be eligible to participate in a preguilty plea drug court program, as described in Section 1000.5 of the Penal Code.

Notwithstanding any other law, a positive test for use of a controlled substance, any other drug that may not be possessed without a prescription, or alcohol shall not be grounds for dismissal from the program, unless the person is not making progress in the program. The court shall consider ~~any~~ a report or recommendation of the treatment provider in making this determination. It shall be presumed that a person engaged in a program is making progress, unless that presumption is defeated by clear and convincing evidence. The person may offer evidence or an argument that he or she would benefit from and make progress in a different program or mode. If the court so finds, it may place the person in a different treatment program.

Notwithstanding any other law, the following persons are excluded from participation in the program under this section:

~~Any~~ [A](#) person with a history of violence that indicates that he or she presents a current risk of violent behavior currently or during the treatment program. This ground for exclusion shall be established by clear and convincing evidence.

~~Any~~ [A](#) person required to register as a sex offender pursuant to Section 290, unless the court finds by clear and convincing evidence that the person does not present a substantial risk of committing sexual offenses currently or through the course of the program and the person would benefit from the program, including that treatment would reduce the risk that the person would sexually reoffend.

~~Any~~ [A](#) person ~~that~~ [who](#) the treatment provider concludes is unamenable to any and all forms of drug treatment. The defendant may present evidence that he or she is amenable to treatment and the court may retain the person in the program if the court finds that the person is amenable to treatment through a different provider or a different mode of treatment.

Notwithstanding any other law, a prior conviction for an offense involving a controlled substance or drug that may not be possessed without a prescription, including a substance listed in Section 11357.5 or 11375.5, is not grounds for exclusion from the program, unless the court finds by clear and convincing evidence that the person is likely to engage in drug commerce for financial gain, rather than for purposes of obtaining a drug or drugs for personal use.

SEC. 111.

Section 11400 of the Health and Safety Code is amended to read:

11400.

The Legislature finds and declares that the laws of this state which prohibit the possession, possession for sale, offer for sale, sale, manufacturing, and transportation of controlled substances are being circumvented by the commission of those acts with respect to analogs of specified controlled substances which have, are represented to have, or are intended to have effects on the central nervous system which are substantially similar to, or greater than, the controlled substances classified in Sections 11054 and 11055 and the synthetic cannabinoid compounds defined in Section 11357.5, of which they are analogs. These analogs have been synthesized by so-called “street chemists” and imported into this state from other jurisdictions as precursors to, or substitutes for, controlled substances and synthetic cannabinoid compounds, due to the nonexistence of applicable criminal penalties. These analogs present grave dangers to the health and safety of the people of this state. Therefore, it is the intent of the Legislature that a controlled substance or ~~synthetic cannabinoid compound analog~~ **controlled substance analog**, as defined in Section ~~11401~~ **11401**, be considered identical, for purposes of the penalties and punishment specified in Chapter 6 (commencing with Section 11350), to the controlled substance in Section 11054 or 11055 or the synthetic cannabinoid compound defined in Section 11357.5 of which it is an analog.

SEC. 112.

Section 11401 of the Health and Safety Code is amended to read:

11401.

A controlled substance analog shall, for the purposes of Chapter 6 (commencing with Section 11350), be treated the same as the controlled substance classified in Section 11054 or 11055 or the synthetic cannabinoid compound defined in Section 11357.5 of which it is an analog.

Except as provided in subdivision (c), the term “controlled substance analog” means either of the following:

A substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance classified in Section 11054 or 11055 or a synthetic cannabinoid compound defined in Section 11357.5.

A substance ~~which~~ **that** has, is represented as having, or is intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to, or greater than, the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance classified in Section 11054 or 11055 or a synthetic cannabinoid compound defined in Section 11357.5.

The term “controlled substance analog” does not mean any of the following:

A substance for which there is an approved new drug application as defined under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355) or that is generally recognized as safe and effective for use pursuant to Sections 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 351, 352, and 353) and Section 330 ~~et seq.~~ **and following** of Title 21 of the Code of Federal Regulations.

With respect to a particular person, a substance for which an exemption is in effect for investigational use for that person under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355), to the extent that the conduct with respect to that substance is pursuant to the exemption.

A substance, before an exemption as specified in paragraph (2) takes effect with respect to the substance, to the extent the substance is not intended for human consumption.

SEC. 113.

Section 25257.2 of the Health and Safety Code is amended to read:

25257.2.

The department shall, by January 1, 2018, publish guidelines for healthy nail salon recognition (HNSR) programs voluntarily implemented by local cities and counties.

The guidelines for an HNSR program adopted pursuant to subdivision (a) may include, but shall not be limited to, all of the following:

- A list of specific chemical ingredients that should not be used by a nail salon seeking recognition. In determining whether to include a chemical on the list, the department shall consider:

- Whether the chemical is identified as a candidate chemical pursuant to the regulations adopted pursuant to Section 25252.

- Whether an existing healthy nail salon program has restricted the use of the chemical.

- The potential for exposure of nail salon workers and customers to the chemical.

- The availability of existing, safer alternatives to the chemical in products available to nail salons in California.

Specific best practices for minimizing exposure to hazardous chemicals, including:

- A list of specific personal protective equipment that should be used by personnel in a salon seeking recognition and guidance on when and how to use it.

- Engineering controls that should be adopted by salons seeking recognition, including specific ventilation practices and equipment.

- Prohibiting nail polishes that contain dibutyl phthalate, formaldehyde, or toluene.

- Prohibiting nail polish thinners that contain methyl ethyl ketone or toluene.

- Prohibiting nail polish removers that contain ethyl or butyl acetate.

- A list of specific training topics for salon owners and staff, whether on payroll or contract, on safer practices delineated in the HNSR program guidelines.

- Criteria for the use of outside products brought in by clients.

- Verification that a salon seeking recognition is in compliance with Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code, and all applicable regulations enforced by the State Board of Barbering and Cosmetology.

- Any other guidelines or best practices determined by the department to further the goals of an HNSR program.

The guidelines adopted pursuant to subdivision (a) shall include criteria for cities and counties that adopt an HNSR program. These criteria may cover, but are not limited to:

- Coordination with other local HNSR programs to assist businesses in achieving and moving beyond regulatory compliance.

- Training and certification requirements for the salon owners and staff to ensure thorough knowledge of safe and environmentally friendly procedures.

- Issuance of an approved seal or certificate to salons that have met certification requirements.

The process by which a salon can enroll in an HNSR program and be verified by the local entity.

The frequency at which the local entity shall verify continued compliance by a salon that has previously met all specified requirements.

In developing guidelines pursuant to subdivision (a), the department shall consult with the Division of Occupational Safety and Health, the State Department of Public Health, and the State Board of Barbering and Cosmetology.

In collaboration with existing healthy nail salon programs, the department shall promote the HNSR guidelines developed pursuant to subdivision (a) by doing all of the following:

Developing and implementing a consumer education program.

Presenting the HNSR guidelines to local health officers, local environmental health departments, and other local agencies as appropriate.

Developing and either distributing or posting on its Internet Web site information for local entities, including, but not limited to, suggestions for successful implementation of HNSR programs and resource lists that include names and contact information of vendors, consultants, or providers of financial assistance or loans for purchases of ventilation equipment.

Developing an Internet Web site or a section on the department's Internet Web site that links to county HNSR Internet Web sites.

The department may prioritize its outreach to those counties that have the greatest number of nail salons.

The State Board of Barbering and Cosmetology may notify the city, county, or city and county if a recognized salon is found in violation of Article 12 ~~of the State Board of Barbering and Cosmetology regulations.~~ (commencing with Section 977) of Division 9 of Title 16 of the California Code of Regulations. A violation shall result in the removal of healthy nail salon recognition from that salon.

~~Nothing in this~~ This section ~~shall~~ does not prevent the adoption or enforcement of any local rules or ordinances.

SEC. 114.

Section 38530 of the Health and Safety Code is amended to read:

38530.

On or before January 1, 2008, the state board shall adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program.

The regulations shall do all of the following:

Require the monitoring and annual reporting of greenhouse gas emissions from greenhouse gas emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions.

Account for greenhouse gas emissions from all electricity consumed in the state, including transmission and distribution line losses from electricity generated within the state or imported from outside the state. This requirement applies to all retail sellers of electricity, including load-serving entities as defined in subdivision ~~(j)~~ (k) of Section 380 of the Public Utilities Code and local publicly owned electric utilities as defined in Section ~~9604~~ 224.3 of the Public Utilities Code.

Where appropriate and to the maximum extent feasible, incorporate the standards and protocols developed by the California Climate Action Registry, established pursuant to [former Chapter 6](#) (commencing with Section 42800) of Part 4 of Division ~~26~~, [as added by Section 1 of Chapter 1018 of the Statutes of 2000](#). Entities that voluntarily participated in the California Climate Action Registry prior to December 31, 2006, and have developed a greenhouse gas emission reporting program, shall not be required to significantly alter their reporting or verification program except as necessary to ensure that reporting is complete and verifiable for the purposes of compliance with this division as determined by the state board.

Ensure rigorous and consistent accounting of emissions, and provide reporting tools and formats to ensure collection of necessary data.

Ensure that greenhouse gas emission sources maintain comprehensive records of all reported greenhouse gas emissions.

The state board shall do both of the following:

Periodically review and update its emission reporting requirements, as necessary.

Review existing and proposed international, federal, and state greenhouse gas emission reporting programs and make reasonable efforts to promote consistency among the programs established pursuant to this part and other programs, and to streamline reporting requirements on greenhouse gas emission sources.

SEC. 115.

Section 38561 of the Health and Safety Code is amended to read:

38561.

On or before January 1, 2009, the state board shall prepare and approve a scoping plan, as that term is understood by the state board, for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases by 2020 under this division. The state board shall consult with all state agencies with jurisdiction over sources of greenhouse gases, including the Public Utilities Commission and the State Energy Resources Conservation and Development Commission, on all elements of its plan that pertain to ~~energy related~~ [energy-related](#) matters including, but not limited to, electrical generation, load based-standards or requirements, the provision of reliable and affordable electrical service, petroleum refining, and statewide fuel supplies to ensure the greenhouse gas emissions reduction activities to be adopted and implemented by the state board are complementary, nonduplicative, and can be implemented in an efficient and cost-effective manner.

The plan shall identify and make recommendations on direct ~~emission~~ [emissions](#) reduction measures, alternative compliance mechanisms, market-based compliance mechanisms, and potential monetary and nonmonetary incentives for sources and categories of sources that the state board finds are necessary or desirable to facilitate the achievement of the maximum feasible and cost-effective reductions of greenhouse gas emissions by 2020.

In making the determinations required by subdivision (b), the state board shall consider all relevant information pertaining to greenhouse gas emissions reduction programs in other states, localities, and nations, including the northeastern states of the United States, Canada, and the European Union.

The state board shall evaluate the total potential costs and total potential economic and noneconomic benefits of the plan for reducing greenhouse gases to California's economy, environment, and public health, using the best available economic models, emission estimation techniques, and other scientific methods.

In developing its plan, the state board shall take into account the relative contribution of each source or source category to statewide greenhouse gas emissions, and the potential for adverse effects on small businesses, and shall recommend a de minimis threshold of greenhouse gas emissions below which ~~emission~~ emissions reduction requirements will not apply.

In developing its plan, the state board shall identify opportunities for ~~emission reductions~~ emissions reduction measures from all verifiable and enforceable voluntary actions, including, but not limited to, carbon sequestration projects and best management practices.

The state board shall conduct a series of public workshops to give interested parties an opportunity to comment on the plan. The state board shall conduct a portion of these workshops in regions of the state that have the most significant exposure to air pollutants, including, but not limited to, communities with minority populations, communities with low-income populations, or both.

The state board shall update its plan for achieving the maximum technologically feasible and cost-effective reductions of greenhouse gas emissions at least once every five years.

SEC. 116.

Section 38562 of the Health and Safety Code is amended to read:

38562.

On or before January 1, 2011, the state board shall adopt greenhouse gas ~~emission~~ emissions limits and ~~emission~~ emissions reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit, to become operative beginning on January 1, 2012.

In adopting regulations pursuant to this section and Part 5 (commencing with Section 38570), to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following:

- Design the regulations, including distribution of emissions allowances where appropriate, in a manner that is equitable, seeks to minimize costs and maximize the total benefits to California, and encourages early action to reduce greenhouse gas emissions.

- Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities.

- Ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions.

- Ensure that activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions.

- Consider cost-effectiveness of these regulations.

- Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health.

- Minimize the administrative burden of implementing and complying with these regulations.

- Minimize leakage.

- Consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases.

In furtherance of achieving the statewide greenhouse gas emissions limit, by January 1, 2011, the state board may adopt a regulation that establishes a system of market-based declining annual aggregate ~~emission emissions~~ limits for sources or categories of sources that emit greenhouse ~~gas emissions, gases,~~ applicable from January 1, 2012, to December 31, 2020, inclusive, that the state board determines will achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions, in the aggregate, from those sources or categories of sources.

Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:

The greenhouse gas ~~emission emissions~~ reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.

For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas ~~emission emissions~~ reduction otherwise required by law or regulation, and any other greenhouse gas ~~emission emissions~~ reduction that otherwise would occur.

If applicable, the greenhouse gas emission reduction occurs over the same time period and is equivalent in amount to any direct ~~emission emissions~~ reduction required pursuant to this division.

The state board shall rely upon the best available economic and scientific information and its assessment of existing and projected technological capabilities when adopting the regulations required by this section.

The state board shall consult with the Public Utilities Commission in the development of the regulations as they affect electricity and natural gas providers in order to minimize duplicative or inconsistent regulatory requirements.

After January 1, 2011, the state board may revise regulations adopted pursuant to this section and adopt additional regulations to further the provisions of this division.

SEC. 117.

Section 38562.5 of the Health and Safety Code is amended to read:

38562.5.

When adopting rules and regulations pursuant to this division to achieve emissions reductions beyond the statewide greenhouse gas emissions limit and to protect the state's most impacted and disadvantaged communities, the state board shall follow the requirements in subdivision (b) of Section 38562, consider the social costs of the emissions of greenhouse gases, and prioritize both of the following:

Emission reduction rules and regulations that result in direct emission reductions at large stationary sources of greenhouse gas emissions ~~sources~~ and direct emission reductions from mobile sources.

Emission reduction rules and regulations that result in direct emission reductions from sources other than those specified in subdivision (a).

SEC. 118.

Section 38562.7 of the Health and Safety Code is amended to read:

38562.7.

Each scoping plan update developed pursuant to Section 38561 shall identify for each emissions reduction measure, including each alternative compliance mechanism, market-based compliance mechanism, and potential monetary and nonmonetary ~~incentive incentive~~, the following information:

The range of projected greenhouse gas emissions reductions that result from the measure.

The range of projected air pollution reductions that result from the measure.

The cost-effectiveness, including avoided social costs, of the measure.

SEC. 119.

Section 39713 of the Health and Safety Code is amended to read:

39713.

The investment plan developed and submitted to the Legislature pursuant to Section 39716 shall allocate a minimum of 25 percent of the available moneys in the fund to projects located within the boundaries of, and benefiting individuals living in, communities described in Section 39711.

The investment plan shall allocate a minimum of 5 percent of the available moneys in the fund to projects that benefit low-income households or to projects located within the boundaries of, and benefiting individuals living in, low-income communities located anywhere in the state.

The investment plan shall allocate a minimum of 5 percent of the available moneys in the fund either to projects that benefit low-income households that are outside of, but within ~~a 12~~ one-half mile of, communities described in Section 39711, or to projects located within the boundaries of, and benefiting individuals living in, low-income communities that are outside of, but within ~~a 12~~ one-half mile of, communities described in Section 39711.

For purposes of this ~~subdivision~~, ~~section~~, the following definitions shall apply:

“Low-income households” are those with household incomes at or below 80 percent of the statewide median income or with household incomes at or below the threshold designated as low income by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093.

“Low-income communities” are census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low income by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093.

Moneys allocated pursuant to one subdivision of this section ~~shall~~ do not count toward the minimum requirements of any other subdivision of this section.

SEC. 120.

Section 39730.7 of the Health and Safety Code is amended to read:

39730.7.

For purposes of this section, the following terms have the following meanings:

“Department” means the Department of Food and Agriculture.

“Commission” means the Public Utilities Commission.

“Energy commission” means the State Energy Resources Conservation and Development Commission.

“Strategy” means the strategy to reduce short-lived climate pollutants developed pursuant to Section 39730.

The state board, in consultation with the department, shall adopt regulations to reduce methane emissions from livestock manure management operations and dairy manure management operations,

consistent with this section and the strategy, by up to 40 percent below the dairy sector's and livestock sector's 2013 levels by 2030.

Prior to adopting regulations pursuant to paragraph (1), the state board shall do all of the following:

Work with stakeholders to identify and address technical, market, regulatory, and other challenges and barriers to the development of dairy methane emissions reduction projects. The group of stakeholders shall include a broad range of stakeholders involved in the development of dairy methane reduction projects, including, but not limited to, project developers, dairy and livestock industry representatives, state and local permitting agencies, energy agency representatives, compost producers with experience composting dairy manure, environmental and conservation stakeholders, public health experts, and others with demonstrated expertise relevant to the success of dairy methane emissions reduction efforts.

Provide a forum for public engagement by holding at least three public meetings in geographically diverse locations throughout the state where dairy operations and livestock operations are present.

In consultation with the department, do both of the following:

Conduct or consider livestock and dairy operation research on dairy methane emissions reduction projects, including, but not limited to, scrape manure management systems, solids separation systems, and enteric fermentation.

(ii) Consider developing and adopting methane emissions reduction protocols.

The state board shall make available to the public by posting on its Internet Web site a report on the progress made in implementing paragraph (2). Pursuant to Section 9795 of the Government Code, the state board shall notify the Legislature of the report.

Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the regulations adopted pursuant to paragraph (1) shall be implemented on or after January 1, 2024, if the state board, in consultation with the department, determines all of the following:

The regulations are technologically feasible.

The regulations are economically feasible considering milk and live cattle prices and the commitment of state, federal, and private funding, among other things, and that markets exist for the products generated by dairy manure management and livestock manure management methane emissions reduction projects, including composting, biomethane, and other products. The analysis shall include consideration of both of the following:

Electrical interconnection of onsite electrical generation facilities using biomethane.

(ii) Access to common carrier pipelines available for the injection of digester biomethane.

The regulations are cost effective.

The regulations include provisions to minimize and mitigate potential leakage to other states or countries, as appropriate.

The regulations include an evaluation of the achievements made by incentive-based programs.

No later than July 1, 2020, the state board, in consultation with the department, shall analyze the progress the dairy and livestock ~~sector has~~ **sectors have** made in achieving the goals identified in the strategy and specified in paragraph (1) of subdivision (b). The analysis shall determine if sufficient progress has been made to overcome technical and market barriers, as identified in the strategy. If the analysis determines that progress has not been made in meeting the targets due to insufficient funding or technical or market barriers, the state board, in consultation with the department and upon consultation with stakeholders, may reduce the goal in the strategy for the dairy and livestock sectors, as identified pursuant to paragraph ~~(1)~~ **(1) of subdivision (b)**.

(A) No later than January 1, 2018, the state board, in consultation with the commission and the energy commission, shall establish energy infrastructure development and procurement policies needed to encourage dairy biomethane projects to meet the goal identified pursuant to paragraph (1) of subdivision (b).

The state board shall develop a pilot financial mechanism to reduce the economic uncertainty associated with the value of environmental credits, including credits pursuant to the Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Title 17 of the California Code of Regulations) from dairy-related projects producing low-carbon transportation fuels. The state board shall make recommendations to the Legislature for expanding this mechanism to other sources of biogas.

No later than January 1, 2018, the commission, in consultation with the state board and the department, shall direct gas corporations to implement not less than five dairy biomethane pilot projects to demonstrate interconnection to the common carrier pipeline system. For the purposes of these pilot projects, gas corporations may recover in rates the reasonable cost of pipeline infrastructure developed pursuant to the pilot projects.

No later than January 1, 2018, the state board shall provide guidance on credits generated pursuant to the Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Title 17 of the California Code of Regulations) and the market-based compliance mechanism developed pursuant to Part 5 (commencing with Section 38570) of Division 25.5 from the methane reduction protocols described in the strategy and shall ensure that projects developed before the implementation of regulations adopted pursuant to subdivision (b) receive credit for at least 10 years. Projects shall be eligible for an extension of credits after the first 10 years to the extent allowed by regulations adopted pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500)).

Enteric emissions reductions shall be achieved only through incentive-based mechanisms until the state board, in consultation with the department, determines that a cost-effective, considering the impact on animal productivity, and scientifically proven method of reducing enteric emissions is available and that adoption of the enteric emissions reduction method would not damage animal health, public health, or consumer acceptance. Voluntary enteric emissions reductions may be used toward satisfying the goals of this chapter.

Except as provided in this section, the state board shall not adopt methane emissions reduction regulations controlling the emissions of methane from dairy operations or livestock operations to achieve the 2020 and 2030 greenhouse gas emissions reduction goals established pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500)).

~~Nothing in this~~ **This** section ~~shall~~ **does not** limit the authority of the state board to acquire planning and baseline information, including requiring the monitoring and reporting of emissions.

This section does not in any way affect the state board's or districts' authority to regulate emissions of criteria pollutants, toxic air contaminants, or other pollutants pursuant to other provisions of this division.

SEC. 121.

Section 43212 of the Health and Safety Code is amended to read:

43212.

A manufacturer or distributor who does not comply with the emission standards or the test procedures adopted by the state board shall be subject to a civil penalty not to exceed thirty-seven thousand five hundred dollars (\$37,500) for each vehicle that does not comply with the standards or procedures and that is first sold in this state. The payment of ~~such~~ those penalties to the state board and making the vehicles compliant with applicable emission control laws and test procedures may be required by the executive officer of the state board as conditions for the further sale in this state of those motor vehicles.

The state board shall adjust the maximum penalty specified in paragraph (1) for inflation based on the California Consumer Price Index. The adjustment shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Any penalty recovered pursuant to this section shall be deposited into the Air Pollution Control Fund.

SEC. 122.

Section 44559.13 of the Health and Safety Code is amended to read:

44559.13.

It is the intent of the Legislature in this act to create and fund the California Americans with Disabilities Small Business Capital Access Loan Program to assist small businesses in complying with the Americans with Disabilities Act. It is not the intent of the Legislature to assist the physical expansion of small businesses that includes modifications that comply with the Americans with Disabilities Act. The program shall be administered by the California Pollution Control Financing Authority and follow the terms and conditions for the Capital Access Loan Program for Small Businesses in this article with the additional program requirements specified under this section.

For purposes of this section, unless the context requires otherwise, the following words and terms shall have the following meanings:

“Americans with Disabilities Act” means the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) and amendments thereto.

“California Americans with Disabilities Act Small Business Capital Access Loan Program Fund” or “fund” means a fund established and administered by the authority pursuant to Sections 44548 and 44549 to be used for purposes of this program.

“Eligible cost” means and includes all or any part of the price of construction, purchase price of real or personal property, the price of demolishing or removing any buildings or structures, the price of all machinery and equipment, the amount of financing charges and interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the price of insurance during construction, the amount of funding or financing noncapital expenses, the amount of reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, the price of engineering, financial, and legal services and other service contracts, the price of plans, specifications, studies, surveys, estimates, administrative expenses, and any other expenses of funding or financing, that are necessary and allocable to

the eligible project, and shall not include costs not directly related to physical alterations necessary for compliance with the Americans with Disabilities Act.

“Eligible project” means the physical alterations or retrofits to an existing small business facility of less than 10,000 square feet necessary to ensure that facility is in compliance with the Americans with Disabilities Act, and the financing necessary to pay eligible costs of the project.

“Qualified loan” means a loan or portion of a loan as defined in subdivision (j) of Section 44559.1, where the proceeds of the loan or portion of the loan are limited to the eligible costs for an eligible project under this program, and where the loan or portion of the loan does not exceed fifty thousand dollars (\$50,000).

“Small business” or “qualified business” means a business referred to in subdivisions (i) and (m) of Section 44559.1, that meets the following additional criteria:

Fifteen or fewer full-time equivalent employees.

Less than one million dollars (\$1,000,000) in total gross annual income from all sources.

Does not provide overnight accommodations.

The California Americans with Disabilities Act Small Business Capital Access Loan Program Fund is established in the State Treasury for, and shall be administered by the authority pursuant to Sections 44548 and 44549 for, this program. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the authority for carrying out the purposes of this section. The authority may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this section from any source shall be deposited into the fund.

All moneys in the fund derived from any source shall be held in trust for the life of this program, subject to the program expenditures and costs of administering this section, as follows:

Program expenditures shall include both of the following:

Contributions paid by the authority in support of qualified loans.

(ii) Reasonable costs to educate the small business community and participating lenders about the program, including travel within the state.

Administrative expenditures shall be limited to 5 percent of the initial appropriation plus 5 percent of all moneys recaptured, and shall include all of the following:

Personnel costs.

(ii) Service and vending contracts necessary to carry out the program.

Other reasonable direct and indirect administrative costs.

The authority may direct the Treasurer to invest moneys in the fund that are not required for its current needs in the eligible securities specified in Section 16430 of the Government Code as the authority shall designate. The authority may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices located in the state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of [Title 2](#) of the Government Code. All interest or other increment resulting from an investment or deposit shall

be deposited into the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

The authority shall adopt regulations pursuant to subdivision (c) of Section 44520 to implement the program, including provisions specific to this program as described in this section and further including provisions to:

Establish a new loss reserve account for each participating lender enrolling loans in this program.

Obtain a certification from each participating lender and small business upon enrollment of a qualified loan that the proceeds of the loan will be used for the eligible costs of an eligible project.

Contribute an additional incentive from the fund for each loan enrolled for a qualified business located in a severely affected community.

Restrict the enrollment of a qualified loan in any other Capital Access Loan Program for small business offered by the authority as long as funds are available for this program.

Limit the term of loss coverage for each qualified loan to no more than five years.

Recapture from the loss reserve account the authority's contribution for each enrolled loan upon the maturation of such loan or after five years from the date of enrollment, whichever happens first, to be deposited in the fund and applied to future program and administrative expenditures.

SEC. 123.

Section 50833 of the Health and Safety Code is amended to read:

50833.

The department shall determine and announce in the applicable NOFA the percentage of the total amount of the State Block Grant Program funds set aside for economic development that shall be allocated to make economic development planning and technical assistance grants to eligible small cities or counties for business attraction, retention, and expansion programs for the development of local economic development strategies, predevelopment grant feasibility studies, and downtown revitalization programs. Eligible small cities or counties may contract with public agencies or nonprofit economic development corporations and other eligible subgrantees or for-profit corporations or entities to provide these services. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this set-aside is in addition to the city or county ceiling, under Section 50832, or its ability to apply under the economic development or general program set-asides. The department shall determine and announce in the applicable NOFA the maximum per year grant amount. Each applicant shall not receive more than two grants per year and shall be eligible to apply each year, although no applicant shall receive grants in excess of the maximum amount determined by the department and announced in the applicable NOFA in any one year. Funds not applied for or allocated under this section may be used for other economic development purposes under Sections 50832 and 50832.1.

The department shall determine and announce in the applicable NOFA the percentage of the total amount of the State Block Grant Program funds not used for economic development that shall be set aside to make technical assistance grants to eligible small cities or counties for purposes including, but not limited to: inventory of housing needing rehabilitation in the district, income surveys of area

residents, and any general studies of housing needs in the district. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this set-aside is in addition to the city or county ceiling or its ability to apply under the economic development or general program set-asides. Unexpended funds allocated under this section shall revert to the general program, but not to the economic development set-aside. The department shall determine and announce in the applicable NOFA the maximum grant amount per application. Each applicant shall not receive more than two grants per year and shall be eligible to apply each year, although no applicant shall receive grants in excess of the maximum amount determined by the department and announced in the applicable NOFA in any one year.

If, under federal law, the economic development planning and technical assistance grants and the general allocation planning and assistance grants are considered to be administrative expenditures, the department may reduce the percentages of the set-asides by up to the amount necessary to remain within the allowable limits for administrative expenditures.

Two or more jurisdictions may pool their funds and make a joint application for the same project.

General administrative activity planning studies shall not be counted against allocations under this section.

The department may issue a NOFA under which the director may determine that an applicant with one or more current Community Development Block Grant agreements signed in 2012 or later, for which the expenditure deadline established in the grant agreement or agreements has not yet passed, is eligible to apply for and receive an award of, funds pursuant to this chapter, without regard to whether the applicant has expended at least 50 percent of Community Development Block Grant ~~Funds~~ funds awarded in 2012 or thereafter. For any applicant that is so determined, the director shall include in the application file a written confirmation of eligibility and any award of funds. An application made pursuant to the director's determination under this section may be evaluated solely on the basis of eligibility, need, benefit, or readiness, without regard to any specific rating criteria provided by Section 7078 of Title 4 of the California Code of Regulations. The awarding of funds to an applicant pursuant to the director's determination under this section does not exempt those funds from consideration under any expenditure requirement under law.

SEC. 124.

Section 101993 of the Health and Safety Code is amended to read:

101993.

The program administrator, directly or through a university-affiliated foundation, may solicit funds from business, industry, foundations, research organizations, federal government agencies, individuals, and other private sources for the purpose of administering the program and awarding grants to increase patient access to clinical trials targeting cancer, consistent with guidelines established by the board.

Subject to paragraph (2), only funds from federal or private sources may be used to administer the program or award grants.

The university may use its own state source funds for oversight and administration of the program relating to the initial start-up costs of the program only, provided the university is reimbursed from federal or private sources of funds.

SEC. 125.

Section 101996 of the Health and Safety Code is amended to read:

101996.

If the university determines at any time that the moneys in the fund are insufficient to establish or sustain the program, the university may terminate the program.

If the fund does not receive five hundred thousand dollars (\$500,000) or more by January 1, 2021, or, if at any time, the program administrator determines that the ~~20-percent~~ 20-percent limit on administrative costs set forth in subparagraph (B) of paragraph (6) of subdivision (b) of Section 101991 is inadequate to support the cost of administering the program authorized pursuant to this part, the program administrator may elect to dissolve the program.

All moneys in the fund remaining after expenses are paid shall, prior to dissolution, be allocated to one or more organizations described in subdivision (a) of Section 101994.5.

SEC. 126.

Section 103526 of the Health and Safety Code, as amended by Section 1 of Chapter 527 of the Statutes of 2016, is amended to read:

103526.

If the State Registrar, local registrar, or county recorder receives a written, faxed, electronic, or digitized image of a request for a certified copy of a birth, death, or marriage record pursuant to Section 103525 that is accompanied by a notarized statement sworn under penalty of perjury, an electronic verification of identity accompanied by an electronic statement sworn under penalty of perjury, or a faxed copy or digitized image of a notarized statement sworn under penalty of ~~perjury~~ perjury, that the applicant is an authorized person, as defined in this section, that official may furnish a certified copy to the applicant pursuant to Section 103525.

A faxed or digitized image of the notary acknowledgment accompanying a faxed request received pursuant to this subdivision for a certified copy of a birth, death, or marriage record shall be legible and, if the notary's seal is not photographically reproducible, show the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the notary's commission expiration date typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment. If a request for a certified copy of a birth, death, or marriage record is made in person, the official shall take a statement sworn under penalty of perjury that the applicant is signing his or her own legal name and is an authorized person, and that official may then furnish a certified copy to the applicant.

If a request for a certified copy of a birth, death, or marriage record is made electronically, the official may accept an electronic verification authenticating the identity of the applicant using a multilayered remote identity proofing process that complies with all of the following requirements:

Meets or exceeds the National Institute of Standards and Technology (NIST) electronic authentication guideline for multilayered remote identity proofing.

(ii) (I) Verifies all of the following information provided by the applicant:

(ia) A valid government-issued identification number.

(ib) A financial or utility account number.

(II) The verification pursuant to this subparagraph shall occur through record checks with the state or local agency or a credit reporting agency or similar database and shall confirm that the name, date of birth, address, or other personal information in the record checks are consistent with the information provided by the applicant.

Meets or exceeds the information security requirements of the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code) and the Federal Information Security Management Act of 2002 (Public Law 107-347) and all other applicable state and federal laws and regulations to protect the personal information of the applicant and guard against identity theft.

Retains for each electronic verification, as required by the NIST electronic authentication guideline, a record of the applicant whose identity has been verified and the steps taken to verify the identity.

If an applicant's identity cannot be established electronically pursuant to this paragraph, the applicant shall include with his or her request a statement of identity notarized pursuant to paragraph (1).

For purposes of this subdivision, "digitized image" means an image of an original paper request for a certified copy of a birth, death, or marriage record.

If the person requesting a certified copy of a birth, death, or nonconfidential marriage record is not an authorized person or is an authorized person who is otherwise unable to satisfy the requirements of subdivision (a), the certified copy provided to the applicant shall be an informational certified copy and shall display a legend that states "INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY." The legend shall be placed on the certificate in a manner that will not conceal information.

If the person requesting a certified copy of a confidential marriage record is not an authorized person or is an authorized person who is otherwise unable to satisfy the requirements of subdivision (a), the official shall not release a certified copy of the confidential marriage record unless otherwise authorized by law.

For purposes of this section, an "authorized person" means:

For purposes of requests for certified copies of confidential marriage records, only a party to the confidential marriage.

For purposes of requests for certified copies of birth, death, or nonconfidential marriage records, a person who is any of the following:

The registrant or a parent or legal guardian of the registrant.

A party entitled to receive the record as a result of a court order, or an attorney or a licensed adoption agency seeking the birth record in order to comply with the requirements of Section 3140 or 7603 of the Family Code.

A member of a law enforcement agency or a representative of another governmental agency, as provided by law, who is conducting official business.

A child, grandparent, grandchild, sibling, spouse, or domestic partner of the registrant.

An attorney representing the registrant or the registrant's estate, or any person or agency empowered by statute or appointed by a court to act on behalf of the registrant or the registrant's estate.

An agent or employee of a funeral establishment who acts within the course and scope of his or her employment and who orders certified copies of a death certificate on behalf of an individual specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100.

A person who asks the agent or employee of a funeral establishment to request a death certificate on his or her behalf warrants the truthfulness of his or her relationship to the decedent and is personally liable for all damages occasioned by, or resulting from, a breach of that warranty.

Notwithstanding any other law:

A member of a law enforcement agency or a representative of a state or local government agency, as provided by law, who orders a copy of a record to which subdivision (a) applies in conducting official business shall not be required to provide the notarized statement required by subdivision (a).

An agent or employee of a funeral establishment who acts within the course and scope of his or her employment and who orders death certificates on behalf of individuals specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100 shall not be required to provide the notarized statement required by subdivision (a).

Informational certified copies of birth and death certificates issued pursuant to subdivision (b) shall only be printed from the single statewide database prepared by the State Registrar and shall be electronically redacted to remove any signatures for purposes of compliance with this section. Local registrars and county recorders shall not issue informational certified copies of birth and death certificates from a source other than the statewide database prepared by the State Registrar. This subdivision shall become operative on July 1, 2007, but only after the statewide database becomes operational and the full calendar year of the birth and death indices and images is entered into the statewide database and is available for the respective year of the birth or death certificate for which an informational copy is requested. The State Registrar shall provide written notification to local registrars and county recorders as soon as a year becomes available for issuance from the statewide database.

Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made to this section by the act that added this subdivision through an all-county letter or similar instructions from the State Registrar without taking regulatory action.

This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 127.

Section 103526 of the Health and Safety Code, as added by Section 2 of Chapter 527 of the Statutes of 2016, is amended to read:

103526.

If the State Registrar, local registrar, or county recorder receives a written, faxed, or digitized image of a request for a certified copy of a birth, death, or marriage record pursuant to Section 103525 that is accompanied by a notarized statement sworn under penalty of perjury, or a faxed copy or digitized image of a notarized statement sworn under penalty of perjury, that the requester is an authorized person, as defined in this section, that official may furnish a certified copy to the applicant pursuant to Section 103525. A faxed or digitized image of the notary acknowledgment accompanying a faxed request received pursuant to this subdivision for a certified copy of a birth, death, or marriage record shall be legible and, if the notary's seal is not photographically reproducible, show the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the notary's commission expiration date typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment. If a request for a certified copy of a birth, death, or marriage record is made in person, the official shall take a statement sworn under penalty of perjury that the requester is signing his or her

own legal name and is an authorized person, and that official may then furnish a certified copy to the applicant.

For purposes of this subdivision, “digitized image” means an image of an original paper request for a certified copy of a birth, death, or marriage record.

If the person requesting a certified copy of a birth, death, or nonconfidential marriage record is not an authorized person or is an authorized person who is otherwise unable to satisfy the requirements of subdivision (a), the certified copy provided to the applicant shall be an informational certified copy and shall display a legend that states “INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY.” The legend shall be placed on the certificate in a manner that will not conceal information.

If the person requesting a certified copy of a confidential marriage record is not an authorized person or is an authorized person who is otherwise unable to satisfy the requirements of subdivision (a), the official shall not release a certified copy of the confidential marriage record unless otherwise authorized by law.

For purposes of this section, an “authorized person” means:

For purposes of requests for certified copies of confidential marriage records, only a party to the confidential marriage.

For purposes of requests for certified copies of birth, death, or nonconfidential marriage records, a person who is any of the following:

The registrant or a parent or legal guardian of the registrant.

A party entitled to receive the record as a result of a court order, or an attorney or a licensed adoption agency seeking the birth record in order to comply with the requirements of Section 3140 or 7603 of the Family Code.

A member of a law enforcement agency or a representative of another governmental agency, as provided by law, who is conducting official business.

A child, grandparent, grandchild, sibling, spouse, or domestic partner of the registrant.

An attorney representing the registrant or the registrant’s estate, or any person or agency empowered by statute or appointed by a court to act on behalf of the registrant or the registrant’s estate.

An agent or employee of a funeral establishment who acts within the course and scope of his or her employment and who orders certified copies of a death certificate on behalf of any individual specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100.

A person who asks the agent or employee of a funeral establishment to request a death certificate on his or her behalf warrants the truthfulness of his or her relationship to the ~~decedent~~, **decedent** and is personally liable for all damages occasioned by, or resulting from, a breach of that warranty.

Notwithstanding any other law:

A member of a law enforcement agency or a representative of a state or local government agency, as provided by law, who orders a copy of a record to which subdivision (a) applies in conducting official business shall not be required to provide the notarized statement required by subdivision (a).

An agent or employee of a funeral establishment who acts within the course and scope of his or her employment and who orders death certificates on behalf of individuals specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100 shall not be required to provide the notarized statement required by subdivision (a).

Informational certified copies of birth and death certificates issued pursuant to subdivision (b) shall only be printed from the single statewide database prepared by the State Registrar and shall be electronically redacted to remove any signatures for purposes of compliance with this section. Local registrars and county recorders shall not issue informational certified copies of birth and death certificates from a source other than the statewide database prepared by the State Registrar. This subdivision shall become operative on July 1, 2007, but only after the statewide database becomes operational and the full calendar year of the birth and death indices and images is entered into the statewide database and is available for the respective year of the birth or death certificate for which an informational copy is requested. The State Registrar shall provide written notification to local registrars and county recorders as soon as a year becomes available for issuance from the statewide database.

This section shall become operative January 1, 2021.

SEC. 128.

Section 103527.5 of the Health and Safety Code is amended to read:

103527.5.

On or before January 1, 2019, the State Registrar and any city or county that fulfills electronic requests for certified copies of birth, death, or marriage records without being provided a notarized statement that the requester is an authorized person shall report the following information to the Attorney General, the Assembly and Senate ~~Committee~~ **Committees** on Judiciary, and the Assembly Committee on Privacy and Consumer Protection:

All of the following nonpersonally identifiable information:

The total number of written, electronic, faxed, or in-person requests that include a notarized statement that the requester is an authorized person.

The total number of electronic requests utilizing the multilayered remote identity proofing process described in Section 103526 that do not include a notarized statement.

The total number of electronic requests denied while using the multilayered remote identity proofing process due to insufficient information or failed authentication.

The total number of repeat electronic requests using the multilayered remote identity proofing process for the same record and the same individual.

A description of the mechanism and process, if any, by which consumers who have been victims of identity theft may temporarily limit electronic access to certified vital records, including all of the following:

The number of consumers who have utilized this mechanism and process.

The total number of electronic requests that utilize the multilayered remote identity proofing process, without a notarized statement, requesting records of consumers who have used the temporary limited access mechanism and process.

The total number of electronic requests for records of consumers who have utilized this temporary limited access mechanism and process that were denied while using the multilayered remote identity proofing process.

A description of the mechanism and process by which a consumer may report identity theft resulting from an alleged fraudulent records request, as well as the number of consumers who have used this mechanism and process.

This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 129.

Section 103885 of the Health and Safety Code is amended to read:

103885.

The director shall establish a statewide system for the collection of information determining the incidence of cancer, using population-based cancer registries modeled after the Cancer Surveillance Program of Orange County. As of the effective date of this section, the director shall begin phasing in the statewide cancer reporting system. By July 1, 1988, all county or regional registries shall be implemented or initiated. By July 1, 1990, the statewide cancer reporting system shall be fully operational. Within 60 days of the effective date of this section, the director shall submit an implementation and funding schedule to the Legislature.

The department may designate any demographic parts of the state as regional cancer incidence reporting areas and may establish regional cancer registries, with the responsibility and authority to carry out the intent of this section in designated areas. Designated regional registries shall ~~provide,~~ provide the department, on a timely basis, cancer incidence ~~data data,~~ as designated by the ~~state department to the~~ department. The department may establish a competitive process to receive applications for, and issue, the award of a contract, grant, or allocation of funds, including, but not limited to, a cooperative agreement, subvention agreement, or any other agreement allowed by law, to an agency, including, but not limited to, a health systems agency, single county health department, multicounty health department grouping, or nonprofit professional association to operate the statewide cancer reporting system and to enter into contracts, or issue grants or funding allocations to other agencies representing a designated cancer reporting region for the purposes of collecting and collating cancer incidence data. The award of these contracts, grants, or funding allocations shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code. The department shall include appropriate terms and conditions in a contract, grant, or funding allocation to ensure the proper use of state funds, including provision for reimbursement of allowable costs, financial reporting, program performance reporting, monitoring of subgrants, subcontracts, or suballocations to an agency representing a designated cancer reporting region, retention and access requirements for records, data use and management, independent auditing, termination, and disposition of assets acquired under the contract, grant, or funding allocation.

The director shall designate cancer as a disease required to be reported in the state or any demographic parts of the state in which cancer information is collected under this section. All cancers diagnosed or treated in the reporting area shall thereafter be reported to the representative of the department authorized to compile the cancer data, or any individual, agency, or organization designated to cooperate with that representative.

Any hospital or other facility providing therapy to cancer patients within an area designated as a cancer reporting area shall report each case of cancer to the department or the authorized representative of the department in a format prescribed by the department. If the hospital or other facility fails to report in a format prescribed by the department, the department's authorized representative may access the information from the hospital or the facility and report it in the appropriate format. In these cases, the hospital or other health facility shall reimburse the ~~state~~ department or the authorized representative for its cost to access and report the information.

Any physician and surgeon, dentist, podiatrist, or other health care practitioner diagnosing or providing treatment for cancer patients shall report each cancer case to the department or the authorized representative of the department, except for those cases directly referred to a treatment facility or those previously admitted to a treatment facility for diagnoses or treatment of that instance of cancer.

On or after January 1, 2019, a pathologist diagnosing cancer shall report cancer diagnoses to the department utilizing the College of American Pathologists cancer protocols or any other standardized format approved by the department.

Reporting shall be by electronic means, including, but not limited to, either directly from an electronic medical record or using a designated Internet Web portal that the department shall provide for pathologists' use. If a pathologist fails to report electronically and with an approved format, the department's authorized representative may access the information from the pathologist in an appropriate alternative format. In these cases, the pathologist shall reimburse the department or the authorized representative for its cost to access and report the information.

A pathologist shall not be responsible for acquiring missing or inaccessible patient demographic information not provided to him or her beyond the content of the required cancer-specific data elements.

For purposes of reports submitted pursuant to this paragraph, the department shall prescribe the data required to be included in the report, work collaboratively with stakeholders to designate a standardized electronic format for submission, and designate an Internet Web portal for electronic submission.

This paragraph shall not be interpreted to require a pathologist to submit the same pathology report to the department, regardless of format, more than once. If a pathology report is submitted by a pathologist electronically, pursuant to this paragraph, the same pathology report is not required to be submitted to the department by any other means.

Any hospital or other facility that is required to reimburse the department or its authorized representative for the cost to access and report the information pursuant to subdivision (d) shall provide payment to the department or its authorized representative within 60 days of the date this payment is demanded. In the event any hospital or other facility fails to make the payment to the department or its authorized representative within 60 days of the date the payment is demanded, the department or its authorized representative may, at its discretion, assess a late fee not to exceed 1½ percent per month of the outstanding balance. Further, in the event that the department or its authorized representative takes a legal action to recover its costs and any associated fees, and the department or its authorized representative receives a judgment in its favor, the hospital or other facility shall also reimburse the department or its authorized representative for any additional costs it incurred to pursue the legal action. Late fees and payments made to the department by hospitals or other facilities pursuant to this subdivision shall be considered as reimbursements of the additional costs incurred by the department.

All physicians and surgeons, hospitals, outpatient clinics, nursing homes and all other facilities, individuals, or agencies providing diagnostic or treatment services to patients with cancer shall grant to the department or the authorized representative access to all records that would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified cancer patient. Willful failure to grant access to those records shall be punishable by a fine of up to five hundred dollars (\$500) each day access is refused. Any fines collected pursuant to this subdivision shall be deposited in the General Fund.

Except as otherwise provided in this section, all information collected pursuant to this section shall be confidential. For purposes of this section, this information shall be referred to as "confidential information."

The department and any regional cancer registry designated by the department shall use the information to determine the sources of malignant neoplasms and evaluate measures designed to eliminate, alleviate, or ameliorate their effect.

Persons with a valid scientific interest who are engaged in demographic, epidemiological, or other similar studies related to health who meet qualifications as determined by the department, and who agree, in writing, to maintain confidentiality, may be authorized access to confidential information.

The department and any regional cancer registry designated by the department may enter into agreements to furnish confidential information to other states' cancer registries, federal cancer control agencies, local health officers, or health researchers for the purposes of determining the sources of cancer and evaluating measures designed to eliminate, alleviate, or ameliorate their effect. Before confidential information is disclosed to those agencies, officers, researchers, or out-of-state registries, the requesting entity shall agree in writing to maintain the confidentiality of the information, and in the case of researchers, shall also do both of the following:

Obtain approval of their committee for the protection of human subjects established in accordance with Part 46 (commencing with Section 46.101) of Title 45 of the Code of Federal Regulations.

Provide documentation to the department that demonstrates to the department's satisfaction that the entity has established the procedures and ability to maintain the confidentiality of the information.

Notwithstanding any other law, any disclosure authorized by this section shall include only the information necessary for the stated purpose of the requested disclosure, used for the approved purpose, and not be further disclosed.

The furnishing of confidential information to the department or its authorized representative in accordance with this section shall not expose any person, agency, or entity furnishing information to liability, and shall not be considered a waiver of any privilege or a violation of a confidential relationship.

The department shall maintain an accurate record of all persons who are given access to confidential information. The record shall include: the name of the person authorizing access; name, title, address, and organizational affiliation of persons given access; dates of access; and the specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the department.

Notwithstanding any other law, no part of the confidential information shall be available for subpoena, nor shall it be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall this information be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

~~Nothing in this~~ This subdivision ~~shall~~ does not prohibit the publication by the department of reports and statistical compilations that do not in any way identify individual cases or individual sources of information.

Notwithstanding the restrictions in this subdivision, the individual to whom the information pertains shall have access to his or her own information in accordance with Chapter 1 (commencing with Section 1798) of Title 1.8 of [Part 4 of Division 3](#) of the Civil Code.

For the purpose of this section, "cancer" means either of the following:

All malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma, ~~Hodgkins~~ Hodgkin's disease, and leukemia, but excluding basal cell and squamous cell carcinoma of the skin.

All primary intracranial and central nervous system (CNS) tumors occurring in the following sites, irrespective of histologic type: brain, meninges, spinal cord, ~~caudae equina~~, Caudae Equina, cranial nerves and other parts of the CNS, pituitary gland, pineal gland, and craniopharyngeal duct.

~~Nothing in this~~ This section ~~shall~~ does not preempt the authority of facilities or individuals providing diagnostic or treatment services to patients with cancer to maintain their own facility-based cancer registries.

It is the intent of the Legislature that the department, in establishing a system pursuant to this section, maximize the use of available federal funds.

SEC. 130.

Section 111070.5 of the Health and Safety Code is amended to read:

111070.5.

"Advanced purified demonstration water" means product water from an advanced water purification facility that satisfies both of the following requirements:

The product water is treated by all of the following treatment processes:

Microfiltration, ultrafiltration, or other filtration process that removes particulates before reverse osmosis.

Reverse osmosis.

Advanced oxidation.

The product water meets or exceeds all federal and state drinking water standards and is produced in accordance with the advanced treatment criteria for purified water specified in Section 60320.201 of Title 22 of the California Code of Regulations.

A bottler of advanced purified demonstration water shall do all of the following:

Submit sample labels to the department for review at least 30 days before bottling advanced purified demonstration water.

Submit the analyses of the advanced purified demonstration water required under subdivision (e) of Section 13570 of the Water Code to the department at least seven days before bottling advanced purified demonstration water.

Conduct a full sanitation of the bottling and filling equipment immediately after bottling ~~advance~~ advanced purified demonstration water.

SEC. 131.

Section 116555 of the Health and Safety Code is amended to read:

116555.

Any person who owns a public water system shall ensure that the system does all of the following:

Complies with primary and secondary drinking water standards.

Will not be subject to backflow under normal operating conditions.

Provides a reliable and adequate supply of pure, wholesome, healthful, and potable water.

Employs or utilizes only water treatment operators that have been certified by the state board at the appropriate grade.

Complies with the operator certification program established pursuant to Article 3 (commencing with Section ~~106875~~, 106875) of Chapter 4 of Part 1.

Any person who owns a community water system or a nontransient noncommunity water system shall do all of the following:

Employ or utilize only water distribution system operators who have been certified by the state board at the appropriate grade for positions in responsible charge of the distribution system.

Place the direct supervision of the water system, including water treatment plants, water distribution systems, or both under the responsible charge of an operator or operators holding a valid certification equal to or greater than the classification of the treatment plant and the distribution system.

SEC. 132.

Section 123955 of the Health and Safety Code is amended to read:

123955.

The state and the counties shall share in the cost of administration of the California Children's Services ~~Program~~ program at the local level.

The director shall adopt regulations establishing minimum standards for the administration, staffing, and local implementation of this article subject to reimbursement by the state.

The standards shall allow necessary flexibility in the administration of county programs, taking into account the variability of county needs and resources, and shall be developed and revised jointly with state and county representatives.

The director shall establish minimum standards for administration, ~~staffing~~ staffing, and local operation of the program subject to reimbursement by the state.

Until July 1, 1992, reimbursable administrative costs, to be paid by the state to counties, shall not exceed 4.1 percent of the gross total expenditures for diagnosis, ~~treatment~~ treatment, and therapy by counties as specified in Section 123940.

Beginning July 1, 1992, this subdivision ~~shall apply~~ applies with respect to all of the following:

Counties shall be reimbursed by the state for 50 percent of the amount required to meet state administrative standards for that portion of the county caseload under this article that is ineligible for Medi-Cal to the extent funds are available in the State Budget for the California Children's Services ~~Program~~ program.

Counties shall be reimbursed by the state for 50 percent of the nonfederal share of the amount required to meet state administrative standards for that portion of the county caseload under this article that is enrolled in the Medi-Cal program pursuant to Section 14005.26 of the Welfare and Institutions Code or the Medi-Cal Access Program pursuant to Chapter 2 (commencing with Section 15810) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and who are eligible for services under this article pursuant to subdivision (a) of Section 123870, to the extent that federal financial participation is available at the enhanced federal reimbursement rate under Title XXI of the federal Social Security Act (42 U.S.C. Sec. 1397aa

et seq.) and funds are appropriated for the California Children's Services ~~Program~~ program in the State Budget.

On or before September 15 of each year, each county program implementing this article shall submit an application for the subsequent fiscal year that provides information as required by the state to determine if the county administrative staff and budget meet state standards.

The state shall determine the maximum amount of state funds available for each county from state funds appropriated for ~~CCS~~ California Children's Services county administration. If the amount appropriated for any fiscal year in the Budget Act for county administration under this article differs from the amounts approved by the department, each county shall submit a revised application in a form and at the time specified by the department.

The department and counties shall maximize the use of federal funds for administration of the programs implemented pursuant to this article, including using state and county funds to match funds claimable under Title XIX or Title XXI of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.; 42 U.S.C. Sec. 1397aa et seq.).

SEC. 133.

Section 128371 of the Health and Safety Code is amended to read:

128371.

The Legislature finds and declares that it is in the best interest of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by those programs listed in subdivision (d), and therefore, enacts this section pursuant to Section 1621(d) of Title 8 of the United States Code.

A program listed in subdivision (d) shall not deny an application based on the citizenship status or immigration status of the applicant.

For any program listed in subdivision (d), when mandatory disclosure of a social security number is required, an applicant shall provide his or her social security number, if one has been issued, or an individual tax identification number that has been or will be submitted.

This section ~~shall apply~~ applies to all of the following:

Programs supported through the Health Professions Education Fund pursuant to Section 128355.

The Registered Nurse Education Fund created pursuant to Section 128400.

The Mental Health Practitioner Education Fund created pursuant to Section 128458.

The Vocational Nurse Education Fund created pursuant to Section 128500.

The Medically Underserved Account for Physicians created pursuant to Section 128555.

Loan forgiveness and scholarship programs created pursuant to [Part 3.1 \(commencing with Section 5820\)](#) of [Division 5](#) of the Welfare and Institutions Code.

The Song-Brown Health Care Workforce Training Act created pursuant to Article 1 (commencing with Section 128200) of Chapter 4.

To the extent permitted under federal law, the program administered by the office pursuant to the federal National Health Service Corps State Loan Repayment Program (42 U.S.C. Sec. 254q-1), commonly known as the California State Loan Repayment Program.

The programs administered by the office pursuant to the Health Professions Career Opportunity Program (Section 127885), commonly known as the Mini Grants Program, and California's Student/Resident Experiences and Rotations in Community Health, commonly known as the ~~Cal-SEARCH~~CalSEARCH program.

SEC. 134.

Section 38.6 of the Insurance Code, as amended by Section 6 of Chapter 617 of the Statutes of 2016, is amended to read:

38.6.

Any written record required to be given or mailed to any person by a licensee, including an offer of renewal required by Sections 663 and 678, the notice of policy change or cancellation requested by the insured as required by Section 667.5, the notice of conditional renewal required by Section 678.1, the offer of coverage or renewal or any disclosure required by Section 10086, the offer of renewal for a workers' compensation policy, Section 662, paragraph (2) of subdivision (a) of Section 663, Section 664, 667.5, 673, 677, paragraph (2) of subdivision (a) of Section 678, subdivisions ~~(a) and (b)~~ (a), (b), and (c) of Section 678.1, or any written record required to be given or mailed to any person by a licensee relating to the business of life insurance, as defined in Section 101 of this code may, if not excluded by subdivision (b) or (c) of Section 1633.3 of the Civil Code, be provided by electronic transmission pursuant to Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code, if each party has agreed to conduct the transaction by electronic means pursuant to Section 1633.5 of the Civil Code, and if the licensee complies with ~~the provisions of~~ this section. A valid electronic signature ~~shall be~~ is sufficient for any provision of law requiring a written signature.

For purposes of this section, the definitions set forth in Section 1633.2 of the Civil Code ~~shall~~ apply. The term "licensee" means an insurer, agent, broker, or any other person who is required to be licensed by the department.

Notwithstanding subdivision (l) of Section 1633.2 of the Civil Code, for purposes of this section, "person" includes, but is not limited to, the policy owner, policyholder, applicant, insured, or assignee or designee of an insured.

In order to transmit a record listed in subdivision (a) electronically, a licensee shall comply with all of the following:

A licensee, or licensee's representative, acquires the consent of the person to opt in to receive the record by electronic transmission, and the person has not withdrawn that consent, prior to providing the record by electronic transmission. A person's consent may be acquired verbally, in writing, or electronically. If consent is acquired verbally, the licensee shall confirm consent in writing or electronically. The licensee shall retain a record of the person's consent to receive the record by electronic transmission with the policy information so that it is retrievable upon request by the department while the policy is in force and for five years thereafter.

A licensee discloses, in writing or electronically, to the person all of the following:

The opt in to receive the record by electronic transmission is voluntary.

That the person may opt out of receiving the record by electronic transmission at any time, and the process or system for the person to opt out.

A description of the record that the person will receive by electronic transmission.

The process or system to report a change or correction in the person's email address.

The licensee's contact information, which includes, but is not limited to, a toll-free number or the licensee's Internet Web site address.

The opt-in consent disclosure required by paragraph (2) may be set forth in the application or in a separate document that is part of the policy approved by the commissioner and shall be bolded or otherwise set forth in a conspicuous manner. The person's signature shall be set forth immediately below the opt-in consent disclosure. If the licensee seeks consent at any time prior to the completion of the application, consent and signature shall be obtained before the application is completed. If the person has not opted in at the time the application is completed, the licensee may receive the opt-in consent at any time thereafter, pursuant to the same opt-in requirements that apply at the time of the application. The licensee shall retain a copy of the signed opt-in consent disclosure with the policy information so that each is retrievable upon request by the department while the policy is in force and for five years thereafter.

The email address of the person who has consented to electronic transmission shall be set forth on the consent disclosure. In addition, if the person who consented receives an annual statement, the email address of the person who has consented shall be set forth on that record.

The licensee shall annually provide one free printed copy of any record described in this subdivision upon request by the person.

If a provision of this code requires a licensee to transmit a record by first-class mail, regular mail, does not specify a method of delivery, or is a record that is required to be provided pursuant to Article 6.6 (commencing with Section 791), and if the licensee is not otherwise prohibited from transmitting the record electronically under subdivision (b) of Section 1633.8 of the Civil Code, then the record may be transmitted by electronic transmission if the licensee complies with all of the requirements of Sections 1633.15 and 1633.16 of the Civil Code.

Notwithstanding subdivision (b) of Section 1633.8 of the Civil Code, if a provision of this code requires a licensee to transmit a record by return receipt, registered mail, certified mail, signed written receipt of delivery, or other method of delivery evidencing actual receipt by the person, and if the licensee is not otherwise prohibited from transmitting the record electronically under Section 1633.3 of the Civil Code and the provisions of this section, then the licensee shall maintain a process or system that demonstrates proof of delivery and actual receipt of the record by the person consistent with this paragraph. The licensee shall document and retain information demonstrating delivery and actual receipt so that it is retrievable, upon request, by the department at least five years after the policy is no longer in force. The record provided by electronic transmission shall be treated as if actually received if the licensee delivers the record to the person in compliance with applicable statutory delivery deadlines. A licensee may demonstrate actual delivery and receipt by any of the following:

The person acknowledges receipt of the electronic transmission of the record by executing an electronic signature.

The record is posted on the licensee's secure Internet Web site, and there is evidence demonstrating that the person logged onto the licensee's secure Internet Web site and downloaded, printed, or otherwise acknowledged receipt of the record.

The record is transmitted to the named insured through an application on a personal electronic device that is secured by password, biometric identifier, or other technology, and there is evidence demonstrating that the person logged into the application and viewed or otherwise acknowledged receipt of the record.

If a licensee is unable to demonstrate actual delivery and receipt pursuant to this paragraph, the licensee shall resend the record by regular mail to the person in the manner originally specified by the underlying provision of this code.

Notwithstanding any other law, a notice of lapse, nonrenewal, cancellation, or termination of any product subject to this section may be transmitted electronically if the licensee demonstrates proof of delivery as set forth in paragraph (7) and complies with the other provisions in this section.

If the record is not delivered directly to the electronic address designated by the person but placed at an electronic address accessible to the person, a licensee shall notify the person in plain, clear, and conspicuous language at the electronic address designated by the person that describes the record, informs that person that it is available at another location, and provides instructions to the person as to how to obtain the record.

Upon a licensee receiving information indicating that the record sent by electronic transmission was not received by the person, the licensee shall, within five business days, comply with either clause (i) or (ii):

Contact the person to confirm or update the person's email address and resend the record by electronic transmission. If the licensee elects to resend the record by electronic transmission, the licensee shall demonstrate the transmission was received by the person, pursuant to paragraph (6), (7), or (8). If the licensee is unable to confirm or update the person's email address, the licensee shall resend the record by regular mail to the licensee at the address shown on the policy, or, if the underlying statute requires delivery in a specified manner, send the record in that specified manner.

(ii) Resend the record initially provided by electronic transmission by regular mail to the insured at the address shown on the policy, or, if the underlying statute requires delivery in a specified manner, send the record in that specified manner.

If the licensee sends the first electronic record within the time period required by law and the licensee complies with both paragraph (5) and subparagraph (A) of this paragraph, the record sent pursuant to clause (i) or (ii) of subparagraph (A) shall be treated as if mailed in compliance with the applicable statutory regular mail delivery deadlines.

The licensee shall not charge any person who declines to opt in to receive a record through electronic transmission from receiving a record electronically. The licensee shall not provide a discount or an incentive to any person to opt in to receive electronic records.

The licensee shall verify a person's email address via paper writing sent by regular mail when more than 12 months have elapsed since the licensee's last electronic communication.

An insurance agent or broker acting under the direction of a party that enters into a contract by means of an electronic record or electronic signature shall not be held liable for any deficiency in the electronic procedures agreed to by the parties under that contract if all of the following are met:

The insurance agent or broker has not engaged in negligent, reckless, or intentional tortious conduct.

The insurance agent or broker was not involved in the development or establishment of the electronic procedures.

The insurance agent or broker did not deviate from the electronic procedures.

On or before January 1, 2019, the commissioner shall submit a report to the Governor and to the committees of the Senate and Assembly having jurisdiction over insurance and the judiciary, regarding

the impact and implementation of the authorization of the electronic transmission of certain insurance renewal offers, notices, or disclosures, relating to the business of life insurance, as authorized by this section. The report shall include input from insurers, consumers, and consumer organizations, and shall include an assessment of the department's experience pertaining to the authorization of the electronic transmission of insurance renewals, relating to the business of life insurance, as authorized by this section.

On or before January 1, 2019, the commissioner shall submit a report to the Governor and to the committees of the Senate and Assembly having jurisdiction over insurance and the judiciary, regarding the impact and implementation of the authorization of the electronic transmission of certain insurance renewal offers, notices, or disclosures including an offer of renewal required by Sections 663 and 678, the notice of conditional renewal required by Section 678.1, the offer of coverage or renewal or any disclosure required by Section 10086, and the offer of renewal for a workers' compensation policy, as authorized by this section. The report shall include input from insurers, consumers, and consumer organizations, and shall include an assessment of the department's experience pertaining to the authorization of the electronic transmission of insurance renewals, ~~including~~, including an offer of renewal required by Sections 663 and 678, the notice of conditional renewal required by Section 678.1, the offer of coverage or renewal or any disclosure required by Section 10086, and the offer of renewal for a workers' compensation policy, as authorized by this section.

Notwithstanding paragraph (4) of subdivision (b) of Section 1633.3 of the Civil Code, for any policy of life insurance, as defined in Section 101, any statutory requirement for a separate acknowledgment, signature, or initial, which is not expressly prohibited by subdivision (c) of Section 1633.3 of the Civil Code, may be transacted using an electronic signature, or by electronic transaction, subject to all applicable provisions of this section.

The department may suspend a licensee from providing records by electronic transmission if there is a pattern or practices that demonstrate the licensee has failed to comply with the requirements of this section. A licensee may appeal the suspension and resume its electronic transmission of records upon communication from the department that the changes the licensee made to its process or system to comply with the requirements of this section are satisfactory.

This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 135.

Section 1063.135 of the Insurance Code is amended to read:

1063.135.

The plan of operation adopted pursuant to subdivision (c) of Section 1063 shall contain provisions whereby each member insurer is required to ~~recoup~~ recoup, in the year following the premium ~~charge~~ charge, a sum reasonably calculated to recoup the premium charge paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this article applies. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agents' commission.

The amount of any surcharge shall be separately stated on either a billing or policy declaration sent to an insured. The association shall determine the rate of the surcharge and the collection period for each category and these shall be mandatory for all member insurers of the association who write business in those categories. Member insurers who collect surcharges in excess of premiums paid pursuant to Section 1063.45 for an insolvent insurer shall remit the excess to the association as an additional premium within 30 days after the association has determined the amount of the excess recoupment and

given notice to the member insurer of that amount. The excess shall be applied to reduce future premium charges in the appropriate category.

The plan of operation may permit a member insurer to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge. However, ~~nothing in~~ this section ~~shall~~ **does not** relieve the member insurer of its obligation to recoup the amount of surcharge otherwise collectible.

This section ~~shall apply~~ **applies** only to premium charges paid prior to January 1, 2017.

This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 136.

Section 1063.14 of the Insurance Code is amended to read:

1063.14.

The plan of operation adopted pursuant to subdivision (c) of Section 1063 shall contain provisions whereby each member insurer is required to ~~recoup~~ **recoup**, in the year following the premium ~~charge~~ **charge**, a sum calculated to recoup the premium charge paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this article applies.

Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agents' commission.

The amount of any surcharge shall be separately stated on either a billing or policy declaration sent to an insured. The association shall determine the rate of the surcharge and the collection period for each category, and these shall be mandatory for all member insurers of the association who write business in those categories.

Each member insurer shall file a report in accordance with the provisions of the plan of operation indicating the amount of surcharges it has collected.

Member insurers who collect surcharges in excess of premium charges paid in the preceding year pursuant to Section 1063.5 shall remit the excess to the association as an additional premium within 30 days after the association has determined the amount of the excess recoupment and given notice to the member insurer of that amount. The excess shall be applied to reduce future premium charges in the appropriate category.

Member insurers who report surcharge collections that are less than what they paid in the preceding year's premium charge shall receive reimbursement from the association for the shortfall in surcharge collection.

The plan of operation may permit a member insurer to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge.

A member insurer electing to omit collecting surcharges from any of its insureds shall not be entitled to any reimbursement from the association pursuant to subdivision (b).

However, ~~nothing in~~ this section ~~shall~~ **does not** relieve the member insurer of its obligation to recoup the amount of surcharge otherwise collectible.

This section ~~shall apply~~ **applies** only to premium charges paid on or after January 1, 2017.

SEC. 137.

Section 10235.52 of the Insurance Code is amended to read:

10235.52.

Each policy shall contain a provision that, if the insurer develops new benefits or benefit eligibility or new policies with new benefits or benefit eligibility not included in the previously issued policy, the insurer shall grant current holders of its policies who are not in benefit or within the elimination period all of the following rights:

The insurer shall notify the policyholder of the availability of the new benefits or benefit eligibility or new policy within 12 months of the date that the new policy series is made available for sale in this state. The insurer shall file the notice with the department at the same time as the new policy or rider.

The insurer shall offer the policyholder new benefits or benefit eligibility in one of the following ways:

By adding a rider to the existing policy and paying a separate premium for the new benefits or benefit eligibility based on the insured's attained age. The premium for the existing policy shall remain unchanged based on the insured's age at issuance.

By replacing the existing policy or certificate in accordance with Section 10234.87.

By replacing the existing policy or certificate with a new policy or ~~certificate~~ certificate, in which case consideration for past insured status shall be recognized by setting the premium for the replacement policy or certificate at the issue age of the policy or certificate being replaced.

The insured may be required to undergo new underwriting, but the underwriting can be no more restrictive than if the policyholder or certificate holder were applying for a new policy or certificate.

The insurer of a group policy as defined under subdivisions (a) to (c), inclusive, of Section 10231.6 shall offer the group policyholder the opportunity to have coverage for the new benefits and provisions extended to existing certificate holders, but the insurer is relieved of the obligations imposed by this section if the holder of the group policy declines the issuer's offer.

For purposes of this section, new benefits means coverage for new long-term care services or providers that are material in nature. New benefits that are material in nature ~~does~~ do not include changes to policy structure, benefits, or provisions that are minor in nature. Changes that are minor in nature include, but are not limited to, changes in elimination periods, benefit periods, and benefit amounts.

SEC. 138.

Section 139.21 of the Labor Code is amended to read:

139.21.

The administrative director shall promptly suspend, pursuant to subdivision (b), any physician, practitioner, or provider from participating in the workers' compensation system as a physician, practitioner, or provider if the individual or entity meets any of the following criteria:

The individual has been convicted of any felony or misdemeanor and that crime comes within any of the following descriptions:

It involves fraud or abuse of the Medi-Cal program, Medicare program, or workers' compensation system, or fraud or abuse of any patient.

(ii) It relates to the conduct of the individual's medical practice as it pertains to patient care.

(iii) It is a financial crime that relates to the Medi-Cal program, Medicare program, or workers' compensation system.

It is otherwise substantially related to the qualifications, functions, or duties of a provider of services.

The individual or entity has been suspended, due to fraud or abuse, from the federal Medicare or Medicaid programs.

The individual's license, certificate, or approval to provide health care has been surrendered or revoked.

The administrative director shall exercise due diligence to identify physicians, practitioners, or providers who have been suspended as described in subdivision (a) by accessing the quarterly updates to the list of suspended and ineligible providers maintained by the State Department of Health Care Services for the Medi-Cal program at <https://files.medical.ca.gov/pubsdoco/SandILanding.asp>.

The administrative director shall adopt regulations for suspending a physician, practitioner, or provider from participating in the workers' compensation system, subject to the notice and hearing requirements in paragraph (2).

The administrative director shall furnish to the physician, practitioner, or provider written notice of the right to a hearing regarding the suspension and the procedure to follow to request a hearing. The notice shall state that the administrative director is required to suspend the physician, practitioner, or provider pursuant to subdivision (a) after 30 days from the date the notice is mailed unless the physician, practitioner, or provider requests a hearing and, in that hearing, the physician, practitioner, or provider provides proof that paragraph (1) of subdivision (a) is not applicable. The physician, practitioner, or provider may request a hearing within 10 days from the date the notice is sent by the administrative director. The request for the hearing shall stay the suspension. The hearing shall be held within 30 days of the receipt of the request. Upon the completion of the hearing, if the administrative director finds that paragraph (1) of subdivision (a) is applicable, the administrative director shall immediately suspend the physician, practitioner, or provider.

The administrative director shall have power and jurisdiction to do all things necessary or convenient to conduct the hearings provided for in paragraph (2). The hearings and investigations may be conducted by any designated hearing officer appointed by the administrative director. Any authorized person conducting that hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure.

The administrative director shall promptly notify the physician's, practitioner's, or provider's state licensing, certifying, or registering authority of a suspension imposed pursuant to this section and shall update the division's qualified medical evaluator and medical provider network databases, as appropriate.

Upon suspension of a physician, practitioner, or provider pursuant to this section, the administrative director shall give notice of the suspension to the chief judge of the division, and the chief judge shall promptly thereafter provide written notification of the suspension to district offices and all workers' compensation judges. The method of notification to all district offices and to all workers' compensation

judges shall be in a manner determined by the chief judge in his or her discretion. The administrative director shall also post notification of the suspension on the department's Internet Web site.

The following procedures ~~shall~~ apply for the adjudication of any liens of a physician, practitioner, or provider suspended pursuant to subparagraph (A) of paragraph (1) of subdivision (a), including any liens filed by or on behalf of the physician, practitioner, or provider or any clinic, ~~group~~ group, or corporation in which the suspended physician, practitioner, or provider has an ownership ~~interest~~ interest:

If the disposition of the criminal proceeding provides for or requires, whether by plea agreement or by judgment, dismissal of liens and forfeiture of sums claimed therein, as specified in the criminal disposition, all of those liens shall be deemed dismissed with prejudice by operation of law as of the effective date of the final disposition in the criminal proceeding, and orders notifying of those dismissals ~~may and~~ shall be entered by workers' compensation judges.

If the disposition of the criminal proceeding fails to specify the disposition to be made of lien filings in the workers' compensation system as set forth in paragraph (1), all liens pending in any workers' compensation case in any district office within the state shall be consolidated and adjudicated in a special lien proceeding as described in subdivisions (f) to (i), inclusive.

After notice of suspension, pursuant to subdivision (d), and if subdivision (e) applies, the administrative director shall appoint a special lien proceeding attorney, who shall be an attorney employed by the division or by the department. The special lien proceeding attorney shall, based on the information that is available, identify liens subject to disposition pursuant to subdivision (e), and workers' compensation cases in which those liens are pending, and shall notify the chief judge regarding those liens. Based on this information, the chief judge shall identify a district office for a consolidated special lien proceeding to adjudicate those liens, and shall appoint a workers' compensation judge to preside over that proceeding.

It shall be a presumption affecting the burden of proof that all liens to be adjudicated in the special lien proceeding, and all underlying bills for service and claims for compensation asserted therein, arise from the conduct subjecting the physician, practitioner, or provider to suspension, and that payment is not due and should not be made on those liens because they arise from, or are connected to, criminal, fraudulent, or abusive conduct or activity. A lien claimant shall not have the right to payment unless he or she rebuts that presumption by a preponderance of the evidence.

The special lien proceedings shall be governed by the same laws, regulations, and procedures that govern all other matters before the appeals board. The administrative director shall promulgate regulations for the implementation of this section.

If it is determined in a special lien proceeding that a lien does not arise from the conduct subjecting a physician, practitioner, or provider to suspension, the workers' compensation judge shall have the discretion to adjudicate the lien or transfer the lien back to the district office having venue over the case in which the lien was filed.

At any time following suspension, a physician, practitioner, or provider lien claimant may elect to withdraw or to dismiss his or her lien with prejudice, which shall constitute a final disposition of the claim for compensation asserted therein.

The provisions of this section ~~shall~~ do not affect, amend, alter, or in any way apply to the provisions of Section 139.2.

SEC. 139.

Section 201.3 of the Labor Code is amended to read:

201.3.

For purposes of this section, the following definitions apply:

“Temporary services employer” means an employing unit that contracts with clients or customers to supply workers to perform services for the clients or customers and that performs all of the following functions:

Negotiates with clients and customers for matters such as the time and place where the services are to be provided, the type of work, the working conditions, and the quality and price of the services.

Determines assignments or reassignments of workers, even if workers retain the right to refuse specific assignments.

Retains the authority to assign or reassign a worker to another client or customer when the worker is determined unacceptable by a specific client or customer.

Assigns or reassigns workers to perform services for clients or customers.

Sets the rate of pay of workers, whether or not through negotiation.

Pays workers from its own account or accounts.

Retains the right to hire and terminate workers.

“Temporary services employer” does not include any of the following:

A bona fide nonprofit organization that provides temporary service employees to clients.

A farm labor contractor, as defined in subdivision (b) of Section 1682.

A garment manufacturing employer, which, for purposes of this section, has the same meaning as “contractor,” as defined in subdivision (d) of Section 2671.

“Employing unit” has the same meaning as defined in Section 135 of the Unemployment Insurance Code.

“Client” and “customer” ~~means~~ mean the person with whom a temporary services employer has a contractual relationship to provide the services of one or more individuals employed by the temporary services employer.

(A) Except as provided in paragraphs (2) to (5), inclusive, if an employee of a temporary services employer is assigned to work for a client, that employee’s wages are due and payable no less frequently than weekly, regardless of when the assignment ends, and wages for work performed during any calendar week shall be due and payable not later than the regular payday of the following calendar week. A temporary services employer shall be deemed to have timely paid wages upon completion of an assignment if wages are paid in compliance with this subdivision.

Except as provided in paragraphs (2) to (5), inclusive, if an employee of a temporary services employer in the security services industry is a security guard who is registered pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, is employed by a private patrol operator licensed pursuant to that chapter, and is assigned to work for a client, that employee’s wages are due and payable no less frequently than weekly, regardless of when the assignment ends, and wages for work performed during any workweek,

as defined under Section 500, shall be due and payable not later than the regular payday of the following workweek.

If an employee of a temporary services employer is assigned to work for a client on a day-to-day basis, that employee's wages are due and payable at the end of each day, regardless of when the assignment ends, if each of the following occurs:

The employee reports to or assembles at the office of the temporary services employer or other location.

The employee is dispatched to a client's worksite each day and returns to or reports to the office of the temporary services employer or other location upon completion of the assignment.

The employee's work is not executive, administrative, or professional, as defined in the wage orders of the Industrial Welfare Commission, and is not clerical.

If an employee of a temporary services employer is assigned to work for a client engaged in a trade dispute, that employee's wages are due and payable at the end of each day, regardless of when the assignment ends.

If an employee of a temporary services employer is assigned to work for a client and is discharged by the temporary services employer or leasing employer, wages are due and payable as provided in Section 201.

If an employee of a temporary services employer is assigned to work for a client and quits his or her employment with the temporary services employer, wages are due and payable as provided in Section 202.

If an employee of a temporary services employer is assigned to work for a client for over 90 consecutive calendar days, this section ~~shall~~ **does** not apply unless the temporary services employer pays the employee weekly in compliance with paragraph (1) of subdivision (b).

A temporary services employer who violates this section ~~shall be~~ **is** subject to the civil penalties provided for in Section ~~203~~, **203** and to any other penalties available at law.

~~Nothing in this~~ **This** section shall **not** be interpreted to limit any rights or remedies otherwise available under state or federal law.

SEC. 140.

Section 1072 of the Labor Code is amended to read:

1072.

A bidder shall declare as part of the bid for a service contract whether or not the bidder will retain the employees of the prior contractor or subcontractor for a period of not less than 90 days, as provided in this chapter, if awarded the service contract.

An awarding authority letting a service contract out to bid shall give a ~~10-percent~~ **10-percent** preference to any bidder who agrees to retain the employees of the prior contractor or subcontractor pursuant to subdivision (a).

If the awarding authority announces that it intends to let a service contract out to bid, the existing service contractor, within a reasonable time, shall provide to the awarding authority the number of employees who are performing services under the service contract and the wage rates, benefits, and job classifications of those employees. In addition, the existing service contractor shall make this

information available to any entity that the awarding authority has identified as a bona fide bidder. This information shall be made available to each bona fide bidder in writing at least 30 days before bids for the service contract are due, whether by inclusion of the information in the request for bids or otherwise. If the successor service contract is awarded to a new contractor, the existing contractor shall provide the names, addresses, dates of hire, wages, benefit levels, and job classifications of employees to the successor contractor. The duties imposed by this subdivision shall be contained in all service contracts.

A successor contractor or subcontractor who agrees to retain employees pursuant to subdivision (a) shall retain employees who have been employed by the prior contractor or subcontractors, except for reasonable and substantiated cause. That cause is limited to the particular employee's performance or conduct while working under the prior contract or the employee's failure of any controlled substances and alcohol test, physical examination, criminal background check required by law as a condition of employment, or other standard hiring qualification lawfully required by the successor contractor or subcontractor.

The successor contractor or subcontractor shall make a written offer of employment to each employee to be retained pursuant to subdivision (a). That offer shall state the time within which the employee must accept that offer, but in no case less than 10 days. ~~Nothing in this~~ This section ~~requires~~ does not require the successor contractor or subcontractor to pay the same wages or offer the same benefits provided by the prior contractor or subcontractor.

If, at any time, the successor contractor or subcontractor determines that fewer employees are required than were required under the prior contract or subcontract, the successor contractor or subcontractor shall retain qualified employees by seniority within the job classification. In determining those employees who are qualified, the successor contractor or subcontractor may require an employee to possess any license that is required by law to operate the equipment that the employee will operate as an employee of the successor contractor or subcontractor.

SEC. 141.

The heading of Article 2 (commencing with Section 1285) of Chapter 2 of Part 4 of Division 2 of the Labor Code is repealed.

~~2.Minors~~

SEC. 142.

Section 1285 of the Labor Code is amended to read:

1285.

It is the intent of the Legislature in enacting Sections 1286 to 1289, inclusive, to establish a citation system for the imposition of prompt and effective civil sanctions against violators of the laws and regulations of this state relating to the employment of minors. The civil penalties provided for in this ~~article~~ chapter are in addition to any other penalty provided by law.

SEC. 143.

Section 1286 of the Labor Code is amended to read:

1286.

As used in this ~~article:~~ chapter:

“Director” means the Director of Industrial Relations or his or her designee.

“Department” means the Department of Industrial Relations.

“Minor” means any person under the age of 18 years who is required to attend school under Chapter 2 (commencing with Section 48200) and Chapter 3 (commencing with Section 48400) of Part 27 of the

Education Code and any person under the age of six years. A person under the age of 18 years who is not required to attend school under Chapter 2 (commencing with Section 48200) and Chapter 3 (commencing with Section 48400) of Part 27 of the Education Code solely because that person is a nonresident of California shall still be considered a minor.

“Labor Commissioner” means the Chief of the Division of Labor Law Enforcement, his or her deputies or agents, who shall have the authority to conduct informal hearings and determine the amount of civil penalties in accordance with this ~~article~~ chapter.

“Door-to-door sales” has the same meaning as “home solicitation contract or offer,” as defined in subdivision (a) of Section 1689.5 of the Civil Code, except that “door-to-door sales” is not subject to the minimum monetary limitation set forth in that subdivision.

SEC. 144.

Section 1288 of the Labor Code is amended to read:

1288.

Citations issued pursuant to this ~~article~~ chapter shall be classified according to the nature of the ~~violation~~, violation and shall indicate the classification on the face thereof, as follows:

Class “A” violations are violations of Section 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1308, 1308.1, or 1392, and any other violations that the director determines present an imminent danger to minor employees or a substantial probability that death or serious physical harm would result therefrom. The violation of Section 1391 for the third or subsequent time shall also constitute a class “A” violation. A physical condition or one or more practices, means, methods, or operations in use in a place of employment may constitute a violation. A class “A” violation is subject to a civil penalty in an amount not less than five thousand dollars (\$5,000) and not exceeding ten thousand dollars (\$10,000) for each and every violation. Willful or repeated violations shall receive higher civil penalties than those imposed for comparable nonwillful or first violations, not to exceed ten thousand dollars (\$10,000).

Class “B” violations are violations of Section 1299 or 1308.5, or a violation of Section 1391 for the first and second time, and those other violations that the director determines have a direct or immediate relationship to the health, safety, or security of minor employees, other than class “A” violations. A class “B” violation is subject to a civil penalty in an amount not less than five hundred dollars (\$500) and not to exceed one thousand dollars (\$1,000) for each and every violation. Willful or repeated violations shall receive higher civil penalties than those imposed for comparable nonwillful or first violations. A second violation of Section 1391 ~~shall be~~ is subject to a civil penalty of one thousand dollars (\$1,000).

~~Nothing in this~~ This section ~~shall~~ does not preclude the imposition of criminal penalties provided for in this chapter.

SEC. 145.

Section 1290 of the Labor Code is amended to read:

1290.

~~No~~ A minor under the age of 16 years shall not be employed, permitted, or suffered to work in or in connection with any manufacturing establishment or other place of labor or employment at any time except as may be provided in this ~~article~~ chapter or by the provisions of Part 27 (commencing with Section 48000) of the Education Code.

SEC. 146.

Section 1291 of the Labor Code is amended to read:

1291.

Work is done for a manufacturing establishment within the meaning of this ~~article~~ chapter whenever it is done at any place upon the work of a manufacturing establishment, or upon any of the materials entering into the products of a manufacturing establishment, whether under contract or arrangement with any person in charge of or connected with a manufacturing establishment directly or indirectly through contractors or third persons.

SEC. 147.

Section 1299 of the Labor Code is amended to read:

1299.

Every person, or agent or officer thereof, employing minors, either directly or indirectly through third persons, shall keep on file all permits and certificates, either to work or to employ, issued under this ~~article~~ chapter or Part 27 (commencing with Section 48000) of the Education Code. The files shall be open at all times to the inspection of the school attendance and probation officers, the State Board of Education, and the officers of the Division of Labor Standards Enforcement.

SEC. 148.

Section 1301 of the Labor Code is amended to read:

1301.

The provisions of this ~~article~~ chapter concerning the employment of minors, and the civil penalties for violations of those provisions, ~~shall be~~ are fully applicable to every person who owns or controls the real property upon which a minor is employed, whether or not that person is the minor's employer, if the minor's employment is for the benefit of the person, and the person has knowingly permitted the violation or continuation of violations.

The posting of a notice pursuant to Section 49140 of the Education Code ~~shall does not operate to~~ exempt any person from this ~~article~~ chapter.

SEC. 149.

Section 1302 of the Labor Code is amended to read:

1302.

The attendance supervisor, who is a full-time attendance supervisor performing no other duties, of any county, city and county, or school district in which any place of employment is situated, or the probation officer of the county, may at any time, enter the place of employment for the purpose of examining permits to work or to employ of all minors employed in the place of employment, or for the purpose of investigating violations of this ~~article~~ chapter or of Chapter 2 (commencing with Section 48200), 3 (commencing with Section 48400), or 7 (commencing with Section 49100) of Part 27 of the Education Code. If an attendance supervisor or probation officer is denied entrance to the place of employment, or if any violations of laws relating to the employment of minors are found to exist, the attendance supervisor or probation officer shall report the denial of entrance or the violation to the Labor Commissioner. The report shall be made within 48 hours and shall be in writing, setting forth the fact that he or she has good cause to believe that these laws are being violated in the place of employment, and describing the nature of the violation.

SEC. 150.

Section 1303 of the Labor Code is amended to read:

1303.

Any person, or agent or officer ~~thereof~~, of that person, employing either directly or indirectly through third persons, or any parent or guardian of a minor affected by this ~~article~~ chapter who violates any

provision ~~hereof, of this chapter,~~ or who employs, or permits any minor to be employed in violation ~~hereof, of this chapter,~~ is guilty of a misdemeanor, punishable by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or imprisonment in the county jail for not more than six months, or both. Any person who willfully violates this ~~article chapter~~ shall, upon conviction, be subject to a fine of not more than ten thousand dollars (\$10,000) or to imprisonment in the county jail for not more than six months, or both. ~~No~~ A person shall ~~not~~ be imprisoned under this section, except for an offense committed after the conviction of that person for a prior offense under this ~~article chapter~~.

SEC. 151.

Section 1304 of the Labor Code is amended to read:

1304.

Failure to produce any permit or certificate either to work or to employ is prima facie evidence of the illegal employment of any minor whose permit or certificate is not ~~so~~ produced. Proof that any person was the manager or superintendent of any place of employment subject to ~~the provisions of this article this chapter~~ at the time any minor is alleged to have been employed therein in violation ~~thereof, of this chapter,~~ is prima facie evidence that the person employed, or permitted the minor ~~so~~ to work. The sworn statement of the Labor Commissioner or his deputy or agents as to the age of any child affected by this ~~article chapter~~ is prima facie evidence of the age of ~~such the~~ child.

SEC. 152.

Section 1305 of the Labor Code is amended to read:

1305.

All fines and penalties collected under this ~~article chapter,~~ other than as the result of a judicial proceeding to enforce collection, shall be paid to the department in the form of remittances payable to the Department of Industrial Relations. The department shall transmit the payments to the State Treasury and the payments shall be credited to the General Fund.

Notwithstanding Section 1463 of the Penal Code, all fines and penalties collected in judicial proceedings to enforce their collection, except for the civil penalties that are assessed and collected pursuant to Sections 1287, 1288, and 1289, shall be allocated pursuant to court order. The court shall direct that 50 percent of the fines and penalties assessed shall be transmitted to the county treasury, if prosecuted by the district attorney or the county counsel, or to the city treasury, if prosecuted by the city attorney, 25 percent of the fines and penalties assessed shall be transmitted to the Department of Industrial Relations to be available, upon appropriation by the Legislature, for the purpose of recovering costs incurred by the department pursuant to this chapter, and 25 percent of the fines and penalties assessed be transmitted to the Treasurer for deposit in the State Treasury to the credit of the General Fund.

SEC. 153.

Section 1308 of the Labor Code is amended to read:

1308.

Any person is guilty of a misdemeanor and is punishable by a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000), imprisonment for not exceeding six months, or both, who, as parent, relative, guardian, employer, or otherwise having the care, custody, or control of any minor under the age of 16 years, exhibits, uses, or employs, or in any manner or under any pretense, sells, apprentices, gives away, lets out, or disposes of the minor to any person, under any name, title, or pretense for, or who causes, procures, or encourages the minor to engage in any of the following:

Any business, exhibition, or vocation injurious to the health or dangerous to the life or limb of the minor.

The vocation, occupation, service, or purpose of singing, playing on musical instruments, rope or wire walking, dancing, begging, or peddling, or as a gymnast, acrobat, contortionist, or rider, in any place whatsoever.

Any obscene, indecent, or immoral purposes, exhibition, or practice whatsoever. Notwithstanding any other ~~provision of~~ law, this paragraph ~~shall apply~~ **applies** to a person with respect to any minor under the age of 18 years.

Any mendicant or wandering business.

Any person who willfully violates this section shall, upon conviction, be subject to a fine of not more than ten thousand dollars (\$10,000), or to imprisonment in the county jail for not more than six months, or both. No person shall be imprisoned under this section, except for an offense committed after the conviction of that person for a prior offense under this ~~article~~ **chapter**.

~~Nothing in this~~ **This** section ~~applies~~ **does not apply** to or ~~affects~~ **affect** any of the following:

The employment or use of any minor as a singer or musician in any church, school, or academy, or the teaching or learning of the science or practice of music.

The employment of any minor as a musician at any concert or other musical entertainment, or as a performer in any form of entertainment, on the written consent of the Labor Commissioner pursuant to Section 1308.5.

The participation by any minor of any age, whether or not the minor receives payment for his or her services or receives money prizes, in any horseback riding exhibition, contest, or event other than a rough stock rodeo event, circus, or race. As used in this paragraph, “rough stock rodeo event” means any rodeo event operated for profit or operated by other than a nonprofit organization in which unbroken, little-trained, or imperfectly trained animals are ridden or handled by the participant, and shall include, but not be limited to, saddle bronc riding, bareback riding, and bull riding. As used in this paragraph, “race” means any speed contest between two or more animals that are on a course at the same time and that is operated for profit or operated other than by a nonprofit organization.

The leading of livestock by a minor in nonprofit fairs, stock parades, livestock shows and exhibitions.

SEC. 154.

Section 1308.3 of the Labor Code is amended to read:

1308.3.

Except as provided in subdivision (g), any individual, association, corporation, or other entity that employs or uses, either directly or indirectly through third persons, minors under 16 years of age in door-to-door sales at any location more than 10 miles from the minor’s residence shall register with the Labor Commissioner pursuant to this section. Registration may be renewed on an annual basis.

The Labor Commissioner shall not register or renew registration of any applicant pursuant to this section unless all of the following conditions are satisfied:

The organization has executed a written application therefor on a form prescribed by the Labor Commissioner, including all of the following:

The company's name, address, and employer identification number, and the names, addresses, and social security numbers of all adults employed to supervise, accompany, or transport minors who would be engaged in door-to-door sales. The information provided pursuant to this subparagraph shall be set forth in a declaration under penalty of perjury by the applicant if an individual, or an officer of an applicant that is an association, corporation, or other entity.

A statement of all the facts required by the Labor Commissioner concerning the nature of the merchandise to be sold and a plan detailing the level and nature of adult supervision to be provided minors engaged in door-to-door sales. The information provided pursuant to this subparagraph shall be by declaration under penalty of perjury by the individual, or an officer of the association, corporation, or other entity.

A copy of any written contract or other written agreement to be offered by the applicant to minors employed or used by the applicant in door-to-door sales.

The Labor Commissioner, following an investigation thereof, is satisfied that the employer has not previously violated this ~~article~~ chapter and does not propose to expose minors in its employ to hazardous or unsafe working conditions.

Each application for initial registration shall be accompanied by a fee determined by the Labor Commissioner in an amount sufficient in the aggregate to defray the division's costs of administering the registration program, but which shall not exceed three hundred fifty dollars (\$350) for initial registration or two hundred dollars (\$200) for registration renewal.

Any registrant under this section shall, upon request, make available for inspection by the Labor Commissioner all of its payroll records for any period.

Any registrant under this section, or person acting on behalf of a registrant, shall have proof of registration with the Labor Commissioner in his or her immediate possession at all times when engaged in any activity described in subdivision (a).

Whenever an application for a registration or renewal is made, and application processing pursuant to this section has not been completed, the Labor Commissioner may, at his or her discretion, issue a temporary or provisional registration valid for a period not exceeding 90 days, and subject, where appropriate, to summary revocation by the Labor Commissioner. Otherwise, the conditions for issuance or renewal of registration shall meet the requirements of subdivision (a).

Any person or entity, or any agent or officer thereof, who violates subdivision (a) or (d), and any parent or guardian who knowingly permits a minor in his or her custody to be employed in door-to-door sales specified in subdivision (a) by an unregistered person or entity, or permits any minor to be employed in violation hereof, is guilty of a misdemeanor, punishable by a fine of one thousand dollars (\$1,000) per affected minor for the first conviction for a violation, two thousand five hundred dollars (\$2,500) per affected minor for the second conviction for a violation, and ten thousand dollars (\$10,000) per affected minor for a third or subsequent conviction for a violation.

This section does not apply to any trustee or charitable corporation, as defined in Sections 12582 and 12582.1, respectively, of the Government Code, or to any entity described in Section 12583 of the Government Code.

SEC. 155.

Section 1308.11 of the Labor Code is amended to read:

1308.11.

All registrations, fees, and permit fees collected under this ~~article~~ chapter shall be deposited in the Labor Enforcement and Compliance Fund.

On ~~the effective date of this section, June 27, 2016,~~ any moneys in the Entertainment Work Permit Fund and any assets, liabilities, revenues, expenditures, and encumbrances of that fund shall be transferred to the Labor Enforcement and Compliance Fund.

SEC. 156.

Section 1309 of the Labor Code is amended to read:

1309.

Every person who takes, receives, hires, employs, uses, exhibits, or has in custody, for any of the purposes mentioned in Section 1308, any minor under the age of 16, or under the age of 18, as specified in paragraph (3) of subdivision (a) of Section 1308, is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or imprisonment for not more than six months, or both.

Any person who willfully violates this section shall, upon conviction, be subject to a fine of not more than ten thousand dollars (\$10,000), or to imprisonment in the county jail for not more than six months, or both. ~~No~~ A person shall ~~not~~ be imprisoned under this section, except for an offense committed after the conviction of that person for a prior offense under this ~~article.~~ chapter.

SEC. 157.

Section 1310 of the Labor Code is amended to read:

1310.

~~Nothing in this article or Article 2~~ This chapter and Chapter 3 (commencing with Section 1390) ~~of Chapter 3 shall do not prohibit or prevent~~ prevent any of the following:

The appearance of any minor in any church, public or religious school, or community entertainment.

The appearance of any minor in any school entertainment or in any entertainment for charity or for children, for which ~~no~~ an admission fee is ~~not~~ charged.

The appearance of any minor in any radio or television broadcasting exhibition, ~~where if~~ the minor ~~receives no~~ does not receive compensation directly or indirectly therefor, ~~and where~~ the engagement of the minor is limited to a single appearance lasting not more than one hour, and ~~where no~~ an admission fee is ~~not~~ charged for the radio broadcasting or television exhibition.

The appearance of any minor at any one event during a calendar year, occurring on a day on which school attendance is not required or on the day preceding such a day, lasting four hours or less, ~~where if~~ a parent or guardian of the minor is present, for which the minor does not directly or indirectly receive any compensation.

SEC. 158.

Section 1311 of the Labor Code is amended to read:

1311.

The Division of Labor Standards Enforcement shall enforce this ~~article.~~ chapter.

SEC. 159.

Section 1312 of the Labor Code is amended to read:

1312.

~~Nothing in this article shall~~ This chapter does not limit the authority of the Attorney General or the district attorney of any county, either upon their own complaint or the complaint of any person acting for himself or the general public, to prosecute actions, either civil or criminal, for violations of this ~~article~~, chapter, or to enforce the provisions thereof independently and without specific direction of the director.

SEC. 160.

The heading of Article 2 (commencing with Section 1390) of Chapter 3 of Part 4 of Division 2 of the Labor Code is repealed.

~~2.~~Minors

SEC. 161.

Section 1390 of the Labor Code is amended to read:

1390.

As used in this ~~article~~, chapter, unless the context otherwise indicates:

“Horticultural” includes the curing and drying but not the canning of all varieties of fruit.

“Drama” or “play” includes the production of motion picture plays.

SEC. 162.

Section 1391 of the Labor Code is amended to read:

1391.

Except as provided in Sections 1297, 1298, and 1308.7:

~~No~~-An employer shall not employ a minor 15 years of age or younger for more than eight hours in one day of 24 hours, or more than 40 hours in one week, or before 7 a.m. or after 7 p.m., except that from June 1 through Labor Day, a minor 15 years of age or younger may be employed for the hours authorized by this section until 9 p.m. in the evening.

Notwithstanding paragraph (1), while school is in session, ~~no~~ an employer shall not employ a minor 14 or 15 years of age for more than three hours in any schoolday, nor more than 18 hours in any week, nor during school hours, except that a minor enrolled in and employed pursuant to a school-supervised and school-administered work experience and career exploration program may be employed for no more than 23 hours, any portion of which may be during school hours.

~~No~~-An employer shall not employ a minor 16 or 17 years of age for more than eight hours in one day of 24 hours or more than 48 hours in one week, or before 5 a.m., or after 10 p.m. on any day preceding a schoolday. However, a minor 16 or 17 years of age may be employed for the hours authorized by this section during any evening preceding a nonschoolday until 12:30 a.m. of the nonschoolday.

Notwithstanding paragraph (3), while school is in session, ~~no~~ an employer shall not employ a minor 16 or 17 years of age for more than four hours in any schoolday, except as follows:

The minor is employed in personal attendant occupations, as defined in the Industrial Welfare Commission Minimum Wage Order No. 15 (8 Cal. Code Regs. Sec. 11150), school-approved work experience, or cooperative vocational education programs.

The minor has been issued a permit to work pursuant to subdivision (c) of Section 49112 of the Education Code and is employed in accordance with the provisions of that permit.

For purposes of this section, “school day” means any day in which a minor is required to attend school for 240 minutes or more.

Any person or the agent or officer thereof, or any parent or guardian, who directly or indirectly violates or causes or suffers the violation of this section is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than 60 days, or both. Any person who willfully violates this section shall, upon conviction, be subject to a fine of not more than ten thousand dollars (\$10,000) or to imprisonment in the county jail for not more than six months, or both. No person shall be imprisoned under this section, except for an offense committed after the conviction of that person for a prior offense under this ~~article~~ chapter.

~~Nothing in this~~ This section ~~shall~~ does not apply to any minor employed to deliver newspapers to consumers.

SEC. 163.

Section 1393 of the Labor Code is amended to read:

1393.

Notwithstanding any other provision of this ~~article~~ chapter and Article 2 (commencing with Section 49110) of Chapter 7 of Part 27 of Division 4 of Title 2 of the Education Code, the Labor Commissioner may issue an exemption from laws regulating the employment of minors to employers operating agricultural packing plants that employ minors 16 and 17 years of age during any day during which school is not in session, for up to 10 hours per day during the peak harvest season. These exemptions shall only be granted if they do not materially affect the safety and welfare of minor employees and will prevent undue hardship on the employer. The Labor Commissioner may require an inspection of an agricultural packing plant prior to issuing an exemption.

Any exemption granted pursuant to subdivision (a) shall be in writing to be effective, and may be revoked after reasonable notice is given, in writing, by the Labor Commissioner. Any notice of revocation shall include the reason for the revocation.

An application for an exemption under subdivision (a) shall be made by an employer on a form provided by the Labor Commissioner, and a copy of the application shall be posted at the employer’s place of employment at the time the application is filed with the division.

SEC. 164.

Section 1393.5 of the Labor Code is amended to read:

1393.5.

Notwithstanding any other provision of this ~~article~~ chapter or Article 2 (commencing with Section 49110) of Chapter 7 of Part 27 of Division 4 of Title 2 of the Education Code, an exemption issued pursuant to Section 1393 may authorize the employment during the peak harvest season of a minor, 16 or 17 years of age who resides in the County of Lake during any day in which school is not in session for up to 10 hours per day and more than 48 hours but not more than 60 hours in any one week, only upon the prior written approval of the Lake County Office of Education.

Each year, the Labor Commissioner, prior to issuing or renewing an exemption under this section, shall inspect the affected agricultural packing plant.

As a condition of receiving an exemption or a renewal of an exemption under this section, an affected employer shall, on or before October 1 of each year, file a written report to the Labor Commissioner that contains the following employment information regarding the employer’s payroll for the same year up to September 15:

The number of minors employed by that employer.

A list of the age and hours worked on a weekly basis of each minor employed.

Notwithstanding Chapter 24 (commencing with Section 7550) of Division 7 of Title 1 of the Government Code, the Labor Commissioner shall submit a written report to the Legislature, on or before November 1, 2016, that describes the general working conditions of minors employed in the agricultural packing industry during the period from March 1, 2011, to October 1, 2016, inclusive, and that includes all of the following information:

The number of minors employed in the agricultural packing industry.

The number of exemptions issued, renewed, or denied pursuant to this section.

A summary of the inspections conducted by the Labor Commissioner pursuant to this section.

The number of workplace injuries that occurred to minors at agricultural packing plants.

The number of violations of labor laws and regulations that occurred at agricultural packing plants.

Notwithstanding Chapter 24 (commencing with Section 7550) of Division 7 of Title 1 of the Government Code, the Labor Commissioner shall submit a written report to the Legislature, on or before November 1, 2020, that describes the general working conditions of minors employed in the agricultural packing industry during the period from October 1, 2016, to October 1, 2020, inclusive, and that includes for this period all the information described in paragraphs (1) to (5), inclusive, of subdivision (d).

A report submitted pursuant to paragraph (1) shall be provided in compliance with Section 9795 of the Government Code.

This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 165.

Section 1394 of the Labor Code is amended to read:

1394.

~~Nothing in this article or Article~~ This chapter and Chapter 2 (commencing with Section 1285) ~~of Chapter 2 shall~~ do not prohibit or prevent either of the following:

The employment of any minor at agricultural, horticultural, viticultural, or domestic labor during the time the public schools are not in session, or during other than school hours, when the work performed is for or under the control of his parent or guardian and is performed upon or in connection with premises owned, operated or controlled by the parent or guardian. However, nothing herein shall permit children under schoolage to work at these ~~occupations~~, occupations while the public schools are in session.

The full-time employment of minors who meet all other legal employment requirements, if they are exempt from compulsory school attendance under Section 48231 of the Education Code.

SEC. 166.

Section 1398 of the Labor Code is amended to read:

1398.

The Division of Labor Standards Enforcement shall enforce the provisions of this ~~article~~ chapter.

SEC. 167.

Section 1399 of the Labor Code is amended to read:

1399.

~~Nothing in this article shall~~ This chapter does not limit the authority of the Attorney General or the district attorney of any county, either upon their own complaint or the complaint of any person acting for himself or the general public, to prosecute actions, either civil or criminal, for violations of this ~~article, chapter~~, or to enforce the provisions thereof independently and without specific direction of the director.

SEC. 168.

Section 1420 of the Labor Code is amended to read:

1420.

For purposes of this part:

“Covered worker” means a janitor, including any individual predominantly working, whether as an employee, independent contractor, or ~~a~~franchisee, as a janitor, as that term is defined in the Service Contract Act Directory of Occupations maintained by the United ~~State~~ States Department of Labor.

“Covered worker” does not include any individual whose work duties are predominantly final cleanup of debris, grounds, and buildings near the completion of a construction, alteration, demolition, installation, or repair work project, including, but not limited to, street cleaners.

“Current and valid registration” means an active registration pursuant to this part that is not expired or revoked.

“Department” means the Department of Industrial Relations.

“Director” means the Director of Industrial Relations.

“Employer” means any person or entity that employs at least one employee and one or more covered workers and that enters into contracts, subcontracts, or franchise arrangements to provide janitorial services. The term “employer” includes the term “covered successor employer.”

“Covered successor employer” means an employer who meets one or more of the following criteria:

Uses substantially the same equipment, supervisors, and workforce to offer substantially the same services to substantially the same clients as a predecessor employer, unless the employer maintains the same workforce pursuant to Chapter 4.5 (commencing with Section 1060) of Part 3. In addition, an employer who has operated with a current and valid registration for at least the preceding three years shall not be considered a covered successor employer for using substantially the same equipment, supervisors, and workforce to substantially the same clients, if all of the following apply:

The individuals in the workforce were not referred or supplied for employment by the predecessor employer to the successor employer.

(ii) The successor employer has not had any interest in, or connection with, the operation, ownership, management, or control of the business of the predecessor employer within the preceding three years.

Shares in the ownership, management, control of the workforce, or interrelations of business operations with the predecessor employer.

Is an immediate family member of any owner, partner, officer, licensee, or director of the predecessor employer or of any person who had a financial interest in the predecessor employer. “Immediate family member” means a spouse, parent, sibling, son, daughter, uncle,

aunt, niece, nephew, grandparent, grandson, granddaughter, mother-in-law, father-in-law, brother-in-law, sister-in-law, or cousin.

“Commissioner” means the Labor Commissioner of the Division of Labor Standards Enforcement of the department.

“Supervisor” has the same meaning as in subdivision (t) of Section 12926 of the Government Code.

SEC. 169.

Section 1433 of the Labor Code is amended to read:

1433.

All registration fees collected pursuant to Section 1427, all civil fines collected pursuant to Section 1432, and any other moneys as are designated by statute or order shall be deposited in the Labor Enforcement and Compliance Fund.

Moneys deposited in the fund pursuant to ~~Section~~ Sections 1427 and ~~Section~~ 1432 shall be used only for the following purposes:

The reasonable costs of administering the registration of janitorial contractors pursuant to this part by the Division of Labor Standards and Enforcement.

The costs and obligations associated with the administration and enforcement of this part by the Division of Labor Standards and Enforcement.

The annual employer registration renewal fee specified in of Section 1427, and any adjusted application renewal fee, shall be set in amounts that are sufficient to support the direct costs and a reasonable percentage attributable to the indirect costs of the division for administering this part.

SEC. 170.

Section 4603.2 of the Labor Code is amended to read:

4603.2.

Upon selecting a physician pursuant to Section 4600, the employee or physician shall notify the employer of the name and address, including the name of the medical group, if applicable, of the physician. The physician shall submit a report to the employer within five working days from the date of the initial examination, as required by Section 6409, and shall submit periodic reports at intervals that may be prescribed by rules and regulations adopted by the administrative director.

If the employer objects to the employee’s selection of the physician on the grounds that the physician is not within the medical provider network used by the employer, and there is a final determination that the employee was entitled to select the physician pursuant to Section 4600, the employee shall be entitled to continue treatment with that physician at the employer’s expense in accordance with this division, notwithstanding Section 4616.2. The employer shall be required to pay from the date of the initial examination if the physician’s report was submitted within five working days of the initial examination. If the physician’s report was submitted more than five working days after the initial examination, the employer and the employee shall not be required to pay for any services prior to the date the physician’s report was submitted.

If the employer objects to the employee’s selection of the physician on the grounds that the physician is not within the medical provider network used by the employer, and there is a final determination that the employee was not entitled to select a physician outside of the medical provider network, the employer ~~shall have no liability~~ is not liable for treatment provided by

or at the direction of that physician or for any consequences of the treatment obtained outside the network.

(A) A provider of services provided pursuant to Section 4600, including, but not limited to, physicians, hospitals, pharmacies, interpreters, copy services, transportation services, and home health care services, shall submit its request for payment with an itemization of services provided and the charge for each service, a copy of all reports showing the services performed, the prescription or referral from the primary treating physician if the services were performed by a person other than the primary treating physician, and any evidence of authorization for the services that may have been received. This section does not prohibit an employer, insurer, or third-party claims administrator from establishing, through written agreement, an alternative manual or electronic request for payment with providers for services provided pursuant to Section 4600.

Effective for services provided on or after January 1, 2017, the request for payment with an itemization of services provided and the charge for each service shall be submitted to the employer within 12 months of the date of service or within 12 months of the date of discharge for inpatient facility services. The administrative director shall adopt rules to implement the 12-month limitation period. The rules shall define circumstances that constitute good cause for an exception to the 12-month period, including provisions to address the circumstances of a nonoccupational injury or illness later found to be a compensable injury or illness. The request for payment is barred unless timely submitted.

Notwithstanding the requirements of this paragraph, a copy of the prescription shall not be required with a request for payment for pharmacy services, unless the provider of services has entered into a written agreement, as provided in this paragraph, that requires a copy of a prescription for a pharmacy service.

This section does not preclude an employer, insurer, pharmacy benefits manager, or third-party claims administrator from requesting a copy of the prescription during a review of any records of prescription drugs that were dispensed by a pharmacy.

Except as provided in subdivision (d) of Section 4603.4, or under contracts authorized under Section 5307.11, payment for medical treatment provided or prescribed by the treating physician selected by the employee or designated by the employer shall be made at reasonable maximum amounts in the official medical fee schedule, pursuant to Section 5307.1, in effect on the date of service. Payments shall be made by the employer with an explanation of review pursuant to Section 4603.3 within 45 days after receipt of each ~~separate~~, separate itemization of medical services provided, together with any required reports and any written authorization for services that may have been received by the physician. If the itemization or a portion thereof is contested, denied, or considered incomplete, the physician shall be notified, in the explanation of review, that the itemization is contested, denied, or considered incomplete, within 30 days after receipt of the itemization by the employer. An explanation of review that states an itemization is incomplete shall also state all additional information required to make a decision. A properly documented list of services provided and not paid at the rates then in effect under Section 5307.1 within the 45-day period shall be paid at the rates then in effect and increased by 15 percent, together with interest at the same rate as judgments in civil actions retroactive to the date of receipt of the itemization, unless the employer does both of the following:

Pays the provider at the rates in effect within the 45-day period.

Advises, in an explanation of review pursuant to Section 4603.3, the physician, or another provider of the items being contested, the reasons for contesting these items, and the remedies available to the physician or the other provider if he or she disagrees. In the case of an itemization that includes services provided by a hospital, outpatient

surgery center, or independent diagnostic facility, advice that a request has been made for an audit of the itemization shall satisfy the requirements of this paragraph.

An employer's liability to a physician or another provider under this section for delayed payments shall not affect its liability to an employee under Section 5814 or any other provision of this division.

Notwithstanding paragraph (1), if the employer is a governmental entity, payment for medical treatment provided or prescribed by the treating physician selected by the employee or designated by the employer shall be made within 60 days after receipt of each separate itemization, together with any required reports and any written authorization for services that may have been received by the physician.

Duplicate submissions of medical services itemizations, for which an explanation of review was previously provided, shall require no further or additional notification or objection by the employer to the medical provider and shall not subject the employer to any additional penalties or interest pursuant to this section for failing to respond to the duplicate submission. This paragraph ~~shall apply~~ applies only to duplicate submissions and does not apply to any other penalties or interest that may be applicable to the original submission.

Interest or an increase in compensation paid by an insurer pursuant to this section shall be treated in the same manner as an increase in compensation under subdivision (d) of Section 4650 for the purposes of any classification of risks and premium rates, and any system of merit rating approved or issued pursuant to Article 2 (commencing with Section 11730) of Chapter 3 of Part 3 of Division 2 of the Insurance Code.

Whenever an employer or insurer employs an individual or contracts with an entity to conduct a review of an itemization submitted by a physician or medical provider, the employer or insurer shall make available to that individual or entity all documentation submitted together with that itemization by the physician or medical provider. When an individual or entity conducting an itemization review determines that additional information or documentation is necessary to review the itemization, the individual or entity shall contact the claims administrator or insurer to obtain the necessary information or documentation that was submitted by the physician or medical provider pursuant to subdivision (b).

An individual or entity reviewing an itemization of service submitted by a physician or medical provider shall not alter the procedure codes listed or recommend reduction of the amount of the payment unless the documentation submitted by the physician or medical provider with the itemization of service has been reviewed by that individual or entity. If the reviewer does not recommend payment for services as itemized by the physician or medical provider, the explanation of review shall provide the physician or medical provider with a specific explanation as to why the reviewer altered the procedure code or changed other parts of the itemization and the specific deficiency in the itemization or documentation that caused the reviewer to conclude that the altered procedure code or amount recommended for payment more accurately represents the service performed.

If the provider disputes the amount paid, the provider may request a second review within 90 days of service of the explanation of review or an order of the appeals board resolving the threshold issue as stated in the explanation of review pursuant to paragraph (5) of subdivision (a) of Section 4603.3. The request for a second review shall be submitted to the employer on a form prescribed by the administrative director and shall include all of the following:

The date of the explanation of review and the claim number or other unique identifying number provided on the explanation of review.

The item and amount in dispute.

The additional payment requested and the reason therefor.

The additional information provided in response to a request in the first explanation of review or any other additional information provided in support of the additional payment requested.

If the only dispute is the amount of payment and the provider does not request a second review within 90 days, the bill shall be deemed satisfied and neither the employer nor the employee shall be liable for any further payment.

Within 14 days of a request for second review, the employer shall respond with a final written determination on each of the items or amounts in dispute. Payment of any balance not in dispute shall be made within 21 days of receipt of the request for second review. This time limit may be extended by mutual written agreement.

If the provider contests the amount paid, after receipt of the second review, the provider shall request an independent bill review as provided for in Section 4603.6.

Except as provided in paragraph (4) of subdivision (e), the appeals board shall have jurisdiction over disputes arising out of this ~~subdivision~~ **section** pursuant to Section 5304.

SEC. 171.

Section 4616.4 of the Labor Code is amended to read:

4616.4.

The administrative director shall contract with individual physicians, as described in paragraph (2), or an independent medical review organization to perform medical provider network (MPN) independent medical reviews pursuant to this section.

Only a physician licensed pursuant to Chapter 5 (commencing with Section 2000) of the Business and Professions Code may be an MPN independent medical reviewer.

The administrative director shall ensure that an MPN independent medical reviewer or those within the review organization shall do all of the following:

- Be appropriately credentialed and privileged.

- Ensure that the reviews provided by the medical professionals are timely, clear, and credible, and that reviews are monitored for quality on an ongoing basis.

- Ensure that the method of selecting medical professionals for individual cases achieves a fair and impartial panel of medical professionals who are qualified to render recommendations regarding the clinical conditions consistent with the medical utilization schedule established pursuant to Section 5307.27.

- Ensure ~~that~~ **the** confidentiality of medical records and the review materials, consistent with the requirements of this section and applicable state and federal law.

- Ensure the independence of the medical professionals retained to perform the reviews through conflict-of-interest policies and prohibitions, and ensure adequate screening for conflicts of interest.

A medical professional selected by the administrative director or the independent medical review organization to review medical treatment decisions shall be a physician, as specified in paragraph (2) of subdivision (a), who meets the following minimum requirements:

The medical professional shall be a clinician knowledgeable in the treatment of the employee's medical condition, knowledgeable about the proposed treatment, and familiar with guidelines and protocols in the area of treatment under review.

Notwithstanding any other law, the medical professional shall hold a nonrestricted license in any state of the United States, and for a physician, a current certification by a recognized American medical specialty board in the area or areas appropriate to the condition or treatment under review.

The medical professional shall have no history of disciplinary action or sanctions, including, but not limited to, loss of staff privileges or participation restrictions taken or pending by any hospital, government, or regulatory body.

If, after the third physician's opinion, the treatment or diagnostic service remains disputed, the injured employee may request an MPN independent medical review regarding the disputed treatment or diagnostic service still in dispute after the third physician's opinion in accordance with Section 4616.3. The standard to be utilized for an MPN independent medical review is identical to that contained in the medical treatment utilization schedule established in Section 5307.27.

An application for an MPN independent medical review shall be submitted to the administrative director on a one-page form provided by the administrative director entitled "MPN Independent Medical Review Application." The form shall contain a signed release from the injured employee, or a person authorized pursuant to law to act on behalf of the injured employee, authorizing the release of medical and treatment information. The injured employee may provide any relevant material or documentation with the application. The administrative director or the independent medical review organization shall assign the MPN independent medical reviewer.

Following receipt of the application for an MPN independent medical review, the employer or insurer shall provide the MPN independent medical reviewer, assigned pursuant to subdivision (c), with all information that was considered in relation to the disputed treatment or diagnostic service, including both of the following:

A copy of all correspondence from, and received by, any treating physician who provided a treatment or diagnostic service to the injured employee in connection with the injury.

A complete and legible copy of all medical records and other information used by the physicians in making a decision regarding the disputed treatment or diagnostic service.

Upon receipt of information and documents related to the application for an MPN independent medical review, the MPN independent medical reviewer shall conduct a physical examination of the injured employee at the employee's discretion. The MPN independent medical reviewer may order any diagnostic tests necessary to make his or her determination regarding medical treatment. Utilizing the medical treatment utilization schedule established pursuant to Section 5307.27, and taking into account any reports and information provided, the MPN independent medical reviewer shall determine whether the disputed health care service was consistent with Section 5307.27 based on the specific medical needs of the injured employee.

The MPN independent medical reviewer shall issue a report to the administrative director, in writing, and in layperson's terms to the maximum extent practicable, containing his or her analysis and determination [as to](#) whether the disputed health care service was consistent with the medical treatment utilization schedule established pursuant to Section 5307.27, within 30 days of the examination of the injured employee, or within less time as prescribed by the

administrative director. If the disputed health care service has not been provided and the MPN independent medical reviewer certifies in writing that an imminent and serious threat to the health of the injured employee may exist, including, but not limited to, serious pain, the potential loss of life, limb, or major bodily function, or the immediate and serious deterioration of the injured employee, the report shall be expedited and rendered within three days of the examination by the MPN independent medical reviewer. Subject to the approval of the administrative director, the deadlines for analyses and determinations involving both regular and expedited reviews may be extended by the administrative director for up to three days in extraordinary circumstances or for good cause.

The MPN independent medical reviewer's analysis shall cite the injured employee's medical condition, the relevant documents in the record, and the relevant findings associated with the documents or any other information submitted to the MPN independent medical reviewer in order to support the determination.

The administrative director shall immediately adopt the determination of the MPN independent medical reviewer, and shall promptly issue a written decision to the parties.

If the determination of the MPN independent medical reviewer finds that the disputed treatment or diagnostic service is consistent with Section 5307.27, the injured employee may seek the disputed treatment or diagnostic service from a physician of his or her choice from within or outside the medical provider network. Treatment outside the medical provider network shall be provided consistent with Section 5307.27. The employer shall be liable for the cost of any approved medical treatment in accordance with Section 5307.1 or 5307.11.

SEC. 172.

Section 4800 of the Labor Code is amended to read:

4800.

Whenever any member of the Department of Justice falling within the "state peace officer/firefighter" class is disabled by injury arising out of and in the course of his or her duties, he or she shall become entitled, regardless of his or her period of service with the Department of Justice to leave of absence while so disabled without loss of salary, in lieu of disability payments under this chapter, for a period ~~of~~ not exceeding one year. This section ~~shall apply~~ **applies** only to members of the Department of Justice whose principal duties consist of active law enforcement and ~~shall~~ **does** not apply to persons employed in the Department of Justice whose principal duties are those of telephone operator, clerk, stenographer, machinist, ~~mechanic~~ **mechanic**, or otherwise clearly not falling within the scope of active law enforcement service, even though this person is subject to occasional call or is occasionally called upon to perform duties within the scope of active law enforcement service.

This section ~~shall apply~~ **applies** to law enforcement officers employed by the Department of Fish and Wildlife who are described in subdivision (e) of Section 830.2 of the Penal Code.

This section ~~shall~~ **applies** to harbor police officers employed by the San Francisco Port Commission who are described in Section 20402 of the Government Code.

This section shall **does** not apply to periods of disability ~~which~~ **that** occur subsequent to termination of employment by resignation, ~~retirement~~ **retirement**, or dismissal. When this section does not apply, the employee shall be eligible for those benefits ~~which~~ **that** would apply if this section had not been enacted.

SEC. 173.

Section 800 of the Military and Veterans Code is amended to read:

800.

Subject to subdivision (b), in addition to any other benefits provided by law and to the extent permitted by federal law, a reservist who is called to active duty may defer payments on any of the following obligations while serving on active duty:

An obligation secured by a mortgage or deed of trust.

Credit ~~Card~~, card, as defined in Section 1747.02 of the Civil Code.

Retail installment contract, as defined in Section 1802.6 of the Civil Code.

Retail installment account, installment account, or revolving account, as defined in Section 1802.7 of the Civil Code.

Up to two vehicle loans. For purposes of this chapter, “vehicle” means a vehicle as defined in Section 670 of the Vehicle Code.

A payment of property tax or any special assessment of in-lieu property tax imposed on real property that is assessed on residential property owned by the reservist and used as that reservist’s primary place of residence on the date the reservist was ordered to active duty.

An obligation owed to a utility company.

In order for an obligation or liability of a reservist to be subject to the provisions of this chapter, the reservist or the reservist’s designee shall deliver to the obligor both of the following:

A letter signed by the reservist, under penalty of perjury, requesting a deferment of financial obligations.

A copy of the reservist’s activation or deployment order and any other information that substantiates the duration of the service member’s military service.

If required by a financial institution, proof that the reservist’s employer does not provide continuing income to the reservist while the reservist is on active military duty, including the reservist’s military pay, of more than 90 percent of the reservist’s monthly salary and wage income earned before the call to active duty.

Upon request of the reservist or the reservist’s dependent or designee and within five working days of that request, if applicable, the employer of a reservist shall furnish the letter or other comparable evidence showing that the employer’s compensation policy does not provide continuing income to the reservist, including the reservist’s military pay, of more than 90 percent of the reservist’s monthly salary and wage income earned before the call to active duty.

The deferral period on financial obligations shall be the lesser of 180 days or the period of active duty plus 60 calendar days and shall apply only to those payments due subsequent to the notice provided to a lender as provided in subdivision (b). In addition, the total period of the deferment shall not exceed 180 days within a 365-day period.

If a lender defers payments on a closed end credit obligation or an open-end credit obligation with a maturity date, pursuant to this chapter, the lender shall extend the term of the obligation by the amount of months the obligation was deferred.

If a lender defers payments on an open-end credit obligation pursuant to this chapter, the lender may restrict the availability of additional credit with respect to that obligation during the term of the deferral.

SEC. 174.

Section 803 of the Military and Veterans Code is amended to read:

803.

The following definitions apply for purposes of this chapter:

“Reservist” means either of the following:

A member of the militia, as defined in Section 120, called or ordered into state military service pursuant to Section 143 or Section 146, or in federal or state military service pursuant to Title 10 or Title 32 of the United States Code.

A reservist of the United States Military Reserve who has been ordered to full-time federal active duty by the President of the United States pursuant to Title 10 of the United States Code.

“Military service” means either of the following:

Full-time active state service or full-time active federal service of a service member who is a member of the militia, as described in ~~subparagraph (A) of~~ paragraph (1) of subdivision (a).

Full-time active duty of a service member who is a reservist, as described in paragraph (2) of subdivision ~~(a)~~ (a), for a period of 30 consecutive days.

SEC. 175.

Section 186.22 of the Penal Code, as amended by Section 1 of Chapter 887 of the Statutes of 2016, is amended to read:

186.22.

Any person who actively participates in any criminal street gang with knowledge that its members engage ~~in~~ in, or have engaged ~~in~~ in, a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in a county jail for a period not to exceed one year, or by imprisonment in the state prison for 16 months, or two or three years.

Except as provided in paragraphs (4) and (5), any person who is convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished as follows:

Except as provided in subparagraphs (B) and (C), the person shall be punished by an additional term of two, three, or four years at the court’s discretion.

If the felony is a serious felony, as defined in subdivision (c) of Section 1192.7, the person shall be punished by an additional term of five years.

If the felony is a violent felony, as defined in subdivision (c) of Section 667.5, the person shall be punished by an additional term of 10 years.

If the underlying felony described in paragraph (1) is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school-related programs or when minors are using the facility, that fact shall be a circumstance in aggravation of the crime in imposing a term under paragraph (1).

The court shall select the sentence enhancement ~~which~~, ~~that~~, in the court's discretion, best serves the interests of justice and shall state the reasons for its choice on the record at the time of the sentencing in accordance with the provisions of subdivision (d) of Section 1170.1.

Any person who is convicted of a felony enumerated in this paragraph committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, be sentenced to an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of:

The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 3046, if the felony is any of the offenses enumerated in subparagraph (B) or (C) of this paragraph.

Imprisonment in the state prison for 15 years, if the felony is a home invasion robbery, in violation of subparagraph (A) of paragraph (1) of subdivision (a) of Section 213; carjacking, as defined in Section 215; a felony violation of Section 246; or a violation of Section 12022.55.

Imprisonment in the state prison for seven years, if the felony is extortion, as defined in Section 519; or threats to victims and witnesses, as defined in Section 136.1.

Except as provided in paragraph (4), any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life shall not be paroled until a minimum of 15 calendar years have been served.

If the court grants probation or suspends the execution of sentence imposed upon the defendant for a violation of subdivision (a), or in cases involving a true finding of the enhancement enumerated in subdivision (b), the court shall require that the defendant serve a minimum of 180 days in a county jail as a condition thereof.

Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in a county jail not to exceed one year, or by imprisonment in a state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in a county jail.

As used in this chapter, "pattern of criminal gang activity" means the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more of the following offenses, provided at least one of these offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses were committed on separate occasions, or by two or more persons:

Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

Robbery, as defined in Chapter 4 (commencing with Section 211) of Title ~~8 of Part 1~~. 8.

Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title ~~8 of Part 1~~. 8.

The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

Discharging or permitting the discharge of a firearm from a motor vehicle, as defined in subdivisions (a) and (b) of Section 12034 until January 1, 2012, and, on or after that date, subdivisions (a) and (b) of Section 26100.

Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

The intimidation of witnesses and victims, as defined in Section 136.1.

Grand theft, as defined in subdivision (a) or (c) of Section 487.

Grand theft of any firearm, vehicle, trailer, or vessel.

Burglary, as defined in Section 459.

Rape, as defined in Section 261.

Looting, as defined in Section 463.

Money laundering, as defined in Section 186.10.

Kidnapping, as defined in Section 207.

Mayhem, as defined in Section 203.

Aggravated mayhem, as defined in Section 205.

Torture, as defined in Section 206.

Felony extortion, as defined in Sections 518 and 520.

Felony vandalism, as defined in paragraph (1) of subdivision (b) of Section 594.

Carjacking, as defined in Section 215.

The sale, delivery, or transfer of a firearm, as defined in Section 12072 until January 1, 2012, and, on or after that date, Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

Possession of a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (1) of subdivision (a) of Section 12101 until January 1, 2012, and, on or after that date, Section 29610.

Threats to commit crimes resulting in death or great bodily injury, as defined in Section 422.

Theft and unlawful taking or driving of a vehicle, as defined in Section 10851 of the Vehicle Code.

Felony theft of an access card or account information, as defined in Section 484e.

Counterfeiting, designing, using, or attempting to use an access card, as defined in Section 484f.

Felony fraudulent use of an access card or account information, as defined in Section 484g.

Unlawful use of personal identifying information to obtain credit, goods, services, or medical information, as defined in Section 530.5.

Wrongfully obtaining Department of Motor Vehicles documentation, as defined in Section 529.7.

Prohibited possession of a firearm in violation of Section 12021 until January 1, 2012, and on or after that date, Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

Carrying a concealed firearm in violation of Section 12025 until January 1, 2012, and, on or after that date, Section 25400.

Carrying a loaded firearm in violation of Section 12031 until January 1, 2012, and, on or after that date, Section 25850.

As used in this chapter, “criminal street gang” means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e), having a common name or common identifying sign or symbol, and whose members individually or collectively engage ~~in~~ in, or have engaged ~~in~~ in, a pattern of criminal gang activity.

Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

Notwithstanding any other provision of law, for each person committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities for a conviction pursuant to subdivision (a) or (b) of this section, the offense shall be deemed one for which the state shall pay the rate of 100 percent of the per capita institutional cost of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, pursuant to [former](#) Section 912.5 of the Welfare and Institutions Code.

In order to secure a conviction or sustain a juvenile petition, pursuant to subdivision (a) it is not necessary for the prosecution to prove that the person devotes all, or a substantial part, of his or her time or efforts to the criminal street gang, nor is it necessary to prove that the person is a member of the criminal street gang. Active participation in the criminal street gang is all that is required.

A pattern of gang activity may be shown by the commission of one or more of the offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), and the commission of one or more of the offenses enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e). A pattern of gang activity cannot be established solely by proof of commission of offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), alone.

This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 176.

Section 186.22 of the Penal Code, as amended by Section 2 of Chapter 887 of the Statutes of 2016, is amended to read:

186.22.

Any person who actively participates in any criminal street gang with knowledge that its members engage ~~in~~ in, or have engaged ~~in~~ in, a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in a county jail for a period not to exceed one year, or by imprisonment in the state prison for 16 months, or two or three years.

Except as provided in paragraphs (4) and (5), any person who is convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished as follows:

Except as provided in subparagraphs (B) and (C), the person shall be punished by an additional term of two, three, or four years at the court's discretion.

If the felony is a serious felony, as defined in subdivision (c) of Section 1192.7, the person shall be punished by an additional term of five years.

If the felony is a violent felony, as defined in subdivision (c) of Section 667.5, the person shall be punished by an additional term of 10 years.

If the underlying felony described in paragraph (1) is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school-related programs or when minors are using the facility, that fact shall be a circumstance in aggravation of the crime in imposing a term under paragraph (1).

The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentencing enhancements on the record at the time of the sentencing.

Any person who is convicted of a felony enumerated in this paragraph committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, be sentenced to an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of:

The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 3046, if the felony is any of the offenses enumerated in subparagraph (B) or (C) of this paragraph.

Imprisonment in the state prison for 15 years, if the felony is a home invasion robbery, in violation of subparagraph (A) of paragraph (1) of subdivision (a) of Section 213; carjacking, as defined in Section 215; a felony violation of Section 246; or a violation of Section 12022.55.

Imprisonment in the state prison for seven years, if the felony is extortion, as defined in Section 519; or threats to victims and witnesses, as defined in Section 136.1.

Except as provided in paragraph (4), any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life shall not be paroled until a minimum of 15 calendar years have been served.

If the court grants probation or suspends the execution of sentence imposed upon the defendant for a violation of subdivision (a), or in cases involving a true finding of the enhancement enumerated in subdivision (b), the court shall require that the defendant serve a minimum of 180 days in a county jail as a condition thereof.

Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in a county jail not to exceed one year, or by imprisonment in a state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in a county jail.

As used in this chapter, “pattern of criminal gang activity” means the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more of the following offenses, provided at least one of these offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses were committed on separate occasions, or by two or more persons:

Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

Robbery, as defined in Chapter 4 (commencing with Section 211) of Title ~~8 of Part 1~~ 8.

Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title ~~8 of Part 1~~ 8.

The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

Discharging or permitting the discharge of a firearm from a motor vehicle, as defined in subdivisions (a) and (b) of Section 12034 until January 1, 2012, and, on or after that date, subdivisions (a) and (b) of Section 26100.

Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

The intimidation of witnesses and victims, as defined in Section 136.1.

Grand theft, as defined in subdivision (a) or (c) of Section 487.

Grand theft of any firearm, vehicle, trailer, or vessel.

Burglary, as defined in Section 459.

Rape, as defined in Section 261.

Looting, as defined in Section 463.

Money laundering, as defined in Section 186.10.

Kidnapping, as defined in Section 207.

Mayhem, as defined in Section 203.

Aggravated mayhem, as defined in Section 205.

Torture, as defined in Section 206.

Felony extortion, as defined in Sections 518 and 520.

Felony vandalism, as defined in paragraph (1) of subdivision (b) of Section 594.

Carjacking, as defined in Section 215.

The sale, delivery, or transfer of a firearm, as defined in Section 12072 until January 1, 2012, and, on or after that date, Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

Possession of a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (1) of subdivision (a) of Section 12101 until January 1, 2012, and, on or after that date, Section 29610.

Threats to commit crimes resulting in death or great bodily injury, as defined in Section 422.

Theft and unlawful taking or driving of a vehicle, as defined in Section 10851 of the Vehicle Code.

Felony theft of an access card or account information, as defined in Section 484e.

Counterfeiting, designing, using, or attempting to use an access card, as defined in Section 484f.

Felony fraudulent use of an access card or account information, as defined in Section 484g.

Unlawful use of personal identifying information to obtain credit, goods, services, or medical information, as defined in Section 530.5.

Wrongfully obtaining Department of Motor Vehicles documentation, as defined in Section 529.7.

Prohibited possession of a firearm in violation of Section 12021 until January 1, 2012, and, on or after that date, Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

Carrying a concealed firearm in violation of Section 12025 until January 1, 2012, and, on or after that date, Section 25400.

Carrying a loaded firearm in violation of Section 12031 until January 1, 2012, and, on or after that date, Section 25850.

As used in this chapter, “criminal street gang” means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e), having a common name or common identifying sign or symbol, and whose members individually or collectively engage ~~in~~ in, or have engaged ~~in~~ in, a pattern of criminal gang activity.

Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters

into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

Notwithstanding any other provision of law, for each person committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities for a conviction pursuant to subdivision (a) or (b) of this section, the offense shall be deemed one for which the state shall pay the rate of 100 percent of the per capita institutional cost of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, pursuant to ~~former~~ Section 912.5 of the Welfare and Institutions Code.

In order to secure a conviction or sustain a juvenile petition, pursuant to subdivision (a) it is not necessary for the prosecution to prove that the person devotes all, or a substantial part, of his or her time or efforts to the criminal street gang, nor is it necessary to prove that the person is a member of the criminal street gang. Active participation in the criminal street gang is all that is required.

A pattern of gang activity may be shown by the commission of one or more of the offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), and the commission of one or more of the offenses enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e). A pattern of gang activity cannot be established solely by proof of commission of offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), alone.

This section shall become operative on January 1, 2022.

SEC. 177.

Section 308 of the Penal Code is amended to read:

308.

(A) (i) Every person, firm, or corporation that knowingly or under circumstances in which it has knowledge, or should otherwise have grounds for knowledge, sells, gives, or in any way furnishes to another person who is under 21 years of age any tobacco, cigarette, or cigarette papers, or blunt wraps, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, tobacco products, or any controlled substance, is subject to either a criminal action for a misdemeanor or ~~to~~ a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of two hundred dollars (\$200) for the first offense, five hundred dollars (\$500) for the second offense, and one thousand dollars (\$1,000) for the third offense.

(ii) This subparagraph does not apply to the sale, giving, or furnishing of any of the products specified in clause (i) to active duty military personnel who are 18 years of age or older. An identification card issued by the United States Armed Forces shall be used as proof of age for this purpose.

Notwithstanding Section 1464 or any other law, 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the office of the city attorney, county counsel, or district attorney, whoever is responsible for bringing the successful action.

Proof that a defendant, or his or her employee or agent, demanded, was shown, and reasonably relied upon evidence of majority shall be defense to any action brought pursuant to this subdivision. Evidence of majority of a person is a facsimile ~~of~~ of, or a reasonable likeness ~~of~~ of, a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Military Selective Service ~~Act~~, Act (50 U.S.C. Sec. 3801 et seq.), or an identification card issued to a member of the Armed Forces.

For purposes of this section, the person liable for selling or furnishing tobacco products to persons under 21 years of age by a tobacco vending machine shall be the person authorizing the installation or placement of the tobacco vending machine upon premises he or she manages or otherwise controls and under circumstances in which he or she has knowledge, or should otherwise have grounds for knowledge, that the tobacco vending machine will be utilized by persons under 21 years of age.

For purposes of this section, “blunt wraps” means cigar papers or cigar wrappers of all types that are designed for smoking or ingestion of tobacco products and contain less than 50 percent tobacco.

Every person, firm, or corporation that sells, or deals in tobacco or any preparation thereof, shall post conspicuously and keep so posted in his, her, or their place of business at each point of purchase the notice required pursuant to subdivision (b) of Section 22952 of the Business and Professions Code, and any person failing to do so shall, upon conviction, be punished by a fine of fifty dollars (\$50) for the first offense, one hundred dollars (\$100) for the second offense, two hundred fifty dollars (\$250) for the third offense, and five hundred dollars (\$500) for the fourth offense and each subsequent violation of this provision, or by imprisonment in a county jail not exceeding 30 days.

For purposes of determining the liability of persons, firms, or corporations controlling franchises or business operations in multiple locations for the second and subsequent violations of this section, each individual franchise or business location shall be deemed a separate entity.

It is the Legislature’s intent to regulate the subject matter of this section. As a result, a city, county, or city and county shall not adopt any ordinance or regulation inconsistent with this section.

For purposes of this section, “smoking” has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

For purposes of this section, “tobacco products” means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

SEC. 178.

Section 653w of the Penal Code is amended to read:

653w.

A person is guilty of failure to disclose the origin of a recording or audiovisual work if, for commercial advantage or private financial gain, he or she knowingly advertises or offers for sale or resale, or sells or resells, or causes the rental, sale, or resale of, or rents, or manufactures, or possesses for these purposes, any recording or audiovisual work, the outside cover, box, jacket, or label of which does not clearly and conspicuously disclose the actual true name and address of the manufacturer thereof and the name of the actual author, artist, performer, producer, programmer, or group thereon. This section does not require the original manufacturer or authorized licensees of software producers to disclose the contributing authors or programmers.

As used in this section, “recording” means any tangible medium upon which information or sounds are recorded or otherwise stored, including, but not limited to, any phonograph record, disc, tape, audio cassette, wire, film, memory card, flash drive, hard drive, data storage device, or other medium on which information or sounds are recorded or otherwise stored, but does not include sounds accompanying a motion picture or other audiovisual work.

As used in this section, “audiovisual works” are the physical embodiment of works that consist of related images that are intrinsically intended to be shown using machines or devices, such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any,

regardless of the nature of the material objects, such as films, tapes, discs, memory cards, flash drives, hard drives, data storage devices, or other devices, on which the works are embodied.

A person who has been convicted of a violation of subdivision (a) shall be punished as follows:

If the offense involves the advertisement, offer for sale or resale, sale, rental, manufacture, or possession for these purposes, of at least 100 articles of audio recordings or 100 articles of audiovisual works described in subdivision (a), or the commercial equivalent thereof, the person shall be punished by imprisonment in a county jail not to exceed one year, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, or by a fine not to exceed five hundred thousand dollars (\$500,000), or by both that fine and imprisonment.

Any other violation of subdivision (a) not described in paragraph (1) shall, upon a first offense, be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed fifty thousand dollars (\$50,000), or by both that fine and imprisonment.

A second or subsequent conviction under subdivision (a) not described in paragraph (1) shall be punished by imprisonment in a county jail not to exceed one year or pursuant to subdivision (h) of Section 1170, or by a fine of not less than one thousand dollars ~~(\$1,000)~~, (\$1,000), but not to exceed two hundred thousand dollars (\$200,000), or by both that fine and imprisonment.

SEC. 179.

Section 830.3 of the Penal Code is amended to read:

830.3.

The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies:

Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the ~~Dental Board of Dental Examiners, California~~, who are designated by the Director of Consumer Affairs, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

Voluntary fire wardens designated by the Director of Forestry and Fire Protection pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1.

The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

Inspectors of the food and drug section designated by the chief pursuant to subdivision (a) of Section 106500 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 106500 of that code.

All investigators of the Division of Labor Standards Enforcement designated by the Labor Commissioner, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Section 95 of the Labor Code.

All investigators of the State Departments of Health Care Services, Public Health, and Social Services, the Department of Toxic Substances Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the law relating to the duties of his or her department or office. Notwithstanding any other law, investigators of the Public Employees' Retirement System shall not carry firearms.

Either the Deputy Commissioner, Enforcement Branch of, or the Fraud Division Chief of, the Department of Insurance and those investigators designated by the deputy or the chief, provided that the primary duty of those investigators shall be the enforcement of Section 550.

Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of these peace officers shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

Investigators of the office of the Controller, provided that the primary duty of these investigators shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other law, except as authorized by the Controller, the peace officers designated pursuant to this subdivision shall not carry firearms.

Investigators of the Department of Business Oversight designated by the Commissioner of Business Oversight, provided that the primary duty of these investigators shall be the enforcement of the provisions of law administered by the Department of Business Oversight. Notwithstanding any other law, the peace officers designated pursuant to this subdivision shall not carry firearms.

Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than 12 persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other law, the persons designated pursuant to this subdivision shall not carry firearms.

The Chief and coordinators of the Law Enforcement Branch of the Office of Emergency Services.

Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. Notwithstanding any other law, the peace officers designated pursuant to this subdivision shall not carry firearms.

The Deputy Director for Security designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to ~~assuring~~ **ensuring** the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

Investigators employed by the Investigation Division of the Employment Development Department designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code. Notwithstanding any other law, the peace officers designated pursuant to this subdivision shall not carry firearms.

The chief and assistant chief of museum security and safety of the California Science Center, as designated by the executive director pursuant to Section 4108 of the Food and Agricultural Code, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 4108 of the Food and Agricultural Code.

Employees of the Franchise Tax Board designated by the board, provided that the primary duty of these peace officers shall be the enforcement of the law as set forth in Chapter 9 (commencing with Section 19701) of Part 10.2 of Division 2 of the Revenue and Taxation Code.

Notwithstanding any other provision of this section, a peace officer authorized by this section shall not be authorized to carry firearms by his or her employing agency until that agency has adopted a policy on the use of deadly force by those peace officers, and until those peace officers have been instructed in the employing agency's policy on the use of deadly force.

Every peace officer authorized pursuant to this section to carry firearms by his or her employing agency shall qualify in the use of the firearms at least every six months.

Investigators of the Department of Managed Health Care designated by the Director of the Department of Managed Health Care, provided that the primary duty of these investigators shall be the enforcement of the provisions of laws administered by the Director of the Department of Managed Health Care. Notwithstanding any other law, the peace officers designated pursuant to this subdivision shall not carry firearms.

The Chief, Deputy Chief, supervising investigators, and investigators of the Office of Protective Services of the State Department of Developmental Services, the Office of Protective Services of the State Department of State Hospitals, and the Office of Law Enforcement Support of the California Health and Human Services Agency, provided that the primary duty of each of those persons shall be the enforcement of the law relating to the duties of his or her department or office.

~~(w)This section shall become operative July 1, 2014.~~

SEC. 180.

Section 832.18 of the Penal Code is amended to read:

832.18.

It is the intent of the Legislature to establish policies and procedures to address issues related to the downloading and storage data recorded by a body-worn camera worn by a peace officer. These policies and procedures shall be based on best practices.

When establishing policies and procedures for the implementation and operation of a body-worn camera system, law enforcement agencies, departments, or entities shall consider the following best practices regarding the downloading and storage of body-worn camera data:

Designate the person responsible for downloading the recorded data from the body-worn camera. If the storage system does not have automatic downloading capability, the officer's supervisor should take immediate physical custody of the camera and should be responsible for downloading the data in the case of an incident involving the use of force by an officer, an officer-involved shooting, or other serious incident.

Establish when data should be downloaded to ensure the data is entered into the system in a timely manner, the cameras are properly maintained and ready for the next use, and for purposes of tagging and categorizing the data.

Establish specific measures to prevent data tampering, deleting, and copying, including prohibiting the unauthorized use, duplication, or distribution of body-worn camera data.

Categorize and tag body-worn camera video at the time the data is downloaded and classified according to the type of event or incident captured in the data.

Specifically state the length of time that recorded data is to be stored.

Unless subparagraph (B) or (C) applies, nonevidentiary data including video and audio recorded by a body-worn camera should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled. An agency may keep data for more than 60 days to have it available in case of a civilian complaint and to preserve transparency.

Evidentiary data including video and audio recorded by a body-worn camera under this section should be retained for a minimum of two years under any of the following circumstances:

The recording is of an incident involving the use of force by a peace officer or an officer-involved shooting.

(ii) The recording is of an incident that leads to the detention or arrest of an individual.

(iii) The recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency.

If evidence that may be relevant to a criminal prosecution is obtained from a recording made by a body-worn camera under this section, the law enforcement agency should retain the recording for any time in addition to that specified in ~~paragraphs~~ subparagraphs (A) and (B), and in the same manner as is required by law for other evidence that may be relevant to a criminal prosecution.

In determining a retention schedule, the agency should work with its legal counsel to determine a retention schedule to ensure that storage policies and practices are in compliance with all relevant laws and adequately preserve evidentiary chains of custody.

Records or logs of access and deletion of data from body-worn cameras should be retained permanently.

State where the body-worn camera data will be stored, including, for example, an in-house server which is managed internally, or an online cloud database which is managed by a third-party vendor.

If using a third-party vendor to manage the data storage system, the following factors should be considered to protect the security and integrity of the data:

Using an experienced and reputable third-party vendor.

Entering into contracts that govern the vendor relationship and protect the agency's data.

Using a system that has a built-in audit trail to prevent data tampering and unauthorized access.

Using a system that has a reliable method for automatically backing up data for storage.

Consulting with internal legal counsel to ensure the method of data storage meets legal requirements for chain-of-custody concerns.

Using a system that includes technical assistance capabilities.

Require that all recorded data from body-worn cameras are property of their respective law enforcement agency and shall not be accessed or released for any unauthorized purpose, explicitly prohibit agency personnel from accessing recorded data for personal use and from uploading recorded data onto public and social media Internet Web sites, and include sanctions for violations of this prohibition.

For purposes of this section, “evidentiary data” refers to data of an incident or encounter that could prove useful for investigative purposes, including, but not limited to, a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. The retention period for evidentiary data are subject to state evidentiary laws.

For purposes of this section, “nonevidentiary data” refers to data that does not necessarily have value to aid in an investigation or prosecution, such as data of an incident or encounter that does not lead to an arrest or citation, or data of general activities the officer might perform while on duty.

~~Nothing in this~~ This section shall ~~not~~ be interpreted to limit the public’s right to access recorded data under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 181.

Section 987.8 of the Penal Code is amended to read:

987.8.

Upon a finding by the court that a defendant is entitled to counsel but is unable to employ counsel, the court may hold a hearing or, in its discretion, order the defendant to appear before a county officer designated by the court, to determine whether the defendant owns or has an interest in any real property or other assets subject to attachment and not otherwise exempt by law. The court may impose a lien on any real property owned by the defendant, or in which the defendant has an interest to the extent permitted by law. The lien shall contain a legal description of the property, shall be recorded with the county recorder in the county or counties in which the property is located, and shall have priority over subsequently recorded liens or encumbrances. The county shall have the right to enforce its lien for the payment of providing legal assistance to an indigent defendant in the same manner as other lienholders by way of attachment, except that a county shall not enforce its lien on a defendant’s principal place of residence pursuant to a writ of execution. ~~No A lien shall be~~ is not effective as against a bona fide purchaser without notice of the lien.

In any case in which a defendant is provided legal assistance, either through the public defender or private counsel appointed by the court, upon conclusion of the criminal proceedings in the trial court, or upon the withdrawal of the public defender or appointed private counsel, the court may, after notice and a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost ~~thereof~~ of the legal assistance provided to him or her. The court may, in its discretion, hold one such additional hearing within six months of the conclusion of the criminal proceedings. The court may, in its discretion, order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of the legal assistance provided.

In any case in which the defendant hires counsel replacing a publicly provided attorney; in which the public defender or appointed counsel was required by the court to proceed with the case after a determination by the public defender that the defendant is not indigent; or, in which the defendant, at the conclusion of the case, appears to have sufficient assets to repay, without undue hardship, all or a portion of the cost of the legal assistance provided to him or her, by monthly installments or otherwise; the court shall make a determination of the defendant's ability to pay as provided in subdivision (b), and may, in its discretion, make other orders as provided in that subdivision.

This subdivision applies to a county only upon the adoption of a resolution by the board of supervisors to that effect.

If the defendant, after having been ordered to appear before a county officer, has been given proper notice and fails to appear before a county officer within 20 working days, the county officer shall recommend to the court that the full cost of the legal assistance shall be ordered to be paid by the defendant. The notice to the defendant shall contain all of the following:

- A statement of the cost of the legal assistance provided to the defendant as determined by the court.

- The defendant's procedural rights under this section.

- The time limit within which the defendant's response is required.

- A warning that if the defendant fails to appear before the designated officer, the officer will recommend that the court order the defendant to pay the full cost of the legal assistance provided to him or her.

At a hearing, the defendant shall be entitled to, but shall not be limited to, all of the following rights:

- The right to be heard in person.

- The right to present witnesses and other documentary evidence.

- The right to confront and cross-examine adverse witnesses.

- The right to have the evidence against him or her disclosed to him or her.

- The right to a written statement of the findings of the court.

If the court determines that the defendant has the present ability to pay all or a part of the cost, the court shall set the amount to be reimbursed and order the defendant to pay the sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Failure of a defendant who is not in custody to appear after due notice is a sufficient basis for an order directing the defendant to pay the full cost of the legal assistance determined by the court. The order to pay all or a part of the costs may be enforced in the manner provided for enforcement of money judgments generally but ~~may~~ shall not be enforced by contempt.

Any order entered under this subdivision is subject to relief under Section 473 of the Code of Civil Procedure.

Prior to the furnishing of counsel or legal assistance by the court, the court shall give notice to the defendant that the court may, after a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost of counsel. The court shall also give notice that, if the court determines that the defendant has the present ability, the court shall order him or her to pay all or a part of the cost. The notice shall inform the defendant that the order shall have the same force and effect as

a judgment in a civil action and shall be subject to enforcement against the property of the defendant in the same manner as any other money judgment.

As used in this section:

“Legal assistance” means legal counsel and supportive ~~services~~ **services**, including, but not limited to, medical and psychiatric examinations, investigative services, expert testimony, or any other form of services provided to assist the defendant in the preparation and presentation of the defendant’s case.

“Ability to pay” means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of the legal assistance provided to him or ~~her~~ **her** and shall include, but not be limited to, all of the following:

The defendant’s present financial position.

The defendant’s reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining the defendant’s reasonably discernible future financial position. Unless the court finds unusual circumstances, a defendant sentenced to state prison, or to county jail for a period longer than 364 days, including, but not limited to, a sentence imposed pursuant to subdivision (h) of Section 1170, shall be determined not to have a reasonably discernible future financial ability to reimburse the costs of his or her defense.

The likelihood that the defendant shall be able to obtain employment within a six-month period from the date of the hearing.

Any other factor or factors that may bear upon the defendant’s financial capability to reimburse the county for the costs of the legal assistance provided to the defendant.

At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change in circumstances with regard to the defendant’s ability to pay the judgment. The court shall advise the defendant of this right at the time it renders the judgment.

This section ~~shall apply~~ **applies** to all proceedings, including contempt proceedings, in which the party is represented by a public defender or appointed counsel.

SEC. 182.

Section 991.5 of the Penal Code is amended to read:

991.5.

On or before July 1, 2017, three counties shall be selected to participate in a three-year pilot project that would require a court, upon request by the defendant in the case of a defendant charged with a misdemeanor who is not in custody, to make a finding at the arraignment as to whether probable cause exists to believe that a public offense has been committed and that the defendant is guilty thereof.

The pilot counties shall be selected by a three-member committee. One member of the committee shall be selected by the California Public Defenders Association, one member of the committee shall be selected by the California District Attorneys Association, and one member of the committee shall be selected by the Judicial Council. The committee shall be convened by the California Public Defenders Association and the California District Attorneys Association. The committee shall select one small county, one medium county, and one large county to participate in the pilot project. The committee

shall consult with the relevant local officials in the eligible counties in making its selections. A county selected for the pilot project shall have a county public defender's office. For purposes of this section, the following terms have the following meanings:

A "small county" means a county with a population of not less than ~~two hundred fifty thousand (250,000)~~ 250,000 residents and not more than ~~seven hundred fifty thousand (750,000)~~ 750,000 residents.

A "medium county" means a county with a population of not less than ~~seven hundred fifty thousand one (750,001)~~ 750,001 residents and not more than ~~two million six hundred thousand (2,600,000)~~ 2,600,000 residents.

A "large county" means a county with a population of not less than ~~two million six hundred thousand one (2,600,001)~~ 2,600,001 residents.

The following arraignment procedure ~~shall apply~~ applies in the pilot project counties:

When the defendant is out of custody at the time he or she appears before the magistrate for arraignment and the public offense is a misdemeanor to which the defendant has pleaded not guilty, the magistrate, on motion of counsel for the defendant or the defendant, shall determine whether there is probable cause to believe that a public offense has been committed and that the defendant is guilty thereof.

The determination of probable cause shall be made immediately, unless the court grants a continuance for good cause not to exceed 15 court days.

In determining the existence of probable cause, the magistrate shall consider any warrant of arrest with supporting affidavits, and the sworn complaint together with any documents or reports incorporated by reference thereto, which, if based on information and belief, state the basis for that information, or any other documents of similar reliability.

If, after examining these documents, the court determines that there exists probable cause to believe that the defendant has committed the offense charged in the complaint, it shall maintain the trial date already calendared for the defendant.

If the court determines that no probable cause exists, it shall dismiss the complaint and discharge the defendant.

The prosecution may refile the complaint within 15 days of the dismissal of a complaint pursuant to this section.

A second dismissal pursuant to this section is a bar to any other prosecution for the same offense.

No later than July 1, 2020, the Department of Justice shall provide information to the Assembly Committee on Budget, the Senate Committee on Budget and Fiscal Review, and the appropriate policy committees of the Legislature regarding the implementation of this section, including, but not limited to, the number of instances that a prompt probable cause determination made to an Out of Custody defendant facing a misdemeanor charge resulted in the defendant's early dismissal.

A report submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2021, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 183.

Section 1001.87 of the Penal Code is amended to read:

1001.87.

LEAD programs funded pursuant to this chapter shall consist of a strategy of effective intervention for eligible participants consistent with the following gateways to services:

Prebooking referral. As an alternative to arrest, a law enforcement officer may take or refer a person for whom the officer has probable cause for arrest for any of the offenses in subdivision (b) to a case manager to be screened for immediate crisis services and to schedule a complete assessment intake interview. Participation in LEAD ~~diversion~~ shall be voluntary, and the person may decline to participate in the program at any time. Criminal charges based on the conduct for which a person is diverted to LEAD shall not be filed, provided that the person finishes the complete assessment intake interview within a period set by the local jurisdictional partners, but not to exceed 30 days after the referral.

Social contact referral. A law enforcement officer may refer an individual to LEAD whom he or she believes is at high risk of arrest in the future for any of the crimes specified in subdivision (b), provided that the individual meets the criteria specified in this paragraph and expresses interest in voluntarily participating in the program. LEAD may accept these referrals if the program has capacity after responding to prebooking diversion referrals described in paragraph (1). All social contact referrals to LEAD shall meet the following criteria:

Verification by law enforcement that the individual has had prior involvement with low-level drug activity or prostitution. Verification shall consist of any of the following:

Criminal history records, including, but not limited to, prior police reports, arrests, jail bookings, criminal charges, or convictions indicating that he or she was engaged in low-level drug or prostitution activity.

(ii) Law enforcement has directly observed the individual's low-level drug or prostitution activity on prior occasions.

(iii) Law enforcement has a reliable basis of information to believe that the individual is engaged in low-level drug or prostitution activity, including, but not limited to, information provided by another first responder, a professional, or a credible community member.

The individual's prior involvement with low-level drug or prostitution activity occurred within the LEAD pilot program area.

The individual's prior involvement with low-level drug or prostitution activity occurred within 24 months of the date of referral.

The individual does not have a pending case in drug court or mental health court.

The individual is not prohibited, by means of an existing no-contact order, temporary restraining order, or antiharassment order, from making contact with a current LEAD participant.

The following offenses are eligible for either prebooking diversion, social contact referral, or both:

Possession for sale or transfer of a controlled substance or other prohibited substance where the circumstances indicate that the sale or transfer is intended to provide a subsistence living or to allow the person to obtain or afford drugs for his or her own consumption.

Sale or transfer of a controlled substance or other prohibited substance where the circumstances indicate that the sale or transfer is intended to provide a subsistence living or to allow the person to obtain or afford drugs for his or her own consumption.

Possession of a controlled substance or other prohibited substance.

Being under the influence of a controlled substance or other prohibited substance.

Being under the influence of alcohol and a controlled substance or other prohibited substance.

Prostitution pursuant to subdivision (b) of Section 647.

SEC. 184.

Section 1170 of the Penal Code, as amended by Section 5.3 of Chapter 887 of the Statutes of 2016, is amended to read:

1170.

The Legislature finds and declares that the purpose of sentencing is public safety achieved through punishment, rehabilitation, and restorative justice. When a sentence includes incarceration, this purpose is best served by terms that are proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances.

The Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational, rehabilitative, and restorative justice programs that are designed to promote behavior change and to prepare all eligible offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate all eligible offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to allow all eligible inmates the opportunity to enroll in programs that promote successful return to the community. The Department of Corrections and Rehabilitation is directed to establish a mission statement consistent with these principles.

In any case in which the sentence prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison or a term pursuant to subdivision (h) of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the sentence prescribed, shall also impose any other term that it is required by law to impose as an additional term. ~~Nothing in this~~ This article ~~shall~~ does not affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life, except as provided in paragraph (2) of subdivision (d). In any case in which the amount of preimprisonment credit under Section 2900.5 or any other law is equal to or exceeds any sentence imposed pursuant to this chapter, except for the remaining portion of mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h), the entire sentence shall be deemed to have been served, except for the remaining period of mandatory supervision, and the defendant shall not be actually delivered to the custody of the secretary or to the custody of the county correctional administrator. The court shall advise the defendant that he or she shall serve an applicable period of parole, postrelease community supervision, or mandatory supervision, and order the defendant to report to the parole or probation office closest to the defendant's last

legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole, postrelease community supervision, or mandatory supervision. The sentence shall be deemed a separate prior prison term or a sentence of imprisonment in a county jail under subdivision (h) for purposes of Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.

When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the choice of the appropriate term shall rest within the sound discretion of the court. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation. In determining the appropriate term, the court may consider the record in the case, the probation officer's report, other reports, including reports received pursuant to Section 1203.03, and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall select the term which, in the court's discretion, best serves the interests of justice. The court shall set forth on the record the reasons for imposing the term selected and the court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000 or 3000.08 or postrelease community supervision for a period as provided in Section 3451.

When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison or county jail pursuant to subdivision (h) and has been committed to the custody of the secretary or the county correctional administrator, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings in the case of state prison inmates, or the county correctional administrator in the case of county jail inmates, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The court resentencing under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(A) (i) When a defendant who was under 18 years of age at the time of the commission of the offense for which the defendant was sentenced to imprisonment for life without the possibility of parole has been incarcerated for at least 15 years, the defendant may submit to the sentencing court a petition for recall and resentencing.

(ii) Notwithstanding clause (i), this paragraph ~~shall~~ **does** not apply to defendants sentenced to life without parole for an offense where it was pled and proved that the defendant tortured, as described in Section 206, his or her victim or the victim was a public safety official, including any law enforcement personnel mentioned in Chapter 4.5 (commencing with Section 830) of Title 3, or any firefighter as described in Section 245.1, as well as any other officer in any segment of law enforcement who is employed by the federal government, the state, or any of its political subdivisions.

The defendant shall file the original petition with the sentencing court. A copy of the petition shall be served on the agency that prosecuted the case. The petition shall include the defendant's statement that he or she was under 18 years of age at the time of the crime and was sentenced to life in prison without the possibility of parole, the defendant's statement describing his or her remorse and work towards rehabilitation, and the defendant's statement that one of the following is true:

The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.

(ii) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the sentence is being considered for recall.

(iii) The defendant committed the offense with at least one adult codefendant.

The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing himself or herself of rehabilitative, educational, or vocational programs, if those programs have been available at his or her classification level and facility, using self-study for self-improvement, or showing evidence of remorse.

If any of the information required in subparagraph (B) is missing from the petition, or if proof of service on the prosecuting agency is not provided, the court shall return the petition to the defendant and advise the defendant that the matter cannot be considered without the missing information.

A reply to the petition, if any, shall be filed with the court within 60 days of the date on which the prosecuting agency was served with the petition, unless a continuance is granted for good cause.

If the court finds by a preponderance of the evidence that one or more of the statements specified in clauses (i) to (iv), inclusive, of subparagraph (B) ~~is~~ **are** true, the court shall recall the sentence and commitment previously ordered and hold a hearing to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. Victims, or victim family members if the victim is deceased, shall retain the rights to participate in the hearing.

The factors that the court may consider when determining whether to resentence the defendant to a term of imprisonment with the possibility of parole include, but are not limited to, the following:

The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.

(ii) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the defendant was sentenced to life without the possibility of parole.

(iii) The defendant committed the offense with at least one adult codefendant.

Prior to the offense for which the defendant was sentenced to life without the possibility of parole, the defendant had insufficient adult support or supervision and had suffered from psychological or physical trauma, or significant stress.

The defendant suffers from cognitive limitations due to mental illness, developmental disabilities, or other factors that did not constitute a defense, but influenced the defendant's involvement in the offense.

The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing himself or herself of rehabilitative, educational, or vocational programs, if those programs have been available at his or her classification level and facility, using self-study for self-improvement, or showing evidence of remorse.

The defendant has maintained family ties or connections with others through letter writing, calls, or visits, or has eliminated contact with individuals outside of prison who are currently involved with crime.

The defendant has had no disciplinary actions for violent activities in the last five years in which the defendant was determined to be the aggressor.

The court shall have the discretion to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. The discretion of the court shall be exercised in consideration of the criteria in subparagraph (F). Victims, or victim family members if the victim is deceased, shall be notified of the resentencing hearing and shall retain their rights to participate in the hearing.

If the sentence is not recalled or the defendant is resented to imprisonment for life without the possibility of parole, the defendant may submit another petition for recall and resentencing to the sentencing court when the defendant has been committed to the custody of the department for at least 20 years. If the sentence is not recalled or the defendant is resented to imprisonment for life without the possibility of parole under that petition, the defendant may file another petition after having served 24 years. The final petition may be submitted, and the response to that petition shall be determined, during the 25th year of the defendant's sentence.

In addition to the criteria in subparagraph (F), the court may consider any other criteria that the court deems relevant to its decision, so long as the court identifies them on the record, provides a statement of reasons for adopting them, and states why the defendant does or does not satisfy the criteria.

This subdivision shall have retroactive application.

~~Nothing in this~~ This paragraph is not intended to diminish or abrogate any rights or remedies otherwise available to the defendant.

Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

The court shall have the discretion to resentence or recall if the court finds that the facts described in subparagraphs (A) and (B) or subparagraphs (B) and (C) exist:

The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentencing or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

Any physician employed by the department who determines that a prisoner has six months or less to live shall notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden. Within 48 hours of receiving notification, the warden or the warden's representative shall notify the prisoner of the recall and resentencing procedures, and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and resentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the information described in paragraph (2).

The warden or the warden's representative shall provide the prisoner and his or her family member, agent, or emergency contact, as described in paragraph (4), updated information throughout the recall and resentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and resentencing proceedings.

Notwithstanding any other provisions of this section, the prisoner or his or her family member or designee may independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Upon receipt of the request, the chief medical officer and the warden or the warden's representative shall follow the procedures described in paragraph (4). If the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days in the case of inmates sentenced to determinate terms and, in the case of inmates sentenced to indeterminate terms, the secretary shall make a recommendation to the Board of Parole Hearings with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

Any recommendation for recall submitted to the court by the secretary or the Board of Parole Hearings shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

If the court grants the recall and resentencing application, the prisoner shall be released by the department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the following in his or her possession: a discharge medical summary, full medical records, state identification, parole or postrelease community supervision medications, and all property belonging to the prisoner. After discharge, any additional records shall be sent to the prisoner's forwarding address.

The secretary shall issue a directive to medical and correctional staff employed by the department that details the guidelines and procedures for initiating a recall and resentencing procedure. The directive shall clearly state that any prisoner who is given a prognosis of six

months or less to live is eligible for recall and resentencing consideration, and that recall and resentencing procedures shall be initiated upon that prognosis.

The provisions of this subdivision shall be available to an inmate who is sentenced to a county jail pursuant to subdivision (h). For purposes of those inmates, “secretary” or “warden” shall mean the county correctional administrator and “chief medical officer” shall mean a physician designated by the county correctional administrator for this purpose.

Notwithstanding any other provision of this section, for purposes of paragraph (3) of subdivision (h), any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because he or she is required to register as a sex offender shall not be subject to dismissal pursuant to Section 1385.

A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

Notwithstanding paragraphs (1) and (2), where the defendant (A) has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7 or a prior or current conviction for a violent felony described in subdivision (c) of Section 667.5, (B) has a prior felony conviction in another jurisdiction for an offense that has all the elements of a serious felony described in subdivision (c) of Section 1192.7 or a violent felony described in subdivision (c) of Section 667.5, (C) is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

~~Nothing in this~~ This subdivision shall not be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

Unless the court finds that, in the interests of justice, it is not appropriate in a particular case, the court, when imposing a sentence pursuant to paragraph (1) or (2), shall suspend execution of a concluding portion of the term for a period selected at the court’s discretion.

The portion of a defendant’s sentenced term that is suspended pursuant to this paragraph shall be known as mandatory supervision, and, unless otherwise ordered by the court, shall commence upon release from physical custody or an alternative custody program, whichever is later. During the period of mandatory supervision, the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. Any proceeding to revoke or modify mandatory supervision under this subparagraph shall be conducted pursuant to either subdivisions (a) and (b) of Section 1203.2 or Section 1203.3. During the period when the defendant

is under that supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court. Any time period which is suspended because a person has absconded shall not be credited toward the period of supervision.

The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.

The sentencing changes made to paragraph (5) by the act that added this paragraph shall become effective and operative on January 1, 2015, and shall be applied prospectively to any person sentenced on or after January 1, 2015.

This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 185.

Section 1170 of the Penal Code, as amended by Section 6.3 of Chapter 887 of the Statutes of 2016, is amended to read:

1170.

The Legislature finds and declares that the purpose of sentencing is public safety achieved through punishment, rehabilitation, and restorative justice. When a sentence includes incarceration, this purpose is best served by terms that are proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances.

The Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational, rehabilitative, and restorative justice programs that are designed to promote behavior change and to prepare all eligible offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate all eligible offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to allow all eligible inmates the opportunity to enroll in programs that promote successful return to the community. The Department of Corrections and Rehabilitation is directed to establish a mission statement consistent with these principles.

In any case in which the sentence prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison, or a term pursuant to subdivision (h), of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the sentence prescribed, shall also impose any other term that it is required by law to impose as an additional term. ~~Nothing in this~~ This article ~~shall~~ does not affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life, except as provided in paragraph (2) of subdivision (d). In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, except for a remaining portion of mandatory supervision imposed

pursuant to subparagraph (B) of paragraph (5) of subdivision (h), the entire sentence shall be deemed to have been served, except for the remaining period of mandatory supervision, and the defendant shall not be actually delivered to the custody of the secretary or the county correctional administrator. The court shall advise the defendant that he or she shall serve an applicable period of parole, postrelease community supervision, or mandatory supervision and order the defendant to report to the parole or probation office closest to the defendant's last legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole, postrelease community supervision, or mandatory supervision. The sentence shall be deemed a separate prior prison term or a sentence of imprisonment in a county jail under subdivision (h) for purposes of Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.

When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports, including reports received pursuant to Section 1203.03, and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000 or 3000.08 or postrelease community supervision for a period as provided in Section 3451.

When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison or county jail pursuant to subdivision (h) and has been committed to the custody of the secretary or the county correctional administrator, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings in the case of state prison inmates, or the county correctional administrator in the case of county jail inmates, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The court resentencing under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(A) (i) When a defendant who was under 18 years of age at the time of the commission of the offense for which the defendant was sentenced to imprisonment for life without the possibility of parole has been incarcerated for at least 15 years, the defendant may submit to the sentencing court a petition for recall and resentencing.

Notwithstanding clause (i), this paragraph shall not apply to defendants sentenced to life without parole for an offense where it was pled and proved that the defendant tortured, as described in Section 206, his or her victim or the victim was a public safety official, including any law enforcement personnel mentioned in Chapter 4.5 (commencing with Section 830) of Title 3, or any firefighter as described in Section 245.1, as well as any other officer in any segment of law enforcement who is employed by the federal government, the state, or any of its political subdivisions.

The defendant shall file the original petition with the sentencing court. A copy of the petition shall be served on the agency that prosecuted the case. The petition shall include the defendant's statement that he or she was under 18 years of age at the time of the crime and was sentenced to life in prison without the possibility of parole, the defendant's statement describing his or her remorse and work towards rehabilitation, and the defendant's statement that one of the following is true:

The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.

The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the sentence is being considered for recall.

The defendant committed the offense with at least one adult codefendant.

The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing himself or herself of rehabilitative, educational, or vocational programs, if those programs have been available at his or her classification level and facility, using self-study for self-improvement, or showing evidence of remorse.

If any of the information required in subparagraph (B) is missing from the petition, or if proof of service on the prosecuting agency is not provided, the court shall return the petition to the defendant and advise the defendant that the matter cannot be considered without the missing information.

A reply to the petition, if any, shall be filed with the court within 60 days of the date on which the prosecuting agency was served with the petition, unless a continuance is granted for good cause.

If the court finds by a preponderance of the evidence that one or more of the statements specified in clauses (i) to (iv), inclusive, of subparagraph (B) ~~is~~ are true, the court shall recall the sentence and commitment previously ordered and hold a hearing to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. Victims, or victim family members if the victim is deceased, shall retain the rights to participate in the hearing.

The factors that the court may consider when determining whether to resentence the defendant to a term of imprisonment with the possibility of parole include, but are not limited to, the following:

The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.

The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the defendant was sentenced to life without the possibility of parole.

The defendant committed the offense with at least one adult codefendant.

Prior to the offense for which the defendant was sentenced to life without the possibility of parole, the defendant had insufficient adult support or supervision and had suffered from psychological or physical trauma, or significant stress.

The defendant suffers from cognitive limitations due to mental illness, developmental disabilities, or other factors that did not constitute a defense, but influenced the defendant's involvement in the offense.

The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing himself or herself of rehabilitative, educational, or vocational programs, if those programs have been available at his or her classification level and facility, using self-study for self-improvement, or showing evidence of remorse.

The defendant has maintained family ties or connections with others through letter writing, calls, or visits, or has eliminated contact with individuals outside of prison who are currently involved with crime.

The defendant has had no disciplinary actions for violent activities in the last five years in which the defendant was determined to be the aggressor.

The court shall have the discretion to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. The discretion of the court shall be exercised in consideration of the criteria in subparagraph (F). Victims, or victim family members if the victim is deceased, shall be notified of the resentencing hearing and shall retain their rights to participate in the hearing.

If the sentence is not recalled or the defendant is resented to imprisonment for life without the possibility of parole, the defendant may submit another petition for recall and resentencing to the sentencing court when the defendant has been committed to the custody of the department for at least 20 years. If the sentence is not recalled or the defendant is resented to imprisonment for life without the possibility of parole under that petition, the defendant may file another petition after having served 24 years. The final petition may be submitted, and the response to that petition shall be determined, during the 25th year of the defendant's sentence.

In addition to the criteria in subparagraph (F), the court may consider any other criteria that the court deems relevant to its decision, so long as the court identifies them on the record, provides a statement of reasons for adopting them, and states why the defendant does or does not satisfy the criteria.

This subdivision shall have retroactive application.

~~Nothing in this~~ This paragraph is not intended to diminish or abrogate any rights or remedies otherwise available to the defendant.

Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

The court shall have the discretion to resentence or recall if the court finds that the facts described in subparagraphs (A) and (B) or subparagraphs (B) and (C) exist:

The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentence or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

Any physician employed by the department who determines that a prisoner has six months or less to live shall notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden. Within 48 hours of receiving notification, the warden or the warden's representative shall notify the prisoner of the recall and resentencing procedures, and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and resentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the information described in paragraph (2).

The warden or the warden's representative shall provide the prisoner and his or her family member, agent, or emergency contact, as described in paragraph (4), updated information throughout the recall and resentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and resentencing proceedings.

Notwithstanding any other provisions of this section, the prisoner or his or her family member or designee may independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Upon receipt of the request, the chief medical officer and the warden or the warden's representative shall follow the procedures described in paragraph (4). If the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days

in the case of inmates sentenced to determinate terms and, in the case of inmates sentenced to indeterminate terms, the secretary shall make a recommendation to the Board of Parole Hearings with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

Any recommendation for recall submitted to the court by the secretary or the Board of Parole Hearings shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

If the court grants the recall and resentencing application, the prisoner shall be released by the department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the following in his or her possession: a discharge medical summary, full medical records, state identification, parole or postrelease community supervision medications, and all property belonging to the prisoner. After discharge, any additional records shall be sent to the prisoner's forwarding address.

The secretary shall issue a directive to medical and correctional staff employed by the department that details the guidelines and procedures for initiating a recall and resentencing procedure. The directive shall clearly state that any prisoner who is given a prognosis of six months or less to live is eligible for recall and resentencing consideration, and that recall and resentencing procedures shall be initiated upon that prognosis.

The provisions of this subdivision shall be available to an inmate who is sentenced to a county jail pursuant to subdivision (h). For purposes of those inmates, "secretary" or "warden" shall mean the county correctional administrator and "chief medical officer" shall mean a physician designated by the county correctional administrator for this purpose.

Notwithstanding any other provision of this section, for purposes of paragraph (3) of subdivision (h), any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because he or she is required to register as a sex offender shall not be subject to dismissal pursuant to Section 1385.

A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

Notwithstanding paragraphs (1) and (2), where the defendant (A) has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7 or a prior or current conviction for a violent felony described in subdivision (c) of Section 667.5, (B) has a prior felony conviction in another jurisdiction for an offense that has all the elements of a

serious felony described in subdivision (c) of Section 1192.7 or a violent felony described in subdivision (c) of Section 667.5, (C) is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or (D) is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

~~Nothing in this~~ This subdivision shall not be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

Unless the court finds, in the interest of justice, that it is not appropriate in a particular case, the court, when imposing a sentence pursuant to paragraph (1) or (2), shall suspend execution of a concluding portion of the term for a period selected at the court's discretion.

The portion of a defendant's sentenced term that is suspended pursuant to this paragraph shall be known as mandatory supervision, and, unless otherwise ordered by the court, shall commence upon release from physical custody or an alternative custody program, whichever is later. During the period of mandatory supervision, the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. Any proceeding to revoke or modify mandatory supervision under this subparagraph shall be conducted pursuant to either subdivisions (a) and (b) of Section 1203.2 or Section 1203.3. During the period when the defendant is under that supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court. Any time period which is suspended because a person has absconded shall not be credited toward the period of supervision.

The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.

The sentencing changes made to paragraph (5) by the act that added this paragraph shall become effective and operative on January 1, 2015, and shall be applied prospectively to any person sentenced on or after January 1, 2015.

This section shall become operative on January 1, 2022.

SEC. 186.

Section 1170.18 of the Penal Code is amended to read:

1170.18.

A person who, on November 5, 2014, was serving a sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under the act that added this section ("this act") had this act been in effect at the time of the offense may petition for a recall of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing in accordance with Sections 11350, 11357, or 11377 of the Health and Safety Code, or Section 459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code, as those sections have been amended or added by this act.

Upon receiving a petition under subdivision (a), the court shall determine whether the petitioner satisfies the criteria in subdivision (a). If the petitioner satisfies the criteria in subdivision (a), the petitioner's felony sentence shall be recalled and the petitioner resentenced to a misdemeanor pursuant to Sections 11350, 11357, or 11377 of the Health and Safety Code, or Section 459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code, as those sections have been amended or added by this act, unless the court, in its discretion, determines that resentencing the petitioner would pose an unreasonable risk of danger to public safety. In exercising its discretion, the court may consider all of the following:

The petitioner's criminal conviction history, including the type of crimes committed, the extent of injury to victims, the length of prior prison commitments, and the remoteness of the crimes.

The petitioner's disciplinary record and record of rehabilitation while incarcerated.

Any other evidence the court, within its discretion, determines to be relevant in deciding whether a new sentence would result in an unreasonable risk of danger to public safety.

As used throughout this Code, "unreasonable risk of danger to public safety" means an unreasonable risk that the petitioner will commit a new violent felony within the meaning of clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667.

A person who is resentenced pursuant to subdivision (b) shall be given credit for time served and shall be subject to parole for one year following completion of his or her sentence, unless the court, in its discretion, as part of its resentencing order, releases the person from parole. Such person is subject to Section 3000.08 parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county in which the parolee is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke parole and impose a term of custody.

Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence.

A person who has completed his or her sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under this act had this act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the felony conviction or convictions designated as misdemeanors.

If the application satisfies the criteria in subdivision (f), the court shall designate the felony offense or offenses as a misdemeanor.

Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under ~~subsection~~ subdivision (f).

The provisions of this section shall not apply to persons who have one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

Any petition or application under this section shall be filed on or before November 4, 2022, or at a later date upon showing of good cause.

Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor under subdivision (g) shall be considered a misdemeanor for all purposes, except that such resentencing shall not permit that person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

~~Nothing in this~~ This section is ~~not~~ intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

~~Nothing in this~~ This and related sections ~~is~~ ~~are~~ ~~not~~ intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this act.

A resentencing hearing ordered under this act shall constitute a “post-conviction release proceeding” under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy’s Law).

SEC. 187.

Section 1347.1 of the Penal Code is amended to read:

1347.1.

In any criminal proceeding in which a defendant is charged with a violation of Section 236.1, upon written notice by the prosecutor made at least three days prior to the date of the preliminary hearing or trial date on which the testimony of the minor is scheduled, or during the course of the proceeding on the court’s own motion, ~~the court~~ may order that the testimony of a minor 15 years of age or younger at the time of the motion be taken by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant or defendants, and attorneys, and communicated to the courtroom by means of closed-circuit television, if the court makes all of the following findings:

The minor’s testimony will involve a recitation of the facts of an alleged offense of human trafficking, as defined in Section 236.1.

The impact on the minor of one or more of the factors enumerated in clauses (i) to (v), inclusive, is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness unless closed-circuit testimony is used.

Testimony by the minor in the presence of the defendant would result in the minor suffering serious emotional distress so that the minor would be unavailable as a witness.

The defendant used a deadly weapon in the commission of the offense.

The defendant threatened serious bodily injury to the minor or the minor’s family, threatened incarceration or deportation of the minor or a member of the minor’s family, threatened removal of the minor from the minor’s family, or threatened the dissolution of the minor’s family in order to prevent or dissuade the minor from attending or giving

testimony at any trial or court proceeding, or to prevent the minor from reporting the alleged sexual offense, or from assisting in criminal prosecution.

The defendant inflicted great bodily injury upon the minor in the commission of the offense.

The defendant or his or her counsel behaved during the hearing or trial in a way that caused the minor to be unable to continue his or her testimony.

In making the determination required by this paragraph, the court shall consider the age of the minor, the relationship between the minor and the defendant or defendants, any handicap or disability of the minor, and the nature of the acts charged. The minor's refusal to testify shall not alone constitute sufficient evidence that the special procedure described in this section is necessary to obtain the minor's testimony.

The equipment available for use of closed-circuit television would accurately communicate the image and demeanor of the minor to the judge, jury, defendant or defendants, and attorneys.

If the court orders the use of closed-circuit television, two-way closed-circuit television shall be used, except that if the impact on the minor of one or more of the factors enumerated in clauses (i) to (v), inclusive, of subparagraph (A) of paragraph (2) of subdivision (a), is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness even if two-way closed-circuit television is used, one-way closed-circuit television may be used. The prosecution shall give the defendant or defendants at least 30 days' written notice of the prosecution's intent to seek the use of one-way closed-circuit television, unless the prosecution shows good cause to the court why this 30-day notice requirement should not apply.

The hearing on a motion brought pursuant to this section shall be conducted out of the presence of the jury.

Notwithstanding Section 804 of the Evidence Code or any other law, the court, in determining the merits of the motion, shall not compel the minor to testify at the hearing, nor shall the court deny the motion on the ground that the minor has not testified.

In determining whether the impact on an individual minor of one or more of the five factors enumerated in clauses (i) to (v), inclusive, of subparagraph (A) of paragraph (2) of subdivision (a) is so substantial that the minor is unavailable as a witness unless two-way or one-way closed-circuit television is used, the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the support person, the prosecutor, and defense counsel present. The defendant or defendants shall not be present. The court shall conduct the questioning of the minor and shall not permit the prosecutor or defense counsel to examine the minor. The prosecutor and defense counsel shall be permitted to submit proposed questions to the court prior to the session in chambers. Defense counsel shall be afforded a reasonable opportunity to consult with the defendant or defendants prior to the conclusion of the session in chambers.

When the court orders the testimony of a minor to be taken in another place outside of the courtroom, the court shall do all of the following:

Make a brief statement on the record, outside of the presence of the jury, of the reasons in support of its order. While the statement need not include traditional findings of fact, the reasons shall be set forth with sufficient specificity to permit meaningful review and to demonstrate that discretion was exercised in a careful, reasonable, and equitable manner.

Instruct the members of the jury that they are to draw no inferences from the use of closed-circuit television as a means of facilitating the testimony of the minor.

Instruct respective counsel, outside of the presence of the jury, that they are to make no comment during the course of the trial on the use of closed-circuit television procedures.

Instruct the support witness, outside of the presence of the jury, that he or she is not to coach, cue, or in any way influence or attempt to influence the testimony of the minor.

Order that a complete record of the examination of the minor, including the images and voices of all persons who in any way participate in the examination, be made and preserved as a video recording in addition to being stenographically recorded. The video recording shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant or defendants, and his or her attorney during ordinary business hours. The video recording shall be destroyed after five years have elapsed from the date of entry of judgment. If an appeal is filed, the video recording shall not be destroyed until a final judgment on appeal has been ordered. A video recording that is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the witness. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

When the court orders the testimony of a minor to be taken in another place outside the courtroom, only the minor, a support person designated pursuant to Section 868.5, a nonuniformed bailiff, any technicians necessary to operate the closed-circuit equipment, and, after consultation with the prosecution and the defense, a representative appointed by the court, shall be physically present for the testimony. A video recording device shall record the image of the minor and his or her testimony, and a separate video recording device shall record the image of the support person.

When the court orders the testimony of a minor to be taken in another place outside the courtroom, the minor shall be brought into the judge's chambers prior to the taking of his or her testimony to meet for a reasonable period of time with the judge, the prosecutor, and defense counsel. A support person for the minor shall also be present. This meeting shall be for the purpose of explaining the court process to the minor and to allow the attorneys an opportunity to establish rapport with the minor to facilitate later questioning by closed-circuit television. A participant shall not discuss the defendant or defendants or any of the facts of the case with the minor during this meeting.

When the court orders the testimony of a minor to be taken in another place outside the courtroom, this section does not prohibit the court from ordering the minor to be brought into the courtroom for a limited purpose, including the identification of the defendant or defendants as the court deems necessary.

The examination shall be under oath, and the defendant or defendants shall be able to see and hear the minor witness, and if two-way closed-circuit television is used, the defendant's image shall be transmitted live to the witness.

This section does not affect the disqualification of witnesses pursuant to Section 701 of the Evidence Code.

The cost of examination by contemporaneous closed-circuit television ordered pursuant to this section shall be borne by the court out of its existing budget.

This section shall not be construed to prohibit a defendant from being represented by counsel during any closed-circuit testimony.

SEC. 188.

Section 3409 of the Penal Code is amended to read:

3409.

Any incarcerated person in state prison who menstruates shall, upon request, have access ~~to~~, and be allowed to ~~use~~ ~~use~~, materials necessary for personal hygiene with regard to their menstrual cycle and reproductive system. Any incarcerated person in state prison who is capable of becoming pregnant shall, upon request, have access ~~to~~, and be allowed to ~~obtain~~ ~~obtain~~, contraceptive counseling and their choice of birth control methods, subject to the provisions of subdivision (b), unless medically contraindicated.

Except as provided in paragraph (2), all birth control methods and emergency contraception approved by the United States Food and Drug Administration (FDA) shall be made available to incarcerated persons who are capable of becoming pregnant, with the exception of sterilizing procedures prohibited by Section 3440.

The California Correctional Health Care Services shall establish a formulary that consists of all FDA-approved birth control methods and that shall be available to persons specified in subdivision (a). If a birth control method has more than one FDA-approved therapeutic equivalent, only one version of that method shall be required to be made available, unless another version is specifically indicated by a prescribing provider and approved by the chief medical physician at the facility. Persons shall have access to nonprescription birth control methods without the requirement to see a licensed health care provider.

Any contraceptive service that requires a prescription, or any contraceptive counseling, provided to incarcerated persons who are capable of becoming pregnant, shall be furnished by a licensed health care provider who has been provided with training in reproductive health care and shall be nondirective, unbiased, and noncoercive. These services shall be furnished by the facility or by any other agency that contracts with the facility. Except as provided in paragraph (2), health care providers furnishing contraceptive services shall receive training in the following areas:

The requirements of this section.

Providing nondirective, unbiased, and noncoercive contraceptive counseling and services.

Providers who attend an orientation program for the Family Planning, Access, Care, and Treatment Program shall be deemed to have met the training requirements described in paragraph (1).

Any incarcerated person who is capable of becoming pregnant shall be furnished by the facility with information and education regarding the availability of family planning services and their right to receive nondirective, unbiased, and noncoercive contraceptive counseling and services. Each facility shall post this information in conspicuous places to which all incarcerated persons who are capable of becoming pregnant have access.

Contraceptive counseling and family planning services shall be offered and made available to all incarcerated persons who are capable of becoming pregnant at least 60 days, but not longer than 180 days, prior to a scheduled release date.

~~Nothing in this~~ This section shall ~~not~~ be construed to limit an incarcerated person's access to any method of contraception that is prescribed or recommended for any medically indicated reason.

SEC. 189.

Section 11105.04 of the Penal Code is amended to read:

11105.04.

A designated Court Appointed Special Advocate (CASA) program may submit to the Department of Justice fingerprint images and related information of employment and volunteer candidates for the purpose of obtaining information as to the existence and nature of any record of child abuse investigations contained in the Child Abuse Central Index, state- or federal-level convictions, or state- or federal-level arrests for which the department establishes that the applicant was released on bail or on his or her own recognizance pending trial. Requests for federal-level criminal offender record information received by the department pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the department.

When requesting state-level criminal offender record information pursuant to this section, the designated CASA program shall request subsequent arrest notification, pursuant to Section ~~11105.2 of the Penal Code~~, 11105.2, for all employment and volunteer candidates.

The department shall respond to the designated CASA program with information as delineated in subdivision (p) of Section ~~11105 of the Penal Code~~, 11105.

The department shall charge a fee sufficient to cover the cost of processing the requests for federal-level criminal offender record information.

The department shall not charge a fee for state-level criminal offender record information.

For purposes of this section, a designated CASA program is a local court-appointed special advocate program that has adopted and adheres to the guidelines established by the Judicial Council and which has been designated by the local presiding juvenile court judge to recruit, screen, select, train, supervise, and support lay volunteers to be appointed by the court to help define the best interests of children in juvenile court dependency and wardship proceedings. For purposes of this section, there shall be only one designated CASA program in each California county.

SEC. 190.

Section 11105.08 of the Penal Code is amended to read:

11105.08.

Notwithstanding any other law, a tribal agency may request from the Department of Justice state and federal level summary criminal history information for the purpose of approving a tribal home for the placement of an Indian child into foster or adoptive care.

A tribal agency shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of an individual applying with the tribal agency as a prospective foster parent or adoptive parent, any adult who resides or is employed in the home of an applicant, any person who has a familial or intimate relationship with any person living in the home of an applicant, or employee of the child welfare agency who may have contact with a child, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is released on bail or on his or her own recognizance pending trial or appeal.

Upon receipt of a request for federal summary criminal history information received pursuant to this section, the Department of Justice shall forward the request to the Federal Bureau of Investigation. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the requesting tribal child welfare agency.

The Department of Justice shall provide a state and federal level response to a tribal child welfare agency pursuant to subdivision (m) of Section 11105 of the Penal Code.

A tribal agency shall request from the Department of Justice subsequent notification service pursuant to Section 11105.2 ~~of the Penal Code~~ for persons described in ~~paragraph (b)~~ **subdivision (b) of this section**.

The Department of Justice may charge a fee sufficient to cover the reasonable and appropriate costs of processing the request pursuant to this section.

As used in this section a “tribal agency” means an entity designated by a federally recognized tribe as authorized to approve a home consistent with the federal Indian Child Welfare Act (25 U.S.C. ~~1903~~ **Sec. 1901** et seq.), for the purpose of placement of an Indian child into foster or adoptive care, including the authority to conduct a criminal or child abuse background check of, and grant exemptions to, an individual who is a prospective foster or adoptive parent, an adult who resides or is employed in the home of an applicant for approval, any person who has a familial or intimate relationship with any person living in the home of an applicant, or an employee of a tribal child welfare agency who may have contact with a child.

SEC. 191.

Section 11106 of the Penal Code is amended to read:

11106.

In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (b), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all of the following:

All copies of fingerprints.

Copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215.

Information reported to the Department of Justice pursuant to Section 26225, 27875, 27920, 29180, or 29830.

Dealers' ~~records of sales~~ **Records of Sales** of firearms.

Reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585.

Forms provided pursuant to Section 12084, as that section read prior to being repealed on January 1, 2006.

Reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers' records of sales of firearms.

Information provided pursuant to Section 28255.

Reports of stolen, lost, found, pledged, or pawned property in any city or county of this state.

The Attorney General shall, upon proper application therefor, furnish the information to the officers referred to in Section 11105.

The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to the following provisions as to firearms and maintain a registry thereof:

Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

Any provision listed in subdivision (a) of Section 16585.

Former Section 12084.

Section 28255.

Section 29180.

Any other law.

The registry shall consist of all of the following:

The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular firearm as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585, Section 28255 or 29180, or any other law.

The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular firearm and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular firearm acquiring or being loaned that firearm.

The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm, or, if the firearm is not a handgun and does not have a serial number or any identification number or mark assigned to it, that shall be noted.

Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular firearm.

If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

If the conditions specified in paragraph (2) are met, any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make,

model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to any of the following:

Section 26225, 27875, or 27920.

Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6.

Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6.

Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6.

Any provision listed in subdivision (a) of Section 16585.

Information may be disseminated pursuant to paragraph (1) only if all of the following conditions are satisfied:

The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court.

Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case shall immediately provide the victim of the crime with a "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701.

The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as he or she deems necessary to protect himself or herself or another person from bodily harm by the person who is the subject of the record.

SEC. 192.

Section 11174.32 of the Penal Code is amended to read:

11174.32.

Each county may establish an interagency child death review team to assist local agencies in identifying and reviewing suspicious child deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases. Interagency child death review teams have been used successfully to ensure that incidents of child abuse or neglect are recognized and other siblings and nonoffending family members receive the appropriate services in cases where a child has expired.

Each county may develop a protocol that may be used as a guideline by persons performing autopsies on children to assist coroners and other persons who perform autopsies in the identification of child abuse or neglect, in the determination of whether child abuse or neglect contributed to death or whether child abuse or neglect had occurred prior to but was not the actual cause of death, and in the proper written reporting procedures for child abuse or neglect, including the designation of the cause and mode of death.

In developing an interagency child death review team and an autopsy protocol, each county, working in consultation with local members of the California State ~~Coroner's~~ Coroners Association and county child abuse prevention coordinating councils, may solicit suggestions and final comments from persons, including, but not limited to, the following:

Experts in the field of forensic pathology.

Pediatricians with expertise in child abuse.

Coroners and medical examiners.

Criminologists.

District attorneys.

Child protective services staff.

Law enforcement personnel.

Representatives of local agencies which are involved with child abuse or neglect reporting.

County health department staff who deals with children's health issues.

Local professional associations of persons described in paragraphs (1) to (9), inclusive.

Records exempt from disclosure to third parties pursuant to state or federal law shall remain exempt from disclosure when they are in the possession of a child death review team.

Written and oral information pertaining to the child's death as requested by a child death review team may be disclosed to a child death review team established pursuant to this section. The team may make a request, in writing, for the information sought and any person with information of the kind described in paragraph (2) may rely on the request in determining whether information may be disclosed to the team.

An individual or agency that has information governed by this subdivision shall not be required to disclose information. The intent of this subdivision is to allow the voluntary disclosure of information by the individual or agency that has the information.

The following information may be disclosed pursuant to this subdivision:

Notwithstanding Section 56.10 of the Civil Code, medical information, unless disclosure is prohibited by federal law.

Notwithstanding Section 5328 of the Welfare and Institutions Code, mental health information.

Notwithstanding Section 11167.5, information from child abuse reports and investigations, except the identity of the person making the report, which shall not be disclosed.

State summary criminal history information, criminal offender record information, and local summary criminal history information, as defined in Sections 11105, 11075, and 13300, respectively.

Notwithstanding Section 11163.2, information pertaining to reports by health practitioners of persons suffering from physical injuries inflicted by means of a firearm or of persons suffering physical injury where the injury is a result of assaultive or abusive conduct.

Notwithstanding Section 10850 of the Welfare and Institutions Code, records of in-home supportive services, unless disclosure is prohibited by federal law.

Written or oral information disclosed to a child death review team pursuant to this subdivision shall remain confidential, and shall not be subject to disclosure or discovery by a third party unless otherwise required by law.

No less than once each year, each child death review team shall make available to the public findings, ~~conclusions~~ conclusions, and recommendations of the team, including aggregate statistical data on the incidences and causes of child deaths.

In its report, the child death review team shall withhold the last name of the child that is subject to a review or the name of the deceased child's siblings unless the name has been publicly disclosed or is required to be disclosed by state law, federal law, or court order.

SEC. 193.

Section 12021.5 of the Penal Code, as amended by Section 11 of Chapter 887 of the Statutes of 2016, is amended to read:

12021.5.

Every person who carries a loaded or unloaded firearm on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crimes described in subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for one, two, or three years. The court shall select the sentence enhancement ~~which,~~ that, in the court's discretion, best serves the interests of justice and shall state the reasons for its choice on the record at the time of sentence, in accordance with ~~the provisions of~~ subdivision (d) of Section 1170.1.

Every person who carries a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding device on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crimes described in subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for two, three, or four years. The court shall select the sentence enhancement ~~which,~~ that, in the court's discretion, best serves the interests of justice and shall state the reasons for its choice on the record at the time of sentence, in accordance with ~~the provisions of~~ subdivision (d) of Section 1170.1.

As used in this section, the following definitions shall apply:

“Detachable magazine” means a device that is designed or redesigned to do all of the following:

To be attached to a rifle that is designed or redesigned to fire ammunition.

To be attached to, and detached from, a rifle that is designed or redesigned to fire ammunition.

To feed ammunition continuously and directly into the loading mechanism of a rifle that is designed or redesigned to fire ammunition.

“Detachable pistol magazine” means a device that is designed or redesigned to do all of the following:

To be attached to a semiautomatic firearm that is not a rifle or shotgun that is designed or redesigned to fire ammunition.

To be attached to, and detached from, a firearm that is not a rifle or shotgun that is designed or redesigned to fire ammunition.

To feed ammunition continuously and directly into the loading mechanism of a firearm that is not a rifle or a shotgun that is designed or redesigned to fire ammunition.

“Detachable shotgun magazine” means a device that is designed or redesigned to do all of the following:

To be attached to a firearm that is designed or redesigned to fire a fixed shotgun shell through a smooth or rifled bore.

To be attached to, and detached from, a firearm that is designed or redesigned to fire a fixed shotgun shell through a smooth bore.

To feed fixed shotgun shells continuously and directly into the loading mechanism of a firearm that is designed or redesigned to fire a fixed shotgun shell.

“Belt-feeding device” means a device that is designed or redesigned to continuously feed ammunition into the loading mechanism of a machinegun or a semiautomatic firearm.

“Rifle” shall have the same meaning as specified in ~~paragraph (20) of subdivision (c) of Section 12020 until January 1, 2012, and, on or after that date,~~ Section 17090.

“Shotgun” shall have the same meaning as specified in ~~paragraph (21) of subdivision (c) of Section 12020 until January 1, 2012, and, on or after that date,~~ Section 17190.

This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 194.

Section 12022.2 of the Penal Code, as amended by Section 13 of Chapter 887 of the Statutes of 2016, is amended to read:

12022.2.

~~Any~~ **A** person who, while armed with a firearm in the commission or attempted commission of any felony, has in his or her immediate possession ammunition for the firearm designed primarily to penetrate metal or armor, ~~shall~~ **shall**, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony, be punished by an additional term of 3, 4, or 10 years. The court shall select the sentence enhancement ~~which, that~~, in the court’s discretion, best serves the interests of justice and shall state the reasons for its choice on the

record at the time of the sentence in accordance with ~~the provisions of~~ subdivision (d) of Section 1170.1.

~~Any~~ **A** person who wears a body vest in the commission or attempted commission of a violent offense, as defined in ~~subdivision (b) of Section 12021.1, until January 1, 2012, and, on or after that date,~~ Section 29905, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two, or five years. The court shall select the sentence enhancement ~~which, that,~~ in the court's discretion, best serves the interests of justice and shall state the reasons for its choice on the record at the time of the sentence in accordance with ~~the provisions of~~ subdivision (d) of Section 1170.1.

As used in this section, "body vest" means any bullet-resistant material intended to provide ballistic and trauma protection for the wearer.

This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 195.

Section 12022.4 of the Penal Code, as amended by Section 15 of Chapter 887 of the Statutes of 2016, is amended to read:

12022.4.

~~Any~~ **A** person who, during the commission or attempted commission of a felony, furnishes or offers to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony shall, in addition and consecutive to the punishment prescribed by the felony or attempted felony of which the person has been convicted, be punished by an additional term of one, two, or three years in the state prison. The court shall select the sentence enhancement ~~which, that,~~ in the court's discretion, best serves the interests of justice and shall state the reasons for its choice on the record at the time of the sentence, in accordance with ~~the provisions of~~ subdivision (d) of Section 1170.1. The additional term provided in this section shall not be imposed unless the fact of the furnishing is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 196.

Section 13835.4 of the Penal Code is amended to read:

13835.4.

In order to ~~insure~~ **ensure** the effective delivery of comprehensive services to victims and witnesses, a center established by an agency receiving funds pursuant to this article shall carry out all of the following activities in connection with both primary and optional services:

Translation services for ~~non-English-speaking~~ **non-English-speaking** victims and witnesses or the deaf or hard of hearing.

Follow-up contact to determine ~~if~~ **whether** the client received the necessary assistance.

Field visits to a client's home, place of business, or other location, whenever necessary to provide services.

Service to victims and witnesses of all types of crime.

Volunteer participation to encourage community involvement.

Services for elderly victims of crime, appropriate to their special needs.

SEC. 197.

Section 29180 of the Penal Code is amended to read:

29180.

For purposes of this chapter, “manufacturing” or “assembling” a firearm means to fabricate or construct a firearm, or to fit together the component parts of a firearm to construct a firearm.

Commencing July 1, 2018, prior to manufacturing or assembling a firearm, a person manufacturing or assembling the firearm shall do all of the following:

Apply to the Department of Justice for a unique serial number or other mark of identification pursuant to Section 29182.

Within 10 days of manufacturing or assembling a firearm in accordance with paragraph (1), the unique serial number or other mark of identification provided by the department shall be engraved or permanently affixed to the firearm in a manner that meets or exceeds the requirements imposed on licensed importers and licensed manufacturers of firearms pursuant to subsection (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto.

If the firearm is manufactured or assembled from polymer plastic, 3.7 ounces of material type 17-4 PH stainless steel shall be embedded within the plastic upon fabrication or construction with the unique serial number engraved or otherwise permanently affixed in a manner that meets or exceeds the requirements imposed on licensed importers and licensed manufacturers of firearms pursuant to subsection (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto.

After the serial number provided by the department is engraved or otherwise permanently affixed to the firearm, the person shall notify the department of that fact in a manner and within a time period specified by the department, and with sufficient information to identify the owner of the firearm, the unique serial number or mark of identification provided by the department, and the firearm in a manner prescribed by the department.

By January 1, 2019, any person who, as of July 1, 2018, owns a firearm that does not bear a serial number assigned to it pursuant to either Section 23910 or ~~pursuant to~~ Chapter 44 (commencing with Section 921) of Part 1 of Title 18 of the United States Code and the regulations issued pursuant thereto, shall do all of the following:

Apply to the Department of Justice for a unique serial number or other mark of identification pursuant to Section 29182.

Within 10 days of receiving a unique serial number or other mark of identification from the department, the unique serial number or other mark of identification provided by the department shall be engraved or permanently affixed to the firearm in accordance with regulations prescribed by the department pursuant to Section 29182 and in a manner that meets or exceeds the requirements imposed on licensed importers and licensed manufacturers of firearms pursuant to subsection (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto.

After the serial number provided by the department is engraved or otherwise permanently affixed to the firearm, the person shall notify the department of that fact in a manner and within a time period specified by the ~~department~~, department and with sufficient information to

identify the owner of the firearm, the unique serial number or mark of identification provided by the department, and the firearm in a manner prescribed by the department.

The sale or transfer of ownership of a firearm manufactured or assembled pursuant to this section is prohibited.

Paragraph (1) ~~shall~~ **does** not apply to the transfer, surrender, or sale of a firearm to a law enforcement agency.

Any firearms surrendered, transferred, or sold to a local law enforcement agency pursuant to paragraph (2) shall be destroyed as provided in Section 18005.

Sections 26500 and 27545, and subdivision (a) of Section 31615, ~~shall~~ **do** not apply to the transfer, sale, or surrender of firearms to a law enforcement agency pursuant to paragraph (2).

A person, corporation, or firm shall not knowingly allow, facilitate, aid, or abet the manufacture or assembling of a firearm pursuant to this section by a person who is within any of the classes identified by Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

If the firearm is a handgun, a violation of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment. For all other firearms, a violation of this section is punishable by imprisonment in a county jail not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment. Each firearm found to be in violation of this section constitutes a distinct and separate offense. This section does not preclude prosecution under any other law providing for a greater penalty.

SEC. 198.

Section 29181 of the Penal Code is amended to read:

29181.

Section 29180 does not apply to or affect any of the following:

A firearm that has a serial number assigned to it pursuant to either Section 23910 or ~~pursuant to~~ Chapter 44 (commencing with Section 921) of Part 1 of Title 18 of the United States Code and the regulations issued pursuant thereto.

A firearm made or assembled prior to December 16, 1968, that is not a handgun.

A firearm which was entered into the centralized registry set forth in Section 11106 prior to July 1, 2018, as being owned by a specific individual or entity if that firearm has assigned to it a distinguishing number or mark of identification ~~to that firearm by virtue of~~ **because** the department ~~accepting~~ **accepted** entry of that firearm into the centralized registry.

A firearm that has a serial number assigned to it pursuant to Chapter 53 of Title 26 of the United States Code and the regulations issued pursuant thereto.

A firearm that is a curio or relic, or an antique firearm, as those terms are defined in Section 479.11 of Title 27 of the Code of Federal Regulations.

SEC. 199.

Section 29182 of the Penal Code is amended to read:

29182.

The Department of Justice shall accept applications from, and shall grant applications in the form of serial numbers pursuant to Section 23910 to, persons who wish to manufacture or assemble firearms pursuant to subdivision (b) of Section 29180.

The Department of Justice shall accept applications from, and shall grant applications in the form of serial numbers pursuant to Section 23910 to, persons who wish to own a firearm described in subdivision (c) of Section 29180.

An application made pursuant to subdivision (a) shall only be granted by the department if the applicant does all of the following:

For each transaction, completes a personal firearms eligibility ~~check~~, check demonstrating that the applicant is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

Presents proof of age and identity as specified in Section 16400. The applicant shall be 18 years of age or older to obtain a unique serial number or mark of identification for a firearm that is not a handgun, and shall be 21 years of age or older to obtain a unique serial number or mark of identification for a handgun.

Provides a description of the firearm that he or she owns or intends to manufacture or assemble, in a manner prescribed by the department.

Has a valid firearm safety certificate or handgun safety certificate.

The department shall inform applicants who are denied an application of the reasons for the denial in writing.

All applications shall be granted or denied within 15 calendar days of the receipt of the application by the department.

This chapter does not authorize a person to manufacture, assemble, or possess a weapon prohibited under Section 16590, an assault weapon as defined in Section 30510 or 30515, a machinegun as defined in Section 16880, a .50 BMG rifle as defined in Section 30530, or a destructive device as defined in Section 16460.

The department shall adopt regulations to administer this chapter.

SEC. 200.

Section 20928.2 of the Public Contract Code is amended to read:

20928.2.

The procurement process for the project shall progress as follows:

The local agency shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but need not be limited to, the size, type, and desired design character of the project, performance specifications covering the quality of materials, equipment, workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the local agency's needs. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

The local agency shall prepare and issue a request for qualifications in order to prequalify or short-list the entities, including subcontractors and suppliers, whose bids shall be evaluated for final selection. The request for qualifications shall include, but need not be limited to, the following elements:

Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the local agency to evaluate bids, the procedure for final selection of the bidder, and any other information deemed necessary by the local agency to inform interested parties of the contracting opportunity.

Significant factors that the local agency reasonably expects to consider in evaluating qualifications, including technical design-related expertise, construction expertise, acceptable safety records, and all other ~~nonprice-related~~ non-price-related factors.

A standard template request for statements of qualifications prepared by the local agency. In preparing the standard template, the local agency may consult with the construction industry, the building trades and surety industry, and other local agencies interested in using the authorization provided by this article. The template shall require all of the following information:

If the bidder is a privately held corporation, limited liability company, partnership, or joint venture, comprised of ~~privately held~~ privately held entities, a listing of all of the shareholders, partners, or members known at the time of statement of qualification submission who will perform work on the project.

Evidence that the members of the contracting team have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity and that proposed key personnel have sufficient experience and training to competently manage and complete the project, and a financial statement that ensures that the bidder has the capacity to complete the project.

The licenses, registration, and credentials required for the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

Evidence that establishes that the bidder has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

Information concerning workers' compensation experience history and a worker safety program.

An acceptable safety ~~record.~~ "Safety record. "Safety record" means the prior history concerning the safe performance of construction contracts. The criteria used to evaluate a bidder's safety record shall include, at a minimum, its experience modification rate for the most recent three-year period, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period.

The information required under this subdivision shall be certified under penalty of perjury by the bidder and its general partners or joint venture members.

A contracting entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the local agency that the entity and its subcontractors will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.

For purposes of this subdivision:

"Apprenticeable occupation" means an occupation for which the chief had approved an apprenticeship program pursuant to Section 3075 of the Labor Code prior to January 1, 2014.

“Skilled and trained workforce” means a workforce that meets all of the following conditions:

All the workers are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards.

(I) For work performed on or after January 1, 2017, at least 30 percent of the skilled journeypersons employed to perform work on the contract or project by the bidder and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(II) For work performed on or after January 1, 2018, at least 40 percent of the skilled journeypersons employed to perform work on the contract or project by the bidder and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

For work performed on or after January 1, 2019, at least 50 percent of the skilled journeypersons employed to perform work on the contract or project by the bidder and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

For work performed on or after January 1, 2020, at least 60 percent of the skilled journeypersons employed to perform work on the contract or project by the bidder and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

For an apprenticeable occupation in which no apprenticeship program had been approved by the chief prior to January 1, 1995, up to one-half of the graduation percentage requirements of clause (ii) may be satisfied by skilled journeypersons who commenced working in the apprenticeable occupation prior to the chief’s approval of an apprenticeship program for that occupation in the county in which the project is located.

“Skilled journeyperson” means a worker who either:

Graduated from an apprenticeship program for the applicable occupation that was approved by the chief or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(ii) Has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the chief.

The apprenticeship graduation percentage requirements of subparagraph (B) of paragraph (1) are satisfied if, in a particular calendar month, either of the following is true:

The required percentage of the skilled journeypersons employed by the contractor or subcontractor to perform work on the contract or project meet the graduation percentage requirement.

For the hours of work performed by skilled journeypersons employed by the contractor or subcontractor on the contract or project, the percentage of hours performed by skilled journeypersons who met the graduation requirement meets or exceeds the required graduation percentage.

A contractor or subcontractor need not meet the apprenticeship graduation requirements of subparagraph (B) of paragraph (1) if, during the calendar month, the contractor or subcontractor employs skilled journeypersons to perform fewer than 10 hours of work on the contract or project.

A subcontractor need not meet the apprenticeship graduation requirements of subparagraph (B) of paragraph (1) if both of the following requirements are met:

The subcontractor was not a listed subcontractor under Section 4104 or a substitute for a listed subcontractor.

The subcontract does not exceed one-half of 1 percent of the price of the prime contract.

A contractor, bidder, or other entity's commitment that a skilled and trained workforce will be used to perform the project or contract shall be established by the contractor, bidder, or other entity's agreement with the local agency that the contractor, bidder, or other entity and its subcontractors at every tier will comply with this subdivision and that the contractor, bidder, or other entity will provide the local agency with a report on a monthly basis while the project or contract is being performed, as to whether the contractor, bidder, or other entity and its subcontractors are complying with the requirements of this subdivision.

If the contractor, bidder, or other entity fails to provide the monthly report required by this section, or provides a report that is incomplete, the local agency shall withhold further payments until a complete report is provided.

If a monthly report does not demonstrate compliance with this chapter, the local agency shall withhold further payments until the contractor, bidder, or other entity provides a plan to achieve substantial compliance with this article, with respect to the relevant apprenticeable occupation, prior to completion of the contract or project.

A monthly report provided to the public agency or other awarding body shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall be open to public inspection.

This subdivision shall not apply if the contractor, bidder, or other entity has entered into a project labor agreement that will bind itself and all its subcontractors who perform construction work on the project, and the contractor, bidder, or other entity agrees to be bound by the project agreement.

The local agency shall make the list of prequalified entities available to the public.

Based on the documents prepared as described in subdivision (a), the local agency shall prepare a request for bids that invites prequalified or short-listed entities to submit competitive sealed bids in the manner prescribed by the local agency. The request for bids shall include, but need not be limited to, all of the following elements:

Identification of the basic scope and needs of the project or contract, the estimated cost to perform the work being requested, the methodology that will be used by the local agency to evaluate bids, whether the contract will be awarded on the basis of best value or to the lowest responsible bidder, and any other information deemed necessary by the local agency to inform interested parties of the contracting opportunity.

Significant factors that the local agency reasonably expects to consider in evaluating bids, including, but not limited to, cost or price and all ~~nonprice-related~~ non-price-related factors.

The relative importance or the weight assigned to each of the factors identified in the request for bids.

If a best value selection method is used, the local agency may reserve the right to request bid revisions and hold discussions and negotiations with responsive bidders, in which case the local agency shall so specify in the request for bids and shall publish separately or incorporate into the request for bids applicable procedures to be observed by the local agency to ensure that any discussions or negotiations are conducted in good faith.

For those projects utilizing low bid as the final selection method, the competitive bidding process shall, if appropriate for the delivery method, result in lump-sum bids by the prequalified or short-listed entities, and awards shall be made to the bidder that is the lowest responsible bidder.

For those projects utilizing best value as a selection method, the competition shall progress as follows:

Competitive bids shall be evaluated by using only the criteria and selection procedures specifically identified in the request for bids. The following minimum factors, however, shall be included, if applicable to the delivery method and weighted as deemed appropriate by the local agency:

Price, unless a stipulated sum is specified and including financial and bonding capacity requirements.

Technical design, procurement, and construction expertise.

Proposed construction approach, sequencing, and methods.

Compliance with the requirements of the owner-provided performance specification.

Ability to meet the milestone schedule dates and, if applicable, any liquidated damages.

Ability to meet the quality requirements.

Proposed risk allocation and sharing.

Safety record.

Warranty.

Life-cycle costs over 15 or more years as specified by the local agency.

Pursuant to subdivision (e), the local agency may hold discussions or negotiations with responsive bidders using the process articulated in the local agency's request for bids.

When the evaluation is complete, the responsive bidders shall be ranked based on a determination of value provided by the local agency if no more than three bidders are required to be ranked.

The award of the contract shall be made to the responsible bidder whose bid is determined by the local agency to have offered the best value to the public.

Notwithstanding any provision of the Water Code, upon issuance of a contract award the local agency shall publicly announce its award, identifying the bidder to which the award is made, along with a statement regarding the basis of the award.

The statement regarding the local agency's contract award, described in paragraph (5), and the contract file shall provide sufficient information to satisfy an external audit.

SEC. 201.

Section 3357 of the Public Resources Code is amended to read:

3357.

In any proceeding before the director, and in any proceeding instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this division, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly located, drilled, operated, maintained, or conducted, the supervisor and the director shall have the power to administer oaths and may apply to a judge of the superior court of the county in which the proceeding or investigation is pending for subpoenas for witnesses to attend the proceeding or investigation. Upon the application of the supervisor or the director, the judge of the superior court shall assign a case number for the proceeding or investigation, shall issue an order prescribing the nature and scope of the proceeding or investigation, and shall retain jurisdiction for the limited purpose of enforcing subpoenas issued in the proceeding or investigation. Upon the assigning of a case number, the attorney of record for the supervisor or director may issue subpoenas directing witnesses to attend the proceeding or investigation, and those persons shall be required to produce, when directed, all records, surveys, documents, books, or accounts in the witness' custody or under the witness' control; except that no person shall be required to attend upon the proceeding unless the person resides within the same county or within 100 miles of the place of attendance. The attorney of record for the supervisor or the director may in that case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure, and may issue subpoenas compelling the attendance of witnesses and the production of records, surveys, documents, books, or accounts at designated places within the limits prescribed in this section.

In conducting a proceeding or investigation specified in subdivision (a), the supervisor or director may require an owner or operator to furnish, under penalty of perjury, technical or monitoring reports that the supervisor or director requires. The burden, including costs, of any report shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the report. In requiring a report, the supervisor or director shall explain in writing to the owner or operator the need for the report, and shall identify the rationale that supports requiring that owner or operator to provide the report.

When requested by the owner or operator furnishing the report, neither the division nor the department shall make available to the public for inspection portions of a report that might disclose trade secrets, well data granted

confidential status pursuant to Section 3234, or other confidential or privileged information. The division or department shall make that confidential or privileged information available to other public agencies as needed for regulatory purposes and in accordance with a written agreement with the other public agency regarding the sharing of the information.

In conducting a proceeding or investigation pursuant to subdivision (a), the supervisor or director, or his or her inspector, may inspect the well site or production facilities of any owner or operator to ascertain whether the owner or operator is complying with the requirements ~~of~~ of, or authorized ~~by~~ by, this division. The inspection shall be made with the consent of the owner or operator or, if consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. In the event of an emergency affecting the public health or safety, an inspection may be performed without consent or a warrant. This subdivision is in addition to any other inspection authority granted or authorized by this division.

SEC. 202.

Section 5795.20 of the Public Resources Code is amended to read:

5795.20.

In addition to the powers enumerated in Article 7 (commencing with Section 5786), which shall be subject to review and approval by the Los Angeles County Local Agency Formation Commission upon formation, change of organization, or reorganization under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), and to the financing authority provided by Article 9 (commencing with Section 5788), Article 10 (commencing with Section 5789), and Article 11 (commencing with Section 5790), the ~~district~~ district shall do all of the following:

Promote the development of open space and parks along the Lower Los Angeles River.

Identify funding and resources to promote the revitalization of the Lower Los Angeles River and open spaces along the river for the benefit and enjoyment of local communities.

Acquire, construct, improve, maintain, and operate parks and open space along the Lower Los Angeles River.

The district shall conduct the activities specified in paragraphs (1) to (3), inclusive, of subdivision (a) in coordination with the Lower Los Angeles River Working Group established pursuant to Section 32622 and the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy established pursuant to Division 22.8 (commencing with Section 32600), which have certain responsibilities regarding the Lower Los Angeles River.

SEC. 203.

Section 25402.12 of the Public Resources Code is amended to read:

25402.12.

On or before January 1, 2019, the commission, in consultation with the Contractors' State License Board, local building officials, and other stakeholders, shall approve a plan that will promote compliance with Part 6 of Title 24 of the California Code of Regulations in the installation of central ~~air-conditioning~~ air conditioning and heat pumps.

~~Prior to~~ Before approving the plan described in subdivision (a), the commission shall do all of the following:

Evaluate the best available technological and economic information to ensure that data collection and its use is feasible and achievable at a reasonable cost to government, industry, and homeowners.

Consider the impact of the plan on all of the following:

Property owners.

The heating, ventilation, and ~~air-conditioning~~ air conditioning industry, including manufacturers, distributors, and contractors.

Local governments.

Building officials.

The Contractors' State License Board.

Provide the public with the opportunity to review and comment on the proposed plan.

The commission may adopt regulations to increase compliance with permitting and inspection requirements for central ~~air-conditioning~~ air conditioning and heat pumps, and associated sales and installations, consistent with the plan approved pursuant to subdivision (a).

SEC. 204.

Section 30960 of the Public Resources Code is amended to read:

30960.

The Secretary of the Natural Resources Agency shall initiate a comprehensive, long-range planning process for the use of ocean waters offshore of California, may use the advisory panel appointed pursuant to ~~paragraph (4) of subdivision (d) of~~ Section ~~6217~~ 6231 as the planning committee, and may use the California Sea Grant Program to promote sound scientific data analysis and assessment in this planning process.

SEC. 205.

Section 33204.8 of the Public Resources Code is amended to read:

33204.8.

Notwithstanding the requirements in Section 33105.5, if the conservancy determines, based on relevant scientific information and land use planning ~~studies~~, studies and after holding at least one public hearing in the area that would be affected by a revision of the boundaries of the Rim of the Valley Trail Corridor, that a boundary revision within and in the vicinity of the City of Moorpark, as described in paragraph (2), is necessary, the executive director shall prepare and file with the Secretary of State, the Assembly Committee on Natural Resources, and the Senate Committee on Natural Resources and Water a revised map showing the changes in the boundaries of the Rim of the Valley Trail Corridor.

The conservancy shall determine potential boundary revisions of the Rim of the Valley Trail Corridor for the area within the city limits of the City of Moorpark; the area ~~of the~~ north of the city limits and south of Broadway Road between Happy Camp Canyon Regional Park and Grimes Canyon Road; and the area west of the city limits of the City of Moorpark, south of Los Angeles Avenue, north of the Arroyo Simi, and east of the Gabbert Canyon Drainage Channel.

A revised map prepared pursuant to paragraph (1) shall be supported by relevant scientific ~~information~~, information and shall be in accordance with the purposes and objectives of Section 33204.3.

Notwithstanding Section 33201, this section does not affect the jurisdiction of the State Coastal Conservancy.

SEC. 206.

Section 372 of the Public Utilities Code is amended to read:

372.

It is the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth. Subject to the specific conditions provided in this section, the commission shall determine the applicability to customers of uneconomic costs as specified in Sections 367, 368, 375, and 376. Consistent with this state policy, the commission shall provide that these costs shall not apply to any of the following:

To load served onsite or under an ~~over-the-fence~~ ~~over-the-fence~~ arrangement by a nonmobile self-cogeneration or cogeneration facility that was operational on or before December 20, 1995, or by increases in the capacity of a facility to the extent that the increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of December 20, 1995, provided that ~~prior to~~ ~~before~~ June 30, 2000, the costs shall apply to ~~over-the-fence~~ ~~over-the-fence~~ arrangements entered into after December 20, 1995, between unaffiliated parties. For the purposes of this subdivision, “affiliated” means any person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another specified entity. “Control” means either of the following:

The possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies of a person or entity, whether through an ownership, beneficial, contractual, or equitable interest.

Direct or indirect ownership of at least 25 percent of an entity, whether through an ownership, beneficial, or equitable interest.

To load served ~~by~~ onsite or under an ~~over-the-fence~~ ~~over-the-fence~~ arrangement by a nonmobile self-cogeneration or cogeneration facility for which the customer was committed to construction as of December 20, 1995, provided that the facility was substantially operational on or before January 1, 1998, or by increases in the capacity of a facility to the extent that the increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of January 1, 1998, provided that ~~prior to~~ ~~before~~ June 30, 2000, the costs shall apply to ~~over-the-fence~~ ~~over-the-fence~~ arrangements entered into after December 20, 1995, between unaffiliated parties.

To load served by existing, new, or portable emergency generation equipment used to serve the customer’s load requirements during periods when utility service is unavailable, provided the emergency generation is not operated in parallel with the integrated electric grid, except on a momentary parallel basis.

After June 30, 2000, to any load served onsite or under an ~~over-the-fence~~ ~~over-the-fence~~ arrangement by any nonmobile self-cogeneration or cogeneration facility.

Further, consistent with state policy, with respect to self-cogeneration or cogeneration deferral agreements, the commission shall do the following:

Provide that a utility shall execute a final self-cogeneration or cogeneration deferral agreement with any customer that, on or before December 20, 1995, had executed a letter of intent (or

similar documentation) to enter into the agreement with the utility, provided that the final agreement shall be consistent with the terms and conditions set forth in the letter of intent and the commission shall review and approve the final agreement.

Provide that a customer that holds a self-cogeneration or cogeneration deferral agreement that was in place on or before December 20, 1995, or that was executed pursuant to paragraph (1) in the event the agreement expires, or is terminated, may do any of the following:

Continue through December 31, 2001, to receive utility service at the rate and under terms and conditions applicable to the customer under the deferral agreement that, as executed, includes an allocation of uneconomic costs consistent with subdivision (e) of Section 367.

Engage in a direct transaction for the purchase of electricity and pay uneconomic costs consistent with Sections 367, 368, 375, and 376.

Construct a self-cogeneration or cogeneration facility of approximately the same capacity as the facility previously deferred, provided that the costs provided in Sections 367, 368, 375, and 376 shall apply consistent with subdivision (e) of Section 367, unless otherwise authorized by the commission pursuant to subdivision (c).

Subject to the firewall described in subdivision (e) of Section 367, provide that the ratemaking treatment for self-cogeneration or cogeneration deferral agreements executed ~~prior to~~ before December 20, 1995, or executed pursuant to paragraph (1) shall be consistent with the ratemaking treatment for the contracts approved before January 1995.

The commission shall authorize, within 60 days of the receipt of a joint application from the serving utility and one or more interested parties, applicability conditions as follows:

The costs identified in Sections 367, 368, 375, and 376 shall not, ~~prior to~~ before June 30, 2000, apply to load served onsite by a nonmobile self-cogeneration or cogeneration facility that became operational on or after December 20, 1995.

The costs identified in Sections 367, 368, 375, and 376 shall not, ~~prior to~~ before June 30, 2000, apply to ~~any a~~ load served under ~~over the fence arrangements an~~ over-the-fence arrangement entered into after December 20, 1995, between unaffiliated entities.

For the purposes of this ~~subdivision, section~~, all onsite or ~~over the fence~~ over-the-fence arrangements shall be consistent with Section 218 as it existed on December 20, 1995.

To facilitate the development of new microcogeneration applications, electrical corporations may apply to the commission for a financing order to finance the transition costs to be recovered from customers employing the applications.

To encourage the continued development, installation, and interconnection of clean and efficient self-generation and cogeneration resources, to improve system reliability for consumers by retaining existing generation and encouraging new generation to connect to the electric grid, and to increase self-sufficiency of consumers of electricity through the deployment of self-generation and cogeneration, both of the following shall occur:

The commission and the Electricity Oversight Board shall determine if any policy or action undertaken by the Independent System Operator, directly or indirectly, unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid.

If the commission and the Electricity Oversight Board find that any policy or action of the Independent System Operator unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid, the commission and the Electricity Oversight Board shall undertake all necessary efforts to revise, mitigate, or eliminate that policy or action of the Independent System Operator.

SEC. 207.

Section 399.4 of the Public Utilities Code is amended to read:

399.4.

In order to ensure that prudent investments in energy efficiency continue to be made that produce cost-effective energy savings, reduce customer demand, and contribute to the safe and reliable operation of the electrical distribution grid, it is the policy of this state and the intent of the Legislature that the commission shall supervise the administration of cost-effective energy efficiency programs authorized pursuant to its statutory authority, including Sections 381, 381.1, 381.2, 381.5, 382, 384.5, 400, 454.5, 454.55, 454.56, 589, 701.1, 749, and 769, Article 10 (commencing with Section 890) of Chapter 4, and Chapter 6 (commencing with Section 2781) of Part 2.

As used in this section, the term “energy efficiency” includes, but is not limited to, cost-effective activities to achieve peak load reduction that improve end-use efficiency, lower customers’ bills, and reduce system needs.

If a customer or contractor is the recipient of a rebate or incentive offered by a public utility for an energy efficiency improvement or installation of energy efficient components, equipment, or appliances in a building, the public utility shall provide the rebate or incentive only if the customer or contractor certifies that the improvement or installation has complied with any applicable permitting requirements, including any applicable specifications or requirements set forth in the California Building Standards Code (Title 24 of the California Code of Regulations), and, if a contractor performed the installation or improvement, that the contractor holds the appropriate license for the work performed.

In addition to the requirements of paragraph (1), if a customer or contractor is the recipient of a rebate or incentive offered by a public utility for the purchase or installation of central ~~air conditioning~~ **air conditioning** or a heat pump, and their related fans, the public utility shall provide the rebate or incentive only if the customer or contractor provides proof of permit closure. The public utility is not responsible for verifying the proof of permit closure documentation provided by the customer or contractor.

This subdivision does not imply or create authority or responsibility, or expand existing authority or responsibility, of a public utility for the enforcement of the building energy and water efficiency standards adopted pursuant to subdivision (a) or (b) of Section 25402 of the Public Resources Code, or appliance efficiency standards and certification requirements adopted pursuant to subdivision (c) of Section 25402 of the Public Resources Code.

~~Nothing in this~~ **This** subdivision ~~shall~~ **does not** limit the authority of the commission to impose any additional requirements on a recipient of any rebate or incentive.

The commission, in evaluating energy efficiency investments under its statutory authority, shall also ensure that local and regional interests, multifamily dwellings, and energy service industry capabilities are incorporated into program portfolio design and that local governments, community-based organizations, and energy efficiency service providers are encouraged to participate in program implementation where appropriate.

The commission, in a new or existing proceeding, shall review and update its policies governing energy efficiency programs funded by utility customers to facilitate achieving the targets established pursuant

to subdivision (c) of Section 25310 of the Public Resources Code. In updating its policies, the commission shall, at a minimum, do all of the following:

Authorize market transformation programs with appropriate levels of funding to achieve deeper energy efficiency savings.

Authorize pay for performance programs that link incentives directly to measured energy savings. As part of pay for performance programs authorized by the commission, customers should be reasonably compensated for developing and implementing an energy efficiency plan, with a portion of their incentive reserved pending post project measurement results.

Authorize programs to achieve deeper savings through operational, behavioral, and retrocommissioning activities.

Ensure that customers have certainty in the values and methodology used to determine energy efficiency incentives by basing the amount of any incentives provided by gas and electrical corporations on the values and methodology contained in the executed customer agreement. Incentive payments shall be based on measured results.

SEC. 208.

Section 399.13 of the Public Utilities Code is amended to read:

399.13.

The commission shall direct each electrical corporation to annually prepare a renewable energy procurement plan that includes the ~~matter~~ **elements specified** in paragraph (5), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary. The commission shall require all other retail sellers to prepare and submit renewable energy procurement plans that address the requirements identified in paragraph (5).

Every electrical corporation that owns electrical transmission facilities shall annually prepare, as part of the Federal Energy Regulatory Commission Order 890 process, and submit to the commission, a report identifying any electrical transmission facility, upgrade, or enhancement that is reasonably necessary to achieve the renewables portfolio standard procurement requirements of this article. Each report shall look forward at least five years and, to ensure that adequate investments are made in a timely manner, shall include a preliminary schedule when an application for a certificate of public convenience and necessity will be made, pursuant to Chapter 5 (commencing with Section 1001), for any electrical transmission facility identified as being reasonably necessary to achieve the renewable energy resources procurement requirements of this article. Each electrical corporation that owns electrical transmission facilities shall ensure that project-specific interconnection studies are completed in a timely manner.

The commission shall direct each retail seller to prepare and submit an annual compliance report that includes all of the following:

The current status and progress made during the prior year toward procurement of eligible renewable energy resources as a percentage of retail sales, including, if applicable, the status of any necessary siting and permitting approvals from federal, state, and local agencies for those eligible renewable energy resources procured by the retail seller, and the current status of compliance with the portfolio content requirements of subdivision (c) of Section 399.16, including procurement of eligible

renewable energy resources located outside the state and within the WECC and unbundled renewable energy credits.

If the retail seller is an electrical corporation, the current status and progress made during the prior year toward construction of, and upgrades to, transmission and distribution facilities and other electrical system components it owns to interconnect eligible renewable energy resources and to supply the electricity generated by those resources to load, including the status of planning, siting, and permitting transmission facilities by federal, state, and local agencies.

Recommendations to remove impediments to making progress toward achieving the renewable energy resources procurement requirements established pursuant to this article.

The commission shall adopt, by rulemaking, all of the following:

A process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the California Renewables Portfolio Standard Program obligations on a total cost and best-fit basis. This process shall take into account all of the following:

Estimates of indirect costs associated with needed transmission investments.

(ii) The cost impact of procuring the eligible renewable energy resources on the electrical corporation's electricity portfolio.

The viability of the project to construct and reliably operate the eligible renewable energy resource, including the developer's experience, the feasibility of the technology used to generate electricity, and the risk that the facility will not be built, or that construction will be delayed, with the result that electricity will not be supplied as required by the contract.

Workforce recruitment, training, and retention efforts, including the employment growth associated with the construction and operation of eligible renewable energy resources and goals for recruitment and training of women, minorities, and disabled veterans.

Estimates of electrical corporation expenses resulting from integrating and operating eligible renewable energy resources, including, but not limited to, any additional wholesale energy and capacity costs associated with integrating each eligible renewable resource.

No later than December 31, 2015, the commission shall approve a methodology for determining the integration costs described in subclause (I).

Consideration of any statewide greenhouse gas emissions limit established pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

Consideration of capacity and system reliability of the eligible renewable energy resource to ensure grid reliability.

Rules permitting retail sellers to accumulate, beginning January 1, 2011, excess procurement in one compliance period to be applied to any subsequent compliance period. The rules shall apply equally to all retail sellers. In determining the quantity of excess procurement for the applicable compliance period, the commission shall retain the rules adopted by the commission and in effect as of January 1, 2015, for the

compliance period specified in subparagraphs (A) to (C), inclusive, of paragraph (1) of subdivision (b) of Section 399.15. For any subsequent compliance period, the rules shall allow the following:

For electricity products meeting the portfolio content requirements of paragraph (1) of subdivision (b) of Section 399.16, contracts of any duration may count as excess procurement.

(ii) Electricity products meeting the portfolio content requirements of paragraph (2) or (3) of subdivision (b) of Section 399.16 shall not be counted as excess procurement. Contracts of any duration for electricity products meeting the portfolio content requirements of paragraph (2) or (3) of subdivision (b) of Section 399.16 that are credited towards a compliance period shall not be deducted from a retail seller's procurement for purposes of calculating excess procurement.

(iii) If a retail seller notifies the commission that it will comply with the provisions of subdivision (b) for the compliance period beginning January 1, 2017, the provisions of clauses (i) and (ii) shall take effect for that retail seller for that compliance period.

Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource, at a minimum, shall include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.

An appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to mitigate the risk that renewable projects planned or under contract are delayed or canceled. This paragraph does not preclude an electrical corporation from voluntarily proposing a margin of procurement above the appropriate minimum margin established by the commission.

Consistent with the goal of increasing California's reliance on eligible renewable energy resources, the renewable energy procurement plan shall include all of the following:

An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

Potential compliance delays related to the conditions described in paragraph (5) of subdivision (b) of Section 399.15.

A bid solicitation setting forth the need for eligible renewable energy resources of each deliverability characteristic, required online dates, and locational preferences, if any.

A status update on the development schedule of all eligible renewable energy resources currently under contract.

Consideration of mechanisms for price adjustments associated with the costs of key components for eligible renewable energy resource projects with online dates more than 24 months after the date of contract execution.

An assessment of the risk that an eligible renewable energy resource will not be built, or that construction will be delayed, with the result that electricity will not be delivered as required by the contract.

In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years duration, unless the commission approves of a contract of shorter duration.

In soliciting and procuring eligible renewable energy resources for California-based projects, each electrical corporation shall give preference to renewable energy projects that provide environmental and economic benefits to communities afflicted with poverty or high unemployment, or that suffer from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases.

Subparagraph (A) applies to all procurement of eligible renewable energy resources for California-based projects, whether the procurement ~~occurs~~ occurs through all-source requests for offers, eligible renewable resources only requests for offers, or other procurement mechanisms. This subparagraph is declaratory of existing law.

In soliciting and procuring eligible renewable energy resources, each retail seller shall consider the best-fit attributes of resource types that ensure a balanced resource mix to maintain the reliability of the electrical grid.

A retail seller may enter into a combination of long- and short-term contracts for electricity and associated renewable energy credits. Beginning January 1, 2021, at least 65 percent of the procurement a retail seller counts toward the renewables portfolio standard requirement of each compliance period shall be from its contracts of 10 years or more in duration or in its ownership or ownership agreements for eligible renewable energy resources.

The commission shall review and accept, modify, or reject each electrical corporation's renewable energy resource procurement plan prior to the commencement of renewable energy procurement pursuant to this article by an electrical corporation. The commission shall assess adherence to the approved renewable energy resource procurement plans in determining compliance with the obligations of this article.

Unless previously preapproved by the commission, an electrical corporation shall submit a contract for the generation of an eligible renewable energy resource to the commission for review and approval consistent with an approved renewable energy resource procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.

If an electrical corporation fails to comply with a commission order adopting a renewable energy resource procurement plan, the commission shall exercise its authority to require compliance.

The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for electricity products from eligible renewable energy resources to satisfy the retail seller's renewables portfolio standard procurement requirements. The commission shall not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs

through the retail rates of end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

Procurement and administrative costs associated with contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission are reasonable and prudent and shall be recoverable in rates.

Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives pursuant to Section 25742 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives, are “public works” for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 209.

Section 454.55 of the Public Utilities Code is amended to read:

454.55.

The commission, in consultation with the Energy Commission, shall identify all potentially achievable cost-effective electricity efficiency savings and establish efficiency targets for an electrical corporation to achieve, pursuant to Section 454.5, consistent with the targets established pursuant to subdivision (c) of Section 25310 of the Public Resources Code.

By July 1, 2018, and every four years thereafter, each electrical corporation shall report on its progress toward achieving the targets established pursuant to ~~subdivision (a)~~ paragraph (1).

By December 31, 2023, the commission shall, in a new or existing proceeding, undertake a comprehensive review of the feasibility, costs, barriers, and benefits of achieving a cumulative doubling of energy efficiency savings and demand reduction by 2030 pursuant to subdivision (c) of Section 25310 of the Public Resources Code.

Notwithstanding subdivision (c) of Section 25310 of the Public Resources Code, if the commission concludes the targets established for electrical corporations to achieve pursuant to subdivision (a) are not cost effective, feasible, or pose potential adverse impacts to public health and safety, the commission shall revise the targets to the level that optimizes the amount of energy efficiency savings and demand reduction and shall modify, revise, or update its policies as needed to address barriers preventing achievement of those targets.

The commission shall ensure that there are sufficient moneys available to electrical corporations to meet the efficiency targets established pursuant to subdivision (a). This subdivision shall not be construed to authorize the commission to impose or increase any tax.

SEC. 210.

Section 913.4 of the Public Utilities Code is amended to read:

913.4.

In order to evaluate the progress of the state’s electrical corporations in complying with the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3), the commission shall report to the Legislature no later than November 1 of each year on all of the following:

The progress and status of procurement activities by each retail seller pursuant to the California Renewables Portfolio Standard Program.

For each electrical corporation, an implementation schedule to achieve the renewables portfolio standard procurement requirements, including all substantive actions that have been taken or will be taken to achieve the program procurement requirements.

The projected ability of each electrical corporation to meet the renewables portfolio standard procurement requirements under the cost limitations in subdivisions (c) and (d) of Section 399.15 and any recommendations for revisions of those cost limitations.

Any renewable energy procurement plan approved by the commission pursuant to Section 399.13, ~~schedule, and a schedule~~ and status report for all substantive procurement, transmission development, and other activities that the commission has approved to be undertaken by an electrical corporation to achieve the procurement requirements of the renewables portfolio standard.

Any barriers to, and policy recommendations for, achieving the renewables portfolio standard pursuant to the California Renewables Portfolio Standard Program.

The efforts each electrical corporation is taking to recruit and train employees to ensure an adequately trained and available workforce, including the number of new employees hired by the electrical corporation for purposes of implementing the requirements of ~~Article 16 (commencing with Section 399.11) of Chapter 2.3, the California Renewables Portfolio Standard Program,~~ the goals adopted by the electrical corporation for increasing women, minority, and disabled veterans trained or hired for purposes of implementing the requirements of ~~Article 16 (commencing with Section 399.11) of Chapter 2.3, that program,~~ and, to the extent information is available, the number of new employees hired and the number of women, minority, and disabled veterans trained or hired by persons or corporations owning or operating eligible renewable energy resources under contract with an electrical corporation. This subdivision does not provide the commission with authority to engage ~~in, in or~~ regulate, or expand its authority to include, workforce recruitment or training.

SEC. 211.

Section 913.8 of the Public Utilities Code is amended to read:

913.8.

On or before July 30, 2020, and by July 30 of every third year thereafter through 2029, the commission shall submit to the Legislature an assessment of the Multifamily Affordable Housing Solar Roofs ~~Program, Program~~ (Chapter 9.5 (commencing with Section 2870) of Part 2). That assessment shall include the number of qualified multifamily affordable housing property sites that have a qualifying solar energy system for which an award was made pursuant to ~~Chapter 9.5 (commencing with Section 2870) of Part 2 and that program and, for each,~~ the dollar value of the ~~award, award and~~ the electrical generating capacity of the qualifying renewable energy system, the bill reduction outcomes of the program for the participants, the cost of the program, the total electrical system benefits, the environmental benefits, the progress made toward reaching the goals of the program, the program's impact on the ~~CARE~~ California Alternate Rates for Energy (CARE) program budget, and the recommendations for improving the program to meet its goals. The report shall include an analysis of pending program commitments, reservations, obligations, and projected demands for the program to determine whether future ongoing funding allocations for the program are substantiated. The report shall also include a summary of the other programs intended to benefit disadvantaged communities, including, but not limited to, the Single-Family Affordable Solar Homes ~~Program, Program~~ established by the commission in Decision 07-11-045, the Multifamily Affordable Solar Housing ~~Program, Program~~ established by the commission in Decision 08-10-036, and the Green Tariff Shared Renewables Program (Chapter 7.6 (commencing with Section 2831) of Part 2).

SEC. 212.

Section 955.5 of the Public Utilities Code is amended to read:

955.5.

For purposes of this section, the following terms have the following meanings:

“Gas pipeline” means an intrastate distribution line as described in paragraph (1) of, or an intrastate transmission line as described in paragraph (2) ~~of, of subdivision (a) of~~ Section 950.

“Hospital” means a licensed general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

“School” means a public or private preschool, elementary, or secondary school.

A gas corporation shall provide not less than three working days’ notice to the administration of a school or hospital prior to undertaking nonemergency excavation or construction of a gas pipeline, excluding any work that only uses hand tools, pneumatic hand tools, or vacuum technology for the purpose of marking and locating a subsurface installation pursuant to Article 2 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1 of the Government Code, if the work is located within 500 feet of the school or hospital. The notification shall include all of the following:

The name, address, telephone number, and emergency contact information for the gas corporation.

The specific location of the gas pipeline where the excavation or construction will be performed.

The date and time the excavation or construction is to be conducted and when the work is expected to be completed.

An invitation and a telephone number to call for further information on what the school or hospital should do in the event of a leak.

The gas corporation shall maintain a record of the date and time of any notification provided to the administration of a school or hospital prior to undertaking nonemergency excavation or construction of a gas pipeline and any subsequent contacts with the administration of a school or hospital relative to the excavation or construction and the actions taken, if any, in response to those subsequent contacts. The gas corporation shall maintain these records and make them available for inspection for no less than five years from the date of the notification.

SEC. 213.

Section 972 of the Public Utilities Code is amended to read:

972.

A penalty assessed against a gas corporation pursuant to this part in regards to a natural gas storage facility leak shall at least equal the amount necessary to reduce the impact on the climate from greenhouse gases by an amount equivalent to the impact on the climate from the greenhouse gases emitted by the leak from the natural gas storage facility, as determined by the State Air Resources Board. In determining the amount necessary to fully offset the impact on the climate from the gases emitted by the leak, the commission shall consider the extent to which the gas corporation has mitigated, or is in the process of mitigating, the impact on the climate from greenhouse gas emissions resulting from the leak, provided that the mitigation is consistent with subdivision (c), as determined by the State Air Resources Board.

The commission shall deposit any penalties assessed against a gas corporation pursuant to this part in regards to a natural gas storage facility leak into the Gas Storage Facility Leak Mitigation Account, which is hereby established in the State Treasury.

Moneys in the account shall be expended, upon appropriation by the Legislature, subject to all of the following conditions:

Moneys shall be expended solely for direct emissions reductions in furtherance of the achievement of the greenhouse gas emissions limit established pursuant to Section 38550 of the Health and Safety Code and, if sufficient moneys remain after mitigating the impact on the climate from the gas corporation's emissions, as specified in subdivision (a), to reimburse state and local response costs. Moneys shall not be used for the purchase of allowances or offsets otherwise authorized pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

Moneys shall be expended in a manner to be determined by the commission, in consultation with the State Air Resources Board, to achieve a reduction in greenhouse gases that will fully offset the impact on the climate from those gases emitted by ~~that leak.~~ the leak for which the moneys were collected.

Moneys shall be expended consistent with Section 39713 of the Health and Safety Code.

Consistent with the State Air Resources Board's Aliso Canyon Climate Impacts Mitigation Program, moneys in the fund resulting from penalties assessed for the Aliso Canyon gas leak shall be expended to do all the following:

Generate significant and quantifiable reductions in methane emissions within the agriculture and waste sectors.

(ii) Promote a more sustainable energy infrastructure by promoting energy efficiency and decreasing reliance on fossil fuels.

(iii) Detect and address emissions from methane hot spots not presently targeted under federal, state, or local laws.

Where feasible, yield cobenefits in communities directly affected by the leak and in disadvantaged communities.

Priority shall be given to projects in nearby communities harmed by the leak and other communities directly affected by methane emissions, disadvantaged communities, and communities within the Aliso Canyon service area.

This section shall not affect or be interpreted to affect the authority of the State Air Resources Board to adopt rules and regulations to reduce greenhouse gas emissions at natural gas storage facilities or to require mitigation of natural gas leaks from those facilities.

SEC. 214.

Section 2827.10 of the Public Utilities Code is amended to read:

2827.10.

As used in this section, the following terms have the following meanings:

"Electrical corporation" means an electrical corporation, as defined in Section 218.

"Eligible fuel cell electrical generating facility" means a facility that includes the following:

Integrated powerplant systems containing a stack, tubular array, or other functionally similar configuration used to electrochemically convert fuel to electricity.

An inverter and fuel processing system where necessary.

Other plant equipment, including heat recovery equipment, necessary to support the plant's operation or its energy conversion.

“Eligible fuel cell customer-generator” means a customer of an electrical corporation that meets all the following criteria:

Uses a fuel cell electrical generating facility with a generating capacity of not more than five megawatts that is located on or adjacent to the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electrical grid while the grid is operational or in a grid independent mode when the grid is nonoperational, and is sized to offset part or all of the eligible fuel cell customer-generator's own electrical requirements.

(ii) Is the recipient of local, state, or federal funds, or who self-finances projects designed to encourage the development of eligible fuel cell electrical generating facilities.

(iii) Uses technology the commission has determined will achieve reductions in emissions of greenhouse gases pursuant to subdivision (b).

~~(B)~~

(iv) Complies with the emissions standards adopted by the State Air Resources Board pursuant to the distributed generation certification program requirements of Section 94203 of Title 17 of the California Code of Regulations, or any successor regulation.

~~(C)~~

For purposes of this paragraph, a person or entity is a customer of the electrical corporation if the customer is physically located within the service territory of the electrical corporation and receives bundled service, distribution service, or transmission service from the electrical corporation.

“Net energy metering” means measuring the difference between the electricity supplied through the electrical grid and the difference between the electricity generated by an eligible fuel cell electrical generating facility and fed back to the electrical grid over a 12-month period as described in subdivision (e). Net energy metering shall be accomplished using a time-of-use meter capable of registering the flow of electricity in two directions. If the existing electrical meter of an eligible fuel cell customer-generator is not capable of measuring the flow of electricity in two directions, the eligible fuel cell customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a time-of-use meter.

Not later than March 31, 2017, the State Air Resources Board, in consultation with the Energy Commission, shall establish a schedule of annual greenhouse gas emissions reduction standards for a fuel cell electrical generation resource for purposes of clause (iii) of subparagraph (A) of paragraph (3) of subdivision (a) and shall update the schedule every three years with applicable standards for each intervening year.

The greenhouse gas emissions reduction standards shall ensure that each fuel cell electrical generation resource, for purposes of clause (iii) of subparagraph (A) of paragraph (3) of subdivision (a), reduces greenhouse gas emissions compared to the electrical grid resources,

including renewable resources, that the fuel cell electrical generation resource displaces, accounting for both procurement and operation of the electrical grid.

Every electrical corporation, not later than March 1, 2004, shall file with the commission a standard tariff providing for net energy metering for eligible fuel cell customer-generators, consistent with this section. Subject to the limitation in subdivision (g), every electrical corporation shall make this tariff available to eligible fuel cell customer-generators upon request, on a first-come-first-served basis, until the total cumulative rated generating capacity of the eligible fuel cell electrical generating facilities receiving service pursuant to the tariff, in addition to the installed capacity as of January 1, 2017, reaches a level equal to its proportionate share of a statewide limitation of 500 megawatts cumulative rated generation capacity served under this section. The proportionate share shall be calculated based on the ratio of the electrical corporation's peak demand compared to the total statewide peak demand.

To continue the growth of the market for onsite electrical generation using fuel cells, the commission may review and incrementally raise the limitation established in paragraph (1) on the total cumulative rated generating capacity of the eligible fuel cell electrical generating facilities receiving service pursuant to the tariff in paragraph (1).

In determining the eligibility for the cumulative rated generating capacity within an electrical corporation's service territory, preference shall be given to facilities that, at the time of installation, are located in a community with significant exposure to air contaminants or localized air contaminants, or both, including, but not limited to, communities of minority populations or low-income populations, or both, based on the ambient air quality standards established pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code.

Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the customer would be assigned if the customer was not an eligible fuel cell customer-generator. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible fuel cell customer-generator's costs beyond those of other customers in the rate class to which the eligible fuel cell customer-generator would otherwise be assigned are contrary to the intent of the Legislature in enacting this section, and shall not form a part of net energy metering tariffs.

The commission shall authorize an electrical corporation to charge a fuel cell customer-generator a fee based on the cost to the utility associated with providing interconnection inspection services for that fuel cell customer-generator.

The net metering calculation shall be made by measuring the difference between the electricity supplied to the eligible fuel cell customer-generator and the electricity generated by the eligible fuel cell customer-generator and fed back to the electrical grid over a 12-month period. The following rules shall apply to the annualized metering calculation:

The eligible fuel cell customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible fuel cell electrical generating facility with an electrical corporation, and at each anniversary date thereafter, be billed for electricity used during that period. The electrical corporation shall determine if the eligible fuel cell customer-generator was a net consumer or a net producer of electricity during that period. For purposes of determining if the eligible fuel cell customer-generator was a net consumer or a net producer of electricity during that period, the electrical corporation shall aggregate the electrical load of the meters located on the property where the eligible fuel cell electrical generating facility is located and on all property adjacent or contiguous to the property on which the facility is located, if those properties are solely owned, leased, or rented by the eligible fuel cell customer-

generator. Each aggregated account shall be billed and measured according to a time-of-use rate schedule.

At the end of each 12-month period, where the electricity supplied during the period by the electrical corporation exceeds the electricity generated by the eligible fuel cell customer-generator during that same period, the eligible fuel cell customer-generator is a net electricity consumer and the electrical corporation shall be owed compensation for the eligible fuel cell customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible fuel cell customer-generator's consumption shall be calculated as follows:

The generation charges for any net monthly consumption of electricity shall be calculated according to the terms of the tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible fuel cell customer-generator. When the eligible fuel cell customer-generator is a net generator during any discrete time-of-use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electrical corporation would charge for retail kilowatthour sales for generation, exclusive of any surcharges, during that same time-of-use period. If the eligible fuel cell customer-generator's time-of-use electrical meter is unable to measure the flow of electricity in two directions, paragraph (4) of subdivision (a) shall apply. All other charges, other than generation charges, shall be calculated in accordance with the eligible fuel cell customer-generator's applicable tariff and based on the total kilowatthours delivered by the electrical corporation to the eligible fuel cell customer-generator. To the extent that charges for transmission and distribution services are recovered through demand charges in any particular month, no standby reservation charges shall apply in that monthly billing cycle.

The net balance of moneys owed shall be paid in accordance with the electrical corporation's normal billing cycle.

At the end of each 12-month period, where the electricity generated by the eligible fuel cell customer-generator during the 12-month period exceeds the electricity supplied by the electrical corporation during that same period, the eligible fuel cell customer-generator is a net electricity producer and the electrical corporation shall retain any excess kilowatthours generated during the prior 12-month period. The eligible fuel cell customer-generator shall not be owed any compensation for those excess kilowatthours.

If an eligible fuel cell customer-generator terminates service with the electrical corporation, the electrical corporation shall reconcile the eligible fuel cell customer-generator's consumption and production of electricity during any 12-month period.

A fuel cell electrical generating facility shall not be eligible for the tariff unless it commences operation on or before December 31, 2021, unless a later enacted statute, that is chaptered on or before December 31, 2021, extends this eligibility commencement date. The tariff shall remain in effect for an eligible fuel cell electrical generating facility that commences operation pursuant to the tariff on or before December 31, 2021. A fuel cell customer-generator ~~shall be~~ is eligible for the tariff established pursuant to this section only for the operating life of the eligible fuel cell electrical generating facility.

SEC. 215.

Section 2870 of the Public Utilities Code is amended to read:

2870.

As used in this section, the following terms have the following meanings:

“CARE program” means the California Alternate Rates for Energy program established pursuant to Section 739.1.

“Program” means the Multifamily Affordable Housing Solar Roofs Program established pursuant to this chapter.

“Qualified multifamily affordable housing property” means a multifamily residential building of at least five rental housing units that is operated to provide deed-restricted low-income residential housing, as defined in clause (i) of subparagraph (A) of paragraph (3) of subdivision (a) of Section 2852, and that meets one or more of the following requirements:

The property is located in a disadvantaged community, as identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code.

At least 80 percent of the households have incomes at or below 60 percent of the area median income, as defined in subdivision (f) of Section 50052.5 of the Health and Safety Code.

“Solar energy system” means a solar energy photovoltaic device that meets or exceeds the eligibility criteria established pursuant to Section 25782 of the Public Resources Code.

Adoption and implementation of the Multifamily Affordable Housing Solar Roofs Program may count toward the satisfaction of the commission’s obligation to ensure that specific alternatives designed for growth among residential customers in disadvantaged communities are offered as part of the standard contract or tariff authorized pursuant to paragraph (1) of subdivision (b) of Section 2827.1.

~~Nothing in this section shall~~ This section does not preclude electrical corporations from offering and administering a distributed energy resource ~~program~~, programs, including solar energy systems, in disadvantaged communities offered under current or proposed programs using funds provided under subdivision (c) of Section 748.5 or programs proposed to comply with paragraph (1) of subdivision (b) of Section 2827.1 as approved by the commission.

The commission shall annually authorize the allocation of one hundred million dollars (\$100,000,000) or 10 percent of available funds, whichever is less, from the revenues described in subdivision (c) of Section 748.5 for the Multifamily Affordable Housing Solar Roofs Program, beginning with the fiscal year commencing July 1, 2016, and ending with the fiscal year ending June 30, 2020. The commission shall continue authorizing the allocation of these funds through June 30, 2026, if the commission determines that revenues are available after 2020 and that there is adequate interest and participation in the program.

The commission shall consider the most appropriate program administration structure, including administration by a qualified third-party administrator, selected by the commission through a competitive bidding process, or administration by an electrical corporation, in an existing or future proceeding.

Not more than 10 percent of the funds allocated to the program shall be used for administration.

By June 30, 2017, the commission shall authorize the award of monetary incentives for qualifying solar energy systems that are installed on qualified multifamily affordable housing properties through December 31, 2030. The target of the program is to install a combined generating capacity of at least 300 megawatts on qualified properties.

The commission shall require that the electricity generated by qualifying ~~renewable~~ solar energy systems installed pursuant to the program be primarily used to offset electricity usage by low-income tenants. These requirements may include required covenants and restrictions in deeds.

The commission shall require that qualifying solar energy systems owned by third-party owners ~~are~~ be subject to contractual restrictions to ensure that ~~no~~ additional costs for the system ~~be~~ are not passed on to low-income tenants at the properties receiving incentives pursuant to the program. The commission shall require a third-party ~~owners~~ owner of a solar energy ~~systems~~ system to provide ongoing ~~operations~~ operation and maintenance of the system, monitor energy production, and, where necessary, take appropriate action to ensure that the kWh production levels projected for the system are achieved throughout the period of the third-party agreement. Such actions may include, but are not limited to, providing a performance guarantee of annual production levels or taking corrective actions to resolve underproduction problems.

The commission shall ensure that incentive levels for photovoltaic installations receiving incentives through the program are aligned with the installation costs for solar energy systems in affordable housing markets and take account of federal investment tax credits and contributions from other sources to the extent feasible.

The commission shall require that no individual installation receive incentives at a rate greater than 100 percent of the total system installation costs.

The commission shall establish local hiring requirements for the program to provide economic development benefits to disadvantaged communities.

The commission shall establish energy efficiency requirements that are equal to the energy efficiency requirements established for the program described in Section 2852, including participation in a federal, state, or utility-funded energy efficiency program or documentation of a recent energy efficiency retrofit.

Low-income tenants who participate in the program shall receive credits on utility bills from the program. The commission shall ensure that utility bill reductions are achieved through tariffs that allow for the allocation of credits, such as virtual net metering tariffs designed for ~~participants in the Multifamily Affordable Solar Housing Program~~ participants, Program, established by the commission in Decision 08-10-036, or other tariffs that may be adopted by the commission pursuant to Section 2827.1.

The commission shall ensure that electrical corporation tariff structures affecting the low-income tenants participating in the program continue to provide a direct economic benefit from the qualifying solar energy system.

~~Nothing in this~~ This chapter is not intended to supplant CARE program rates as the primary mechanism for achieving the goals of the CARE program.

The commission shall determine the eligibility of qualified multifamily affordable housing property tenants that are customers of community choice aggregators.

Every three years, the commission shall evaluate the program's expenditures, commitments, uncommitted balances, future demands, performance, and outcomes and shall make any necessary adjustments to the program to ensure the goals of the program are being met. If, upon review, the commission finds there is insufficient participation in the program, the commission may credit uncommitted funds back to ratepayers pursuant to Section 748.5.

As part of the annual ~~workplan~~ ~~work plan~~ required pursuant to Section 910, the commission shall provide an annual update of the Multifamily Affordable Housing Solar Roofs Program that shall include, but not be limited to, the number of projects approved, number of projects completed, number of pending projects awaiting approval, and geographic distribution of the projects.

SEC. 216.

Section 2881.4 of the Public Utilities Code is amended to read:

2881.4.

The Legislature finds and declares all of the following:

Section 278 requires the commission to transfer to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund all revenues collected by telephone corporations to fund programs to provide specified telecommunications services and equipment to deaf, disabled, and hard-of-hearing persons, as specified in Sections 2881, 2881.1, and 2881.2.

The commission issued a report to the Legislature in May 2001, addressing compliance issues pertaining to the programs specified in Sections 2881, 2881.1, and 2881.2, including a recommendation to secure legislative authorization for the commission to contract with outside entities for the provision of services and equipment mandated by Sections 2881, 2881.1, and 2881.2.

The telecommunications services and equipment provided to deaf, disabled, and hard-of-hearing individuals and their families, as specified in Sections 2881, 2881.1, and 2881.2, are of such a highly specialized and technical nature that the necessary expert knowledge, ability, and experience are not available within the current state civil service system.

It is the intent of the Legislature, in enacting this section, to do all of the following:

Maintain the availability of the state's current statewide infrastructure of telecommunications services and equipment to deaf, disabled, and hard-of-hearing persons, as provided for in Sections 2881, 2881.1, and 2881.2, as essential to maintaining public health and safety.

Authorize the commission to enter into contracts for the provision of telecommunications services and equipment for deaf, disabled, and hard-of-hearing persons in a manner that protects and enhances the current statewide infrastructure and coordinated delivery of those services and equipment and includes a priority for maintaining long-term continuity of program administration and maximum involvement of the deaf and disabled community in program governance.

Strengthen program priorities for expanded outreach through continuing consultation with, and participation by, the deaf, disabled, and hard-of-hearing community in order to ensure the state's network of services reach hard-to-serve populations, including rural, ~~innercity~~, ~~inner-city~~, and urban areas.

Develop a mechanism to achieve cost-effective and timely deployment of new and emerging telecommunications technologies, to the extent fiscally and economically feasible.

In order for the commission to ensure continued provision of telecommunications services and equipment for deaf, disabled, and hard-of-hearing persons, the commission, subject to annual appropriation of funds by the Legislature and consistent with state contracting requirements, may contract with entities, including nonprofit entities, or persons that have the necessary expert knowledge,

ability, and experience to provide, manage, or operate the programs described in Sections 2881, 2881.1, and 2881.2.

The commission may enter into contracts pursuant to subdivision (b) of Section 19130 of the Government Code for the services and equipment contemplated by the programs described in Sections 2881, 2881.1, and 2881.2.

The commission may include provisions that accomplish any of the following in contracts authorized by this section:

Establish standards and procedures, including prior commission approval, for subcontracting.

Establish standards and procedures regarding personnel and accounting practices.

Require budget approval.

Require periodic audits.

Monitor performance and establish performance standards and the method of evaluating performance, including remedies for unsatisfactory performance.

Establish standards and procedures to investigate and resolve complaints.

Provide for any other terms or restrictions as the commission finds necessary to ensure that the public funds are used in accordance with the goals of the Legislature and the commission.

Notwithstanding any other law, a contract entered into pursuant to this section may provide for periodic advance payments for telecommunications services to be performed or telecommunications equipment to be provided. An advance payment made pursuant to this section shall not exceed 25 percent of the total annual contract amount.

Any contractor the commission selects shall demonstrate knowledge of and the capacity to provide specialized telecommunications services and equipment to deaf, disabled, and hard-of-hearing persons, and shall be required to consult with the Telecommunications Access for Deaf and Disabled Administrative Committee regarding the specialized needs of individuals using program services and equipment, as specified in Sections 2881, 2881.1, and 2881.2.

The commission shall, to the extent feasible and consistent with state civil service requirements, employ staff overseeing the programs described in Sections 2881, 2881.1, and 2881.2 who are members of the deaf, disabled, and hard-of-hearing community.

SEC. 217.

Section 5445.2 of the Public Utilities Code is amended to read:

5445.2.

A transportation network company shall conduct, or have a third party conduct, a local and national criminal background check for each participating driver that shall include both of the following:

~~A-~~The use of a multistate and multijurisdiction criminal records locator or other similar commercial nationwide database with validation.

A search of the United States Department of Justice National Sex Offender Public Web site.

A transportation network company shall not contract with, employ, or retain a driver if he or she meets either of the following criteria:

Is currently registered on the United States Department of Justice National Sex Offender Public Web site.

Has been convicted of any of the following offenses:

A violent felony, as defined in Section 667.5 of the Penal Code.

(ii) A violation of Section 11413, 11418, 11418.5, or 11419 of the Penal Code.

A transportation network company shall not contract with, employ, or retain a driver if he or she has been convicted of any of the following offenses within the previous seven years.

Misdemeanor assault or battery.

A domestic violence offense.

Driving under the influence of alcohol or drugs.

A felony violation of Section 18540 of the Elections Code, or of Section 67, 68, 85, 86, 92, 93, 137, 138, 165, 518, 530, or 18500 of, subdivision (a) of Section 484 of, subdivision (a) of Section 487 of, or subdivision (b) of Section 25540 of, the Penal Code.

Paragraphs (2) and (3) ~~shall~~ apply ~~regarding with respect to~~ a conviction of any offense committed in another jurisdiction that includes all of the elements of any of the offenses described or defined in those paragraphs.

~~Nothing in this~~ This section shall ~~not~~ be interpreted to prevent a transportation network company from imposing additional standards.

A transportation network company that violates, or fails to comply with, this section is subject to a penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each offense.

Notwithstanding Section 1786.12 of the Civil Code, an investigative consumer reporting agency may furnish an investigative consumer report to a transportation network company about a person seeking to become a participating driver, regardless of whether the participating driver is to be an employee or an independent contractor of the transportation network company.

Paragraph (7) of subdivision (a) of Section 1786.18 of the Civil Code ~~shall~~ ~~does~~ not apply to an investigative consumer report furnished to a transportation network company pursuant to paragraph (1).

SEC. 218.

Section 9605 of the Public Utilities Code is amended to read:

9605.

~~Nothing in this~~ This division ~~or and~~ Chapter 2.3 (commencing with Section ~~350~~ 330) of Part 1 of Division 1 ~~shall do not~~ affect preexisting ratemaking authority of a regulatory body of any local publicly owned electric utility.

~~Nothing in this~~ This division ~~shall~~ ~~does~~ not modify or abrogate any agreement, or any rights or obligations in any such agreement, between retail electric service providers relating to service areas.

~~Nothing in this~~ This division ~~shall~~ does not limit or affect the statutory rights of a local publicly owned electric utility to negotiate and design rates for existing customers and new customers not choosing to be served by an alternate supplier.

~~Nothing in this~~ This division ~~shall~~ does not limit electric supply options within the service territory of a local publicly owned electric utility to the extent the options are of the nature specified in Section 218 as it existed on December 20, 1995, with the exception of paragraph (3) of subdivision (b) of that section, and the imposition of a severance fee or transition charge on customers electing those options shall be prohibited whether the elections are made before or after the availability of direct transactions within the service area of the local publicly owned electric utility.

SEC. 219.

Section 99684.5 of the Public Utilities Code is amended to read:

99684.5.

Funds allocated pursuant to this part that are not expended or encumbered by July 1, 2020, are hereby reallocated pursuant to subdivision (b) of Section 99684 to any other existing passenger rail project with existing rail service.

The California Transportation Commission shall ~~determine~~ select the projects ~~pursuant to~~ for the reallocation ~~as~~ described in subdivision (a). The high-speed rail project as described in Chapter 20 (commencing with Section 2704) of Division 3 of the Streets and Highways Code is not eligible to receive reallocated funds pursuant to subdivision (a) as it is not providing existing rail service.

SEC. 220.

Section 185020 of the Public Utilities Code is amended to read:

185020.

There is in the Transportation Agency a High-Speed Rail Authority.

The authority is composed of 11 members as follows:

Five members appointed by the Governor.

Two members appointed by the Senate Committee on Rules.

Two members appointed by the Speaker of the Assembly.

One Member of the Senate appointed by the Senate Committee on Rules and one Member of the Assembly appointed by the Speaker of the Assembly shall be ex officio members without vote and shall participate in the activities of the authority to the extent that participation is not incompatible with their positions as Members of the Legislature.

For the purposes of making appointments to the authority pursuant to subparagraphs (A), (B), and (C) of paragraph (1), the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall take into consideration geographical diversity to ensure that all regions of the state are adequately represented.

Except as provided in subdivision (d), and until their successors are appointed, members of the authority, other than ex officio members, shall hold office for terms of four years. A vacancy shall be filled by the appointing power making the original appointment, by appointing a member to serve the remainder of the term.

On and after January 1, 2001, the terms of all persons who are then members of the authority shall expire, but those members may continue to serve until they are reappointed or until their successors are

appointed. In order to provide for evenly staggered terms, persons appointed or reappointed to the authority after January 1, 2001, shall be appointed to initial terms to expire as follows:

Of the five persons appointed by the Governor, one shall be appointed to a term ~~which~~ ~~that~~ expires on December 31, 2002, one shall be appointed to a term ~~which~~ ~~that~~ expires on December 31, 2003, one shall be appointed to a term ~~which~~ ~~that~~ expires on December 31, 2004, and two shall be appointed to terms ~~which expires~~ ~~that expire~~ on December 31, 2005.

Of the two persons appointed by the Senate Committee on Rules, one shall be appointed to a term ~~which~~ ~~that~~ expires on December 31, 2002, and one shall be appointed to a term ~~which~~ ~~that~~ expires on December 31, 2004.

Of the two persons appointed by the Speaker of the Assembly, one shall be appointed to a term ~~which~~ ~~that~~ expires on December 31, 2003, and one shall be appointed to a term ~~which~~ ~~that~~ expires on December 31, 2005.

Following expiration of each of the initial terms provided for in this subdivision, the term shall expire every four years thereafter on December 31.

Members of the authority are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) [of the Government Code](#)).

From among its voting members, the authority shall elect a chairperson, who shall preside at all meetings of the authority, and a vice chairperson to preside in the absence of the chairperson. The chairperson shall serve a term of one year.

Five voting members of the authority constitute a quorum for taking any action by the authority.

SEC. 221.

Section 185040 of the Public Utilities Code is amended to read:

185040.

If the authority determines that real property or an interest therein, previously or hereafter acquired by the state for high-speed rail purposes, is no longer necessary for those purposes, the authority may sell or exchange the real property or interest therein at fair market value in the manner set forth in this section.

~~Prior to~~ ~~Before~~ selling the real property or interest therein in any ~~other~~ manner authorized under this section, the authority shall send notification by certified mail to the last known owner of the real property or interest therein at his or her last known address, advising him or her that the real property or interest therein will be offered for sale. The authority shall not sell the real property or interest therein until at least 30 days after the notification has been sent.

The authority may sell the property to an adjoining landowner if it makes either of the following findings:

That the property is of a size or shape that it is below the average normal standard size and shape of other privately owned properties in the immediate neighborhood, and that if the property were sold to other than the adjoining owner, it would give rise to a land use development thereof that would be below and not consistent with the normal land use of other properties in that neighborhood, (B) that the sale of the property to a party other than the adjoining owner may cause an undue or unfair hardship to the adjoining owner in the normal land use development or operation of his or her property, (C) that the property considered as part of the adjoining property would have a higher and better use than under separate

ownership, and (D) that the fair market value of the property considered as part of the adjoining property would be higher than under separate ownership.

That the sale of the excess parcel to other than the adjoining owner would deprive the adjoining owner of an existing vested right of access to a public highway and thereby create a possible cause of action against the authority or the state.

A sale to an adjoining landowner pursuant to this subdivision may be by contract to sell or trust deed. The payment period in a contract of sale or sale by trust deed shall not extend longer than 10 years from the time the contract of sale or trust deed is executed, and a transaction involving a contract of sale or sale by trust deed to private parties shall require a downpayment of at least 30 percent of the purchase price.

The authority may sell the property to municipalities or other local agencies at their request, without calling for competitive bids, at a price representing the fair market value thereof, and upon a determination that the intended use is for a public purpose.

If it is improved property, the property may be sold to a former owner who has remained in ~~occupancy~~, occupancy or to a residential tenant of a tenure of five years or more with all rent obligations current or paid in full.

Any real property or interest therein may in like manner be exchanged, either as whole or part consideration, for any other real property or interest therein as needed for high-speed rail purposes. This provision does not authorize exchanges where the value of the state-owned property exceeds the value of the property the authority seeks to acquire, unless the excess value is incidental and subdivision of the state-owned property, in order to produce a smaller parcel of equal value to the value of the property the authority seeks to acquire, would reduce the total value of the state-owned property.

Except as otherwise provided in this section, property shall be sold either by receipt of competitive sealed ~~bids~~, bids or at public auction, whichever method is determined by the authority to be more likely to achieve the higher sales price.

Any payments received under this section for the sale of real property no longer necessary for high-speed rail purposes shall be deposited in the High-Speed Rail Property Fund created pursuant to Section ~~185045~~, 185045 and shall be available to the authority upon appropriation as provided in that section.

SEC. 222.

Section 5097 of the Revenue and Taxation Code is amended to read:

5097.

An order for a refund under this article shall not be made, except on a claim:

Verified by the person who paid the tax, his or her guardian, executor, or administrator.

Except as provided in paragraph (3) or (4), filed within four years after making the payment sought to be refunded, or within one year after the mailing of notice as prescribed in Section 2635, or the period agreed to as provided in Section 532.1, or within 60 days of the date of the notice prescribed by subdivision (a) of Section 4836, whichever is later.

Filed within one year, if an application for a reduction in an assessment or an application for equalization of an assessment has been filed pursuant to Section 1603 and the applicant does not state in the application that the application is intended to constitute a claim for a refund, of either of the following events, whichever occurs first:

After the county assessment appeals board makes a final determination on the application for reduction in assessment or on the application for equalization of an escape assessment of the property, and mails a written notice of its determination to the applicant and the notice does not advise the applicant to file a claim for refund.

(ii) After the expiration of the time period specified in subdivision (c) of Section 1604 if the county assessment appeals board fails to hear evidence and fails to make a final determination on the application for reduction in assessment or on the application for equalization of an escape assessment of the property.

Filed within six months, if an application for a reduction in an assessment or an application for equalization of an assessment has been filed pursuant to Section 1603 and the applicant does not state in the application that the application is intended to constitute a claim for a refund, after the county assessment appeals board makes a final determination on the application for reduction in assessment or on the application for equalization of an escape assessment, and mails a written notice of its determination to the applicant and the notice advises the applicant to file a claim for refund within six months of the date of the county assessment appeals board's final determination.

Filed within eight years after making the payment sought to be refunded, or within 60 days of the notice prescribed by subdivision (a) of Section 4836, whichever is later, if the claim for refund is filed on or after January 1, 2015, and relates to the disabled veterans' exemption described in Section 205.5.

An application for a reduction in an assessment filed pursuant to Section 1603 shall also constitute a sufficient claim for refund under this section if the applicant states in the application that the application is intended to constitute a claim for refund. If the applicant does not so state, he or she may thereafter and within the period provided in paragraph (3) of subdivision (a) file a separate claim for refund of taxes extended on the assessment which the applicant applied to have reduced pursuant to Section 1603 or ~~Section~~ 1604.

If an application for equalization of an escape assessment is filed pursuant to Section 1603, a claim may be filed on any taxes resulting from the escape assessment or the original assessment to which the escape relates within the period provided in paragraph (3) of subdivision (a).

The amendments made to this section by ~~the act adding this subdivision shall~~ Chapter 656 of the Statutes of 2014 apply to claims for refund filed on or after January 1, 2015.

SEC. 223.

Section 6366.4 of the Revenue and Taxation Code is amended to read:

6366.4.

There are exempted from the taxes imposed by this part the gross receipts from the sale ~~of~~ of, and the storage, ~~use~~ use, or other consumption in this state ~~of~~ of, tangible personal property purchased by a nonprofit museum regularly open to the public that is operated by or for a local or state government entity, or operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, provided the property is purchased and used exclusively for display purposes within the museum.

The exemption provided by this section extends only to items that have value as museum pieces and does not extend to display cases, shelving, lamps, lighting fixtures, or other items of tangible personal property utilized in the operation of a museum. However, the exemption does include sprung instant structures used as temporary exhibit housing.

For purposes of this section, a “museum” includes only any of the following:

A museum that has a significant portion of its space open to the public without charge.

A museum open to the public without charge for not less than six hours during any month the museum is open to the public.

A museum that is open to a segment of the student or adult population without charge.

This section applies only to the San Diego ~~Aero-Space~~ Air & Space Museum and the California Science Center.

SEC. 224.

Section 7094 of the Revenue and Taxation Code is amended to read:

7094.

The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.

(A) The Taxpayers’ Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to two thousand three hundred dollars (\$2,300) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

The amount the Taxpayers’ Rights Advocate may release or return to each taxpayer subject to a levy or notice to withhold, is limited to two thousand three hundred dollars (\$2,300), or the adjusted amount as specified in paragraph (2), in any monthly period.

The Taxpayers’ Rights Advocate may order amounts returned in the case of a seizure of property as a result of a jeopardy determination, subject to the amounts set or adjusted pursuant to this section and if the ultimate collection of the amount due is no longer in jeopardy.

(A) The board shall adjust the two-thousand-three-hundred-dollar (\$2,300) amount specified in paragraph (1) as follows:

On or before March 1, 2016, and on or before March 1 each year thereafter, the board shall multiply the amount applicable for the current fiscal year by the inflation factor adjustment calculated based on the percentage change in the Consumer Price Index, as recorded by the California Department of Industrial Relations for the most recent year available, and the formula set forth in paragraph (2) of subdivision (h) of Section 17041. The resulting amount will be the applicable amount for the succeeding fiscal year only when the applicable amount computed is equal to or exceeds a new operative threshold, as defined in subparagraph (B).

(ii) When the applicable amount equals or exceeds an operative threshold specified in subparagraph (B), the resulting applicable amount, rounded to the nearest multiple of one hundred dollars (\$100), shall be operative for purposes of paragraph (1) beginning July 1 of the succeeding fiscal year.

For purposes of this paragraph, “operative threshold” means an amount that exceeds by at least one hundred dollars (\$100) the greater of either the amount specified in paragraph (1) or the amount computed pursuant to subparagraph (A) as the operative adjustment to the amount specified in paragraph (1).

The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of [Division 2 of Title 9 of Part 2](#) of the Code of Civil Procedure.

Except as provided in subparagraph (C) of paragraph (1) of subdivision (b), this section ~~shall~~ [does](#) not apply to the seizure of any property as a result of a jeopardy determination.

SEC. 225.

Section 12258 of the Revenue and Taxation Code is amended to read:

12258.

Any insurer that fails to pay any prepayment within the time required shall pay a penalty of 10 percent of the amount of the required prepayment, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the prepayment until the date of payment but not for any period after the due date of the annual tax. Assessments of prepayment deficiencies may be made in the manner provided by deficiency assessments of the annual tax.

Notwithstanding any other law, if a Medi-Cal managed care plan, as defined in subdivision (a) of Section 12009, receives additional amounts includable in its total operating revenue, as defined in Section 12241, for the service periods from January 1, 2009, to June 30, 2013, inclusive, those amounts shall continue to be subject to the tax imposed by Section 12201, as added by Section 4 of ~~the act adding this section,~~ [Chapter 33 of the Statutes of 2013](#), as added by Section 5 of Chapter 157 of the Statutes of 2009, as added by Section 31 of Chapter 717 of the Statutes of 2010, and as added by Section 2 of Chapter 11 of the First Extraordinary Session of the Statutes of 2011, and 100 percent of the tax continues to be due and shall be submitted to the Department of Insurance no later than 30 days after receipt of those amounts.

This section ~~shall~~ [does](#) not apply to an insurer subject to paragraph (1) of subdivision (c) of Section 12254.

~~(d) This section shall become operative on July 1, 2013.~~

SEC. 226.

Section 12491 of the Revenue and Taxation Code is amended to read:

12491.

Every tax levied upon an insurer under the provisions of Article XIII of the California Constitution and of this part is a lien upon all property and franchises of every kind and nature belonging to the insurer, and has the effect of a judgment against the insurer.

Every tax levied upon a surplus line broker under ~~the provisions of~~ Part 7.5 (commencing with Section 13201) ~~of Division 2~~ is a lien upon all property and franchises of every kind and nature belonging to the surplus line broker, and has the effect of a judgment against the surplus line broker.

A lien levied pursuant to this subdivision shall not exceed the amount of unpaid tax collected by the surplus line broker.

~~(c) This section shall become operative on July 1, 2013.~~

SEC. 227.

Section 12636 of the Revenue and Taxation Code is amended to read:

12636.

If the board finds that an insurer's failure to make a timely return or payment is due to reasonable cause and to circumstances beyond the insurer's control, and which occurred despite the exercise of ordinary

care and in the absence of willful neglect, the insurer may be relieved of the penalty provided by Section 12258, ~~12282~~, 12287, 12631, 12632, or 12633.

Any insurer seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

~~(b) This section shall become operative on July 1, 2013.~~

SEC. 228.

Section 18708 of the Revenue and Taxation Code is amended to read:

18708.

All moneys transferred to the Special Olympics Fund pursuant to Section 18707, upon appropriation by the Legislature, shall be allocated as follows:

To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

To the State Department of Social Services where the balance shall be disbursed ~~between~~ to the Special Olympics Northern California and the Special Olympics Southern California based on the amount of donations provided by taxpayers in each organization's jurisdiction based on the county of the taxpayer contributing, for the purpose of supporting children and adults with intellectual disabilities. The State Department of Social Services shall be responsible for overseeing that disbursement and may use up to 3 percent of the moneys allocated to it for administrative costs. The Special Olympics Northern California and the Special Olympics Southern California shall not use the moneys received pursuant to this article for administrative costs.

The Special Olympics Northern California and the Special Olympics Southern California shall annually provide a report to the State Department of Social Services that includes documentation that the moneys disbursed to each organization pursuant to this section were not used for administrative costs nor for any purposes outside of California and that describes in narrative form the amount of moneys received pursuant to this section and the purposes for which the moneys were expended.

SEC. 229.

Section 19854 of the Revenue and Taxation Code is amended to read:

19854.

The notice furnished to employees regarding the availability of the federal and the California EITC shall state as follows:

BASED ON YOUR ANNUAL EARNINGS, YOU MAY BE ELIGIBLE TO RECEIVE THE EARNED INCOME TAX CREDIT FROM THE FEDERAL GOVERNMENT (FEDERAL EITC). THE FEDERAL EITC IS A REFUNDABLE FEDERAL INCOME TAX CREDIT FOR LOW-INCOME WORKING INDIVIDUALS AND FAMILIES. THE FEDERAL EITC HAS NO EFFECT ON CERTAIN WELFARE BENEFITS. IN MOST CASES, FEDERAL EITC PAYMENTS WILL NOT BE USED TO DETERMINE ELIGIBILITY FOR MEDICAID, SUPPLEMENTAL SECURITY INCOME, FOOD STAMPS, LOW-INCOME HOUSING, OR MOST TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PAYMENTS. EVEN IF YOU DO NOT OWE FEDERAL TAXES, YOU MUST FILE A FEDERAL TAX RETURN TO RECEIVE THE FEDERAL EITC. BE SURE TO FILL OUT THE FEDERAL EITC FORM IN THE FEDERAL INCOME TAX RETURN BOOKLET. FOR INFORMATION REGARDING YOUR ELIGIBILITY TO RECEIVE THE FEDERAL EITC, INCLUDING INFORMATION ON HOW TO OBTAIN THE IRS NOTICE 797 OR ANY OTHER NECESSARY FORMS AND INSTRUCTIONS, CONTACT THE INTERNAL REVENUE SERVICE BY CALLING 1-800-829-3676 OR THROUGH ITS WEB SITE AT WWW.IRS.GOV.

YOU ALSO MAY BE ELIGIBLE TO RECEIVE THE CALIFORNIA EARNED INCOME TAX CREDIT (CALIFORNIA EITC) STARTING WITH THE CALENDAR YEAR 2015 TAX YEAR. THE CALIFORNIA EITC IS A REFUNDABLE STATE INCOME TAX CREDIT FOR LOW-INCOME WORKING INDIVIDUALS AND FAMILIES. THE CALIFORNIA EITC IS TREATED IN THE SAME MANNER AS THE FEDERAL EITC AND GENERALLY WILL NOT BE USED TO DETERMINE ELIGIBILITY FOR WELFARE BENEFITS UNDER CALIFORNIA LAW. TO CLAIM THE CALIFORNIA EITC, EVEN IF YOU DO NOT OWE CALIFORNIA TAXES, YOU MUST FILE A CALIFORNIA INCOME TAX RETURN AND COMPLETE AND ATTACH THE CALIFORNIA EITC FORM (FTB 3514). FOR INFORMATION ON THE AVAILABILITY OF THE CREDIT, ELIGIBILITY REQUIREMENTS, AND HOW TO OBTAIN THE NECESSARY CALIFORNIA FORMS AND GET HELP FILING, CONTACT THE FRANCHISE TAX BOARD AT 1-800-852-5711 OR THROUGH ITS WEB SITE AT WWW.FTB.CA.GOV.

The amendments made to this section by ~~the act adding this subdivision shall~~ Chapter 294 of the Statutes of 2016 apply to notices furnished on or after ~~the effective date of that act.~~ January 1, 2017.

SEC. 230.

The heading of Part 20 (commencing with Section 41001) of Division 2 of the Revenue and Taxation Code is amended to read:

PART 20. EMERGENCY TELEPHONE USERS SURCHARGE ~~LAW~~ ACT

SEC. 231.

Section 45153.5 of the Revenue and Taxation Code is amended to read:

45153.5.

If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the fee was due until the date of payment, if all of the following occur:

The payment of the fee was made one business day after the date the fee was due.

The person was granted relief from all penalties that applied to that fee payment.

The person files a request for an oral hearing before the board.

For purposes of this section, “modified adjusted daily rate” means the modified adjusted rate per ~~annum~~ annum, as defined in subdivision (a) of Section ~~6591.5~~ 6591.5, determined on a daily basis by dividing the modified adjusted rate per annum by 365.

For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.

For purposes of this section, “business day” means any day other than a Saturday, Sunday, or any day designated as a state holiday.

This section ~~shall~~ does not apply to any payment made pursuant to a deficiency determination, a determination where ~~no~~ a return has ~~not~~ been ~~filed~~ filed, or a jeopardy determination issued by the board.

This section ~~shall~~ only ~~apply~~ applies to electronic payments of fees.

SEC. 232.

Section 50112.1 of the Revenue and Taxation Code is amended to read:

50112.1.

If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the fee was due until the date of payment, if all of the following occur:

The payment of the fee was made one business day after the date the fee was due.

The person was granted relief from all penalties that applied to that fee payment.

The person files a request for an oral hearing before the board.

For purposes of this section, “modified adjusted daily rate” means the modified adjusted rate per ~~annum~~ annum, as defined in subdivision (a) of Section ~~6591.5~~ 6591.5, determined on a daily basis by dividing the modified adjusted rate per annum by 365.

For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.

For purposes of this section, “business day” means any day other than a Saturday, Sunday, or any day designated as a state holiday.

This section ~~shall~~ does not apply to any payment made pursuant to a deficiency determination, a determination where ~~no~~ a return has not been ~~filed~~ filed, or a jeopardy determination issued by the board.

This section ~~shall~~ only ~~apply~~ applies to electronic payments of fees.

SEC. 233.

Section 55042.5 of the Revenue and Taxation Code is amended to read:

55042.5.

If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the fee was due until the date of payment, if all of the following occur:

The payment of the fee was made one business day after the date the fee was due.

The person was granted relief from all penalties that applied to that fee payment.

The person files a request for an oral hearing before the board.

For purposes of this section, “modified adjusted daily rate” means the modified adjusted rate per ~~annum~~ annum, as defined in subdivision (a) of Section ~~6591.5~~ 6591.5, determined on a daily basis by dividing the modified adjusted rate per annum by 365.

For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.

For purposes of this section, “business day” means any day other than a Saturday, Sunday, or any day designated as a state holiday.

This section ~~shall~~ **does** not apply to any payment made pursuant to a deficiency determination, a determination where ~~no~~ a return has **not** been ~~filed~~ **filed**, or a jeopardy determination issued by the board.

This section ~~shall~~ only ~~apply~~ **applies** to electronic payments of fees.

SEC. 234.

Section 60207.5 of the Revenue and Taxation Code is amended to read:

60207.5.

If the board finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax was due until the date of payment, if all of the following occur:

The payment of tax was made one business day after the date the tax was due.

The person was granted relief from all penalties that applied to that payment of tax.

The person files a request for an oral hearing before the board.

For purposes of this section, “modified adjusted daily rate” means the modified adjusted rate per ~~annum~~ **annum**, as defined in subdivision (a) of Section ~~6591.5~~ **6591.5**, determined on a daily basis by dividing the modified adjusted rate per annum by 365.

For purposes of this section, “board” means the members of the State Board of Equalization meeting as a public body.

For purposes of this section, “business day” means any day other than a Saturday, Sunday, or any day designated as a state holiday.

This section ~~shall~~ **does** not apply to any payment made pursuant to a deficiency determination, a determination where ~~no~~ a return has **not** been ~~filed~~ **filed**, or a jeopardy determination issued by the board.

This section ~~shall~~ only ~~apply~~ **applies** to electronic payments of taxes.

SEC. 235.

Section 60632 of the Revenue and Taxation Code is amended to read:

60632.

The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event the expense of the sale process exceeds the liability for which the levy is made.

(A) The Taxpayers’ Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part, or within 90 days from the receipt of the funds pursuant to a levy or notice to withhold may order the return of any amount up to two thousand three hundred dollars (\$2,300) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse or dependents.

The amount the Taxpayers’ Rights Advocate may release or return to each taxpayer subject to a levy or notice to withhold, is limited to two thousand three hundred dollars (\$2,300), or the adjusted amount as specified in paragraph (2), in any monthly period.

The Taxpayers’ Rights Advocate may order amounts returned in the case of a seizure of property as a result of a jeopardy determination, subject to the amounts set or

adjusted pursuant to this section and if the ultimate collection of the amount due is no longer in jeopardy.

(A) The board shall adjust the two-thousand-three-hundred-dollar (\$2,300) amount specified in paragraph (1) as follows:

On or before March 1, 2016, and on or before March 1 each year thereafter, the board shall multiply the amount applicable for the current fiscal year by the inflation factor adjustment calculated based on the percentage change in the Consumer Price Index, as recorded by the California Department of Industrial Relations for the most recent year available, and the formula set forth in paragraph (2) of subdivision (h) of Section 17041. The resulting amount will be the applicable amount for the succeeding fiscal year only when the applicable amount computed is equal to or exceeds a new operative threshold, as defined in subparagraph (B).

(ii) When the applicable amount equals or exceeds an operative threshold specified in subparagraph (B), the resulting applicable amount, rounded to the nearest multiple of one hundred dollars (\$100), shall be operative for purposes of paragraph (1) beginning July 1 of the succeeding fiscal year.

For purposes of this paragraph, “operative threshold” means an amount that exceeds by at least one hundred dollars (\$100) the greater of either the amount specified in paragraph (1) or the amount computed pursuant to subparagraph (A) as the operative adjustment to the amount specified in paragraph (1).

The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of [Division 2](#) of Title 9 of [Part 2](#) of the Code of Civil Procedure.

Except as provided in subparagraph (C) of paragraph (1) of subdivision (b), this section ~~shall~~ **does** not apply to the seizure of any property as a result of a jeopardy determination.

SEC. 236.

Section 5898.16 of the Streets and Highways Code is amended to read:

5898.16.

A public agency shall not permit a property owner to participate in any program established pursuant to this chapter for the purposes specified in paragraph (2) of subdivision (a) of Section 5898.20 or Section 5899 or 5899.3 if any of the following apply:

The property owner’s participation would result in the total amount of the annual property taxes and assessments exceeding 5 percent of the property’s market value, as determined at the time of approval of the property owner’s contractual assessment.

The property does not comply with the conditions specified in paragraphs (1) to (5), inclusive, and paragraph (8), and, in addition, for properties with energy efficiency improvements specified under Section ~~5898.20~~, [5898.20 of this code](#) and paragraph ~~(7)~~, [\(7\)](#) of subdivision (a) of Section 26063 of the Public Resources Code.

A public agency shall not permit the property owner to participate in any program established pursuant to this chapter for the purposes specified in paragraph (2) of subdivision (a) of Section 5898.20 or Section 5899 or 5899.3 unless the property owner is given the right to cancel the contractual assessment without penalty or obligation, consistent with the following:

The property owner shall receive the right to cancel document set forth below or a substantially similar document that displays the same information in a substantially similar format. The

document shall be provided to the property owner as a printed copy unless the property owner agrees to an electronic copy.

Right to Cancel

Property Owner: [Owner Full Name],[Phone],[Email]

Property Address: [Property Address]

Your Right to Cancel:

You are entering into a contractual assessment with [Provider] for financing that will result in a lien on the property at [Property Address]. You may cancel this transaction, without cost, on or before midnight on the third business day after whichever of the following events occurs last:

- The date on which you signed the contractual assessment.
- The date you received your Financing Estimate and Disclosure.
- The date you received this notice of your right to cancel.

If you cancel the transaction, [Provider], within 20 calendar days after [Provider] receives notice of cancellation, must take the steps necessary to reflect the fact that, if recorded, the lien on your property has been discharged and removed from the tax rolls, and [Provider] must return to you any money you have given in connection with your application, not including the application processing fee. After [Provider] has done the things mentioned above, you must return any money paid to you or on your behalf, whether to your contractor or any other person. All money must be returned to the address below.

If you cancel the transaction:

- You will not be charged a cancellation fee; and
- You will be refunded any money you have given, excluding application and processing fees as applicable.

To cancel this transaction, you may submit this form to [Provider] in writing at:

Provider: _____

Attn: Right to Cancel Notification

Email: _____

Fax number: _____

Address: _____

Deadline to Cancel:

If you want to cancel this transaction, you must submit this form on or before midnight on the third business day after whichever of the following events occurs last:

- The date on which you signed the contractual assessment.
The date you received your Financing Estimate and Disclosure.
(3) The date you received this notice of your right to cancel.

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. If you cancel by mail, fax, or email, you must send the notice no later than midnight of the third business day following the date on which you signed the contractual assessment. If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than ~~the date indicated above.~~ midnight on the third business day after whichever of the following events occurs last:

- The date on which you signed the contractual assessment.
The date you received your Financing Estimate and Disclosure.
(3) The date you received this notice of your right to cancel.

I WISH TO CANCEL

Property Owner

Date

The property owner is deemed to have given notice of cancellation at the moment that the property owner sends the notice by mail, email, or fax or at the moment that the property owner otherwise delivers the notice, as applicable.

This section only applies to a property owner who seeks to participate in a program established pursuant to this chapter for the purposes specified in paragraph (2) of subdivision (a) of Section 5898.20 or Section 5899 or 5899.3 for a residential property with four or fewer units.

For the purposes of this section, “property owner” shall include all owners of record.

SEC. 237.

Section 1110 of the Unemployment Insurance Code is amended to read:

1110.

Employer contributions required under Sections 976 and 976.6, the amount of benefits received by any individual pursuant to this part that is deducted from an award or settlement made by the employer under ~~the provisions of~~ Section 1382, and, except as provided by subdivision ~~(b) of this section,~~ (b), worker contributions required under Section 984 are due and payable on the first day of the calendar month following the close of each calendar quarter and shall become delinquent if not paid on or before the last day of that month.

Worker contributions required under Section 984 are due and payable at the same time and by the same method as amounts required to be withheld under Section 13020 are paid to the department pursuant to Section 13021, regardless of the amount of accumulated unpaid liability for worker contributions.

Employer contributions submitted pursuant to Section 976.5 shall be paid on or before the last working day of March of the calendar year to which the reduced contribution rate would be applicable. Any

employer whose eligibility for an unemployment insurance contribution rate determination is redetermined to make that employer eligible to submit voluntary unemployment insurance contributions in accordance with Section 976.5, may submit a voluntary unemployment insurance contribution within 30 days of the date of notification of the redetermination.

Except as provided in subdivision (e), any employer described in Sections 682 and 684 may elect to report and pay employer contributions required under Sections 976 and 976.6, and worker contributions required under Section 984, annually. All contributions are due and payable on the first day of January following the close of the prior calendar year and shall become delinquent if not paid on or before the last day of that month. An election under this subdivision shall be effective the first day of the calendar year in which it is approved by the department. An election under this subdivision may not be approved if the employer has an outstanding return or report delinquency on the records of the department, or an unpaid amount owed to the department, that is not the subject of a timely petition for reassessment pending before the appeals board at the time the election is filed.

An employer described in Sections 682 and 684 who pays more than twenty thousand dollars (\$20,000) in wages annually, shall not be entitled to the election allowed in subdivision (d). If at any time during the year the total wages paid by an employer electing to file under subdivision (d) exceeds twenty thousand dollars (\$20,000), the election shall be terminated at the close of that calendar quarter. In addition to the report of wages due for that quarter, the employer shall file a return and pay any contributions due for that portion of the year during which the election was in effect, and shall pay contributions in accordance with subdivisions (a), (b), and (c) for the remainder of that year.

Contributions due pursuant to this section may be submitted by electronic funds transfer. Contributions submitted by electronic funds transfer shall be deemed complete in accordance with paragraph (4) of subdivision (e) of Section 13021.

Notwithstanding subdivision (f), effective on and after January 1, 2017, an employer with 10 or more employees shall remit the contributions and withholdings by electronic funds transfer.

Notwithstanding subdivision (f), effective on and after January 1, 2018, all employers shall remit the contributions and withholdings by electronic funds transfer.

Notwithstanding paragraphs (1) and (2), an employer may request a waiver from the electronic funds transfer requirement of this subdivision. The department may grant the waiver when the employer has established to the satisfaction of the director that there is a lack of automation, a severe economic hardship, a current exemption from filing electronically for federal purposes, or other good cause. An approved waiver shall be valid for one year or longer, at the discretion of the director.

For purposes of this section, “electronic funds transfer” shall have the same meaning as in Section 13021.5.

SEC. 238.

Section 2737 of the Unemployment Insurance Code, as amended by Section 7 of Chapter 276 of the Statutes of 2016, is amended to read:

2737.

Within 20 days from the date of mailing or serving of the notice of overpayment determination, the person affected may file an appeal to an administrative law judge. The director shall be an interested party to ~~any such~~ **this** appeal. The administrative law judge, after affording reasonable opportunity for a fair hearing, shall, unless the appeal is withdrawn, affirm, reverse, modify, or set aside the findings set forth in the notice of overpayment determination. The party and the director shall be notified of the administrative law judge’s decision, together with his or her reasons therefor, which shall be final unless

within 20 days from the date of notification or mailing of the decision a further appeal is initiated to the appeals board pursuant to Section 1336. The 20-day period for an appeal to the administrative law judge or to the appeals board may be extended for good cause.

~~“Good~~

“Good cause,” as used in this section, ~~shall include, but not be~~ includes, but is not limited to, mistake, inadvertence, surprise, or excusable neglect.

This section shall remain in effect only until March 1, 2018, and as of that date is repealed.

SEC. 239.

Section 2737 of the Unemployment Insurance Code, as added by Section 8 of Chapter 276 of the Statutes of 2016, is amended to read:

2737.

Within 30 days from the date of mailing or serving of the notice of overpayment determination, the person affected may file an appeal to an administrative law judge. The director shall be an interested party to ~~any such~~ this appeal. The administrative law judge, after affording reasonable opportunity for a fair hearing, shall, unless the appeal is withdrawn, affirm, reverse, modify, or set aside the findings set forth in the notice of overpayment determination. The party and the director shall be notified of the administrative law judge’s decision, together with his or her reasons therefor, which shall be final unless within 30 days from the date of notification or mailing of the decision a further appeal is initiated to the appeals board pursuant to Section 1336. The 30-day period for an appeal to the administrative law judge or to the appeals board may be extended for good cause.

“Good cause,” as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

This section shall become operative on March 1, 2018.

SEC. 240.

Section 11003 of the Unemployment Insurance Code is amended to read:

11003.

The department, with the advice of persons knowledgeable about providing employment services to persons who are deaf and hard of hearing, shall establish the criteria for choosing contractors.

The criteria shall include, but not be limited to, all of the following:

- The ability to provide services to a person who is deaf or hard of hearing in the person’s preferred mode of communication.

- The ability to secure community support, including written endorsements of local officials, employers, the workforce investment board of the local workforce investment ~~area~~ area, and organizations of and for persons who are deaf and hard of hearing.

- The existence of funding from one or more public or private sources.

Preference shall be given in the selection of a contractor to those proposals which demonstrate all of the following:

- Participation of persons who are deaf and hard of hearing on the potential contractor’s employment services staff, and in the case of a private nonprofit corporation, on the board of directors.

A commitment to the development and maintenance of self-determination for persons who are deaf and hard of hearing.

SEC. 241.

Section 13002 of the Unemployment Insurance Code is amended to read:

13002.

The following provisions of this code shall apply to any amount required to be deducted, reported, and paid to the department under this division:

Sections 301, 305, 306, 310, 311, ~~312~~, 317, and 318, relating to general administrative powers of the department.

Sections 403 to 413, inclusive, Section 1336, and Chapter 8 (commencing with Section 1951) of Part 1 of Division 1, relating to appeals and hearing procedures.

Sections 1110.6, 1111, 1111.5, 1112, 1112.1, 1113, 1113.1, 1114, 1115, 1116, and 1117, relating to the making of returns or the payment of reported contributions.

Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of Division 1, relating to assessments.

Article 9 (commencing with Section 1176), except Section 1176, of Chapter 4 of Part 1 of Division 1, relating to refunds and overpayments.

Article 10 (commencing with Section 1206) of Chapter 4 of Part 1 of Division 1, relating to notice.

Article 11 (commencing with Section 1221) of Chapter 4 of Part 1 of Division 1, relating to administrative appellate review.

Article 12 (commencing with Section 1241) of Chapter 4 of Part 1 of Division 1, relating to judicial review.

Chapter 7 (commencing with Section 1701) of Part 1 of Division 1, relating to collections.

Chapter 10 (commencing with Section 2101) of Part 1 of Division 1, relating to violations.

SEC. 242.

Section 13353.6 of the Vehicle Code is amended to read:

13353.6.

Notwithstanding any other law, a person whose driving privilege has been suspended under Section 13353.2 and who is eligible for a restricted driver's license as provided for in Section 13353.7 or 13353.75 may be eligible for a restricted driver's license without serving any period of the suspension if the person meets all of the eligibility requirements specified in those sections and the person does both of the following:

The person installs a functioning, certified ignition interlock device on any vehicle that he or she ~~own~~ **owns** or operates and submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

The person agrees to maintain the ignition interlock device as required under Section 23575.3.

A person whose driving privilege has been suspended under Section 13353.2 may install a functioning, certified ignition interlock device prior to the effective date specified in Section 13353.3. A person who installs a functioning, certified ignition interlock device pursuant to this subdivision, meets all of the eligibility requirements specified in Section 13353.7 or 13353.75 and complies with paragraphs (1) and

(2) of subdivision (a) is eligible for a restricted driver's license on the effective date specified in Section 13353.3.

The department shall terminate the restriction issued pursuant to Section 13353.7 or 13353.75 and shall immediately reinstate the suspension of the privilege to operate a motor vehicle upon receipt of notification from the ignition interlock device installer that a person has attempted to remove, bypass, or tamper with the ignition interlock device, has removed the device prior to the termination date of the restriction, or has failed to comply with any requirement for the maintenance or calibration of the ignition interlock device. The privilege shall remain suspended for the remaining mandatory suspension period imposed pursuant to Section 13353.3, provided, however, that if the person provides proof to the satisfaction of the department that the person is in compliance with the restriction issued pursuant to this section, the department may, in its discretion, restore the privilege to operate a motor vehicle and reimpose the remaining term of the restriction.

Notwithstanding any other law, a person whose driving privilege has been suspended under Section 13353.2, who is eligible for a restricted driver's license as provided for in Section 13353.7 or 13353.75, and who installs a functioning, certified ignition interlock device pursuant to this section or Section 13353.75, shall receive credit towards the mandatory term the person is required to install a functioning, certified ignition interlock device pursuant to Section 23575.3 for a conviction of a violation arising out of the same occurrence that led to the person's driving privilege being suspended pursuant to Section 13352.2 equal to the period of time the person installs a functioning, certified ignition interlock device pursuant to this section or Section 13353.75.

This section shall become operative on January 1, 2019.

This section shall remain in effect only until January 1, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2026, deletes or extends that date.

SEC. 243.

Section 22513.1 of the Vehicle Code is amended to read:

22513.1.

A business taking possession of a vehicle from a tow truck during hours the business is open to the public shall document all of the following:

The name, address, and telephone number of the towing company.

The name and driver's license number, driver's identification number issued by a motor club, as defined in Section 12142 of the Insurance Code, or other government authorized unique identifier of the tow truck operator.

The make, model, and license plate or ~~Vehicle Identification Number~~, vehicle identification number.

The date and time that possession was taken of the vehicle.

For purposes of subparagraph (B) of paragraph (1), if a tow truck operator refuses to provide information described in subparagraph (B) of paragraph (1) to a new motor vehicle dealer, as defined in Section 426, a new motor vehicle dealer is in compliance with this section if the new motor vehicle dealer documents the reasonable efforts made to obtain this information from the tow truck operator.

A business taking possession of a vehicle from a tow truck when the business is closed to the public shall document all of the following:

The make, model, and license plate or vehicle identification number.

The date and time that the business first observed the vehicle on its property.

The reasonable effort made by the business to contact the towing company, if identifying information was left with the vehicle, and the vehicle's owner or operator to obtain and document both of the following:

The name, address, and telephone number of the towing company.

The name and driver's license number, driver's identification number issued by a motor club, as defined in Section 12142 of the Insurance Code, or other government authorized unique identifier of the tow truck operator.

The information required in this section shall be maintained for three years and shall be available for inspection and copying within 48 hours of a written request by any officer or agent of a police department, a sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, the Bureau of Automotive Repair, a district attorney's office, or a city attorney's office.

For purposes of this section, a new motor vehicle dealer, as defined in Section 426, is not open to the public during hours its repair shop is closed to the public.

A person who willfully violates this section is guilty of a misdemeanor, and [that violation](#) is punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail for not more than three months, or by both that fine and imprisonment.

SEC. 244.

Section 23301.5 of the Vehicle Code is amended to read:

23301.5.

An authorized emergency vehicle is exempt from any requirement to pay a toll or other charge on a vehicular crossing, toll highway, or high-occupancy toll (HOT) lane, including the requirements of Section 23301, if all of the following conditions are satisfied:

The authorized emergency vehicle is properly displaying an exempt California license plate, and is properly identified or marked as an authorized emergency vehicle, including, but not limited to, displaying an external surface-mounted red warning light, blue warning light, or both, and displaying public agency identification, including, but not limited to, "Fire Department," "Sheriff," or "Police."

The vehicle is being driven while responding to or returning from an urgent or emergency call, engaged in an urgent or emergency response, or engaging in a fire station coverage assignment directly related to an emergency response.

For purposes of this paragraph, an "urgent" response or call means an incident or circumstance that requires an immediate response to a public safety-related incident, but does not warrant the use of emergency warning lights. "Urgent" does not include any personal use, commuting, training, or administrative uses.

Notwithstanding subparagraph (A), an authorized emergency vehicle, when returning from an urgent or emergency call, or from being engaged in an urgent or emergency response, or from engaging in a fire station coverage assignment directly related to an emergency response, shall not be exempt from any requirement to pay a toll or other charge imposed while traveling on a ~~high-occupancy toll (HOT)~~ HOT lane.

The driver of the vehicle determines that the use of the toll facility shall likely improve the availability or response and arrival time of the authorized emergency vehicle and its delivery of essential public safety services.

If the operator of a toll facility elects to send a bill or invoice to the public agency for the use of the toll facility by an authorized emergency vehicle, exempt pursuant to subdivision (a), the fire chief, police chief, county sheriff, head of the public agency, or his or her designee, is authorized to certify in writing that the authorized emergency vehicle was responding to or returning from an emergency call or response and is exempt from the payment of the toll or other charge in accordance with this section. The letter shall be accepted by the toll operator in lieu of payment and is a public document.

An authorized emergency vehicle that does not comply with this section is not exempt from the requirement to pay a toll or other charge on a toll highway, vehicular crossing, or ~~high-occupancy toll (HOT)~~ HOT lane. Upon information and belief of the toll operator that an authorized emergency vehicle is not in compliance with this section, the fire chief, police chief, county sheriff, head of the public agency, or his or her designee, upon the written request of the owner or operator of the toll facility, shall provide or otherwise make accessible to the toll operator the dispatch records or log books relevant to the time period when the vehicle was in use on the toll highway, vehicular crossing, or ~~high-occupancy toll (HOT)~~ HOT lane.

~~Nothing in this~~ This section ~~shall~~ does not prohibit or amend an agreement entered into between the owner or operator of a toll facility and a local emergency service provider that establishes mutually agreed upon terms for the use of the toll facility by the emergency service provider. This section shall not prohibit the owner or operator of a toll facility from having a policy that meets or exceeds this section. If at any time an emergency service provider or the owner or operator of a toll facility opts to terminate an agreement regarding the payment and processing of tolls or other charges, this section shall apply to the emergency service provider and the toll facility. An agreement between an emergency service provider and the owner or operator of a toll facility does not exempt other emergency service providers not named in the original agreement and the toll facility from the requirements of this section when those other emergency service providers use a toll facility in the jurisdiction of the owner or operator of the toll facility.

Sections 23302 and 23302.5 do not apply to authorized emergency vehicles exempt pursuant to this section.

As used in this section, “toll facility” includes a toll road, ~~high-occupancy toll (HOT)~~ HOT lane, toll bridge, toll highway, a vehicular crossing for which payment of a toll or charge is required, or any other toll facility.

SEC. 245.

Section 27427 of the Vehicle Code is amended to read:

27427.

This ~~act~~ article does not alter or affect the requirements of the Passenger Charter-party Carriers’ Act (Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code).

SEC. 246.

Section 34501.12 of the Vehicle Code, as amended by Section 2 of Chapter 748 of the Statutes of 2016, is amended to read:

34501.12.

Vehicles and the operation thereof, subject to this section, are those described in subdivision (a), (b), (e), (f), (g), (j), or (k) of Section 34500, except an agricultural vehicle as defined in Section 34500.6.

It is unlawful for a motor carrier to operate any vehicle of a type described in subdivision (a) without identifying to the department all terminals, as defined in Section 34515, in this state where vehicles may be inspected by the department pursuant to paragraph (4) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection. Motor carriers shall make vehicles and records available for inspection upon request by an authorized representative of the department. If a motor carrier fails to provide vehicles and records, an unsatisfactory terminal rating shall be issued by the department.

The number of vehicles that will be selected for inspection by the department at a terminal shall be based on terminal fleet size and applied separately to a terminal fleet of power units and trailers, according to the following schedule:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

The lessor of any vehicle described in subdivision (a) shall make vehicles available for inspection upon request of an authorized representative of the department in the course of inspecting the terminal of the lessee. This section does not affect whether the lessor or driver provided by the lessor is an employee of the authorized carrier lessee, and compliance with this section and its attendant administrative requirements does not imply an employee-employer relationship.

The department may inspect any terminal, as defined in Section 34515, of a motor carrier who, at any time, operates any vehicle described in subdivision (a).

The department shall adopt rules and regulations establishing a performance-based truck terminal inspection selection priority system. In adopting the system's rules and regulations, the department shall incorporate methodologies consistent with those used by the Federal Motor Carrier Safety Administration, including those related to the quantitative analysis of safety-related motor carrier performance data, collected during the course of inspection or enforcement contact by authorized representatives of the department or any authorized federal, state, or local safety official, in categories, including, but not limited to, driver fatigue, driver fitness, vehicle maintenance, and controlled substances and alcohol use. The department shall also incorporate other safety-related motor carrier performance data in this system, including citations and accident information. The department shall create a database to include all performance-based data specified in this section that shall be updated in a manner to provide real-time information to the department on motor carrier performance. The department shall prioritize for selection those motor carrier terminals never previously inspected by the department, those identified by the inspection priority selection system, and those terminals

operating vehicles listed in subdivision (g) of Section 34500. The department is not required to inspect a terminal subject to inspection pursuant to this section more often than once every six years, if a terminal receives a satisfactory compliance rating as the result of a terminal inspection conducted by the department pursuant to this section or Section 34501, or if the department has not received notification by the system of a motor carrier operating while exceeding the threshold of the inspection selection priority system. Any motor carrier that is inspected and receives less than a satisfactory compliance rating, or that falls below the threshold of the selection priority system, shall be subject to periodic inquiries and inspections as outlined in subdivision (f), and these inquiries and inspections shall be based on the severity of the violations.

As used in this section and Section 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating of the towing vehicle exceeds 10,000 pounds, but does not include a pickup truck or any combination never operated in commercial use, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste transporter registration is required pursuant to Section 25163 of the Health and Safety Code. Notwithstanding Section 5014.1, vehicles that display special identification plates in accordance with Section 5011, historical vehicles, as described in Section 5004, implements of husbandry and farm vehicles, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or operated by an agency of the federal government are not subject to this section or Section 34505.6.

It is unlawful for a motor carrier to operate, or cause to be operated, any vehicle that is subject to this section, Section 34520, or Division 14.85 (commencing with Section 34600), unless the motor carrier is knowledgeable of, and in compliance with, all applicable statutes and regulations.

It is unlawful for a motor carrier to contract or subcontract with, or otherwise engage the services of, another motor carrier, subject to this section, unless the contracted motor carrier has complied with subdivision (d). A motor carrier shall not contract or subcontract with, or otherwise engage the services of, another motor carrier until the contracted motor carrier provides certification of compliance with subdivision (d). This certification shall be completed in writing by the contracted motor carrier in a manner prescribed by the department. The certification, or a copy of the certification, shall be maintained by each involved party for the duration of the contract or the period of service plus two years, and shall be presented for inspection immediately upon the request of an authorized employee of the department. The certifications required by this subdivision and subdivision (b) of [Section 34620](#) may be combined.

An inspected terminal that receives an unsatisfactory compliance rating shall be reinspected by the department within 120 days after the issuance of the unsatisfactory compliance rating.

If a motor carrier's Motor Carrier of Property Permit or Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall not conduct a reinspection for permit or authority reinstatement until requested to do so by the Department of Motor Vehicles or the Public Utilities Commission, as appropriate.

A motor carrier issued an unsatisfactory terminal rating may request a review of the rating within five business days of receipt of the notification of the rating. The department shall conduct and evaluate the review within 10 business days of the request.

The department shall publish performance-based inspection completion data and make the data available for public review.

This section shall be known, and may be cited, as the Basic Inspection of Terminals program or BIT program.

This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

SEC. 247.

Section 34501.12 of the Vehicle Code, as added by Section 3 of Chapter 748 of the Statutes of 2016, is amended to read:

34501.12.

Vehicles and the operation thereof, subject to this section, are those described in subdivision (a), (b), (e), (f), (g), (j), or (k) of Section 34500.

It is unlawful for a motor carrier to operate any vehicle of a type described in subdivision (a) without identifying to the department all terminals, as defined in Section 34515, in this state where vehicles may be inspected by the department pursuant to paragraph (4) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection. Motor carriers shall make vehicles and records available for inspection upon request by an authorized representative of the department. If a motor carrier fails to provide vehicles and records, an unsatisfactory terminal rating shall be issued by the department.

The number of vehicles that will be selected for inspection by the department at a terminal shall be based on terminal fleet size and applied separately to a terminal fleet of power units and trailers, according to the following schedule:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

The lessor of any vehicle described in subdivision (a) shall make vehicles available for inspection upon request of an authorized representative of the department in the course of inspecting the terminal of the lessee. This section does not affect whether the lessor or driver provided by the lessor is an employee of the authorized carrier lessee, and compliance with this section and its attendant administrative requirements does not imply an employee-employer relationship.

The department may inspect any terminal, as defined in Section 34515, of a motor carrier who, at any time, operates any vehicle described in subdivision (a).

The department shall adopt rules and regulations establishing a performance-based truck terminal inspection selection priority system. In adopting the system's rules and regulations,

the department shall incorporate methodologies consistent with those used by the Federal Motor Carrier Safety Administration, including those related to the quantitative analysis of safety-related motor carrier performance data, collected during the course of inspection or enforcement contact by authorized representatives of the department or any authorized federal, state, or local safety official, in categories, including, but not limited to, driver fatigue, driver fitness, vehicle maintenance, and controlled substances and alcohol use. The department shall also incorporate other safety-related motor carrier performance data in this system, including citations and accident information. The department shall create a database to include all performance-based data specified in this section that shall be updated in a manner to provide real-time information to the department on motor carrier performance. The department shall prioritize for selection those motor carrier terminals never previously inspected by the department, those identified by the inspection priority selection system, and those terminals operating vehicles listed in subdivision (g) of Section 34500. The department is not required to inspect a terminal subject to inspection pursuant to this section more often than once every six years, if a terminal receives a satisfactory compliance rating as the result of a terminal inspection conducted by the department pursuant to this section or Section 34501, or if the department has not received notification by the system of a motor carrier operating while exceeding the threshold of the inspection selection priority system. Any motor carrier that is inspected and receives less than a satisfactory compliance rating, or that falls below the threshold of the selection priority system, shall be subject to periodic inquiries and inspections as outlined in subdivision (f), and these inquiries and inspections shall be based on the severity of the violations.

As used in this section and Section 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating of the towing vehicle exceeds 10,000 pounds, but does not include a pickup truck or any combination never operated in commercial use, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste transporter registration is required pursuant to Section 25163 of the Health and Safety Code. Notwithstanding Section 5014.1, vehicles that display special identification plates in accordance with Section 5011, historical vehicles, as described in Section 5004, implements of husbandry and farm vehicles, as defined in Chapter 1 (commencing with Section 36000) of Division 16 and vehicles owned or operated by an agency of the federal government are not subject to this section or Section 34505.6.

It is unlawful for a motor carrier to operate, or cause to be operated, any vehicle that is subject to this section, Section 34520, or Division 14.85 (commencing with Section 34600), unless the motor carrier is knowledgeable of, and in compliance with, all applicable statutes and regulations.

It is unlawful for a motor carrier to contract or subcontract with, or otherwise engage the services of, another motor carrier, subject to this section, unless the contracted motor carrier has complied with subdivision (d). A motor carrier shall not contract or subcontract with, or otherwise engage the services of, another motor carrier until the contracted motor carrier provides certification of compliance with subdivision (d). This certification shall be completed in writing by the contracted motor carrier in a manner prescribed by the department. The certification, or a copy of the certification, shall be maintained by each involved party for the duration of the contract or the period of service plus two years, and shall be presented for inspection immediately upon the request of an authorized employee of the department. The certifications required by this subdivision and subdivision (b) of [Section 34620](#) may be combined.

An inspected terminal that receives an unsatisfactory compliance rating shall be reinspected by the department within 120 days after the issuance of the unsatisfactory compliance rating.

If a motor carrier's Motor Carrier of Property Permit or Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall not conduct a reinspection for permit or authority reinstatement until requested to do so by the Department of Motor Vehicles or the Public Utilities Commission, as appropriate.

A motor carrier issued an unsatisfactory terminal rating may request a review of the rating within five business days of receipt of the notification of the rating. The department shall conduct and evaluate the review within 10 business days of the request.

The department shall publish performance-based inspection completion data and make the data available for public review.

This section shall be known, and may be cited, as the Basic Inspection of Terminals program or BIT program.

This section shall become operative on January 1, 2023.

SEC. 248.

Section 41501 of the Vehicle Code, as added by Section 12.5 of Chapter 216 of the Statutes of 2010, is repealed.

~~41501.~~

~~(a)After a deposit of bail and bail forfeiture, a plea of guilty or no contest, or a conviction, the court may order a continuance of a proceeding against a person, who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration for successful completion of a course of instruction at a licensed school for traffic violators, a licensed driving school, or any other court approved program of driving instruction, and pursuant to Section 1803.5 or 42005, the court may order that the conviction be held confidential by the department according to Section 1808.7.~~

~~(b)Subdivision (a) does not apply to a person who receives a notice to appear as to, or is otherwise charged with, a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810.~~

~~(c)This section shall become operative on July 1, 2011.~~

SEC. 249.

Section 366 of the Water Code is amended to read:

366.

During periods described in subdivision (a) of Section 367, excessive water use is prohibited by a residential customer in a single-family residence or by a customer in a multiunit housing complex in which each unit is individually metered or submetered by the urban retail water supplier.

Each urban retail water supplier shall establish a method to identify and discourage excessive water use, through one of the following options:

Establishing a rate structure, subject to applicable constitutional and statutory limitations, that includes block tiers, water budgets, or rate surcharges over and above base rates for excessive water use by a residential water customer.

Establishing an excessive water use ordinance, rule, or tariff condition, or amending an existing ordinance, rule, or tariff condition, that includes a definition of or a procedure to identify and address excessive water use by metered single-family residential customers and customers in

multiunit housing complexes in which each unit is individually metered or submetered and may include a process to issue written warnings to a customer and perform a site audit of customer water usage prior to deeming the customer in violation.

For the purposes of subparagraph (A), excessive water use shall be measured in terms of either gallons or hundreds of cubic feet of water used during the urban retail water supplier's regular billing cycle. In establishing the definition of excessive use, the urban retail water supplier may consider factors that include, but are not limited to, all of the following:

Average daily use.

(ii) Full-time occupancy of households.

(iii) Amount of landscaped land on a property.

(iv) Rate of evapotranspiration.

Seasonal weather changes.

A violation of an excessive use ordinance, rule, or tariff condition established pursuant to subparagraph (A) shall result in an infraction or administrative civil penalty. The penalty for a violation may be based on conditions identified by the urban retail water supplier and may include, but is not limited to, a fine of up to five hundred dollars (\$500) for each hundred cubic feet of water, or 748 gallons, used above the excessive water use threshold established by the urban retail water supplier in a billing cycle.

Any fine imposed pursuant to this subparagraph shall be added to the customer's water bill and is due and payable with that water bill.

Each urban retail water supplier shall have a process for nonpayment of the fine, which shall be consistent with due process and reasonably similar to the water supplier's existing process for nonpayment of a water bill.

Consistent with due process, an urban retail water supplier shall establish a process and conditions for the appeal of a fine imposed pursuant to subparagraph (C) whereby the customer may contest the imposition of the fine for excessive water use.

As part of the appeal process, the customer shall be provided with an opportunity to provide evidence that there was no excessive water use or of a bona fide reason for the excessive water use, including evidence of a water leak, a medical reason, or any other reasonable justification for the water use, as determined by the urban retail water supplier.

As part of the appeal process, the urban retail water supplier shall provide documentation demonstrating the excessive water ~~usage~~ use.

The provisions of subdivision (b) do not apply to an urban retail water supplier that is not fully metered in accordance with Section 527. An urban retail water supplier shall comply with the provisions of subdivision (b) when all of the water supplier's residential water service connections are being billed based on metered water usage.

An urban retail water supplier that is not fully metered shall prohibit water use practices by an ordinance, resolution, rule, or tariff condition that imposes penalties for prohibited uses of water supplied by the water supplier. The urban retail water supplier may include a process to issue written warnings prior to imposing penalties as well as increased penalty amounts for successive violations.

SEC. 250.

Section 13321 of the Water Code is amended to read:

13321.

In the case of a review by the state board under Section 13320 or review by the state board of a decision or order issued under authority delegated to an officer or employee of the state board where the state board by regulation has authorized a petition for reconsideration, the state board, upon notice and hearing, if a hearing is requested, may stay in whole or in part the effect of the decision or order of a regional board or of the state board. Except as provided in paragraph (2), the state board shall issue or deny the stay within 90 days of receipt of a request for stay that complies with the applicable regulations for requesting a stay. The party requesting the stay may extend the 90-day period.

(A) If the request for stay relates to either of the following, the state board shall issue or deny the stay within 45 days of receipt of a request for stay that complies with the applicable regulations for requesting the stay:

A water quality certification issued under Section 13160 authority delegated to an officer or employee of the state board for a discharge for a proposed activity associated with a hydroelectric facility and the proposed activity requires a license or an amendment to a license issued by the Federal Energy Regulatory Commission.

(ii) A cleanup and abatement order issued under Section 13304 authority delegated to an officer or employee of the state board or a regional board that requires the provision of alternate water supplies within 120 days of the date of the order.

The party requesting a stay may extend the 45-day period described in subparagraph (A).

If the state board fails to issue or deny the stay within the applicable period specified in paragraph (1) or (2), the request for stay shall be deemed denied on the first day following the applicable period.

Within 30 days of any order of the state board issuing or denying a stay or within 30 days of a stay being deemed denied pursuant to paragraph (3) of subdivision (a), any aggrieved party may file with the superior court a petition for writ of mandate for review of the state board's order issuing or denying a stay or failure to issue or deny a stay.

(A) Except as otherwise provided in this section, Section 1094.5 of the Code of Civil Procedure shall govern proceedings for which petitions are filed under this section.

If the superior court finds that the state board failed to follow the procedures specified in subdivision (a) or otherwise prejudicially abused its discretion, the superior court may set aside the state board's order issuing or denying the stay and may stay, in whole or in part, the effect of the decision or order of a regional board or of the state board pending review by the state board.

Notwithstanding subparagraph (A) or (B), if a request for stay is subject to paragraph (2) of subdivision (a), the superior court may proceed without a certified administrative record and may stay, in whole or in part, the effect of the order or decision issued under delegated authority pending the state board's review of the order or ~~decision, however, no such stay shall be imposed~~ decision. The court shall not impose the stay if the court is satisfied that it is against the public interest.

In an action under this section or Section 13330 involving a water quality certification issued pursuant to Section 13160, the court shall not issue a stay or other order that enjoins or has the effect of preventing the state board from taking action necessary to avoid a waiver of water

quality certification for failure to act within the period provided under federal law. In determining whether there is a risk of waiver, the court shall consider the applicable regulations or policies of the federal agency issuing the permit or license subject to the water quality certification.

If the state board or the superior court grants a stay under this section, the stay may be made effective as of the effective date of the regional board or state board decision or order.

If a petition is filed with the superior court under Section 13330, any stay in effect at the time of the filing of the petition shall remain in effect by operation of law for a period of 20 days from the date of the filing of that petition.

SEC. 251.

Section 71611.5 of the Water Code is amended to read:

71611.5.

Notwithstanding any other law:

Upon the request of an Indian tribe and the satisfaction of the conditions stated in subdivision (b), a district shall provide service of water at substantially the same terms applicable to the customers of the district to an Indian tribe's lands that are not within a district as if the lands had been fully annexed into the district and into any other public agencies required for the provision of water service if the Indian tribe's lands meet all of the following requirements:

The lands were owned by the tribe on January 1, 2016.

The lands are contiguous with at least two districts.

The lands lie within the special study area of at least one district.

At least 70 percent of the Indian tribe's total Indian lands are currently within the boundaries of one or more districts.

Before a district provides service of water pursuant to this section, the Indian tribe shall satisfy all of the following conditions:

The Indian tribe complies with all federal and tribal laws.

The Indian tribe acquires all federal and tribal approvals necessary for the applicable district to provide water service to the tribal lands on substantially the same terms applicable to customers of the district.

The Indian tribe shall by agreement accept all terms of, and ~~payments to (including service payments);~~ payments, including service payments, to, the district and any public agency providing water to ~~said~~ the district, as if the Indian tribe's lands were fully annexed into the district and into the service area of any other public ~~agency, which~~ agency. The terms and payments are also a condition of continued service by ~~a~~ the district and by any public agency providing water to ~~said~~ the district.

If a district provides service of water to an Indian tribe's lands pursuant to this section, the service areas of the district and of any public agencies providing water to the district are deemed for all purposes to include the Indian tribe's lands for the longest of the following periods of time:

The time service of water is provided by the district to the Indian tribe.

The time moneys are owed by the Indian tribe to the district for the service of water.

The term of any agreement between the district and the Indian tribe.

SEC. 252.

Section 208.3 of the Welfare and Institutions Code is amended to read:

208.3.

For purposes of this section, the following definitions ~~shall~~ apply:

“Juvenile facility” includes any of the following:

A juvenile hall, as described in Section 850.

A juvenile camp or ranch, as described in Article 24 (commencing with Section 880).

A facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

A regional youth educational facility, as described in Section 894.

A youth correctional center, as described in Article 9 (commencing with Section 1850) of Chapter 1 of Division 2.5.

A juvenile regional facility as described in Section 5695.

Any other local or state facility used for the confinement of minors or wards.

“Minor” means a person who is any of the following:

A person under 18 years of age.

A person under the maximum age of juvenile court jurisdiction who is confined in a juvenile facility.

A person under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

“Room confinement” means the placement of a minor or ward in a locked sleeping room or cell with minimal or no contact with persons other than correctional facility staff and attorneys. Room confinement does not include confinement of a minor or ward in a single-person room or cell for brief periods of locked room confinement necessary for required institutional operations.

“Ward” means a person who has been declared a ward of the court pursuant to ~~subdivision (a)~~ ~~of~~ Section 602.

The placement of a minor or ward in room confinement shall be accomplished in accordance with the following guidelines:

Room confinement shall not be used before other less restrictive options have been attempted and exhausted, unless attempting those options poses a threat to the safety or security of any minor, ward, or staff.

Room confinement shall not be used for the purposes of punishment, coercion, convenience, or retaliation by staff.

Room confinement shall not be used to the extent that it compromises the mental and physical health of the minor or ward.

A minor or ward may be held up to four hours in room confinement. After the minor or ward has been held in room confinement for a period of four hours, staff shall do one or more of the following:

Return the minor or ward to general population.

Consult with mental health or medical staff.

Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population.

If room confinement must be extended beyond four hours, staff shall do the following:

Document the reason for room confinement and the basis for the extension, the date and time the minor or ward was first placed in room confinement, and when he or she is eventually released from room confinement.

Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population.

Obtain documented authorization by the facility superintendent or his or her designee every four hours thereafter.

This section is not intended to limit the use of single-person rooms or cells for the housing of minors or wards in juvenile facilities and does not apply to normal sleeping hours.

This section does not apply to minors or wards in court holding facilities or adult facilities.

~~Nothing in this~~ This section shall ~~not~~ be construed to conflict with any law providing greater or additional protections to minors or wards.

This section does not apply during an extraordinary, emergency circumstance that requires a significant departure from normal institutional operations, including a natural disaster or facility-wide threat that poses an imminent and substantial risk of harm to multiple staff, minors, or wards. This exception shall apply for the shortest amount of time needed to address the imminent and substantial risk of harm.

This section does not apply when a minor or ward is placed in a locked cell or ~~sleep~~ sleeping room to treat and protect against the spread of a communicable disease for the shortest amount of time required to reduce the risk of infection, with the written approval of a licensed physician or nurse practitioner, when the minor or ward is not required to be in an infirmary for an illness. Additionally, this section does not apply when a minor or ward is placed in a locked cell or ~~sleep~~ sleeping room for required extended care after medical treatment with the written approval of a licensed physician or nurse practitioner, when the minor or ward is not required to be in an infirmary for illness.

This section shall become operative on January 1, 2018.

SEC. 253.

Section 361.2 of the Welfare and Institutions Code is amended to read:

361.2.

When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child. The fact that the parent is enrolled in a certified substance abuse

treatment facility that allows a dependent child to reside with his or her parent shall not be, for that reason alone, prima facie evidence that placement with that parent would be detrimental.

If the court places the child with that parent it may do any of the following:

Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files his or her report with the court, the court may then take the action described in paragraph (1), (3), or this paragraph. However, ~~nothing in~~ this paragraph shall ~~not~~ be interpreted to imply that the court is required to take the action described in this paragraph as a prerequisite to the court taking the action described in either paragraph (1) or (3).

Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.

The court shall make a finding either in writing or on the record of the basis for its determination under subdivisions (a) and (b).

Part 6 (commencing with Section 7950) of Division 12 of the Family Code ~~shall apply~~ applies to the placement of a child pursuant to paragraphs (1) and (2) of subdivision (e).

When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the child to be under the supervision of the social worker who may place the child in any of the following:

The home of a noncustodial parent as described in subdivision (a), regardless of the parent's immigration status.

The approved home of a relative, regardless of the relative's immigration status.

The approved home of a nonrelative extended family member as defined in Section 362.7.

The approved home of a resource family as defined in Section 16519.5.

A foster home considering first a foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.

A home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

A suitable licensed community care facility, except a runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

With a foster family agency, as defined in subdivision (g) of Section 11400 and paragraph (4) of subdivision (a) of Section 1502 of the Health and Safety Code, to be placed in a suitable family home certified or approved by the agency, with prior approval of the county placing agency.

A child of any age who is placed in a community care facility licensed as a group home for children or a short-term residential therapeutic program as defined in subdivision (ad) of Section 11400 and paragraph (18) of subdivision (a) of Section 1502 of the Health and Safety Code, shall have a case plan that indicates that placement is for purposes of providing ~~short term~~, short-term, specialized, and intensive treatment for the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision ~~(e)~~ (d) of Section 16501.1, and the case plan includes transitioning the child to a less restrictive environment and the projected timeline by which the child will be transitioned to a less restrictive environment. If the placement is longer than six months, the placement shall be documented consistent with paragraph (3) of subdivision (a) of Section 16501.1 and shall be approved by the deputy director or director of the county child welfare department.

A child under six years of age shall not be placed in a community care facility licensed as a group home for children, or a short-term residential therapeutic program except under the following circumstances:

When the facility meets the applicable regulations adopted under Section 1530.8 of the Health and Safety Code and standards developed pursuant to Section 11467.1 of this code, and the deputy director or director of the county child welfare department has approved the case plan.

(ii) The ~~short term~~, short-term, specialized, and intensive treatment period shall not exceed 120 days, unless the county has made progress toward or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department.

To the extent that placements pursuant to this paragraph are extended beyond an initial 120 days, the requirements of clauses (i) and (ii) shall apply to each extension. In addition, the deputy director or director of the county child welfare department shall approve the continued placement no less frequently than every 60 days.

In addition, when a case plan indicates that placement is for purposes of providing family reunification services, the facility shall offer family reunification services that meet the needs of the individual child and his or her family, permit parents to have reasonable access to their children 24 hours a day, encourage extensive parental involvement in meeting the daily needs of their children, and employ staff trained to provide family reunification services. In addition, one of the following conditions exists:

The child's parent is also under the jurisdiction of the court and resides in the facility.

The child's parent is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.

Placement in the facility is the only alternative that permits the parent to have daily 24-hour access to the child in accordance with the case plan, to participate fully in meeting all of the daily needs of the child, including feeding and personal hygiene, and to have access to necessary reunification services.

A child who is 6 to 12 years of age, inclusive, may be placed in a community care facility licensed as a group home for children or a short-term residential therapeutic program under the following ~~conditions~~: conditions:

The short-term, specialized, and intensive treatment period shall not exceed six months, unless the county has made progress or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department.

(ii) To the extent that placements pursuant to this paragraph are extended beyond an initial six months, the requirements of this subparagraph shall apply to each extension. In addition, the deputy director or director of the county child welfare department shall approve the continued placement no less frequently than every 60 days.

Any child placed in a short-term residential therapeutic program shall be either of the following:

A child who has been assessed as meeting one of the placement requirements set forth in subdivisions (b) and (e) of Section 11462.01.

A child under 6 years of age who is placed with his or her minor parent or for the purpose of reunification pursuant to clause (iv) of subparagraph (A) of paragraph (9).

~~Nothing in this~~ This subdivision shall ~~not~~ be construed to allow a social worker to place any dependent child outside the United States, except as specified in subdivision (f).

A child under the supervision of a social worker pursuant to subdivision (e) shall not be placed outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

The party or agency requesting placement of the child outside the United States shall carry the burden of proof and shall show, by clear and convincing evidence, that placement outside the United States is in the best interest of the child.

In determining the best interest of the child, the court shall consider, but not be limited to, the following factors:

Placement with a relative.

Placement of siblings in the same home.

Amount and nature of any contact between the child and the potential guardian or caretaker.

Physical and medical needs of the dependent child.

Psychological and emotional needs of the dependent child.

Social, cultural, and educational needs of the dependent child.

Specific desires of any dependent child who is 12 years of age or older.

If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker to make a placement outside the United States. A child subject to this subdivision shall not leave the United States prior to the issuance of the order described in this paragraph.

For purposes of this subdivision, “outside the United States” shall not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

This subdivision ~~shall~~ **does** not apply to the placement of a dependent child with a parent pursuant to subdivision (a).

If the child is taken from the physical custody of the child’s parent or guardian and unless the child is placed with relatives, the child shall be placed in foster care in the county of residence of the child’s parent or guardian in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parent’s or guardian’s county of residence, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parent’s or guardian’s community of residence.

~~Nothing in this~~ This section shall **not** be interpreted as requiring multiple disruptions of the child’s placement corresponding to frequent changes of residence by the parent or guardian. In determining whether the child should be moved, the social worker shall take into consideration the potential harmful effects of disrupting the placement of the child and the parent’s or guardian’s reason for the move.

When it has been determined that it is necessary for a child to be placed in a county other than the child’s parent’s or guardian’s county of residence, the specific reason the out-of-county placement is necessary shall be documented in the child’s case plan. If the reason the out-of-county placement is necessary is the lack of resources in the sending county to meet the specific needs of the child, those specific resource needs shall be documented in the case plan.

When it has been determined that a child is to be placed out of county either in a group home or with a foster family agency for subsequent placement in a certified foster family home, and the sending county is to maintain responsibility for supervision and visitation of the child, the sending county shall develop a plan of supervision and visitation that specifies the supervision and visitation activities to be performed and specifies that the sending county is responsible for performing those activities. In addition to the plan of supervision and visitation, the sending county shall document information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern in the receiving county. Upon implementation of the Child Welfare Services Case Management System, the plan of supervision and visitation, as well as information regarding any known or suspected dangerous behavior of the child, shall be made available to the receiving county upon placement of the child in the receiving county. If placement occurs on a weekend or holiday, the information shall be made available to the receiving county on or before the end of the next business day.

When it has been determined that a child is to be placed out of county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the

child, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the child, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the child in the receiving county. In addition, upon completion of the case plan, the sending county shall provide a copy of the completed case plan to the receiving county. The case plan shall include information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern to the receiving county.

Whenever the social worker must change the placement of the child and is unable to find a suitable placement within the county and must place the child outside the county, the placement shall not be made until he or she has served written notice on the parent or guardian, the child's attorney, and, if the child is 10 years of age or older, on the child, at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons that require placement outside the county. The child or parent or guardian may object to the placement not later than seven days after receipt of the notice and, upon objection, the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the child's particular needs require placement outside the county.

If the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the child will be served by granting visitation rights to the child's grandparents. The court shall clearly specify those rights to the social worker.

If the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether there are any siblings under the court's jurisdiction, or any nondependent siblings in the physical custody of a parent subject to the court's jurisdiction, the nature of the relationship between the child and his or her siblings, the appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002, and the impact of the sibling relationships on the child's placement and planning for legal permanence.

An agency shall ensure placement of a child in a home that, to the fullest extent possible, best meets the day-to-day needs of the child. A home that best meets the day-to-day needs of the child shall satisfy all of the following criteria:

The child's caregiver is able to meet the day-to-day health, safety, and well-being needs of the child.

The child's caregiver is permitted to maintain the least restrictive family setting that promotes normal childhood experiences and that serves the day-to-day needs of the child.

The child is permitted to engage in reasonable, age-appropriate day-to-day activities that promote normal childhood experiences for the foster child.

The foster child's caregiver shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, to determine day-to-day activities that are age appropriate to meet the needs of the child. ~~Nothing in this~~ This section shall not be construed to permit a child's caregiver to permit the child to engage in day-to-day activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

~~(4) This section shall become operative on January 1, 2017.~~

SEC. 254.

Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3.

If a juvenile court orders a permanent plan of adoption, tribal customary adoption, adoption of a nonminor dependent pursuant to subdivision (f) of Section 366.31, or legal guardianship pursuant to Section 360 or 366.26, the court shall retain jurisdiction over the child or nonminor dependent until the child or nonminor dependent is adopted or the legal guardianship is established, except as provided for in Section 366.29 or, on and after January 1, 2012, Section 366.32. The status of the child or nonminor dependent shall be reviewed every six months to ensure that the adoption or legal guardianship is completed as expeditiously as possible. When the adoption of the child or nonminor dependent has been granted, or in the case of a tribal customary adoption, when the tribal customary adoption order has been afforded full faith and credit and the petition for adoption has been granted, the court shall terminate its jurisdiction over the child or nonminor dependent. Following establishment of a legal guardianship, the court may continue jurisdiction over the child as a dependent child of the juvenile court or may terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the legal guardianship, as authorized by Section 366.4. If, however, a relative of the child is appointed the legal guardian of the child and the child has been placed with the relative for at least six months, the court shall, except if the relative guardian objects, or upon a finding of exceptional circumstances, terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship, as authorized by Section 366.4. Following a termination of parental rights, the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the child.

If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a legal guardianship that has been granted pursuant to Section 360 or 366.26 shall be held ~~in~~ either ~~in~~ the juvenile court that retains jurisdiction over the guardianship as authorized by Section 366.4 or the juvenile court in the county where the guardian and child currently reside, based on the best interests of the child, unless the termination is due to the emancipation or adoption of the child. The juvenile court having jurisdiction over the guardianship shall receive notice from the court in which the petition is filed within five calendar days of the filing. ~~Prior to~~ **Before** the hearing on a petition to terminate legal guardianship pursuant to this subdivision, the court shall order the county department of social services or welfare department having jurisdiction or jointly with the county department where the guardian and child currently reside to prepare a report, for the court's consideration, that shall include an evaluation of whether the child could safely remain in, or be returned to, the legal guardian's home, without terminating the legal guardianship, if services were provided to the child or legal guardian. If applicable, the report shall also identify recommended family maintenance or reunification services to maintain the legal guardianship and set forth a plan for providing those services. If the petition to terminate legal guardianship is granted, either juvenile court may resume dependency jurisdiction over the child, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination. If no dependency jurisdiction has attached, the social worker shall make any investigation he or she deems necessary to determine whether the child may be within the jurisdiction of the juvenile court, as provided in Section 328.

Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the legal guardianship has been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the child in another permanent placement. At the hearing, the parents may be considered as custodians but the child shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the child. The court may, if it is in the best interests of the child, order that reunification services again be provided to the parent or parents.

If, following the establishment of a legal guardianship, the county welfare department becomes aware of changed circumstances that indicate adoption or, for an Indian child, tribal customary adoption, may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the child and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued legal guardianship is the most appropriate plan for the child. The hearing shall be held no later than 120 days from the date of the order. If the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services if it is acting as an adoption agency, to prepare an assessment under subdivision ~~(b)~~ (c) of Section 366.22.

If the child or, on and after January 1, 2012, nonminor dependent is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption shall be conducted by the court. The review of the status of a child or, on and after January 1, 2012, nonminor dependent for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local agency. The court shall conduct the review under the following circumstances:

Upon the request of the child's parents or legal guardians.

Upon the request of the child or, on and after January 1, 2012, nonminor dependent.

It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the child remain in foster care pursuant to Section 366.21, 366.22, 366.25, 366.26, or subdivision (h).

It has been 12 months since a review was conducted by the court.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

Except as provided in subdivision (g), at the review held every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made to provide a permanent home for the child, shall consider the safety of the child, and shall determine all of the following:

The continuing necessity for, and appropriateness of, the placement.

Identification of individuals other than the child's siblings who are important to a child who is 10 years of age or older and has been in out-of-home placement for six months or longer, and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall

make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

The continuing appropriateness and extent of compliance with the permanent plan for the child, including efforts to maintain relationships between a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer and individuals who are important to the child and efforts to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

The extent of the agency's compliance with the child welfare services case plan in making reasonable efforts either to return the child to the safe home of the parent or to complete whatever steps are necessary to finalize the permanent placement of the child. If the reviewing body determines that a second period of reunification services is in the child's best interests, and that there is a significant likelihood of the child's return to a safe home due to changed circumstances of the parent, pursuant to subdivision (f), the specific reunification services required to effect the child's return to a safe home shall be described.

Whether there should be any limitation on the right of the parent or guardian to make educational decisions or developmental services decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational decisions or developmental services decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions or developmental services decisions for the child pursuant to Section 361.

The adequacy of services provided to the child. The court shall consider the progress in providing the information and documents to the child, as described in Section 391. The court shall also consider the need for, and progress in providing, the assistance and services described in Section 391.

The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care.

The likely date by which the child may be returned to, and safely maintained in, the home, placed for adoption, legal guardianship, placed with a fit and willing relative, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption, or, if the child is 16 years of age or older, and no other permanent plan is appropriate at the time of the hearing, in another planned permanent living arrangement.

Whether the child has any siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

The nature of the relationship between the child and his or her siblings.

The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002. At the first review conducted for a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, the court shall inquire into the status of the development of a voluntary postadoption sibling contact agreement pursuant to subdivision (e) of Section 16002.

If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

If the siblings are not placed together, all of the following:

The frequency and nature of the visits between the siblings.

(ii) If there are visits between the siblings, whether the visits are supervised or unsupervised. If the visits are supervised, a discussion of the reasons why the visits are supervised, and what needs to be accomplished in order for the visits to be unsupervised.

(iii) If there are visits between the siblings, a description of the location and length of the visits.

(iv) Any plan to increase visitation between the siblings.

The impact of the sibling relationships on the child's placement and planning for legal permanence.

The factors the court may consider as indicators of the nature of the child's sibling relationships include, but are not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

For a child who is 14 years of age or older, and, effective January 1, 2012, for a nonminor dependent, the services needed to assist the child or nonminor dependent to make the transition from foster care to successful adulthood.

The reviewing body shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

Each licensed foster family agency shall submit reports for each child in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the child's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the child.

Unless their parental rights have been permanently terminated, the parent or parents of the child are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the best interests of the child, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order that further reunification services to return the child to a safe home environment be provided to the parent or parents up to a period of six months, and family maintenance services, as needed for an additional six months in order to return the child to a safe home environment. On and after January 1, 2012, this subdivision shall not apply to the parents of a nonminor dependent.

At the review conducted by the court and held at least every six months, regarding a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, or, for an Indian child for whom parental rights are not being terminated and a tribal customary adoption is being considered, the county welfare department shall prepare and present to the court a report describing the following:

The child's present placement.

The child's current physical, mental, emotional, and educational status.

If the child has not been placed with a prospective adoptive parent or guardian, identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The agency shall ask every child who is 10

years of age or older to identify any individuals who are important to him or her, consistent with the child's best interest, and may ask any child who is younger than 10 years of age to provide that information as appropriate. The agency shall make efforts to identify other individuals who are important to the child.

Whether the child has been placed with a prospective adoptive parent or parents.

Whether an adoptive placement agreement has been signed and filed.

If the child has not been placed with a prospective adoptive parent or parents, the efforts made to identify an appropriate prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

Whether the final adoption order should include provisions for postadoptive sibling contact pursuant to Section 366.29.

The progress of the search for an adoptive placement if one has not been identified.

Any impediments to the adoption or the adoptive placement.

The anticipated date by which the child will be adopted or placed in an adoptive home.

The anticipated date by which an adoptive placement agreement will be signed.

Recommendations for court orders that will assist in the placement of the child for adoption or in the finalization of the adoption.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

The court shall make appropriate orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the child.

At the review held pursuant to subdivision (d) for a child in foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption, or appointed a legal guardian, placed with a fit and willing relative, or, if compelling reasons exist for finding that none of the foregoing options are in the best interest of the child and the child is 16 years of age or older, whether the child should be placed in another planned permanent living arrangement. The court shall order that a hearing be held pursuant to Section 366.26, unless it determines by clear and convincing evidence that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship as of the hearing date. If the county adoption agency, or the department when it is acting as an adoption agency, has determined it is unlikely that the child will be adopted or one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, that fact shall constitute a compelling reason for purposes of this subdivision. Only upon that determination may the court order that the child remain in foster care, without holding a hearing pursuant to Section 366.26. The court shall make factual findings identifying any barriers to achieving the permanent plan as of the hearing date. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26.

When the child is 16 years of age or older and in another planned permanent living arrangement, the court shall do all of the following:

Ask the child about his or her desired permanency outcome.

Make a judicial determination explaining why, as of the hearing date, another planned permanent living arrangement is the best permanency plan for the child.

State for the record the compelling reason or reasons why it continues not to be in the best interest of the child to return home, be placed for adoption, be placed for tribal customary adoption in the case of an Indian child, be placed with a legal guardian, or be placed with a fit and willing relative.

When the child is 16 years of age or older and is in another planned permanent living arrangement, the social study prepared for the hearing shall include a description of all of the following:

The intensive and ongoing efforts to return the child to the home of the parent, place the child for adoption, or establish a legal guardianship, as appropriate.

The steps taken to do both of the following:

Ensure that the child's care provider is following the reasonable and prudent parent standard.

(ii) Determine whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consulting with the child about opportunities for the child to participate in those activities.

When the child is under 16 years of age and has a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative, any barriers to achieving the permanent plan and the efforts made by the agency to address those barriers.

If, as authorized by subdivision (h), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment as provided for in subdivision (i) of Section 366.21 or subdivision ~~(b)~~ (c) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month review at which it is ordered, and at that hearing the court shall determine whether adoption, tribal customary adoption, legal guardianship, placement with a fit and willing relative, or, for a child 16 years of age or older, another planned permanent living arrangement is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. At the request of the nonminor dependent who has an established relationship with an adult determined to be the nonminor dependent's permanent connection, the court may order adoption of the nonminor dependent pursuant to subdivision (f) of Section 366.31.

The reviews conducted pursuant to subdivision (a) or (d) may be conducted earlier than every six months if the court determines that an earlier review is in the best interests of the child or as court rules prescribe.

SEC. 255.

Section 727 of the Welfare and Institutions Code is amended to read:

727.

If a minor or nonminor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602, the court may make any reasonable orders for the care, supervision, custody,

conduct, maintenance, and support of the minor or nonminor, including medical treatment, subject to further order of the court.

In the discretion of the court, a ward may be ordered to be on probation without supervision of the probation officer. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate under this disposition. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any of the offenses described in subdivision (b) ~~or paragraph (2) of subdivision (d)~~ of Section 707, Section 459 of the Penal Code, or subdivision (a) of Section 11350 of the Health and Safety Code, shall not be eligible for probation without supervision of the probation officer. A minor or nonminor who has been adjudged a ward of the court on the basis of the commission of any offense involving the sale or possession for sale of a controlled substance, except misdemeanor offenses involving marijuana, as specified in ~~Chapter 2 (commencing with Section 11053)~~ Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code, or of an offense in violation of Section 32625 of the Penal Code, shall be eligible for probation without supervision of the probation officer only when the court determines that the interests of justice would best be served and states reasons on the record for that determination.

In all other cases, the court shall order the care, custody, and control of the minor or nonminor to be under the supervision of the probation officer.

It is the ~~responsibility pursuant to 42 U.S.C. Section 672(a)(2)(B)~~ of responsibility of the probation agency, pursuant to Section 672(a)(2)(B) of Title 42 of the United States Code, to determine the appropriate placement for the ward once the court issues a placement order. In ~~determination of~~ determining the appropriate placement for the ward, the probation officer shall consider any recommendations of the child and family. The probation agency may place the minor or nonminor in any of the following:

The approved home of a relative or the approved home of a nonrelative, extended family member, as defined in Section 362.7. If a decision has been made to place the minor in the home of a relative, the court may authorize the relative to give legal consent for the minor's medical, surgical, and dental care and education as if the relative caregiver were the custodial parent of the minor.

A foster home, the approved home of a resource family as defined in Section 16519.5, or a home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

A suitable licensed community care facility, as identified by the probation officer, except a runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

A foster family agency, as defined in subdivision (g) of Section 11400 and paragraph (4) of subdivision (a) of Section 1502 of the Health and Safety Code, in a suitable certified family home or with a resource family.

Commencing January 1, 2017, a minor or nonminor dependent may be placed in a short-term residential therapeutic program as defined in subdivision (ad) of Section 11400 and paragraph (18) of subdivision (a) of Section 1502 of the Health and Safety Code. The placing agency shall also comply with requirements set forth in paragraph (9) of subdivision (e) of Section 361.2, which includes, but is not limited to, authorization, limitation on length of stay, extensions, and additional requirements related to minors. For youth 13 years of age and older, the chief probation officer of the county probation department, or his or her designee, shall approve the placement if it is longer than 12 months, and no less frequently than every 12 months thereafter.

Every minor adjudged a ward of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. A state or local regulation or policy shall not prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to wards have policies consistent with this section and that those agencies promote and protect the ability of wards to participate in age-appropriate extracurricular, enrichment, and social activities. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a minor residing in foster care to participate in extracurricular, enrichment, and social activities. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity taking into consideration the minor's age, maturity, and developmental level.

A group home administrator or a facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the minor at the group home in applying and using the reasonable and prudent parent standard.

For nonminors, an approved supervised independent living setting as defined in Section 11400, including a residential housing unit certified by a licensed transitional housing placement provider.

The minor or nonminor shall be released from juvenile detention upon an order being entered under paragraph (3), unless the court determines that a delay in the release from detention is reasonable pursuant to Section 737.

To facilitate coordination and cooperation among agencies, the court may, at any time after a petition has been filed, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to a minor, for whom a petition has been filed under Section 601 or 602, to a nonminor, as described in Section 303, or to a nonminor dependent, as defined in subdivision (v) of Section 11400. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. The purpose of joinder under this section is to ensure the delivery and coordination of legally mandated services to the minor. The joinder shall not be maintained for any other purpose. ~~Nothing in this~~ This section ~~shall~~ does not prohibit agencies that have received notice of the hearing on joinder from meeting ~~prior to~~ before the hearing to coordinate services.

The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the minor, nonminor, or nonminor dependent is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to an individualized education program developed pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, the court's determination shall be limited to whether the agency has complied with that chapter.

For the purposes of this subdivision, "agency" means any governmental agency or any private service provider or individual that receives federal, state, or local governmental funding or reimbursement for providing services directly to a child, nonminor, or nonminor dependent.

If a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602, and the court finds that notice has been given in accordance with Section 661, and

if the court orders that a parent or guardian shall retain custody of that minor either subject to or without the supervision of the probation officer, the parent or guardian may be required to participate with that minor in a counseling or education program, including, but not limited to, parent education and parenting programs operated by community colleges, school districts, or other appropriate agencies designated by the court.

The juvenile court may direct any reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out subdivisions (a), (b), and (c), including orders to appear before a county financial evaluation officer, to ensure the minor's regular school attendance, and to make reasonable efforts to obtain appropriate educational services necessary to meet the needs of the minor.

If counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the minor.

The court may, after receipt of relevant testimony and other evidence from the parties, affirm or reject the placement determination. If the court rejects the placement determination, the court may instruct the probation department to determine an alternative placement for the ward, or the court may modify the placement order to an alternative placement recommended by a party to the case after the court has received the probation department's assessment of that recommendation and other relevant evidence from the parties.

SEC. 256.

Section 727.1 of the Welfare and Institutions Code is amended to read:

727.1.

If the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727, the decision regarding choice of placement, pursuant to Section 706.6, shall be based upon selection of a safe setting that is the least restrictive or most ~~family like~~, familylike, and the most appropriate setting that meets the individual needs of the minor and is available, in proximity to the parent's home, consistent with the selection of the environment best suited to meet the minor's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code.

Unless otherwise authorized by law, the court ~~may~~ shall not order the placement of a minor who is adjudged a ward of the court on the basis that he or she is a person described by either Section 601 or 602 in a private residential facility or program that provides 24-hour supervision, outside of the state, unless the court finds, in its order of placement, that all of the following conditions are met:

In-state facilities or programs have been determined to be unavailable or inadequate to meet the needs of the minor.

The State Department of Social Services or its designee has performed initial and continuing inspection of the out-of-state residential facility or program and has either certified that the facility or program meets the greater of all licensure standards required of group homes or of short-term residential therapeutic programs operated in California, or that the department has granted a waiver to a specific licensing standard upon a finding that there exists no adverse impact to health and safety, pursuant to subdivision (c) of Section 7911.1 of the Family Code.

The requirements of Section 7911.1 of the Family Code are met.

If, upon inspection, the probation officer of the county in which the minor is adjudged a ward of the court determines that the out-of-state facility or program is not in compliance with the standards required under paragraph (2) of subdivision (b) or has an adverse impact on the health and safety of the minor, the probation officer may temporarily remove the minor from the facility or program. The probation officer shall promptly inform the court of the minor's removal, and shall return the minor to the court for a hearing to review the suitability of continued out-of-state placement. The probation officer shall, within one business day of removing the minor, notify the State Department of Social Services' Compact Administrator, and, within five working days, submit a written report of the findings and actions taken.

The court shall review each of these placements for compliance with the requirements of subdivision (b) at least once every six months.

The county shall not be entitled to receive or expend any public funds for the placement of a minor in an out-of-state group home or short-term residential therapeutic program, unless the conditions of subdivisions (b) and (d) are met.

SEC. 257.

Section 4096.5 of the Welfare and Institutions Code is amended to read:

4096.5.

This section governs standards for the mental health program approval for short-term residential therapeutic programs, which is required under subdivision (c) of Section 1562.01 of the Health and Safety Code.

All short-term residential therapeutic programs that serve children who have either been assessed as meeting the medical necessity criteria for Medi-Cal specialty mental health services, as provided for in Section 1830.205 or 1830.210 of Title 9 of the California Code of Regulations, or who have been assessed as seriously emotionally disturbed, as defined in subdivision (a) of Section 5600.3, shall obtain and have in good standing a mental health program approval that includes a Medi-Cal mental health certification, as described in Section 11462.01, issued by the State Department of Health Care Services or a county mental health plan to which the department has delegated approval authority. This approval is a condition for receiving an Aid to Families with Dependent Children-Foster Care rate pursuant to Section 11462.01.

A short-term residential therapeutic program shall not directly provide specialty mental health services without a current mental health program approval. A licensed short-term residential therapeutic program that has not obtained a program approval shall provide children in its care access to appropriate mental health services.

County mental health plans shall ensure that Medi-Cal specialty mental health services, including, but not limited to, services under the Early and Periodic Screening, ~~Diagnosis~~ **Diagnosis**, and Treatment benefit, are provided to all Medi-Cal beneficiaries served by short-term residential therapeutic programs who meet medical necessity criteria, as provided for in Section 1830.205 or 1830.210 of Title 9 of the California Code of Regulations.

The State Department of Health Care Services or a county mental health plan to which the department has delegated mental health program approval authority shall approve or deny mental health program approval requests within 45 days of receiving a request. The State Department of Health Care Services or a county mental health plan to which the department has delegated mental health program approval authority shall issue each mental health program approval for a period of one year, except for approvals granted pursuant to paragraph (2) and provisional approvals granted pursuant to regulations promulgated under subdivision ~~(e)~~, (f), and shall specify the effective date of the approval. Approved entities shall meet all program standards to be reapproved.

(A) Between January 1, 2017, and December 31, 2017, the State Department of Health Care Services, or a county mental health plan to which the department has delegated mental health program approval authority, shall approve or deny a mental health program approval request within 90 days of receipt.

Between January 1, 2017, and December 31, 2017, the State Department of Health Care Services, or a county mental health plan to which the department has delegated mental health program approval authority, may issue a mental health program approval for a period of less than one year.

The State Department of Health Care Services and the county mental health plans to which the department has delegated mental health program approval authority may enforce the mental health program approval standards by taking any of the following actions against a noncompliant short-term residential therapeutic program:

Suspend or revoke a mental health program approval.

Impose monetary penalties.

Place a mental health program on probation.

Require a mental health program to prepare and comply with a corrective action plan.

The State Department of Health Care Services and the county mental health plans to which the department has delegated mental health program approval authority shall provide short-term residential therapeutic programs with due process protections when taking any of the actions described in paragraph (1).

The State Department of Health Care Services, in consultation with the State Department of Social Services, shall promulgate regulations regarding program standards, oversight, enforcement, issuance of mental health program approvals, including provisional approvals that are effective for a period of less than one year, and due process protections related to the mental health program approval process for short-term residential therapeutic programs.

Except for mental health program approval of short-term residential therapeutic programs operated by a county, the State Department of Health Care Services may, upon the request of a county, delegate to that county mental health plan the mental health program approval of short-term residential therapeutic programs within its borders.

Any county to which mental health program approval is delegated pursuant to paragraph (1) shall be responsible for the oversight and enforcement of program standards and the provision of due process for approved and denied entities.

The State Department of Health Care Services or a county mental health plan to which the department has delegated mental health program approval authority shall notify the State Department of Social Services immediately upon the termination of any mental health program approval issued in accordance with subdivisions (b) and (d).

The State Department of Social Services shall notify the State Department of Health Care Services and, if applicable, a county to which the ~~department~~ State Department of Health Care Services has delegated mental health program approval authority, immediately upon the revocation of any license issued pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

Revocation of a license or a mental health program approval ~~shall be~~ is a basis for rate termination.

SEC. 258.

Section 4652.5 of the Welfare and Institutions Code, as added by Section 2 of Chapter 429 of the Statutes of 2016, is amended to read:

4652.5.

An entity that receives payments from one or more regional centers shall contract with an independent accounting firm to obtain an independent audit or independent review report of its financial statements relating to payments made by regional centers, subject to both of the following:

If the amount received from the regional center or regional centers during each state fiscal year is more than or equal to five hundred thousand dollars (\$500,000), but less than two million dollars (\$2,000,000), the entity shall obtain an independent review report of its financial statements for the entity's fiscal year that includes the last day of the most recent state fiscal year. Consistent with Subchapter 21 (commencing with Section 58800) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations, this subdivision shall also apply to work activity program providers receiving less than five hundred thousand dollars (\$500,000).

If the amount received from the regional center or regional centers during each state fiscal year is equal to or more than two million dollars (\$2,000,000), the entity shall obtain an independent audit of its financial statements for the entity's fiscal year that includes the last day of the most recent state fiscal year.

This requirement does not apply to payments made using usual and customary rates, as defined by Title 17 of the California Code of Regulations, for services provided by regional centers.

This requirement does not apply to state and local governmental agencies, the University of California, or the California State University.

An entity subject to subdivision (a) shall provide copies of the independent audit or independent review report required by subdivision (a), and accompanying management letters, to the vendoring regional center within nine months of the end of the entity's fiscal year.

Regional centers that receive the audit or review reports required by subdivision (b) shall review and require resolution by the entity for issues identified in the report that have an impact on regional center services. Regional centers shall take appropriate action, up to termination of vendorization, for lack of adequate resolution of issues.

Regional centers shall notify the department of all qualified opinion reports or reports noting significant issues that directly or indirectly impact regional center services within 30 days after receipt. Notification shall include a plan for resolution of issues.

A regional center shall submit copies of all independent audit reports that it receives to the department for review. The department shall compile data, by regional center, on vendor compliance with audit requirements and opinions resulting from audit reports and shall annually publish the data in the performance dashboard developed pursuant to Section 4572.

For purposes of this section, an independent review of financial statements shall be performed by an independent accounting firm and shall cover, at a minimum, all of the following:

An inquiry as to the entity's accounting principles and practices and methods used in applying them.

An inquiry as to the entity's procedures for recording, classifying, and summarizing transactions and accumulating information.

Analytical procedures designed to identify relationships or items that appear to be unusual.

An inquiry about budgetary actions taken at meetings of the board of directors or other comparable meetings.

An inquiry about whether the financial statements have been properly prepared in conformity with generally accepted accounting principles and whether any events subsequent to the date of the financial statements would have a material effect on the statements under review.

Working papers prepared in connection with a review of financial statements describing the items covered as well as any unusual items, including their disposition.

For purposes of this section, an independent review report shall cover, at a minimum, all of the following:

Certification that the review was performed in accordance with standards established by the American Institute of Certified Public Accountants.

Certification that the statements are the representations of management.

Certification that the review consisted of inquiries and analytical procedures that are lesser in scope than those of an audit.

Certification that the accountant is not aware of any material modifications that need to be made to the statements for them to be in conformity with generally accepted accounting principles.

The department shall not consider a request for adjustments to rates submitted in accordance with Title 17 of the California Code of Regulations by an entity receiving payments from one or more regional centers solely to fund either anticipated or unanticipated changes required to comply with this section.

An entity required to obtain an independent review report of its financial ~~statement~~ statements pursuant to subparagraph (A) of paragraph (1) of subdivision (a) may apply to the regional center for, and the regional center shall grant, a two-year exemption from the independent review report requirement if the regional center does not find issues in the prior year's independent review report that have an impact on regional center services.

An entity required to obtain an independent audit of its financial statements pursuant to subparagraph (B) of paragraph (1) of subdivision (a) may apply to the regional center for an exemption from the independent audit requirement, subject to both of the following conditions:

If the independent audit for the prior year resulted in an unmodified opinion or an unmodified opinion with additional communication, the regional center shall grant the entity a two-year exemption.

If the independent audit for the prior year resulted in a qualified opinion and the issues are not material, the regional center shall grant the entity a two-year exemption. The entity and the regional center shall continue to address issues raised in this independent audit, regardless of whether the exemption is granted.

A regional center shall annually report to the department any exemptions granted pursuant to this subdivision.

This section shall become operative on January 1, 2018.

SEC. 259.

Section 5848.5 of the Welfare and Institutions Code is amended to read:

5848.5.

The Legislature finds and declares all of the following:

California has realigned public community mental health services to counties and it is imperative that sufficient community-based resources be available to meet the mental health needs of eligible individuals.

Increasing access to effective outpatient and crisis stabilization services provides an opportunity to reduce costs associated with expensive inpatient and emergency room care and to better meet the needs of individuals with mental health disorders in the least restrictive manner possible.

Almost one-fifth of people with mental health disorders visit a hospital emergency room at least once per year. If an adequate array of crisis services is not available, it leaves an individual with little choice but to access an emergency room for assistance and, potentially, an unnecessary inpatient hospitalization.

Recent reports have called attention to a continuing problem of inappropriate and unnecessary utilization of hospital emergency rooms in California due to limited community-based services for individuals in psychological distress and acute psychiatric crisis. Hospitals report that 70 percent of people taken to emergency rooms for psychiatric evaluation can be stabilized and transferred to a less intensive level of crisis care. Law enforcement personnel report that their personnel need to stay with people in the emergency room waiting area until a placement is found, and that less intensive levels of care tend not to be available.

Comprehensive public and private partnerships at both local and regional levels, including across physical health services, mental health, substance use disorder, law enforcement, social services, and related supports, are necessary to develop and maintain high quality, patient-centered, and cost-effective care for individuals with mental health disorders that facilitates their recovery and leads towards wellness.

The recovery of individuals with mental health disorders is important for all levels of government, business, and the local community.

This section shall be known, and may be cited, as the Investment in Mental Health Wellness Act of 2013. The objectives of this section are to do all of the following:

Expand access to early intervention and treatment services to improve the client experience, achieve recovery and wellness, and reduce costs.

Expand the continuum of services to address crisis intervention, crisis stabilization, and crisis residential treatment needs that are wellness, resiliency, and recovery oriented.

Add at least 25 mobile crisis support teams and at least 2,000 crisis stabilization and crisis residential treatment beds to bolster capacity at the local level to improve access to mental health crisis services and address unmet mental health care needs.

Add at least 600 triage personnel to provide intensive case management and linkage to services for individuals with mental health care disorders at various points of access, such as at designated community-based service points, homeless shelters, and clinics.

Reduce unnecessary hospitalizations and inpatient days by appropriately utilizing community-based services and improving access to timely assistance.

Reduce recidivism and mitigate unnecessary expenditures of local law enforcement.

Provide local communities with increased financial resources to leverage additional public and private funding sources to achieve improved networks of care for individuals with mental health disorders.

Provide a complete continuum of crisis services for children and youth 21 years of age and under regardless of where they live in the state. The funds included in the ~~2016~~ Budget Act of 2016 for the purpose of developing the continuum of mental health crisis services for children and youth 21 years of age and under shall be for the following objectives:

Provide a continuum of crisis services for children and youth 21 years of age and under regardless of where they live in the state.

Provide for early intervention and treatment services to improve the client experience, achieve recovery and wellness, and reduce costs.

Expand the continuum of community-based services to address crisis intervention, crisis stabilization, and crisis residential treatment needs that are wellness-, resiliency-, and recovery-oriented.

Add at least 200 mobile crisis support teams.

Add at least 120 crisis stabilization services and beds and crisis residential treatment beds to increase capacity at the local level to improve access to mental health crisis services and address unmet mental health care needs.

Add triage personnel to provide intensive case management and linkage to services for individuals with mental health care disorders at various points of access, such as at designated community-based service points, homeless shelters, schools, and clinics.

Expand family respite care to help families and sustain caregiver health and well-being.

Expand family supportive training and related services designed to help families participate in the planning process, access services, and navigate programs.

Reduce unnecessary hospitalizations and inpatient days by appropriately utilizing community-based services.

Reduce recidivism and mitigate unnecessary expenditures of local law enforcement.

Provide local communities with increased financial resources to leverage additional public and private funding sources to achieve improved networks of care for children and youth 21 years of age and under with mental health disorders.

Through appropriations provided in the annual Budget Act for this purpose, it is the intent of the Legislature to authorize the California Health Facilities Financing Authority, hereafter referred to as the authority, and the Mental Health Services Oversight and Accountability Commission, hereafter referred to as the commission, to administer competitive selection processes as provided in this section for capital capacity and program expansion to increase capacity for mobile crisis support, crisis intervention, crisis stabilization services, crisis residential treatment, and specified personnel resources.

Funds appropriated by the Legislature to the authority for purposes of this section shall be made available to selected counties, or counties acting jointly. The authority may, at its discretion, also give consideration to private nonprofit corporations and public agencies in an area or region of the state if a county, or counties acting jointly, affirmatively supports this designation and collaboration in lieu of a county government directly receiving grant funds.

Grant awards made by the authority shall be used to expand local resources for the development, capital, equipment acquisition, and applicable program startup or expansion costs to increase capacity for client assistance and services in the following areas:

Crisis intervention, as authorized by Sections 14021.4, 14680, and 14684.

Crisis stabilization, as authorized by Sections 14021.4, 14680, and 14684.

Crisis residential treatment, as authorized by Sections 14021.4, 14680, and 14684.

Rehabilitative mental health services, as authorized by Sections 14021.4, 14680, and 14684.

Mobile crisis support teams, including personnel and equipment, such as the purchase of vehicles.

The authority shall develop selection criteria to expand local resources, including those described in paragraph (1), and processes for awarding grants after consulting with representatives and interested stakeholders from the mental health community, including, but not limited to, the County Behavioral Health Directors Association of California, service providers, consumer organizations, and other appropriate interests, such as health care providers and law enforcement, as determined by the authority. The authority shall ensure that grants result in cost-effective expansion of the number of community-based crisis resources in regions and communities selected for funding. The authority shall also take into account at least the following criteria and factors when selecting recipients of grants and determining the amount of grant awards:

Description of need, including, at a minimum, a comprehensive description of the project, community need, population to be served, linkage with other public systems of health and mental health care, linkage with local law enforcement, social services, and related assistance, as applicable, and a description of the request for funding.

Ability to serve the target population, which includes individuals eligible for Medi-Cal and individuals eligible for county health and mental health services.

Geographic areas or regions of the state to be eligible for grant awards, which may include rural, suburban, and urban areas, and may include use of the five regional designations utilized by the County Behavioral Health Directors Association of California.

Level of community engagement and commitment to project completion.

Financial support that, in addition to a grant that may be awarded by the authority, will be sufficient to complete and operate the project for which the grant from the authority is awarded.

Ability to provide additional funding support to the project, including public or private funding, federal tax credits and grants, foundation support, and other collaborative efforts.

Memorandum of understanding among project partners, if applicable.

Information regarding the legal status of the collaborating partners, if applicable.

Ability to measure key outcomes, including improved access to services, health and mental health outcomes, and cost benefit of the project.

The authority shall determine maximum grants awards, which shall take into consideration the number of projects awarded to the grantee, as described in paragraph (1), and shall reflect reasonable costs for the project and geographic region. The authority may allocate a grant in increments contingent upon the phases of a project.

Funds awarded by the authority pursuant to this section may be used to supplement, but not to supplant, existing financial and resource commitments of the grantee or any other member of a collaborative effort that has been awarded a grant.

All projects that are awarded grants by the authority shall be completed within a reasonable period of time, to be determined by the authority. Funds shall not be released by the authority until the applicant demonstrates project readiness to the authority's satisfaction. If the authority determines that a grant recipient has failed to complete the project under the terms specified in awarding the grant, the authority may require remedies, including the return of all or a portion of the grant.

A grantee that receives a grant from the authority under this section shall commit to using that capital capacity and program expansion project, such as the mobile crisis team, crisis stabilization unit, or crisis residential treatment program, for the duration of the expected life of the project.

The authority may consult with a technical assistance entity, as described in paragraph (5) of subdivision (a) of Section 4061, for purposes of implementing this section.

The authority may adopt emergency regulations relating to the grants for the capital capacity and program expansion projects described in this section, including emergency regulations that define eligible costs and determine minimum and maximum grant amounts.

The authority shall provide reports to the fiscal and policy committees of the Legislature on or before May 1, 2014, and on or before May 1, 2015, on the progress of implementation, that include, but are not limited to, the following:

- A description of each project awarded funding.

- The amount of each grant issued.

- A description of other sources of funding for each project.

- The total amount of grants issued.

- A description of project operation and implementation, including who is being served.

A recipient of a grant provided pursuant to paragraph (1) shall adhere to all applicable laws relating to scope of practice, licensure, certification, staffing, and building codes.

Of the funds specified in paragraph (8) of subdivision (b), it is the intent of the Legislature to authorize the authority and the commission to administer competitive selection processes as provided in this section for capital capacity and program expansion to increase capacity for mobile crisis support, crisis intervention, crisis stabilization services, crisis residential treatment, family respite care, family supportive training and related services, and triage personnel resources for children and youth 21 years of age and under.

Funds appropriated by the Legislature to the authority to address crisis services for children and youth 21 years of age and under for the purposes of this section shall be made available to selected counties or counties acting jointly. The authority may, at its discretion, also give consideration to private nonprofit corporations and public agencies in an area or region of the state if a county, or counties

acting jointly, affirmatively support this designation and collaboration in lieu of a county government directly receiving grant funds.

Grant awards made by the authority shall be used to expand local resources for the development, capital, equipment acquisition, and applicable program startup or expansion costs to increase capacity for client assistance and crisis services for children and youth 21 years of age and under in the following areas:

Crisis intervention, as authorized by Sections 14021.4, 14680, and 14684.

Crisis stabilization, as authorized by Sections 14021.4, 14680, and 14684.

Crisis residential treatment, as authorized by Sections 14021.4, 14680, and 14684.

Mobile crisis support teams, including the purchase of equipment and vehicles.

Family respite care.

The authority shall develop selection criteria to expand local resources, including those described in paragraph (1), and processes for awarding grants after consulting with representatives and interested stakeholders from the mental health community, including, but not limited to, county mental health directors, service providers, consumer organizations, and other appropriate interests, such as health care providers and law enforcement, as determined by the authority. The authority shall ensure that grants result in cost-effective expansion of the number of community-based crisis resources in regions and communities selected for funding. The authority shall also take into account at least the following criteria and factors when selecting recipients of grants and determining the amount of grant awards:

Description of need, including, at a minimum, a comprehensive description of the project, community need, population to be served, linkage with other public systems of health and mental health care, linkage with local law enforcement, social services, and related assistance, as applicable, and a description of the request for funding.

Ability to serve the target population, which includes individuals eligible for Medi-Cal and individuals eligible for county health and mental health services.

Geographic areas or regions of the state to be eligible for grant awards, which may include rural, suburban, and urban areas, and may include use of the five regional designations utilized by the California Behavioral Health Directors Association.

Level of community engagement and commitment to project completion.

Financial support that, in addition to a grant that may be awarded by the authority, will be sufficient to complete and operate the project for which the grant from the authority is awarded.

Ability to provide additional funding support to the project, including public or private funding, federal tax credits and grants, foundation support, and other collaborative efforts.

Memorandum of understanding among project partners, if applicable.

Information regarding the legal status of the collaborating partners, if applicable.

Ability to measure key outcomes, including utilization of services, health and mental health outcomes, and cost benefit of the project.

The authority shall determine maximum grant awards, which shall take into consideration the number of projects awarded to the grantee, as described in paragraph (1), and shall reflect reasonable costs for the project, geographic region, and target ages. The authority may allocate a grant in increments contingent upon the phases of a project.

Funds awarded by the authority pursuant to this section may be used to supplement, but not to supplant, existing financial and resource commitments of the grantee or any other member of a collaborative effort that has been awarded a grant.

All projects that are awarded grants by the authority shall be completed within a reasonable period of time, to be determined by the authority. Funds shall not be released by the authority until the applicant demonstrates project readiness to the authority's satisfaction. If the authority determines that a grant recipient has failed to complete the project under the terms specified in awarding the grant, the authority may require remedies, including the return of all, or a portion, of the grant.

A grantee that receives a grant from the authority under this section shall commit to using that capital capacity and program expansion project, such as the mobile crisis team, crisis stabilization unit, family respite care, or crisis residential treatment program, for the duration of the expected life of the project.

The authority may consult with a technical assistance entity, as described in paragraph (5) of subdivision (a) of Section 4061, for the purposes of implementing this section.

The authority may adopt emergency regulations relating to the grants for the capital capacity and program expansion projects described in this section, including emergency regulations that define eligible costs and determine minimum and maximum grant amounts.

The authority shall provide reports to the fiscal and policy committees of the Legislature on or before January 10, 2018, and annually thereafter, on the progress of implementation, that include, but are not limited to, the following:

- A description of each project awarded funding.

- The amount of each grant issued.

- A description of other sources of funding for each project.

- The total amount of grants issued.

- A description of project operation and implementation, including who is being served.

A recipient of a grant provided pursuant to paragraph (1) shall adhere to all applicable laws relating to scope of practice, licensure, certification, staffing, and building codes.

Funds appropriated by the Legislature to the commission for purposes of this section shall be allocated for triage personnel to provide intensive case management and linkage to services for individuals with mental health disorders at various points of access. These funds shall be made available to selected counties, counties acting jointly, or city mental health departments, as determined by the commission through a selection process. It is the intent of the Legislature for these funds to be allocated in an efficient manner to encourage early intervention and receipt of needed services for individuals with mental health disorders, and to assist in navigating the local service sector to improve efficiencies and the delivery of services.

Triage personnel may provide targeted case management services face to face, by telephone, or by telehealth with the individual in need of assistance or his or her significant support person,

and may be provided anywhere in the community. These service activities may include, but are not limited to, the following:

Communication, coordination, and referral.

Monitoring service delivery to ensure the individual accesses and receives services.

Monitoring the individual's progress.

Providing placement service assistance and service plan development.

The commission shall take into account at least the following criteria and factors when selecting recipients and determining the amount of grant awards for triage personnel as follows:

Description of need, including potential gaps in local service connections.

Description of funding request, including personnel and use of peer support.

Description of how triage personnel will be used to facilitate linkage and access to services, including objectives and anticipated outcomes.

Ability to obtain federal Medicaid reimbursement, when applicable.

Ability to administer an effective service program and the degree to which local agencies and service providers will support and collaborate with the triage personnel effort.

Geographic areas or regions of the state to be eligible for grant awards, which shall include rural, suburban, and urban areas, and may include use of the five regional designations utilized by the County Behavioral Health Directors Association of California.

The commission shall determine maximum grant awards, and shall take into consideration the level of need, population to be served, and related criteria, as described in paragraph (2), and shall reflect reasonable costs.

Funds awarded by the commission for purposes of this section may be used to supplement, but not supplant, existing financial and resource commitments of the county, counties acting jointly, or city mental health department that received the grant.

Notwithstanding any other law, a county, counties acting jointly, or city mental health department that receives an award of funds for the purpose of supporting triage personnel pursuant to this subdivision is not required to provide a matching contribution of local funds.

Notwithstanding any other law, the commission, without taking any further regulatory action, may implement, interpret, or make specific this section by means of informational letters, bulletins, or similar instructions.

The commission shall provide a status report to the fiscal and policy committees of the Legislature on the progress of implementation no later than March 1, 2014.

Funds appropriated by the Legislature to the commission ~~pursuant to~~ as described in paragraph (8) of subdivision (b) for the purposes of addressing children's crisis services shall be allocated to support triage personnel and family supportive training and related services. These funds shall be made available to selected counties, counties acting jointly, or city mental health departments, as determined by the commission through a selection process. The commission may, at its discretion, also give consideration to private nonprofit corporations and public agencies in an area or region of the state if a

county, or counties acting jointly, affirmatively supports this designation and collaboration in lieu of a county government directly receiving grant funds.

These funds may provide for a range of crisis-related services for a child in need of assistance, or his or her parent, guardian, or caregiver. These service activities may include, but are not limited to, the following:

- Intensive coordination of care and services.
- Communication, coordination, and referral.
- Monitoring service delivery to the child or youth.
- Monitoring the child's progress.
- Providing placement service assistance and service plan development.
- Crisis or safety planning.

The commission shall take into account at least the following criteria and factors when selecting recipients and determining the amount of grant awards for these funds, as follows:

- Description of need, including potential gaps in local service connections.
- Description of funding request, including personnel.
- Description of how personnel and other services will be used to facilitate linkage and access to services, including objectives and anticipated outcomes.
- Ability to obtain federal Medicaid reimbursement, when applicable.
- Ability to provide a matching contribution of local funds.
- Ability to administer an effective service program and the degree to which local agencies and service providers will support and collaborate with the triage personnel effort.
- Geographic areas or regions of the state to be eligible for grant awards, which shall include rural, suburban, and urban areas, and may include use of the five regional designations utilized by the County Behavioral Health Directors Association of California.

The commission shall determine maximum grant awards, and shall take into consideration the level of need, population to be served, and related criteria, as described in paragraph (2), and shall reflect reasonable costs.

Funds awarded by the commission for purposes of this section may be used to supplement, but not supplant, existing financial and resource commitments of the county, counties acting jointly, or a city mental health department that received the grant.

Notwithstanding any other law, a county, counties acting jointly, or a city mental health department that receives an award of funds for the purpose of this section is not required to provide a matching contribution of local funds.

Notwithstanding any other law, the commission, without taking any further regulatory action, may implement, interpret, or make specific this section by means of informational letters, bulletins, or similar instructions.

The commission may waive requirements in this section for counties with a population of 100,000 or less, if the commission determines it is in the best interest of the state and meets the intent of the law.

The commission shall provide a status report to the fiscal and policy committees of the Legislature on the progress of implementation no later than January 10, 2018, and annually thereafter.

SEC. 260.

Section 5849.1 of the Welfare and Institutions Code is amended to read:

5849.1.

The Legislature finds and declares that this part is consistent with and furthers the purposes of the Mental Health Services Act, enacted by Proposition 63 at the November 2, 2004, statewide general election, within the meaning of Section 18 of that measure.

The Legislature further finds and declares all of the following:

Housing is a key factor for stabilization and recovery to occur and results in improved outcomes for individuals living with a mental illness.

Untreated mental illness can increase the risk of homelessness, especially for single adults.

California has the nation's largest homeless population that is disproportionally comprised of women with children, veterans, and the chronically homeless.

California has the largest number of homeless veterans in the United States at 24 percent of the total population in our nation. Fifty percent of California's veterans live with serious mental illness and 70 percent have a substance use disorder.

Fifty percent of mothers experiencing homelessness have experienced a major depressive episode since becoming homeless and 36 percent of these mothers live with post-traumatic stress disorder and 41 percent have a substance use disorder.

Ninety-three percent of supportive housing tenants who live with mental illness and substance use disorders voluntarily participated in the services offered.

Adults who receive ~~2~~ two years of "whatever-it-takes," or Full Service Partnership services, experience a 68 percent reduction in homelessness.

For every dollar of bond funds invested in permanent supportive housing, the state and local governments can leverage a significant amount of additional dollars through tax credits, Medicaid health services funding, and other housing development funds.

Tenants of permanent supportive housing reduced their visits to the emergency department by 56 percent, and their hospital admissions by 45 percent.

The cost in public services for a chronically homeless Californian ranges from \$60,000 to \$100,000 annually. When housed, these costs are cut in half and some reports show reductions in cost of more than 70 percent, including potentially less involvement with the health and criminal justice systems.

Californians have identified homelessness as their top tier priority; this measure seeks to address the needs of the most vulnerable people within this population.

Having counties provide mental health programming and services is a benefit to the state.

The Department of Housing and Community Development is the state entity with sufficient expertise to implement and oversee a grant or loan program for permanent supportive housing of the target population.

The California Health Facilities Financing Authority is authorized by law to issue bonds and to consult with the Mental Health Services Oversight and Accountability Commission and the State Department of Health Care Services concerning the implementation of a grant or loan program for California counties to support the development of programs that increase access to, and capacity for, crisis mental health services. It is therefore appropriate for the authority to issue bonds and contract for services with the Department of Housing and Community Development to provide grants or loans to California counties for permanent supportive housing for the target population.

Use of bond funding will accelerate the availability of funding for the grant or loan program to provide permanent supportive housing for the target population as compared to relying on annual allocations from the Mental Health Services Fund and better allow counties to provide permanent supportive housing for homeless individuals living with mental illness.

The findings and declarations set forth in subdivision (c) of Section 5849.35 are hereby incorporated herein.

SEC. 261.

Section 5849.35 of the Welfare and Institutions Code is amended to read:

5849.35.

The authority may do all of the following:

Consult with the commission and the State Department of Health Care Services concerning the implementation of the No Place Like Home Program, including the review of annual reports provided to the authority by the department pursuant to Section 5849.11.

Enter into one or more contracts with the department for the department to provide, and the authority to pay the department for providing, services described in Sections 5849.7, 5849.8, and 5849.9, related to permanent supportive housing for the target population. ~~Prior to~~ Before entering into any contract pursuant to this paragraph, the executive director of the authority shall transmit to the commission a copy of the contract in substantially final form. The contract shall be deemed approved by the commission unless it acts within 10 days to disapprove the contract.

On or before June 15 and December 15 of each year, the authority shall certify to the Controller the amounts the authority is required to pay as provided in Section 5890 for the following ~~six month~~ six-month period to the department pursuant to any service contract entered into pursuant to paragraph (2).

The department may do all of the following:

Enter into one or more contracts with the authority to provide services described in Sections 5849.7, 5849.8, and 5849.9, related to permanent supportive housing for the target population. Payments received by the department under any service contract authorized by this paragraph shall be used, ~~prior to~~ before any other allocation or distribution, to repay loans from the authority pursuant to Section 15463 of the Government Code.

Enter into one or more loan agreements with the authority as security for the repayment of the revenue bonds issued by the authority pursuant to Section 15463 of the Government Code. The department shall deposit the proceeds of these loans, excluding any refinancing loans to

redeem, refund, or retire bonds, into the fund. The department's obligations to make payments under these loan agreements shall be limited obligations payable solely from amounts received pursuant to its service contracts with the authority.

The department may pledge and assign its right to receive all or a portion of the payments under the service contracts entered into pursuant to paragraph (1) directly to the authority or its bond trustee for the payment of principal, premiums, if any, and interest under any loan agreement authorized by paragraph (2).

The Legislature hereby finds and declares both of the following:

The consideration to be paid by the authority to the department for the services provided pursuant to the contracts authorized by paragraph (2) of subdivision (a) and paragraph (1) of subdivision (b) is fair and reasonable and in the public interest.

The service contracts and payments made by the authority to the department pursuant to a service contract authorized by paragraph (2) of subdivision (a) and paragraph (1) of subdivision (b) and the loan agreements and loan repayments made by the department to the authority pursuant to a loan agreement authorized by paragraph (2) of subdivision (b) shall not constitute a debt or liability, or a pledge of the faith and credit, of the state or any political subdivision.

The state hereby covenants with the holders from time to time of any bonds issued by the authority pursuant to Section 15463 of the Government Code that it will not alter, amend, or restrict the provisions of this section, subdivision (f) of Section 5890, or subdivision (b) of Section 5891 in any manner adverse to the interests of those bondholders so long as any of those bonds remain outstanding. The authority may include this covenant in the resolution, indenture, or other documents governing the bonds.

Agreements under this section are not subject to, and need not comply with, the requirements of any other law applicable to the execution of those agreements, including, but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

~~Part~~ Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code shall not apply to any contract entered into between the authority and the department under this section.

SEC. 262.

Section 5849.8 of the Welfare and Institutions Code is amended to read:

5849.8.

Under any service contract entered into pursuant to Section 5849.35, the department may allocate an amount not to exceed one billion eight hundred million dollars (\$1,800,000,000) from the fund for the purposes of the competitive program described in this subdivision and the alternative process described in subdivision (b). The department shall develop a competitive application process for the purpose of awarding moneys pursuant to this section. In considering applications, the department shall do all of the following:

Restrict eligibility to applicants that meet the following minimum criteria:

The county commits to provide mental health supportive services and to coordinate the provision of or referral to other services, including, but not limited to, substance use treatment services, to the tenants of the supportive housing development for at least 20 years. Services shall be provided onsite at the supportive housing development or in a location otherwise easily accessible to tenants. The county may use, but is not restricted

to using, any of the following available funding sources as allowed by state and federal law:

The Local Mental Health Services Fund established pursuant to subdivision (f) of Section 5892.

The Mental Health Account within the Local Health Welfare Trust Fund established pursuant to Section 17600.10.

The Behavioral Health Subaccount within the County Local Revenue Fund 2011 established pursuant to paragraph (4) of subdivision (f) of Section 30025 of the Government Code.

Funds received from other private or public entities.

Other county funds.

The county has developed a county plan to combat homelessness, which includes a description of homelessness countywide, any special challenges or barriers to serving the target population, county resources applied to address the issue, available community-based resources, an outline of partners and collaborations, and proposed solutions.

Meet other threshold ~~requirements~~ requirements, including, but not limited to, developer capacity to develop, own, and operate a permanent supportive housing development for the target population, application proposes a financially feasible development with reasonable development costs.

The department shall evaluate applications using, at minimum, the following criteria:

The extent to which units assisted by the program are restricted to persons who are chronically homeless or at risk of chronic homelessness within the target population.

The extent to which funds are leveraged for capital costs.

The extent to which projects achieve deeper affordability through the use of ~~non-state~~ nonstate project-based rental assistance, operating subsidies, or other funding.

Project readiness.

The extent to which applicants offer a range of onsite and off-site supportive services to tenants, including mental health services, behavioral health services, primary health, employment, and other tenancy support services.

Past history of implementing programs that use evidence-based best practices that have led to the reduction of the number of chronic homeless or at risk of chronic homelessness individuals within the target population.

The department may establish an alternative process for allocating funds directly to counties, as calculated in Section 5849.6, with at least 5 percent of the state's homeless population and that demonstrate the capacity to directly administer loan funds for permanent supportive housing serving the target population and the ability to prioritize individuals with mental health supportive needs who are homeless or at risk of chronic homelessness, consistent with this part and as determined by the department. The department shall adopt guidelines establishing the parameters of an alternative process, if any, and requirements for local administration of funds, including, but not limited to, project selection process, eligible use of funds, loan terms, rent and occupancy restrictions, provision of services, and reporting and monitoring requirements. Counties participating in the alternative process shall not be eligible for the competitive process and shall be limited to funds in proportion to their share of the

percentage of the statewide homeless population, as calculated by the department in Section 5849.6. Funds not committed to supportive housing developments within two years following award of funds to counties shall be returned to the state for the purposes of the competitive program. The department shall consider the following when selecting participating counties:

Demonstrated ability to finance permanent supportive housing with local and federal funds, and monitor requirements for the life of the loan.

Past history of delivering supportive services to the target population in housing.

Past history of committing project-based vouchers to supportive housing.

Ability to prioritize the most vulnerable within the target population through coordinated entry system.

The department shall set aside 8 percent of funds offered in ~~Rounds~~ rounds 1 ~~through to~~ 4, inclusive, for the competitive program for small counties as provided in subdivision (d) of Section 5849.6.

The department shall award funds for the competitive program in at least four rounds as follows:

The department shall issue its first request for proposal for the competitive program no later than 180 days after the effective date of a final judgment, with no further opportunity for appeals, in any court proceeding affirming the validity of the contracts authorized by the authority and the department pursuant to Section 5849.35 and any bonds authorized to be issued by the authority pursuant to Section 15463 of the Government Code and any contracts related to those bonds.

The second round shall be completed no later than one year after the completion of the first round.

The third round shall be completed no later than one year after the completion of the second round.

The fourth round shall be completed no later than one year after the completion of the third round.

Subsequent rounds shall occur annually thereafter in order to fully exhaust remaining funds and the department may discontinue the use of the competitive groupings in Section 5849.6, the alternative process in subdivision (b) for any funds not awarded by the county, and the rural ~~set-aside~~ ~~set-aside~~ funds as set forth in subdivision (c).

Any loans made by the department pursuant to this section shall be in the form of secured deferred payment loans to pay for the eligible costs of development. All unpaid principal and accumulated interest is due and payable no later than completion of the term of the loan, which shall be established through program guidelines adopted pursuant to Section 5849.5. The loan shall bear simple interest at a rate of 3 percent per annum on the unpaid principal balance. The department shall require annual loan payments in the minimum amount necessary to cover the costs of project monitoring. For the first 15 years of the loan term, the amount of the required loan payments shall not exceed forty-two hundredths of 1 percent per annum.

The department may establish maximum loan-to-value requirements for some or all of the types of projects that are eligible for funding under this part, which shall be established through program guidelines adopted pursuant to Section 5849.5.

The department shall establish per-unit and per-project loan limits for all project types.

The department may designate an amount not to exceed 4 percent of funds allocated for the competitive program, not including funding allocated pursuant to subdivision (b), in order to cure or avert a default on the terms of any loan or other obligation by the recipient of financial assistance, or bidding at any foreclosure sale where the default or foreclosure sale would jeopardize the department's security in the rental housing development assisted pursuant to this part. The funds so designated shall be known as the "default reserve."

The department may use default reserve funds made available pursuant to this section to repair or maintain any rental housing development assistance pursuant to this part to protect the department's security interest.

The payment or advance of funds by the department pursuant to this subdivision shall be exclusively within the department's discretion, and no person shall be deemed to have any entitlement to the payment or advance of those funds. The amount of any funds expended by the department for the purposes of curing or averting a default shall be added to the loan amount secured by the rental housing development and shall be payable to the department upon demand.

~~Prior to~~ Before disbursement of any funds for loans made pursuant to this section, the department shall enter into a regulatory agreement with the development sponsor that provides for all of the following:

Sets standards for tenant selection to ensure occupancy of assisted units by eligible households of very low and low income for the term of the agreement.

Governs the terms of occupancy agreements.

Contains provisions to maintain affordable rent levels to serve eligible households.

Provides for periodic inspections and review of ~~year-end~~ yearend fiscal audits and related reports by the department.

Permits a developer to distribute earnings in an amount established by the department and based on the number of units in the rental housing development.

Has a term for not less than the original term of the loan.

Contains any other provisions necessary to carry out the purposes of this part.

The agreement shall be binding upon the developer and successors in interest upon sale or transfer of the rental housing development regardless of any prepayment of the loan.

The agreement shall be recorded in the office of the county recorder in the county in which the real property subject to the agreement is located.

The department shall monitor county compliance with applicable program regulations, loan agreements and regulatory ~~agreements~~ agreements, and any agreements related to the program that designate the department as a third-party beneficiary, and enforce those regulations and agreements to the extent necessary and desirable in order to provide, to the greatest degree possible, the successful provision of permanent supportive housing.

The department shall annually report to the authority the status of its efforts pursuant to this section and Section 5849.9, as set forth in Section 5849.11.

The department may provide technical assistance to counties or developers of supportive housing to facilitate the construction of permanent supportive housing for the target population.

SEC. 263.

Section 5849.14 of the Welfare and Institutions Code is amended to read:

5849.14.

The Department of Finance may authorize one or more loans from the General Fund to the No Place Like Home Fund for cashflow purposes in an aggregate amount not to exceed two million dollars (\$2,000,000) subject to the following conditions:

The loans are for either of the following purposes:

To allow the department to begin program implementation activities, including, but not limited to, drafting program guidelines and regulations.

To allow the department, the authority, and the Treasurer to implement Section 5849.35 of this ~~Code~~ ~~code~~ and Section 15463 of the Government Code, including, but not limited to, payment for financial advisory and legal services to prepare for, and in connection with, any validation action pursuant to Section 5849.13 or any other court action regarding this part or Section 15463 of the Government Code.

The loans are short term, and shall be repaid within 30 days after the deposit of bond proceeds into the fund pursuant to paragraph (1) of subdivision (b) of Section 5849.4.

Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.

SEC. 264.

Section 5890 of the Welfare and Institutions Code is amended to read:

5890.

The Mental Health Services Fund is hereby created in the State Treasury. The fund shall be administered by the state. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are, except as provided in subdivision (d) of Section 5892, continuously appropriated, without regard to fiscal years, for the purpose of funding the following programs and other related activities as designated by other provisions of this division:

Part 3 (commencing with Section 5800), the Adult and Older Adult System of Care Act.

Part 3.2 (commencing with Section 5830), Innovative Programs.

Part 3.6 (commencing with Section 5840), Prevention and Early Intervention Programs.

Part 3.9 (commencing with Section 5849.1), No Place Like Home Program.

Part 4 (commencing with Section 5850), the Children's Mental Health Services Act.

~~Nothing in the~~ ~~The~~ establishment of this ~~fund, nor~~ ~~fund~~ ~~and~~ any other provisions of the act establishing it or the programs funded shall ~~not~~ be construed to modify the obligation of health care service plans and disability insurance policies to provide coverage for mental health services, including those services required under Section 1374.72 of the Health and Safety Code and Section 10144.5 of the Insurance Code, related to mental health parity. ~~Nothing in this~~ ~~This~~ act shall ~~not~~ be construed to modify the oversight duties of the Department of Managed Health Care or the duties of the Department of Insurance with respect to enforcing these obligations of plans and insurance policies.

~~Nothing in this~~ ~~This~~ act shall ~~not~~ be construed to modify or reduce the existing authority or responsibility of the State Department of Health Care Services.

The State Department of Health Care Services shall seek approval of all applicable federal Medicaid approvals to maximize the availability of federal funds and eligibility of participating children, adults, and seniors for medically necessary care.

Share of costs for services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division, shall be determined in accordance with the Uniform Method of Determining Ability to Pay applicable to other publicly funded mental health services, unless this Uniform Method is replaced by another method of determining ~~co-payments~~, copayments, in which case the new method applicable to other mental health services shall be applicable to services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division.

The Supportive Housing Program Subaccount is hereby created in the Mental Health Services Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the subaccount are reserved and continuously appropriated, without regard to fiscal years, to the California Health Facilities Financing Authority to provide funds to meet its financial obligations pursuant to any service contracts entered into pursuant to Section 5849.35. Notwithstanding any other law, including any other provision of this section, no later than the last day of each month, the Controller shall, ~~prior to~~ before any transfer or expenditure from the fund for any other purpose for the following month, transfer from the Mental Health Services Fund to the Supportive Housing Program Subaccount an amount ~~which~~ that has been certified by the California Health Facilities Financing Authority pursuant to paragraph (3) of subdivision (a) of Section 5849.35, but not to exceed an aggregate amount of one hundred forty million ~~dollars~~ (\$140,000,000) per year. If in any month the amounts in the Mental Health Services Fund are insufficient to fully transfer to the subaccount or the amounts in the subaccount are insufficient to fully pay the amount certified by the California Health Facilities Financing Authority, the shortfall shall be carried over to the next month. Moneys in the Supportive Housing Program Subaccount shall not be loaned to the General Fund pursuant to Section 16310 or 16381 of the Government Code.

SEC. 265.

Section 5899 of the Welfare and Institutions Code is amended to read:

5899.

The State Department of Health Care Services, in consultation with the Mental Health Services Oversight and Accountability Commission and the County Behavioral Health Directors Association of California, shall develop and administer instructions for the Annual Mental Health Services Act Revenue and Expenditure Report. The instructions shall include a requirement that the county certify the accuracy of this report. This report shall be submitted electronically to the department and to the Mental Health Services Oversight and Accountability Commission. The department and the commission shall annually post each county's report on its ~~website~~ Internet Web site in a timely manner.

The department, in consultation with the commission and the County Behavioral Health Directors Association of California, shall revise the instructions described in subdivision (a) by July 1, 2017, and as needed thereafter, to improve the timely and accurate submission of county revenue and expenditure data.

The purpose of the Annual Mental Health Services Act Revenue and Expenditure Report is as follows:

Identify the expenditures of Mental Health Services Act (MHSA) funds that were distributed to each county.

Quantify the amount of additional funds generated for the mental health system as a result of the MHSA.

Identify unexpended funds, and interest earned on MHSA funds.

Determine reversion amounts, if applicable, from prior fiscal year distributions.

This report is intended to provide information that allows for the evaluation of all of the following:

Children's systems of care.

Prevention and early intervention strategies.

Innovative projects.

Workforce education and training.

Adults and older adults systems of care.

Capital facilities and technology needs.

If a county does not submit the annual revenue and expenditure report described in subdivision (a) by the required deadline, the department may withhold MHSA funds until the reports are submitted.

SEC. 266.

Section 10553.12 of the Welfare and Institutions Code is amended to read:

10553.12.

Notwithstanding any other law, a federally recognized tribe is authorized, but not required, to approve a home for the purpose of foster or adoptive placement of an Indian child pursuant to the ~~Federal~~ federal Indian Child Welfare Act (25 U.S.C. Sec. 1915).

An Indian child, as defined by subdivisions (a) and (b) of Section 224, that has been removed pursuant to Section 361, from the custody ~~or~~ of his or her parents or Indian custodian may be placed in a tribally approved home pursuant to Section 1915 of the federal Indian Child Welfare Act.

To facilitate the availability of tribally approved homes that have been fully approved in accord with federal law, including completion of required background checks, a tribal agency may request from the Department of Justice federal and state summary criminal history information regarding a prospective foster parent or adoptive parent, an adult who resides or is employed in the home of an applicant, ~~any~~ a person who has a familial or intimate relationship with ~~any~~ a person living in the home of an applicant, or an employee of the child welfare agency who may have contact with children, in accord with subdivision (m) of Section 11105 of the Penal Code and Child Abuse Central Index Information pursuant to paragraph (8) of subdivision (b) of Section 11170 of the Penal Code.

As used in this section, a "tribal agency" means an entity designated by a federally recognized tribe as authorized to approve homes consistent with the federal Indian Child Welfare Act for the purpose of placement of Indian children, into foster or adoptive care, including the authority to conduct criminal record and child abuse background checks of, and grant exemptions to, individuals who are prospective foster parents or adoptive parents, an adult who resides or is employed in the home of an applicant for approval, ~~any~~ a person who has a familial or intimate relationship with ~~any~~ a person living in the home of an applicant, or an employee of the tribal agency who may have contact with children.

A county social worker may place an Indian child in a tribally approved home without having to conduct a separate background check, upon certification by the tribal agency of the following:

The tribal agency has completed a criminal record background check in accord with the standards set forth in Section 1522 of the Health and Safety Code, and a Child Abuse Central Index Check pursuant to Section 1522.1 of the Health and Safety Code, with respect to each of the individuals described in subdivision (c).

The tribal agency has agreed to report to a county child welfare agency responsible for a child placed in the tribally approved home, within 24 hours of notification to the tribal agency by the Department of Justice, of a subsequent state or federal arrest or disposition notification provided pursuant to Section 11105.2 of the Penal Code involving an individual associated with the tribally approved home where an Indian child is placed.

If the tribal agency in its certification states that the individual was granted a criminal record exemption, the certification shall specify that the exemption was evaluated in accord with the standards and limitations set forth in paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code and was not granted to an individual ineligible for an exemption under that provision.

SEC. 267.

Section 10559 of the Welfare and Institutions Code is amended to read:

10559.

There are in the department a division or office devoted to carrying out the provisions of this division pertaining to the services to the blind and another division or office devoted to carrying out the public social services to deaf and hard-of-hearing persons. The divisions or offices shall each be headed by a chief, one who is a trained social worker experienced in work for the blind, the other a trained social worker or counselor experienced in work for the deaf and hard of hearing or a person experienced in administering a deaf or hard-of-hearing services program. The duties of the division for the blind and its chief shall be confined to carrying out the provisions of this division pertaining to services to the blind. The duties of the division or office for the deaf and hard of hearing shall be confined to carrying out the provision of public social services to the deaf and hard of hearing. Blindness, deafness, or being hard of hearing shall not be grounds to disqualify a person from holding the position of chief of the office or division. The divisions or offices shall not be made a part of any other division, office, or subdivision of the department. The chiefs of the divisions or offices shall be directly responsible to the director.

The director through the divisions or offices may provide consultative services to county personnel administering services to the blind, deaf, or hard of hearing which shall include, but not be limited to, information concerning the various aspects of blindness, deafness, and being hard of hearing and its problems and implications, the rehabilitative potential of the blind, ~~deaf~~ deaf, and hard of hearing, public and private services available, employment opportunities for blind, deaf, and hard-of-hearing persons, and concepts in counseling blind, deaf, and hard-of-hearing persons.

SEC. 268.

Section 10621 of the Welfare and Institutions Code is amended to read:

10621.

Public social services for the deaf and hard of hearing shall include, but not be limited to, the following services:

Complete communication services through interpreter services by a professional interpreter for the deaf possessing the comprehensive skills certification of the ~~National~~ national Registry of Interpreters for the Deaf or the equivalent, teletypewriter relay, and, when necessary, training in communication skills.

Advocacy to ~~assure~~ ensure deaf and hard-of-hearing persons receive equal access to public and private services.

Job development and job placement.

Information and referral.

Counseling, including peer counseling.

Independent living skills instruction.

Community education about deafness and being hard of hearing.

SEC. 269.

Section 11405 of the Welfare and Institutions Code is amended to read:

11405.

Except for nonminors described in paragraph (2) of subdivision (e), AFDC-FC benefits shall be paid to an otherwise eligible child living with a nonrelated legal guardian, provided that the legal guardian cooperates with the county welfare department in all of the following:

Developing a written assessment of the child's needs.

Updating the assessment no less frequently than once every six months.

Carrying out the case plan developed by the county.

Except for nonminors described in paragraph (2) of subdivision (e), when AFDC-FC is applied for on behalf of a child living with a nonrelated legal guardian the county welfare department shall do all of the following:

Develop a written assessment of the child's needs.

Update those assessments no less frequently than once every six months.

Develop a case plan that specifies how the problems identified in the assessment are to be addressed.

Make visits to the child as often as appropriate, but in no event less often than once every six months.

Where the child is a parent and has a child living with him or her in the same eligible facility, the assessment required by paragraph (1) of subdivision (a) shall include the needs of his or her child.

Nonrelated legal guardians of eligible children who are in receipt of AFDC-FC payments described in this section shall be exempt from the requirement to register with the Statewide Registry of Private Professional Guardians pursuant to [former](#) Sections 2850 and 2851 of the Probate Code.

On and after January 1, 2012, a nonminor youth whose nonrelated guardianship was ordered in juvenile court pursuant to Section 360 or 366.26, and whose dependency was dismissed, shall remain eligible for AFDC-FC benefits until the youth attains 19 years of age, effective January 1, 2013, until the youth attains 20 years of age, and effective January 1, 2014, until the youth attains 21 years of age, provided that the youth enters into a mutual agreement with the agency responsible for his or her guardianship, and the youth is meeting the conditions of eligibility, as described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

A nonminor former dependent or ward as defined in paragraph (2) of subdivision (aa) of Section 11400 shall be eligible for benefits under this section until the youth attains 21 years of age if all of the following conditions are met:

The nonminor former dependent or ward attained 18 years of age while in receipt of Kin-GAP benefits pursuant to Article 4.7 (commencing with Section 11385).

The nonminor's relationship to the kinship guardian is defined in paragraph (2), (3), or (4) of subdivision (c) of Section 11391.

The nonminor ~~who~~ was under 16 years of age at the time the Kin-GAP negotiated agreement payments commenced.

The guardian continues to be responsible for the support of the nonminor.

The nonminor otherwise is meeting the conditions of eligibility, as described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

On or after January 1, 2012, a child whose nonrelated guardianship was ordered in probate court pursuant Article 2 (commencing with Section 1510) of Chapter 1 of Part 2 of Division 4 of the Probate Code, who is attending high school or the equivalent level of vocational or technical training on a full-time basis, or who is in the process of pursuing a high school equivalency certificate ~~prior to~~ before his or her 18th birthday may continue to receive aid following his or her 18th birthday as long as the child continues to reside in the guardian's home, remains otherwise eligible for AFDC-FC benefits and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis, or continues to pursue a high school equivalency certificate, and the child may reasonably be expected to complete the educational or training program or to receive a high school equivalency certificate, before his or her 19th birthday. Aid shall be provided to an individual pursuant to this section provided that both the individual and the agency responsible for the foster care placement have signed a mutual agreement, if the individual is capable of making an informed agreement, documenting the continued need for out-of-home placement.

For cases in which a guardianship was established on or before June 30, 2011, or the date specified in a final order, for which the time for appeal has passed, issued by a court of competent jurisdiction in California State Foster Parent Association, et al. v. William Lightbourne, et al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier, the AFDC-FC payment described in this section shall be the foster family home rate structure in effect ~~prior to~~ before the effective date specified in the order described in this paragraph.

For cases in which guardianship has been established on or after July 1, 2011, or the date specified in the order described in paragraph (1), whichever is earlier, the AFDC-FC payments described in this section shall be the basic foster family home rate set forth in paragraph (1) of subdivision (g) of Section 11461.

Beginning with the 2011–12 fiscal year, the AFDC-FC payments identified in this subdivision shall be adjusted annually by the percentage change in the California Necessities Index rate as set forth in paragraph (2) of subdivision (g) of Section 11461.

In addition to the AFDC-FC rate paid, all of the following also shall be paid:

A specialized care increment, if applicable, as set forth in subdivision (e) of Section 11461.

A clothing allowance, as set forth in subdivision (f) of Section 11461.

For a child eligible for an AFDC-FC payment who is a teen parent, the rate shall include the two hundred dollar (\$200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

SEC. 270.

Section 14087.325 of the Welfare and Institutions Code is amended to read:

14087.325.

The department shall require, as a condition of obtaining a contract with the department, that ~~any~~ a local initiative, as defined in subdivision ~~(v)~~ (w) of Section 53810 of Title 22 of the California Code of Regulations, offer a subcontract to ~~any~~ an entity defined in Section 1396d(l)(2)(B) of Title 42 of the United States Code providing services as defined in Section 1396d(a)(2)(C) of Title 42 of the United States Code and operating in the service area covered by the local initiative's contract with the department. These entities are also known as federally qualified health centers.

Except as otherwise provided in this section, managed care subcontracts offered to a federally qualified health center or a rural health clinic, as defined in Section 1396d(l)(1) of Title 42 of the United States Code, by a local initiative, county organized health system, as defined in Section 12693.05 of the Insurance Code, commercial plan, as defined in subdivision ~~(h)~~ (i) of Section 53810 of Title 22 of the California Code of Regulations, or a health plan contracting with a geographic managed care program, as defined in subdivision (g) of Section 53902 of Title 22 of the California Code of Regulations, shall be on the same terms and conditions offered to other subcontractors providing a similar scope of service. ~~Any~~ A beneficiary, subscriber, or enrollee of a program or plan who affirmatively selects, or is assigned by default to, a federally qualified health center or rural health clinic under the terms of a contract between a plan, government program, or ~~any~~ a subcontractor of a plan or program, and a federally qualified health center or rural health clinic, shall be assigned directly to the federally qualified health center or rural health clinic, and not to ~~any~~ an individual provider performing services on behalf of the federally qualified health center or rural health clinic.

The department shall provide incentives in the competitive application process described in paragraph (1) of subdivision (b) of Section 53800 of Title 22 of the California Code of Regulations, to encourage potential commercial plans as defined in subdivision ~~(h)~~ (i) of Section 53810 of Title 22 of the California Code of Regulations to offer subcontracts to these federally qualified health centers.

Reimbursement to federally qualified health centers and rural health centers for services provided pursuant to a subcontract with a local initiative, a commercial plan, geographic managed care program health plan, or a county organized health system, shall be paid in a manner that is not less than the level and amount of payment that the plan would make for the same scope of services if the services were furnished by a provider that is not a federally qualified health center or rural health clinic.

The department shall administer a program to ensure that total payments to federally qualified health centers and rural health clinics operating as managed care subcontractors pursuant to subdivision (d) comply with applicable federal law pursuant to Sections 1902(aa) and 1903(m)(2)(A)(ix) of the Social Security Act (42 ~~U.S.C.A.~~ U.S.C. Secs. 1396a(aa) and 1396b(m)(2)(A)(ix)). Under the department's program, federally qualified health centers and rural health clinics subcontracting with local initiatives, commercial plans, county organized health systems, and geographic managed care program health plans shall seek supplemental reimbursement from the department through a per visit fee-for-service billing system utilizing the state's Medi-Cal fee-for-service claims processing system contractor. To carry out this per visit payment process, each federally qualified health system and rural health clinic shall submit to the department for approval a rate differential calculated to reflect the amount necessary to reimburse the federally qualified health center or rural health clinic for the difference between the payment the center or clinic received from the managed care health plan and either the interim rate established by the department based on the center's or clinic's reasonable cost or the center's or clinic's prospective payment rate. The department shall adjust the computed rate differential as it deems necessary to minimize the difference between the center's or clinic's revenue from the plan and the center's or clinic's cost-based reimbursement or the center's or clinic's prospective payment rate.

In addition, to the extent feasible, within six months of the end of the center's or clinic's fiscal year, the department shall perform an annual reconciliation to reasonable cost, and make payments to, or obtain a recovery from, the center or clinic.

In calculating the capitation rates to be paid to local initiatives, commercial plans, geographic managed care program health plans, and county organized health systems, the department shall not include the additional dollar amount applicable to cost-based reimbursement that would otherwise be paid, absent cost-based reimbursement, to federally qualified health centers and rural health clinics in the Medi-Cal fee-for-service program.

On or before September 30, 2002, the director shall conduct a study of the actual and projected impact of the transition from a cost-based reimbursement system to a prospective payment system for federally qualified health centers and rural health clinics. In conducting the study, the director shall evaluate the extent to which the prospective payment system stimulates expansion of services, including new facilities to expand capacity of the centers, and the extent to which actual and estimated prospective payment rates of federally qualified health centers and rural health clinics for the first five years of the prospective payment system are reflective of the cost of providing services to Medi-Cal beneficiaries. Clinics may submit cost reporting information to the department to provide data for the study.

The department shall approve all contracts between federally qualified health centers or rural health clinics and ~~any~~ a local initiative, commercial plan, geographic managed care program health plan, or county organized health system in order to ensure compliance with this section.

This section shall not preclude the department from establishing pilot programs pursuant to Section 14087.329.

SEC. 271.

Section 14132.100 of the Welfare and Institutions Code is amended to read:

14132.100.

The federally qualified health center services described in Section 1396d(a)(2)(C) of Title 42 of the United States Code are covered benefits.

The rural health clinic services described in Section 1396d(a)(2)(B) of Title 42 of the United States Code are covered benefits.

Federally qualified health center services and rural health clinic services shall be reimbursed on a per-visit basis in accordance with the definition of “visit” set forth in subdivision (g).

Effective October 1, 2004, and on each October 1 thereafter, until no longer required by federal law, federally qualified health center (FQHC) and rural health clinic (RHC) per-visit rates shall be increased by the Medicare Economic Index applicable to primary care services in the manner provided for in Section 1396a(bb)(3)(A) of Title 42 of the United States Code. ~~Prior to~~ Before January 1, 2004, FQHC and RHC per-visit rates shall be adjusted by the Medicare Economic Index in accordance with the methodology set forth in the state plan in effect on October 1, 2001.

An FQHC or RHC may apply for an adjustment to its per-visit rate based on a change in the scope of services provided by the FQHC or RHC. Rate changes based on a change in the scope of services provided by an FQHC or RHC shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successor.

Subject to the conditions set forth in subparagraphs (A) to (D), inclusive, of paragraph (3), a change in scope of service means any of the following:

The addition of a new FQHC or RHC service that is not incorporated in the baseline prospective payment system (PPS) rate, or a deletion of an FQHC or RHC service that is incorporated in the baseline PPS rate.

A change in service due to amended regulatory requirements or rules.

A change in service resulting from relocating or remodeling an FQHC or RHC.

A change in types of services due to a change in applicable technology and medical practice utilized by the center or clinic.

An increase in service intensity attributable to changes in the types of patients served, including, but not limited to, populations with HIV or AIDS, or other chronic diseases, or homeless, elderly, migrant, or other special populations.

~~Any changes in any of the services~~ A change in any service described in subdivision (a) or (b), or in the provider mix of an FQHC or RHC or one of its sites.

Changes in operating costs attributable to capital expenditures associated with a modification of the scope of ~~any of the services~~ a service described in subdivision (a) or (b), including new or expanded service facilities, regulatory compliance, or changes in technology or medical practices at the center or clinic.

Indirect medical education adjustments and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and residents.

~~Any changes~~ A change in the scope of a project approved by the federal Health Resources and Services Administration (HRSA).

No change in ~~costs shall~~, costs, in and of itself, shall be considered a scope-of-service change unless all of the following apply:

The increase or decrease in cost is attributable to an increase or decrease in the scope of services defined in subdivisions (a) and (b), as applicable.

The cost is allowable under Medicare reasonable cost principles set forth in Part 413 (commencing with Section ~~413~~) 413.1) of Subchapter B of Chapter 4 of Title 42 of the Code of Federal Regulations, or its successor.

The change in the scope of services is a change in the type, intensity, duration, or amount of services, or any combination thereof.

The net change in the FQHC's or RHC's rate equals or exceeds 1.75 percent for the affected FQHC or RHC site. For FQHCs and RHCs that filed consolidated cost reports for multiple sites to establish the initial prospective payment reimbursement rate, the 1.75-percent threshold shall be applied to the average per-visit rate of all sites for the purposes of calculating the cost associated with a scope-of-service change. "Net change" means the per-visit rate change attributable to the cumulative effect of all increases and decreases for a particular fiscal year.

An FQHC or RHC may submit requests for scope-of-service changes once per fiscal year, only within 90 days following the beginning of the FQHC's or RHC's fiscal year. ~~Any~~ An approved increase or decrease in the provider's rate shall be retroactive to the beginning of the FQHC's or RHC's fiscal year in which the request is submitted.

An FQHC or RHC shall submit a scope-of-service rate change request within 90 days of the beginning of ~~any~~ an FQHC or RHC fiscal year occurring after the effective date of this section, if, during the FQHC's or RHC's prior fiscal year, the FQHC or RHC experienced a decrease in the scope of services provided that the FQHC or RHC either knew or should have known would have resulted in a significantly lower per-visit rate. If an FQHC or RHC discontinues

providing onsite pharmacy or dental services, it shall submit a scope-of-service rate change request within 90 days of the beginning of the following fiscal year. The rate change shall be effective as provided for in paragraph (4). As used in this paragraph, “significantly lower” means an average per-visit rate decrease in excess of 2.5 percent.

Notwithstanding paragraph (4), if the approved scope-of-service change or changes were initially implemented on or after the first day of an FQHC’s or RHC’s fiscal year ending in calendar year 2001, but before the adoption and issuance of written instructions for applying for a scope-of-service change, the adjusted reimbursement rate for that scope-of-service change shall be made retroactive to the date the scope-of-service change was initially implemented. Scope-of-service changes under this paragraph shall be required to be submitted within the later of 150 days after the adoption and issuance of the written instructions by the department, or 150 days after the end of the FQHC’s or RHC’s fiscal year ending in 2003.

All references in this subdivision to “fiscal year” shall be construed to be references to the fiscal year of the individual FQHC or RHC, as the case may be.

An FQHC or RHC may request a supplemental payment if extraordinary circumstances beyond the control of the FQHC or RHC occur after December 31, 2001, and PPS payments are insufficient due to these extraordinary circumstances. Supplemental payments arising from extraordinary circumstances under this subdivision shall be solely and exclusively within the discretion of the department and shall not be subject to subdivision (l). These supplemental payments shall be determined separately from the scope-of-service adjustments described in subdivision (e). Extraordinary circumstances include, but are not limited to, acts of nature, changes in applicable requirements in the Health and Safety Code, changes in applicable licensure requirements, and changes in applicable rules or regulations. Mere inflation of costs alone, absent extraordinary circumstances, shall not be grounds for supplemental payment. If an FQHC’s or RHC’s PPS rate is sufficient to cover its overall costs, including those associated with the extraordinary circumstances, then a supplemental payment is not warranted.

The department shall accept requests for supplemental payment at any time throughout the prospective payment rate year.

Requests for supplemental payments shall be submitted in writing to the department and shall set forth the reasons for the request. Each request shall be accompanied by sufficient documentation to enable the department to act upon the request. Documentation shall include the data necessary to demonstrate that the circumstances for which supplemental payment is requested meet the requirements set forth in this section. Documentation shall include both of the following:

- A presentation of data to demonstrate reasons for the FQHC’s or RHC’s request for a supplemental payment.

- Documentation showing the cost implications. The cost impact shall be material and significant, two hundred thousand dollars (\$200,000) or 1 percent of a facility’s total costs, whichever is less.

A request shall be submitted for each affected year.

Amounts granted for supplemental payment requests shall be paid as lump-sum amounts for those years and not as revised PPS rates, and shall be repaid by the FQHC or RHC to the extent that it is not expended for the specified purposes.

The department shall notify the provider of the department’s discretionary decision in writing.

An FQHC or RHC “visit” means a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, clinical psychologist, licensed clinical social worker, or a visiting nurse. For purposes of this section, “physician” shall be interpreted in a manner consistent with the Centers for Medicare and Medicaid Services’ Medicare Rural Health Clinic and Federally Qualified Health Center Manual (Publication 27), or its successor, only to the extent that it defines the professionals whose services are reimbursable on a per-visit basis and not as to the types of services that these professionals may render during these visits and shall include a physician and surgeon, osteopath, podiatrist, dentist, optometrist, and chiropractor. A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a comprehensive perinatal practitioner, as defined in Section 51179.7 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services, a four-hour day of attendance at an adult day health care center, and any other provider identified in the state plan’s definition of an FQHC or RHC visit.

(A) A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, or a marriage and family therapist.

Notwithstanding subdivision (e), if an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative practice, or a marriage and family therapist for the purposes of establishing its FQHC or RHC rate chooses to bill these services as a separate visit, the FQHC or RHC shall apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, shall bill these services as a separate visit. However, multiple encounters with dental professionals or marriage and family therapists that take place on the same day shall constitute a single visit. The department shall develop the appropriate forms to determine which FQHC’s or RHC’s rates shall be adjusted and to facilitate the calculation of the adjusted rates. An FQHC’s or RHC’s application for, or the department’s approval of, a rate adjustment pursuant to this subparagraph shall not constitute a change in scope of service within the meaning of subdivision (e). An FQHC or RHC that applies for an adjustment to its rate pursuant to this subparagraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment for visits between an FQHC or RHC patient and a dental hygienist, a dental hygienist in alternative practice, or a marriage and family therapist has been approved. ~~Any~~ An approved increase or decrease in the provider’s rate shall be made within six months after the date of receipt of the department’s rate adjustment forms pursuant to this subparagraph and shall be retroactive to the beginning of the fiscal year in which the FQHC or RHC submits the request, but in no case shall the effective date be earlier than January 1, 2008.

An FQHC or RHC that does not provide dental hygienist, dental hygienist in alternative practice, or marriage and family therapist services, and later elects to add these services and bill these services as a separate visit, shall process the addition of these services as a change in scope of service pursuant to subdivision (e).

If FQHC or RHC services are partially reimbursed by a third-party payer, such as a managed care entity (as defined in Section 1396u-2(a)(1)(B) of Title 42 of the United States Code), the Medicare Program, or the Child Health and Disability Prevention (CHDP) Program, the department shall reimburse an FQHC or RHC for the difference between its per-visit PPS rate and receipts from other plans or programs on a contract-by-contract basis and not in the aggregate, and may not include managed care financial incentive payments that are required by federal law to be excluded from the calculation.

An entity that first qualifies as an FQHC or RHC in the year 2001 or later, a newly licensed facility at a new location added to an existing FQHC or RHC, and ~~any~~ an entity that is an existing FQHC or RHC

that is relocated to a new site shall each have its reimbursement rate established in accordance with one of the following methods, as selected by the FQHC or RHC:

The rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or adjacent area with a similar caseload.

In the absence of three comparable FQHCs or RHCs with a similar caseload, the rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or an adjacent service area, or in a reasonably similar geographic area with respect to relevant social, health care, and economic characteristics.

At a new entity's one-time election, the department shall establish a reimbursement rate, calculated on a per-visit basis, that is equal to 100 percent of the projected allowable costs to the FQHC or RHC of furnishing FQHC or RHC services during the first 12 months of operation as an FQHC or RHC. After the first 12-month period, the projected per-visit rate shall be increased by the Medicare Economic Index then in effect. The projected allowable costs for the first 12 months shall be cost settled and the prospective payment reimbursement rate shall be adjusted based on actual and allowable cost per visit.

The department may adopt any further and additional methods of setting reimbursement rates for newly qualified FQHCs or RHCs as are consistent with Section 1396a(bb)(4) of Title 42 of the United States Code.

In order for an FQHC or RHC to establish the comparability of its caseload for purposes of subparagraph (A) or (B) of paragraph (1), the department shall require that the FQHC or RHC submit its most recent annual utilization report as submitted to the Office of Statewide Health Planning and Development, unless the FQHC or RHC was not required to file an annual utilization report. FQHCs or RHCs that have experienced changes in their services or caseload subsequent to the filing of the annual utilization report may submit to the department a completed report in the format applicable to the prior calendar year. FQHCs or RHCs that have not previously submitted an annual utilization report shall submit to the department a completed report in the format applicable to the prior calendar year. The FQHC or RHC shall not be required to submit the annual utilization report for the comparable FQHCs or RHCs to the department, but shall be required to identify the comparable FQHCs or RHCs.

The rate for ~~any~~ a newly qualified entity set forth under this subdivision shall be effective retroactively to the later of the date that the entity was first qualified by the applicable federal agency as an FQHC or RHC, the date a new facility at a new location was added to an existing FQHC or RHC, or the date on which an existing FQHC or RHC was relocated to a new site. The FQHC or RHC shall be permitted to continue billing for Medi-Cal covered benefits on a fee-for-service basis under its existing provider number until it is informed of its FQHC or RHC enrollment approval, and the department shall reconcile the difference between the fee-for-service payments and the FQHC's or RHC's prospective payment rate at that time.

Visits occurring at an intermittent clinic site, as ~~defined~~ described in subdivision (h) of Section 1206 of the Health and Safety Code, of an existing FQHC or RHC, or in a mobile unit as defined by paragraph (2) of subdivision (b) of Section 1765.105 of the Health and Safety Code, shall be billed by and reimbursed at the same rate as the FQHC or RHC establishing the intermittent clinic site or the mobile unit, subject to the right of the FQHC or RHC to request a scope-of-service adjustment to the rate.

An FQHC or RHC may elect to have pharmacy or dental services reimbursed on a fee-for-service basis, utilizing the current fee schedules established for those services. These costs shall be adjusted out of the FQHC's or RHC's clinic base rate as scope-of-service changes. An FQHC or RHC that reverses its election under this subdivision shall revert to its prior rate, subject to an increase to account for all Medicare Economic Index increases occurring during the intervening time period, and subject to any increase or decrease associated with applicable scope-of-service adjustments as provided in subdivision (e).

FQHCs and RHCs may appeal a grievance or complaint concerning ratesetting, scope-of-service changes, and settlement of cost report audits, in the manner prescribed by Section 14171. The rights and remedies provided under this subdivision are cumulative to the rights and remedies available under all other provisions of law of this state.

~~The department shall, no~~ No later than March 30, 2008, ~~the department shall~~ promptly seek all necessary federal approvals in order to implement this section, including any ~~amendments~~ amendment to the state plan. To the extent that ~~any~~ an element or requirement of this section is not approved, the department shall submit a request to the federal Centers for Medicare and Medicaid Services for ~~any waivers~~ a waiver that would be necessary to implement this section.

The department shall implement this section only to the extent that federal financial participation is obtained.

SEC. 272.

Section 14134.25 of the Welfare and Institutions Code is amended to read:

14134.25.

Tobacco cessation services are covered benefits under the Medi-Cal program, subject to utilization controls. Tobacco cessation services shall include all intervention recommendations, as periodically updated, assigned a grade A or B by the United States Preventive Services Task Force. Tobacco cessation services shall include quit attempts based on medical necessity, as defined in Section 14059.5, and consistent with United States Preventive Services Task Force grade A and B recommendations, with no required break between attempts, for all beneficiaries 18 years of age and older who use tobacco. For beneficiaries under 18 years of age, tobacco cessation services shall be provided in accordance with both the American Academy of Pediatrics Bright Futures periodicity schedule and anticipatory guidance as periodically updated, as well as services assigned a grade A or B by the United States Preventive Services Task Force.

For purposes of this section, in addition to the services described in subdivision (a) and only to the extent consistent with the intervention recommendations, as periodically updated, assigned a grade A or B by the United States Preventive Services Task Force, tobacco cessation services for beneficiaries 18 years of age and older shall ~~include:~~ include all of the following:

At least four tobacco cessation counseling sessions per quit attempt that may be conducted in person or by telephone and individually or as part of a group, at the beneficiary's option.

A tobacco cessation treatment regimen of any medication approved by the federal Food and Drug Administration, and that is a covered Medi-Cal benefit, for tobacco cessation, including prescription and over-the-counter medications, in accordance with United States Preventive Services Task Force grade A and B recommendations.

A prescription from a provider with authority to prescribe and proof of Medi-Cal coverage shall be sufficient documentation to fill a prescription for over-the-counter tobacco cessation medications.

Beneficiaries who are covered under this section shall not be required to receive a particular form of tobacco cessation service as a condition of receiving any other form of tobacco cessation service.

Effective January 1, 2017, the department shall seek any federal approvals ~~necessary to implement this section~~ that the department determines are necessary to implement this section.

This section shall be implemented only to the extent that federal financial participation is available and not otherwise jeopardized, and any necessary federal approvals have been obtained.

SEC. 273.

Section 14184.40 of the Welfare and Institutions Code is amended to read:

14184.40.

The department shall implement the Global Payment Program authorized under the demonstration project to support participating public health care systems that provide health care services for the uninsured. Under the Global Payment Program, GPP systems receive global payments based on the health care they provide to the uninsured, in lieu of traditional disproportionate share hospital payments and safety net care pool payments previously made available pursuant to Article 5.2 (commencing with Section 14166).

The Global Payment Program is intended to streamline funding sources for care for California's remaining uninsured population, creating a value-based mechanism to increase incentives to provide primary and preventive care services and other high-value services. The Global Payment Program supports GPP systems for their key role providing and promoting effective, higher value services to California's remaining uninsured. Promoting more cost-effective and higher value care means that the payment structure rewards the provision of care in more appropriate venues for patients, and will support structural changes to the care delivery system that will improve the options for treating both Medi-Cal and uninsured patients.

Under the Global Payment Program, GPP systems will receive Global Payment Program payments calculated using an innovative value-based point methodology that incorporates measures of value for the patient in conjunction with the recognition of costs. To receive the full amount of Global Payment Program payments, a GPP system shall provide a threshold level of services, as measured in the point methodology described in paragraph (2) of subdivision (c), and based on the GPP system's historical volume, cost, and mix of services. This payment methodology is intended to support GPP systems that continue to provide services to the uninsured, while incentivizing the GPP systems to shift the overall delivery of services for the uninsured to provide more cost-effective, higher value care.

The department shall implement and oversee the operation of the Global Payment Program in accordance with the Special Terms and Conditions and the requirements of this section, to maximize the amount of federal financial participation available to participating GPP systems.

For purposes of this article, the following definitions ~~shall~~ apply:

"GPP system" means a public health care system that consists of a designated public hospital, as defined in subdivision (f) of Section 14184.10 but excluding the hospitals operated by the University of California, and its affiliated and contracted providers. Multiple designated public hospitals operated by a single legal entity may belong to the same GPP system, to the extent set forth in the Special Terms and Conditions.

"GPP program year" means a state fiscal year beginning on July 1 and ending on June 30 during which the Global Payment Program is authorized under the demonstration project, beginning with state fiscal year 2015–16, and, as applicable, each state fiscal year thereafter through

2019–20, and any years or partial years during which the Global Payment Program is authorized under an extension or successor to the ~~demonstration~~ demonstration project.

For each GPP program year, the department shall determine the Global Payment Program’s aggregate annual limit, which is the maximum amount of funding available under the demonstration project for the Global Payment Program and which is the sum of the components described in subparagraphs (A) and (B). To the extent feasible, the aggregate annual limit shall be determined and made available by the department ~~prior to~~ before the implementation of a GPP program year, and shall be updated and adjusted as necessary to reflect changes or adjustments to the amount of funding available for the Global Payment Program.

A portion of the federal disproportionate share allotment specified for California under Section 1396r-4(f) of Title 42 of the United States Code shall be included as a component of the aggregate annual limit for each GPP program year. The amount of this portion shall equal the state’s total computable disproportionate share allotment reduced by the maximum amount of funding projected for payments pursuant to subparagraphs (B) and (C) of paragraph (4) of subdivision (b) of Section 14184.30 to disproportionate share hospitals that are not participating in the Global Payment Program. For purposes of this determination, the federal disproportionate share allotment shall be aligned with the GPP program year in which the applicable federal fiscal year commences.

The aggregate annual limit shall also include the amount authorized under the demonstration project for the uncompensated care component of the Global Payment Program for the applicable GPP program year, as determined pursuant to the Special Terms and Conditions.

The department shall develop a methodology for valuing health care services and activities provided to the uninsured that achieves the goals of the Global Payment Program, including those values set forth in subdivision (a) and as expressed in the Special Terms and Conditions. The points assigned to a particular service or activity shall be the same across all GPP systems. Points for specific services or activities may be increased or decreased over time as the Global Payment Program progresses, to incentivize appropriate changes in the mix of services provided to the uninsured. To the extent necessary, the department shall obtain federal approval for the methodology and any applicable changes to the methodology.

For each GPP system, the department shall perform a baseline analysis of the GPP system’s historical volume, cost, and mix of services to the uninsured to establish an annual threshold for purposes of the Global Payment Program. The annual threshold shall be measured in points established through the methodology developed pursuant to paragraph (2) and as set forth in the Special Terms and Conditions.

The department shall determine a pro rata allocation percentage for each GPP system by dividing the GPP system’s annual threshold determined in paragraph (3) by the sum of all GPP systems’ thresholds.

For each GPP system, the department shall determine an annual budget the GPP system will receive if it achieves its threshold. A GPP system’s annual budget shall equal the allocation percentage determined in paragraph (4) for the GPP system, multiplied by the Global Payment Program’s aggregate annual limit determined in paragraph (1).

In the event of a change in the aggregate annual limit, the department shall adjust and recalculate each GPP system’s annual threshold and annual budget in proportion to changes in

the aggregate annual limit calculated in paragraph (1) in accordance with the Special Terms and Conditions.

The amount of Global Payment Program funding payable to a GPP system for a GPP program year shall be calculated as follows, subject to the Special Terms and Conditions:

The full amount of a GPP system's annual budget shall be payable to the GPP system if the services it provided to the uninsured during the GPP program year, as measured and scored using the point methodology described under paragraph (2) of subdivision (c), meets or exceeds its threshold for a given year. For GPP systems that do not achieve their threshold, the amount payable to the GPP system shall equal its annual budget reduced by the proportion by which it fell short of its threshold.

The department shall develop a methodology to redistribute unearned Global Payment Program funds for a given GPP program year to those GPP systems that exceeded their respective threshold for that same year. To the extent sufficient funds are available for all qualifying GPP systems, the GPP system's redistributed amount shall equal the GPP system's annual budget multiplied by the percentage by which the GPP system exceeded its threshold, and any remaining amounts of unearned funds will remain undistributed. If sufficient funds are unavailable to make all these payments to qualifying GPP systems, the amounts of these additional payments will be reduced for all qualifying GPP systems by the same proportion, so that the full amount of unearned Global Payment Program funds are redistributed. Redistributed payment amounts calculated pursuant to this paragraph shall be added to the amounts payable to a GPP system calculated pursuant to paragraph (1).

The department shall specify a reporting schedule for participating GPP systems to submit an interim yearend report and a final reconciliation report for each GPP program year. The interim yearend report and the final reconciliation report shall identify the services the GPP system provided to the uninsured during the GPP program year, the associated point calculation, and the amount of payments earned by the GPP system ~~prior to~~ before any redistribution. The method and format of the reporting shall be established by the department, consistent with the approved Special Terms and Conditions.

Payments shall be made in the manner and within the timeframes as follows, except if one or more GPP systems fail to provide the intergovernmental transfer amount determined pursuant to subdivision (g) by the date specified in this paragraph, the timeframe for the associated payments shall be extended to the extent necessary to allow the department to timely process the payments. In no event, however, shall payment be delayed beyond 21 days after all the necessary intergovernmental transfers have been made.

Except as provided in subparagraph (B), for each of the first three quarters of a GPP program year the department shall notify GPP systems of their payment amounts and intergovernmental transfer amounts and make a quarterly interim payment equal to 25 percent of each GPP system's annual global budget to the GPP system.

For quarters ending September 30, the payment amount and intergovernmental transfer amount notice shall be sent by September 15, intergovernmental transfers shall be due by September 22, and payments shall be made by October 15.

(ii) For quarters ending December 31, the payment amount and intergovernmental transfer amount notice shall be sent by December 15, intergovernmental transfers shall be due by December 22, and payments shall be made by January 15.

(iii) For quarters ending March 31, the payment amount and intergovernmental transfer amount notice shall be sent by March 15, intergovernmental transfers shall be due by March 22, and payments shall be made by April 15.

For the 2015–16 GPP program year, the department shall make the quarterly interim payments described in subdivision (a) in a single interim payment for the first three quarters as soon as practicable following approval of the Global Payment Program protocols as part of the Special Terms and Conditions and receipt of the associated intergovernmental transfers. The amount of this interim payment that is otherwise payable to a GPP system shall be reduced by the payments described in paragraph (2) of subdivision (c) of Section 14184.30 that were received by a designated public hospital affiliated with the GPP system.

By September 15 following the end of each GPP program year, the department shall determine and notify each GPP system of the amount the GPP system earned for the GPP program year pursuant to paragraph (1) based on its interim yearend report, the amount of additional interim payments necessary to bring the GPP system's aggregate interim payments for the GPP program year to that amount, and the transfer amounts calculated pursuant to subdivision (g). If the GPP system has earned less than 75 percent of its annual budget, no additional interim payment will be made for the GPP program year. Intergovernmental transfer amounts shall be due by September 22 following the end of the GPP program year, and interim payments shall be made by October 15 following the end of each GPP program year. All interim payments shall be subject to reconciliation after the submission of the final reconciliation report.

By June 30 following the end of each GPP program year, the department shall review the final reconciliation reports and determine and notify each GPP system of the final amounts earned by the GPP system for the GPP program year pursuant to paragraph (1), as well as the redistribution amounts, if any, pursuant to paragraph (2), the amount of the payment adjustments or recoupments necessary to reconcile interim payments to those amounts, and the transfer amount pursuant to subdivision (g). Intergovernmental transfer amounts shall be due by July 14 following the notification, and final reconciliation payments for the GPP program year shall be made no later than August 15 following this notification.

The Global Payment Program provides a source of funding for GPP systems to support their ability to make health care activities and services available to the uninsured, and shall not be construed to constitute or offer health care coverage for individuals receiving services. Global Payment Program payments are not paid on behalf of specific individuals, and participating GPP systems may determine the scope, type, and extent to which services are available, to the extent consistent with the Special Terms and Conditions. The operation of the Global Payment Program shall not be construed to decrease, expand, or otherwise alter the scope of a county's obligations to the medically indigent pursuant to Part 5 (commencing with Section 17000) of Division 9.

The nonfederal share of any payments under the Global Payment Program shall consist of voluntary intergovernmental transfers of funds provided by designated public hospitals or affiliated governmental agencies or entities, in accordance with this section.

The Global Payment Program Special Fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys deposited in the Global Payment Program Special Fund shall be continuously appropriated, without regard to fiscal years, to the department for the purposes specified in this section. All funds derived pursuant

to this section shall be deposited in the State Treasury to the credit of the Global Payment Program Special Fund.

The Global Payment Program Special Fund shall consist of moneys that a designated public hospital or affiliated governmental agency or entity elects to transfer to the department for deposit into the fund as a condition of participation in the Global Payment Program, to the extent permitted under Section 433.51 of Title 42 of the Code of Federal Regulations, the Special Terms and Conditions, and any other applicable federal Medicaid laws. Except as otherwise provided in paragraph (3), moneys derived from these intergovernmental transfers in the Global Payment Program Special Fund shall be used as the source for the nonfederal share of Global Payment Program payments authorized under the demonstration project. Any intergovernmental transfer of funds provided for purposes of the Global Payment Program shall be made as specified in this section. Upon providing any intergovernmental transfer of funds, each transferring entity shall certify that the transferred funds qualify for federal financial participation pursuant to applicable federal Medicaid laws and the Special Terms and Conditions, and in the form and manner as required by the department.

The department shall claim federal financial participation for GPP payments using moneys derived from intergovernmental transfers made pursuant to this section, and deposited in the Global Payment Program Special Fund to the full extent permitted by law. The moneys disbursed from the fund, and all associated federal financial participation, shall be distributed only to GPP systems and the governmental agencies or entities to which they are affiliated, as applicable. In the event federal financial participation is not available with respect to a payment under this section and either is not obtained, or results in a recoupment of payments already made, the department shall return any intergovernmental transfer fund amounts associated with the payment for which federal financial participation is not available to the applicable transferring entities within 14 days from the date of the associated recoupment or other determination, as applicable.

As a condition of participation in the Global Payment Program, each designated public hospital or affiliated governmental agency or entity, agrees to provide intergovernmental transfer of funds necessary to meet the nonfederal share obligation as calculated under subdivision (g) for Global Payment Program payments made pursuant to this section and the Special Terms and Conditions. Any intergovernmental transfer of funds made pursuant to this section shall be considered voluntary for purposes of all federal laws. No state General Fund moneys shall be used to fund the nonfederal share of any Global Payment Program payment.

For each scheduled quarterly interim payment, interim yearend payment, and final reconciliation payment pursuant to subdivision (d), the department shall determine the intergovernmental transfer amount for each GPP system as follows:

The department shall determine the amount of the quarterly interim payment, interim yearend payment, or final reconciliation payment, as applicable, that is payable to each GPP system pursuant to subdivision (d). For purposes of these determinations, the redistributed amounts described in paragraph (2) of subdivision (d) shall be disregarded.

The department shall determine the aggregate amount of intergovernmental transfers necessary to fund the nonfederal share of the quarterly interim payment, interim yearend payment, or final reconciliation payment, as applicable, identified in paragraph (1) for all the GPP systems.

With respect to each quarterly interim payment, interim yearend payment, or final yearend reconciliation payment, as applicable, an initial transfer amount shall be determined for each GPP system, calculated as the amount for the GPP system determined in paragraph (1),

multiplied by the nonfederal share percentage, as defined in Section 14184.10, and multiplied by the applicable GPP system-specific IGT factor as follows:

Los Angeles County Health System: 1.100.

Alameda Health System: 1.137.

Arrowhead Regional Medical Center: 0.923.

Contra Costa Regional Medical Center: 0.502.

Kern Medical Center: 0.581.

Natividad Medical Center: 1.183.

Riverside University Health System-Medical Center: 0.720.

San Francisco General Hospital: 0.507.

San Joaquin General Hospital: 0.803.

San Mateo Medical Center: 1.325.

Santa Clara Valley Medical Center: 0.706.

Ventura County Medical Center: 1.401.

The initial transfer amount for each GPP system determined under paragraph (3) shall be further adjusted as follows to ensure that sufficient intergovernmental transfers are available to make payments to all GPP systems:

With respect to each quarterly interim payment, interim yearend payment, or final reconciliation payment, as applicable, the initial transfer amounts for all GPP systems determined under paragraph (3) shall be added together.

The sum of the initial transfer amounts in subparagraph (A) shall be subtracted from the aggregate amount of intergovernmental transfers necessary to fund the payments as determined in paragraph (2). The resulting positive or negative amount shall be the aggregate positive or negative intergovernmental transfer adjustment.

Each GPP system-specific IGT factor, as specified in subparagraphs (A) to (L), inclusive, of paragraph (3) shall be subtracted from 2.000, yielding an IGT adjustment factor for each GPP system.

The IGT adjustment factor calculated in subparagraph (C) for each GPP system shall be multiplied by the positive or negative amount in subparagraph (B), and multiplied by the allocation percentage determined for the GPP system in paragraph (4) of subdivision (c), yielding the amount to be added or subtracted from the initial transfer amount determined in paragraph (3) for the applicable GPP system.

The transfer amount to be paid by each GPP system with respect to the applicable quarterly interim payment, interim yearend payment, or final reconciliation payment, shall equal the initial transfer amount determined in paragraph (3) as adjusted by the amount determined in subparagraph (D).

Upon the determination of the redistributed amounts described in paragraph (2) of subdivision (d) for the final reconciliation payment, the department shall, with respect to each GPP system that exceeded its respective threshold, determine the associated intergovernmental transfer

amount equal to the nonfederal share that is necessary to draw down the additional payment, and shall include this amount in the GPP system's transfer amount.

The department may initiate audits of GPP systems' data submissions and reports, and may request supporting documentation. Any audits conducted by the department shall be complete within 22 months of the end of the applicable GPP program year to allow for the appropriate finalization of payments to the participating GPP system, but subject to recoupment if it is later determined that federal financial participation is not available for any portion of the applicable payments.

If the department determines, during the course of the demonstration term and in consultation with participating GPP systems, that the Global Payment Program should be terminated for subsequent years, the department shall terminate the Global Payment Program by notifying the federal Centers for Medicare and Medicaid Services in accordance with the timeframes specified in the Special Terms and Conditions. In the event of this type of termination, the department shall issue a declaration terminating the Global Payment Program and shall work with the federal Centers for Medicare and Medicaid Services to finalize all remaining payments under the Global Payment Program. Subsequent to the effective date for any termination accomplished pursuant to this subdivision, the designated public hospitals that participated in the Global Payment Program shall claim and receive disproportionate share hospital payments, if eligible, as described in subparagraph (D) of paragraph (4) of subdivision (b) of Section 14184.30, but only to the extent that any necessary federal approvals are obtained and federal financial participation is available and not otherwise jeopardized.

SEC. 274.

Section 14184.50 of the Welfare and Institutions Code is amended to read:

14184.50.

The department shall establish and operate the Public Hospital Redesign and Incentives in Medi-Cal (PRIME) program to build upon the foundational delivery system transformation work, expansion of coverage, and increased access to coordinated primary care achieved through the prior California's "Bridge to Reform" Medicaid demonstration project. The activities supported by the PRIME program are designed to accelerate efforts by participating PRIME entities to change care delivery to maximize health care value and strengthen their ability to successfully perform under risk-based alternative payment models in the long term and consistent with the demonstration's goals. Participating PRIME entities consist of two types of entities: designated public hospital systems and district and municipal public hospitals.

Participating PRIME entities shall be eligible to earn incentive payments by undertaking projects set forth in the Special Terms and Conditions, for which there are required project metrics and targets. Additionally, a minimum number of required projects is specified for each designated public hospital system.

The department shall provide participating PRIME entities the opportunity to earn the maximum amount of funds authorized for the PRIME program under the demonstration project. Under the demonstration project, funding is available for the designated public hospital systems and the district and municipal public hospitals through two separate pools. Subject to the Special Terms and Conditions, up to one billion four hundred million dollars (\$1,400,000,000) is authorized annually for the designated public hospital systems pool, and up to two hundred million dollars (\$200,000,000) is authorized annually for the district and municipal public hospitals pool, during the first three years of the demonstration project, with reductions to these amounts in the fourth and fifth years. Except in those limited instances specifically authorized by the Special Terms and Conditions, the funding that is authorized for each respective pool shall only be available to participating PRIME entities within that pool.

PRIME payments shall be incentive payments, and are not payments for services otherwise reimbursable under the Medi-Cal program, nor direct reimbursement for expenditures incurred by participating PRIME entities in implementing reforms. PRIME incentive payments shall not offset payment amounts otherwise payable by the Medi-Cal program, or to and by Medi-Cal managed care plans for services provided to Medi-Cal beneficiaries, or otherwise supplant provider payments payable to PRIME entities.

For purposes of this article, the following definitions ~~shall~~ apply:

“Alternative payment methodology” or “APM” means a payment made from a Medi-Cal managed care plan to a designated public hospital system for services covered for a beneficiary assigned to a designated public hospital system that meets the conditions set forth in the Special Terms and Conditions and approved by the department, as applicable.

“Designated public hospital system” means a designated public hospital, as listed in the Special Terms and Conditions, and its affiliated governmental providers and contracted governmental and nongovernmental entities that constitute a system with an approved project plan under the PRIME program. A single designated public hospital system may include multiple designated public hospitals under common government ownership.

“District and municipal public hospitals” means those nondesignated public hospitals, as listed in the Special Terms and Conditions, that have an approved project plan under the PRIME program.

“Participating PRIME entity” means a designated public hospital system or district and municipal public hospital participating in the PRIME program.

“PRIME program year” means the state fiscal year beginning on July 1 and ending on June 30 during which the PRIME program is authorized, except that the first PRIME program year shall commence on January 1, 2016, and, as applicable, means each state fiscal year thereafter through the 2019–20 state fiscal year, and any years or partial years during which the PRIME program is authorized under an extension or successor to the ~~demonstration~~. demonstration project.

Within 30 days following federal approval of the protocols setting forth the PRIME projects, metrics, and funding mechanics, each participating PRIME entity shall submit a five-year PRIME project plan containing the specific elements required in the Special Terms and Conditions. The department shall review all five-year PRIME project plans and take action within 60 days to approve or disapprove each five-year PRIME project plan.

Participating PRIME entities may modify projects or metrics in their five-year PRIME project plan, to the extent authorized under the demonstration project and approved by the department.

Each participating PRIME entity shall submit reports to the department twice a year demonstrating progress toward required metric targets. A standardized report form shall be developed jointly by the department and participating PRIME entities for this purpose. The mid-year report shall be due March 31 of each PRIME program year, except that, for the 2015–16 project year only, the submission of an acceptable five-year PRIME project plan in accordance with the Special Terms and Conditions shall constitute the submission of the mid-year report. The yearend report shall be due September 30 following each PRIME program year.

The submission of the project reports pursuant to paragraph (1) shall constitute a request for payment. Amounts payable to the participating PRIME entity shall be determined based on the achievement of the metric targets included in the mid-year report and yearend report, as applicable.

Within 14 days following the submission of the mid-year and yearend reports, the department shall confirm the amounts payable to participating PRIME entities and shall issue requests to each participating PRIME entity for the intergovernmental transfer amounts necessary to draw down the federal funding for the applicable PRIME incentive payment to that entity.

Any intergovernmental transfers provided for purposes of this section shall be deposited in the Public Hospital Investment, Improvement, and Incentive Fund established pursuant to Section 14182.4 and retained pursuant to paragraph (1) of subdivision (f).

Participating PRIME entities or their affiliated governmental agencies or entities shall make the intergovernmental transfer to the department within seven days of receiving the department's request. In the event federal approval for a payment is not obtained, the department shall return the intergovernmental transfer funds to the transferring entity within 14 days.

PRIME payments to a participating PRIME entity shall be conditioned upon the department's receipt of the intergovernmental transfer amount from the applicable entity. If the intergovernmental transfer is made within the appropriate timeframe, the incentive payment shall be disbursed in accordance with paragraph (4), otherwise the payment shall be disbursed within 14 days of when the intergovernmental transfer is provided.

Subject to paragraph (3), and except with respect to the 2015–16 project year, amounts payable based on the mid-year reports shall be paid no later than April 30, and amounts payable based on the yearend report shall be paid no later than October 31. In the event of insufficient or misreported data, these payment deadlines may be extended up to 60 days to allow time for the reports to be adequately corrected for approval for payment. If corrected data is not submitted to enable payment to be made within the extended timeframe, the participating entity shall not receive PRIME payment for the period in question. For the 2015–16 project year only, 25 percent of the annual allocation for the participating PRIME entity shall be payable within 14 days following the approval of the five-year PRIME project plan. The remaining 75 percent of the participating PRIME entity's annual allocation shall be available following the 2015–16 yearend report, subject to the requirements in paragraph (2) of subdivision (e).

The department shall draw down the federal funding and pay both the nonfederal and federal shares of the incentive payment to the participating PRIME entity, to the extent federal financial participation is available.

The amount of PRIME incentive payments payable to a participating PRIME entity shall be determined as follows:

The department shall allocate the full amount of annual funding authorized under the PRIME project pools across all domains, projects, and metrics undertaken in the manner set forth in the Special Terms and Conditions. Separate allocations shall be determined for the designated public hospital system pool and the district and municipal hospital pool. The allocations shall determine the aggregate annual amount of funding that may be earned for each domain, project, and metric for all participating PRIME entities within the appropriate pool.

The department shall allocate the aggregate annual amounts determined for each project and metric under the designated public hospital system pool among participating designated public hospital systems through an allocation methodology that takes into account available system-specific data, primarily based on the unique number of Medi-Cal beneficiaries treated, consistent with the Special Terms and

Conditions. For the 2015–16 project year only, the approval of the five-year PRIME project plans for designated public hospital systems will be considered an appropriate metric target and will equal up to 25 percent of a designated public hospital system’s annual allocation for that year.

The department shall allocate the aggregate annual amounts determined for each project and metric under the district and municipal public hospital system pool among participating district and municipal public hospital systems through an allocation methodology that takes into account available system-specific data that includes Medi-Cal and uninsured care, the number of projects being undertaken, and a baseline floor funding amount, consistent with the Special Terms and Conditions. For the 2015–16 project year only, the approval of the five-year PRIME project plans for district and municipal public hospital systems will be considered an appropriate metric target and will equal up to 25 percent of a district and municipal public hospital system’s annual allocation for that year.

Amounts payable to each participating PRIME entity shall be determined using the methodology described in the Special Terms and Conditions, based on the participating PRIME entity’s progress toward and achievement of the established metrics and targets, as reflected in the mid-year and yearend reports submitted pursuant to paragraph (1) of subdivision (d).

Each participating PRIME entity shall be individually responsible for progress toward and achievement of project specific metric targets during the reporting period.

The amounts allocated pursuant to subparagraphs (A) and (B) of paragraph (1) shall represent the amounts the designated public hospital system or district and municipal public hospital, as applicable, may earn through achievement of a designated project metric target for the applicable year, ~~prior to~~ before any redistribution.

Participating PRIME entities shall earn reduced payment for partial achievement at both the mid-year and yearend reports, as described in the Special Terms and Conditions.

If, at the end of a project year, a project metric target is not fully met by a participating PRIME entity and that entity is not able to fully claim funds that otherwise would have been earned for meeting the metric target, participating PRIME entities shall have the opportunity to earn unclaimed funds under the redistribution methodology established under the Special Terms and Conditions. Amounts earned by a participating PRIME entity through redistribution shall be payable in addition to the amounts earned pursuant to paragraph (2).

The nonfederal share of payments under the PRIME program shall consist of voluntary intergovernmental transfers of funds provided by designated public hospitals or affiliated governmental agencies or entities, or district and municipal public hospitals or affiliated governmental agencies or entities, in accordance with this section.

The Public Hospital Investment, Improvement, and Incentive Fund, established in the State Treasury pursuant to Section 14182.4, shall be retained during the demonstration term for purposes of making PRIME payments to participating PRIME entities. Notwithstanding Section 13340 of the Government Code, moneys deposited in the Public Hospital Investment, Improvement, and Incentive Fund shall be continuously appropriated, without regard to fiscal years, to the department for the purposes specified in this section. All funds derived pursuant to this section shall be deposited in the State Treasury to the credit of the Public Hospital Investment, Improvement, and Incentive Fund.

The Public Hospital Investment, Improvement, and Incentive Fund shall consist of moneys that a designated public hospital or affiliated governmental agency or entity, or a district and municipal public hospital-affiliated governmental agency or entity, elects to transfer to the department for deposit into the fund as a condition of participation in the PRIME program, to the extent permitted under Section 433.51 of Title 42 of the Code of Federal Regulations, the Special Terms and Conditions, and any other applicable federal Medicaid laws. Except as provided in paragraph (3), moneys derived from these intergovernmental transfers in the Public Hospital Investment, Improvement, and Incentive Fund shall be used as the nonfederal share of PRIME program payments authorized under the demonstration project. Any intergovernmental transfer of funds provided for purposes of the PRIME program shall be made as specified in this section. Upon providing any intergovernmental transfer of funds, each transferring entity shall certify that the transferred funds qualify for federal financial participation pursuant to applicable federal Medicaid laws and the Special Terms and Conditions, and in the form and manner as required by the department.

The department shall claim federal financial participation for PRIME incentive payments using moneys derived from intergovernmental transfers made pursuant to this section and deposited in the Public Hospital Investment, Improvement, and Incentive Fund to the full extent permitted by law. The moneys disbursed from the fund, and all associated federal financial participation, shall be distributed only to participating PRIME entities and the governmental agencies or entities to which they are affiliated, as applicable. No moneys derived from intergovernmental transfers on behalf of district and municipal public hospitals, including any associated federal financial participation, shall be used to fund PRIME payments to designated public hospital systems, and likewise, no moneys derived from intergovernmental transfers provided by designated public hospitals or their affiliated governmental agencies or entities, including any associated federal financial participation, shall be used to fund PRIME payments to district and municipal public hospitals. In the event federal financial participation is not available with respect to a payment under this section that results in a recoupment of funds from one or more participating PRIME entities, the department shall return any intergovernmental transfer fund amounts associated with the payment for which federal financial participation is not available to the applicable transferring entities within 14 days from the date of the associated recoupment or other determination, as applicable.

This section shall not be construed to require a designated public hospital, a district and municipal public hospital, or any affiliated governmental agency or entity to participate in the PRIME program. As a condition of participation in the PRIME program, each designated public hospital or affiliated governmental agency or entity, and each district and municipal public hospital-affiliated governmental agency or entity agrees to provide intergovernmental transfers of funds necessary to meet the nonfederal share obligation for any PRIME payments made pursuant to this section and the Special Terms and Conditions. Any intergovernmental transfers made pursuant to this section shall be considered voluntary for purposes of all federal laws.

PRIME incentive payments are intended to support designated public hospital systems in their efforts to change care delivery and strengthen those systems' ability to participate under an alternate payment methodology (APM). APMs shift some level of risk to participating designated public hospital systems through capitation and other risk-sharing agreements. Contracts entered into, issued, or renewed between managed care plans and participating designated public hospital systems shall include language requiring the designated public hospital system to report on metrics to meet quality benchmark goals and to ensure improved patient outcomes, consistent with the Special Terms and Conditions.

In order to promote and increase the level of value-based payments made to designated public hospital systems during the course of the demonstration term, the department shall issue an all-plan letter to Medi-Cal managed care plans that shall promote and encourage positive system transformation. The department shall issue an activities plan supporting designated public hospital system efforts to meet those aggregate APM targets and requirements as provided in the Special Terms and Conditions.

Designated public hospital systems shall contract with at least one Medi-Cal managed care plan in the service area where they operate using an APM methodology by January 1, 2018. If a designated public hospital system is unable to meet this requirement and can demonstrate that it has made a good faith effort to contract with a Medi-Cal managed care plan in the service area that it operates in or a gap in contracting period occurs, the department has the discretion to waive this requirement.

Each designated public hospital system shall report to the department, in a format determined by the department in consultation with the designated public hospital systems and Medi-Cal managed care plans, a summary of the contracting arrangement the designated public hospital system has with Medi-Cal managed care plans and the scope of services covered under the contract.

It is the intent of the Legislature to encourage contracting between designated public hospital systems and multiple Medi-Cal managed care plans so that Medi-Cal members have access to medically necessary and appropriate covered services.

Designated public hospital systems and Medi-Cal managed care plans shall seek to strengthen their data and information sharing for purposes of identifying and treating applicable beneficiaries, including the timely sharing and reporting of beneficiary data, assessment, and treatment information. Consistent with the Special Terms and Conditions and the goals of the demonstration project, and notwithstanding any other state law, the department shall provide guidelines, state-level infrastructure, and other mechanisms to support this data and information sharing.

SEC. 275.

Section 14184.60 of the Welfare and Institutions Code is amended to read:

14184.60.

The department shall establish and operate the Whole Person Care pilot program as authorized under the demonstration project to allow for the development of WPC pilots focused on target populations of high-risk, high-utilizing Medi-Cal beneficiaries in local geographic areas. The overarching goal of the program is the coordination of health, behavioral health, and social services, as applicable, in a patient-centered manner to improve beneficiary health and well-being through a more efficient and effective use of resources.

The Whole Person Care (WPC) pilots shall provide an option to a county, a city and county, a health or hospital authority, or a consortium of any of the above entities serving a county or region consisting of more than one county, to receive support to integrate care for particularly vulnerable Medi-Cal beneficiaries who have been identified as high users of multiple systems and who continue to have or are at-risk of poor health outcomes. Through collaborative leadership and systematic coordination among public and private entities, pilot entities will identify common beneficiaries, share data between systems, coordinate care in real time, and evaluate individual and population progress in order to meet the goal of providing comprehensive coordinated care for the beneficiary resulting in better health outcomes.

Investments in the localized pilots will build and strengthen relationships and systems infrastructure and will improve collaboration among WPC lead entities and WPC participating

entities. The results of the WPC pilots will provide learnings for potential future local efforts beyond the term of the demonstration.

WPC pilots shall include specific strategies to increase integration among local governmental agencies, health plans, providers, and other entities that serve high-risk, high-utilizing beneficiaries; increase coordination and appropriate access to care for the most vulnerable Medi-Cal beneficiaries; reduce inappropriate inpatient and emergency room utilization; improve data collection and sharing among local entities; improve health outcomes for the WPC target population; and may include other strategies to increase access to housing and supportive services.

WPC pilots shall be approved by the department through the process outlined in the Special Terms and Conditions.

Receipt of Whole Person Care services is voluntary. Individuals receiving these services shall agree to participate in the WPC pilot, and may opt out at any time.

For purposes of this article, the following definitions ~~shall~~ apply:

“Medi-Cal managed care plan” means an organization or entity that enters into a contract with the department pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.81 (commencing with Section 14087.96), Article 2.91 (commencing with Section 14089), or Chapter 8 (commencing with Section 14200).

“WPC community partner” means an entity or organization identified as participating in the WPC pilot that has significant experience serving the target population within the pilot’s geographic area, including physician groups, community clinics, hospitals, and community-based organizations.

“WPC lead entity” means the entity designated for a WPC pilot to coordinate the Whole Person Care pilot and to be the single point of contact for the department. WPC lead entities may be a county, a city and county, a health or hospital authority, a designated public hospital, a district and municipal public hospital, or an agency or department thereof, a federally recognized tribe, a tribal health program operated under a Public Law 93-638 contract with the federal Indian Health Service, or a consortium of any of these entities.

“WPC participating entity” means those entities identified as participating in the WPC pilot, other than the WPC lead entity, including other local governmental entities, agencies within local governmental entities, Medi-Cal managed care plans, and WPC community partners.

“WPC target population” means the population or populations identified by a WPC pilot through a collaborative data approach across partnering entities that identifies common Medi-Cal high-risk, high-utilizing beneficiaries who frequently access urgent and emergency services, including across multiple systems. At the discretion of the WPC lead entity, and in accordance with guidance as may be issued by the department during the application process and approved by the department, the WPC target population may include individuals who are not Medi-Cal patients, subject to the funding restrictions in the Special Terms and Conditions regarding the availability of federal financial participation for services provided to these individuals.

WPC pilots shall have flexibility to develop financial and administrative arrangements to encourage collaboration with regard to pilot activities subject to the Special Terms and Conditions, the provisions

of any WPC pilot agreements with the department, and the applicable provisions of state and federal law, and any other guidance issued by the department.

The WPC lead entity shall be responsible for operating the WPC pilot, conducting ongoing monitoring of WPC participating entities, arranging for the required reporting, ensuring an appropriate financial structure is in place, and identifying and securing a permissible source of the nonfederal share for WPC pilot payments.

Each WPC pilot shall include, at a minimum, all of the following entities as WPC participating entities in addition to the WPC lead entity. If a WPC lead entity cannot reach an agreement with a required participant, the WPC lead entity may request an exception to this requirement from the department.

At least one Medi-Cal managed care plan operating in the geographic area of the WPC pilot to work in partnership with the WPC lead entity when implementing the pilot specific to Medi-Cal managed care beneficiaries.

The health services agency or agencies or department or departments for the geographic region where the WPC pilot operates, or any other public entity operating in that capacity for the county or city and county.

The local entities, agencies, or departments responsible for specialty mental health services for the geographic area where the WPC pilot operates.

At least one other public agency or department, which may include, but is not limited to, county alcohol and substance use disorder programs, human services agencies, public health departments, criminal justice or probation entities, and housing authorities, regardless of how many of these fall under the same agency head within the geographic area where the WPC pilot operates.

At least two other community partners serving the target population within the applicable geographic area.

The department shall enter into a pilot agreement with each WPC lead entity approved for participation in the WPC pilot program. The information and terms of the approved WPC pilot application shall become the pilot agreement between the department and the WPC lead entity submitting the application and shall set forth, at a minimum, the amount of funding that will be available to the WPC pilot and the conditions under which payments will be made, how payments may vary or under which the pilot program may be terminated or restricted. The pilot agreement shall include a data sharing agreement that is sufficient in scope for purposes of the WPC pilot, and an agreement regarding the provision of the nonfederal share. The pilot agreement shall specify reporting of universal and variant metrics that shall be reported by the pilot on a timeline specified by the department and projected performance on them. The pilot agreement may include additional components and requirements as issued by the department during the application process. Modifications to the WPC pilot activities and deliverables may be made on an annual basis in furtherance of WPC pilot objectives, to incorporate learnings from the operation of the WPC pilot as approved by the department.

Notwithstanding any other law, including, but not limited to, Section 5328 of this code, and Sections 11812 and 11845.5 of the Health and Safety Code, the sharing of health information, records, and other data with and among WPC lead entities and WPC participating entities shall be permitted to the extent necessary for the activities and purposes set forth in this section. This provision shall also apply to the sharing of health information, records, and other data with and among prospective WPC lead entities and WPC participating entities in the process of identifying a proposed target population and preparing an application for a WPC pilot.

WPC pilots may target the focus of their pilot on individuals at risk of or experiencing homelessness who have a demonstrated medical need, including behavioral health needs, for housing or supportive services, subject to the restrictions on funding contained in the Special Terms and Conditions. In these instances, WPC participating entities may include local housing authorities, local continuum of care (CoCs) programs, community-based organizations, and others serving the homeless population as entities collaborating and participating in the WPC pilot. WPC pilot housing interventions may include the following:

Tenancy-based care management services. For purposes of this section, “tenancy-based care management services” means supports to assist the target population in locating and maintaining medically necessary housing. These services may include the following:

Individual housing transition services, such as individual outreach and assessments.

Individual housing and tenancy-sustaining services, including tenant and landlord education and tenant coaching.

Housing-related collaborative activities, such as services that support collaborative efforts across public agencies and the private sector that assist WPC participating entities in identifying and securing housing for the target population.

Countywide housing pools.

WPC pilots may establish a countywide housing pool (housing pool) that will directly provide needed support for medically necessary housing services, with the goal of improving access to housing and reducing churn in the Medi-Cal population.

The housing pool may be funded through WPC pilot payments or direct contributions from community entities, or from ~~State~~ state or local government. WPC pilot payments for the operation of a housing pool shall be subject to the restrictions in the Special Terms and Conditions and other applicable provisions of federal law. Housing pool funds that are not WPC pilot payments shall be maintained separately from WPC pilot payments and may be allocated to fund support for long-term housing, including rental housing subsidies. The housing pool may leverage local resources to increase access to subsidized housing units. The housing pool may also incorporate a financing component to reallocate or reinvest a portion of the savings from the reduced utilization of health care services into the housing pool. As applicable to an approved WPC pilot, WPC investments in housing units or housing subsidies, including any payment for room and board, shall not be eligible for federal financial participation, unless recognized as reimbursable under federal Centers for Medicare and Medicaid Services policy.

Payments to WPC pilots shall be disbursed twice a year to the WPC lead entity following the submission of the reports required pursuant to subdivision (f), to the extent all applicable requirements are met. The amount of funding for each WPC pilot and the timing of the payments shall be specified by the department upon the department approving a WPC application, consistent with the Special Terms and Conditions. During the 2016 calendar year only, payments shall be available for the planning, development, and submission of a successful WPC pilot application, including the submission of deliverables as set forth in the WPC pilot application and the WPC pilot annual report, to the extent authorized under the demonstration project and approved by the department.

The department shall issue a WPC pilot application and selection criteria consistent with the Special Terms and Conditions, under which applicants shall demonstrate the ability to meet the goals of the WPC pilots as outlined in this section and the Special Terms and Conditions. The department shall

approve applicants that meet the WPC pilot selection criteria established by the department, and shall allocate available funding to those approved WPC pilots up to the full amount of federal financial participation authorized under the demonstration project for WPC pilots during each calendar year from 2016 to 2020, inclusive, to the extent there are sufficient numbers of applications that meet the applicable criteria. In the event that otherwise unallocated federal financial participation is available after the initial award of WPC pilots, the department may solicit applications for the remaining available funds from WPC lead entities of approved WPC pilots or from additional applicants, including applicants not approved during the initial application process.

In the event a WPC pilot does not receive its full annual payment amount, the WPC lead entity may request that the remaining funds be carried forward into the following calendar year, or may amend the scope of the WPC pilot, including, services, activities, or enrollment, for which this unallocated funding may be made available, subject to the Special Terms and Conditions and approval by the department. If the department denies a WPC lead entity request to carry forward unused funds and funds are not disbursed in this manner, the department may make the unexpended funds available for other WPC pilots or additional applicants not approved during the initial application process, to the extent authorized in the Special Terms and Conditions.

Payments to the WPC pilot are intended to support infrastructure to integrate services among local entities that serve the WPC target population, to support the availability of services not otherwise covered or directly reimbursed by Medi-Cal to improve care for the WPC target population, and to foster other strategies to improve integration, reduce unnecessary utilization of health care services, and improve health outcomes. WPC pilot payments shall not be considered direct reimbursement for expenditures incurred by WPC lead entities or WPC participating entities in implementing these strategies or reforms. WPC pilot payments shall not be considered payments for services otherwise reimbursable under the Medi-Cal program, and shall not offset or otherwise supplant payment amounts otherwise payable by the Medi-Cal program, including payments to and by Medi-Cal managed care plans, for Medi-Cal covered services.

WPC pilots are not intended as, and shall not be construed to constitute, health care coverage for individuals receiving services, and WPC pilots may determine the scope, type, and extent to which services are available, to the extent consistent with the Special Terms and Conditions. For purposes of the WPC pilots, WPC lead entities shall be exempt from ~~the provisions of~~ Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, and shall not be considered Medi-Cal managed care health plans subject to the requirements applicable to the two-plan model and geographic managed care plans, as contained in Article 2.7 (commencing with Section 14087.3), Article 2.81 (commencing with Section 14087.96), and Article 2.91 (commencing with Section ~~14089~~) ~~of Chapter 7 of Part 3 and 14089~~, and the corresponding regulations, and shall not be considered prepaid health plans, as defined in Section 14251.

WPC lead entities shall submit mid-year and annual reports to the department, in accordance with the schedules and guidelines established by the department and consistent with the Special Terms and Conditions. No later than 60 days after submission, the department shall determine the extent to which pilot requirements were met and the associated interim or annual payment due to the WPC pilot.

The department, in collaboration with WPC lead entities, shall facilitate learning collaboratives to allow WPC pilots to share information and lessons learned from the operation of the WPC pilots, best practices with regard to specific beneficiary populations, and strategies for improving coordination and data sharing among WPC pilot entities.

The nonfederal share of any payments under the WPC pilot program shall consist of voluntary intergovernmental transfers of funds provided by participating governmental agencies or entities, in accordance with this section and the terms of the pilot agreement.

The Whole Person Care Pilot Special Fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys deposited in the Whole Person Care Pilot Special Fund pursuant to this section shall be continuously appropriated, without regard to fiscal years, to the department for the purposes specified in this section. All funds derived pursuant to this section shall be deposited in the State Treasury to the credit of the Whole Person Care Pilot Special Fund.

The Whole Person Care Pilot Special Fund shall consist of moneys that a participating governmental agency or entity elects to transfer to the department into the fund as a condition of participation in the WPC pilot program, to the extent permitted under Section 433.51 of Title 42 of the Code of Federal Regulations, the Special Terms and Conditions, and any other applicable federal Medicaid laws. Except as provided in paragraph (3), moneys derived from these intergovernmental transfers in the Whole Person Care Pilot Special Fund shall be used as the nonfederal share of Whole Person Care pilot payments authorized under the demonstration project. Any intergovernmental transfer of funds provided for purposes of the WPC pilot program shall be made as specified in this section. Upon providing any intergovernmental transfer of funds, each transferring entity shall certify that the transferred funds qualify for federal financial participation pursuant to applicable federal Medicaid laws and the Special Terms and Conditions, and in the form and manner as required by the department.

The department shall claim federal financial participation for WPC pilot payments using moneys derived from intergovernmental transfers made pursuant to this section and deposited in the Whole Person Care Pilot Special Fund to the full extent permitted by law. The moneys disbursed from the fund, and all associated federal financial participation, shall be distributed to WPC lead entities in accordance with paragraph (1) of subdivision (e). In the event federal financial participation is not available with respect to a payment under this section and either is not obtained, or results in a recoupment of funds from one or more WPC lead entities, the department shall return any intergovernmental transfer fund amounts associated with the payment for which federal financial participation is not available to the applicable transferring entities within 14 days from the date of the associated recoupment or other determination, as applicable.

This section shall not be construed to require any local governmental agency or entity, or any other provider, plan, or similar entity, to participate in the WPC pilot program. As a condition of participation in the WPC pilot program, participating governmental agencies or entities agree to provide intergovernmental transfers of funds necessary to meet the nonfederal share obligation for any Whole Person Care pilot program payment made pursuant to this section and the Special Terms and Conditions. Any intergovernmental transfer of funds made pursuant to this section shall be considered voluntary for purposes of all federal law. No state General Fund moneys shall be used to fund the nonfederal share of any WPC pilot program payment.

SEC. 276.

Section 14184.70 of the Welfare and Institutions Code is amended to read:

14184.70.

The department shall implement the Dental Transformation Initiative, or DTI, in accordance with the Special Terms and Conditions, with the goal of improving the oral health care for Medi-Cal children zero to ~~20, inclusive, years of age.~~ 20 years of age, inclusive.

The DTI is intended to improve the oral health care for Medi-Cal children with a particular focus on increasing the statewide proportion of qualifying children enrolled in the Medi-Cal Dental Program who receive a preventive dental service by 10 percentage points over a five-year period.

The DTI includes the following four domains as outlined in the Special Terms and Conditions:

Preventive Services.

Caries Risk Assessment.

Continuity of Care.

Local Dental Pilot Projects.

Under the DTI, incentive payments within each domain will be available to qualified providers who meet the requirements of the domain.

For purposes of this article, the following definitions ~~shall~~ apply:

“DTI incentive payment” means a payment made to an eligible contracted service office location pursuant to the DTI component of the Special Terms and Conditions.

“DTI pool” means the funding available under the Special Terms and Conditions for the purposes of the DTI program, as described in paragraph (1) of subdivision (c).

“DTI program year” means a calendar year beginning on January 1 and ending on December 31 during which the DTI component is authorized under the Special Terms and Conditions, beginning with the 2016 calendar year, and, as applicable, each calendar year thereafter through 2020, and any years or partial years during which the DTI is authorized under an extension or successor to the demonstration project.

“Safety net clinics” means centers or clinics that provide services defined under subdivision (a) or (b) of Section 14132.100 that are eligible for DTI incentive payments in accordance with the Special Terms and Conditions. DTI incentive payments received by safety net clinics shall be considered separate and apart from either the Prospective Payment System reimbursement for federally qualified health centers or rural health centers, or Memorandum of Agreement reimbursement for Tribal Health Centers. Each safety net clinic office location shall be considered a dental service office location for purposes of the domains authorized by the Special Terms and Conditions.

“Service office location” means the business, or pay-to address, in which the provider, which may be an individual, partnership, group, association, corporation, institution, or entity that provides dental services, renders dental services. This may include a provider that participates in either the dental fee-for-service or dental managed care Medi-Cal delivery systems.

The DTI shall be funded at a maximum of one hundred forty-eight million dollars (\$148,000,000) annually, and for five years totaling a maximum of seven hundred forty million dollars (\$740,000,000), except as provided in the Special Terms and Conditions. To the extent any of the funds associated with the DTI are not fully expended in a given DTI program year, those remaining prior DTI program year funds may be available for DTI payments in subsequent years, notwithstanding the annual limits stated in the Special Terms and Conditions. The department may earn additional demonstration authority, up to a maximum of ten million dollars (\$10,000,000), to be added to the DTI pool for use in paying incentives to qualifying providers under DTI by achieving higher performance improvement, as indicated in the Special Terms and Conditions.

Providers in either the dental fee-for-service or dental managed care Medi-Cal delivery systems are permitted to participate in the DTI. The department shall make DTI incentive payments directly to eligible contracted service office locations. Incentive payments shall be issued to the service office location based on the services rendered at the location and that service office location's compliance with the criteria enumerated in the Special Terms and Conditions.

Incentive payments from the DTI pool are intended to support and reward eligible service office locations for achievements within one or more of the project domains. The incentive payments shall not be considered as a direct reimbursement for dental services under the Medi-Cal State Plan.

The department may provide DTI incentive payments to eligible service office locations on a semiannual or annual basis, or in a manner otherwise consistent with the Special Terms and Conditions.

The department shall disburse DTI incentive payments to eligible service office locations that did not previously participate in Medi-Cal ~~prior to~~ before the demonstration and that render preventive dental services during the demonstration to the extent the service office location meets or exceeds the goals specified by the department in accordance with the Special Terms and Conditions.

Safety net clinics are eligible for DTI incentive payments specified in the Special Terms and Conditions. Participating safety net clinics shall be responsible for submitting data in a manner specified by the department for receipt of DTI incentive payments. Each safety net clinic office location shall be considered a dental service office location for purposes of specified domains outlined in the Special Terms and Conditions.

Dental managed care provider service office locations are eligible for DTI incentive payments, as specified in the Special Terms and Conditions, and these payments shall be considered separate from payment received from a dental managed care plan.

Service office locations shall submit all data in a manner acceptable to the department within one year from the date of service or by January 31 for the preceding year that the service was rendered, whichever occurs sooner, to be eligible for DTI incentive payments associated with that timeframe.

The domains of the DTI are as follows:

Increase Preventive Services Utilization for Children: ~~this~~ This domain aims to increase the statewide proportion of qualifying children enrolled in Medi-Cal who receive a preventive dental service in a given year. The statewide goal is to increase the utilization among children enrolled in the dental fee-for-service and dental managed care delivery systems by at least 10 percentage points by the end of the demonstration.

Caries Risk Assessment and Disease Management Pilot:

This domain will initially only be available to participating service office locations in select pilot counties, designated by the department, as specified in the Special Terms and Conditions. Participating service office locations shall elect to be approved by the department to participate in this domain of the DTI program. To the extent the department determines the pilots to be successful, the department may seek to implement this domain on a statewide basis and subject to the availability of funding under the DTI pool ~~is~~ available for this purpose.

Medi-Cal dentists voluntarily participating in this pilot shall be eligible to receive DTI incentive payments for implementing preidentified treatment plans for children based upon that child beneficiary's risk level as determined by the service office location via a caries risk assessment, which shall include motivational interviewing and use of antimicrobials, as indicated. The department shall identify the criteria and preidentified treatment plans to correspond with the varying degrees of caries risk, low, moderate, and high, while the rendering provider shall develop and implement the appropriate treatment plan based on the needs of the beneficiary.

The department shall identify and select pilot counties through an analysis of counties with a high percentage of restorative services, a low percentage of preventive services, and indication of likely participation by enrolled service office locations.

Increase ~~continuity of care~~: **Continuity of Care**: A DTI incentive payment shall be paid to eligible service office locations that have maintained continuity of care through providing examinations for their enrolled child beneficiaries under 21 years of age, as specified in the Special Terms and Conditions. The department shall begin this effort in select counties and shall seek to implement on a statewide basis if the pilot is determined to be successful and subject to the availability of funding under the DTI pool. If successful, the department shall consider an expansion no sooner than nine months following the end of the second DTI program year.

Local ~~dental pilot projects~~ **Dental Pilot Projects** (LDPPs): LDPPs shall address one or more of the three domains identified in paragraph (1), (2), or (3) through alternative local dental pilot projects, as authorized by the department pursuant to the Special Terms and Conditions.

The department shall require local pilots to have broad-based provider and community support and collaboration, including engagement with tribes and Indian health programs, with DTI incentive payments available to the pilot based on goals and metrics that contribute to the overall goals of the domains described in paragraphs (1), (2), and (3).

The department shall solicit proposals at the beginning of the demonstration and shall review, approve, and make DTI incentive payments to approved LDPPs in accordance with the Special Terms and Conditions.

A maximum of 15 LDPPs shall be approved and no more than 25 percent of the total funding in the DTI pool shall be used for LDPPs.

SEC. 277.

Section 14184.80 of the Welfare and Institutions Code is amended to read:

14184.80.

Within 90 days of the effective date of the act that added this section, the department shall amend its contract with the external quality review organization (EQRO) currently under contract with the department and approved by the federal Centers for Medicare and Medicaid Services to complete an access assessment. This one-time assessment is intended to do all of the following:

Evaluate primary, core specialty, and facility access to care for managed care beneficiaries based on the current health plan network adequacy requirements set forth in the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and Medicaid managed care contracts, as applicable.

Consider State Fair Hearing and Independent Medical Review (IMR) decisions, and grievances and appeals or complaints data.

Report on the number of providers accepting new beneficiaries.

The department shall submit to the federal Centers for Medicare and Medicaid Services for approval the access assessment design no later than 180 days after approval by the federal Centers for Medicare and Medicaid Services of the EQRO contract amendment.

The department shall establish an advisory committee that will provide input into the structure of the access assessment. The EQRO shall work with the department to establish the advisory committee, which will provide input into the assessment structure, including network adequacy requirements and metrics, that should be considered.

The advisory committee shall include one or more representatives of each of the following stakeholders to ensure diverse and robust input into the assessment structure and feedback on the initial draft access assessment report:

Consumer advocacy organizations.

Provider associations.

Health plans and health plan associations.

Legislative staff.

The advisory committee shall do all of the following:

Begin to convene within 60 days of approval by the federal Centers for Medicare and Medicaid Services of the EQRO contract amendment.

Participate in a minimum of two meetings, including an entrance and exit event, with all events and meetings open to the public.

Provide all of the following:

Feedback on the access assessment structure.

An initial draft access assessment report.

Recommendations that shall be made available on the department's Internet Web site.

The EQRO shall produce and publish an initial draft and a final access assessment report that includes a comparison of health plan network adequacy compliance across different lines of business. The report shall include recommendations in response to any systemic network adequacy issues, if identified. The initial draft and final report shall describe the state's current compliance with the access and network adequacy standards set forth in the Medicaid Managed Care proposed rule (80 FR 31097) or the finalized Part 438 of Title 42 of the Code of Federal Regulations, if published ~~prior to~~ before submission of the assessment design to the federal Centers for Medicare and Medicaid Services.

The access assessment shall do all of the following:

Measure health plan compliance with network adequacy requirements as set forth in the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and Medicaid managed care contracts, as applicable. The assessment shall consider State Fair Hearing and IMR decisions, and grievances and

appeals or complaints data, and any other factors as selected with input from the advisory committee.

Review encounter data, including a review of data from subcapitated plans.

Measure health plan compliance with timely access requirements, as set forth in the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and Medicaid managed care contracts using a sample of provider-level data on the soonest appointment availability.

Review compliance with network adequacy requirements for managed care plans, and other lines of business for primary and core specialty care areas and facility access, as set forth in the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and Medicaid managed care contracts, as applicable, across the entire health plan network.

Applicable network adequacy requirements of the proposed or final Notice of Proposed Rulemaking, as determined under the approved access assessment design, that are not already required under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) shall be reviewed and reported on against a metric range as identified by the department and approved by the federal Centers for Medicare and Medicaid Services in the access assessment design.

Determine health plan compliance with network adequacy through reviewing information or data from a one-year period using validated network data and utilize it for the time period following conclusion of the preassessment stakeholder process but no sooner than the second half of the 2016 calendar year in order to ensure use of the highest quality data source available.

Measure managed care plan compliance with network adequacy requirements within the department and managed care plan contract service areas using the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and network adequacy standards within Medicaid managed care contracts, accounting for each of the following:

- Geographic differences, including provider shortages at the local, state, and national levels, as applicable.

- Previously approved alternate network access standards, as provided for under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and Medicaid managed care contracts.

- Access to in-network providers and out-of-network providers separately, presented and evaluated separately, when determining overall access to care.

- The entire network of providers available to beneficiaries ~~as~~ at the state contractor plan level.

- Other modalities used for accessing care, including telemedicine.

The department shall post the initial draft report for a 30-day public comment period after it has incorporated the feedback from the advisory committee. The initial draft report shall be posted for public comment no later than 10 months after the federal Centers for Medicare and Medicaid Services approves the assessment design.

The department shall also make publicly available the feedback from the advisory committee at the same time it posts the initial draft of the report.

The department shall submit the final access assessment report to the federal Centers for Medicare and Medicaid Services no later than 90 days after the initial draft report is posted for public comment.

SEC. 278.

Section 14717.1 of the Welfare and Institutions Code is amended to read:

14717.1.

It is the intent of the Legislature to ensure that foster children who are placed outside of their county of original jurisdiction are able to access specialty mental health services in a timely manner, consistent with their individual strengths and needs and the requirements of federal Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services.

It is the further intent of the Legislature to overcome any barriers to care that may result when responsibility for providing or arranging for specialty mental health services to foster children who are placed outside of their county of original jurisdiction is retained by the county of original jurisdiction.

In order to facilitate the receipt of medically necessary specialty mental health services by a foster child who is placed outside of his or her county of original jurisdiction, the California Health and Human Services Agency shall coordinate with the department and the State Department of Social Services to take all of the following actions on or before July 1, 2017:

The department shall issue policy guidance concerning the conditions for and exceptions to presumptive transfer, as described in subdivisions (c) and (d), in consultation with the State Department of Social Services and with the input of stakeholders that include the County Welfare Directors Association of California, the Chief Probation Officers of California, the County Behavioral Health Directors Association of California, provider representatives, and family and youth advocates.

Policy guidance concerning the conditions for and exceptions to presumptive transfer shall ensure that:

The transfer of responsibility improves access to specialty mental health care services consistent with the mental health needs of the foster youth.

Presumptive transfer does not disrupt the continuity of care.

Conditions and exceptions are applied consistently ~~statewide~~ statewide, giving due consideration to the varying capabilities of small, medium, and large counties.

Presumptive transfer can be waived only with an individualized determination that an exception applies.

A party to the case who disagrees with the presumptive transfer individualized exception determination made by the county placing agency pursuant to subdivision (d) is afforded an opportunity to request judicial review ~~prior to~~ before a transfer or exception being finalized.

There is a procedure for expedited transfer within 48 hours of placement of the child outside of the county of original jurisdiction.

“Presumptive transfer,” for the purposes of this section, means that absent any exceptions as established pursuant to this section, responsibility for providing or arranging for specialty mental health services

shall promptly transfer from the county of original jurisdiction to the county in which the foster child resides, under either of the following conditions:

A foster child is placed in a county other than the county of original jurisdiction on or after July 1, 2017.

A foster youth who resides in a county other than the county of original jurisdiction after June 30, 2017, and is not receiving specialty mental health services consistent with his or her mental health needs, requests transfer of responsibility. A foster child who resided in a county other than the county of original jurisdiction after June 30, 2017, and who continues to reside outside the county of original jurisdiction after December 31, 2017, shall have jurisdiction transferred no later than the child's first regularly scheduled status review hearing conducted pursuant to Section 366 in the 2018 calendar year unless an exception described under subdivision (d) applies.

On a case-by-case basis, and when consistent with the medical rights of children in foster care, presumptive transfer may be waived and the responsibility for the provision of specialty mental health services shall remain with the county of original jurisdiction if any of the exceptions described in paragraph (5) exist.

A request for waiver in a manner established by the department may be made by the foster child, the person or agency that is responsible for making mental health care decisions on behalf of the foster child, the county probation agency or the child welfare services agency with responsibility for the care and placement of the child, or any other interested party who owes a legal duty to the child involving the child's health or welfare, as defined by the department.

The county probation agency or the child welfare services agency with responsibility for the care and placement of the child, in consultation with the child and his or her parent, the child and family team if one exists, and other professionals who serve the child as appropriate, is responsible for determining whether waiver of the presumptive transfer is appropriate pursuant to the conditions and exceptions established under this section. The person who requested the exception, along with any other parties to the case, shall receive notice of the county agency's determination.

The individual who requested the exception or any other party to the case who disagrees with the determination made by the county agency pursuant to paragraph (3) may request judicial review ~~prior to~~ before the county's determination becoming final. The court may set the matter for hearing and may confirm or deny the transfer of jurisdiction or application of an exception based on the best interest of the child.

Presumptive transfer may be waived under any of the following exceptions:

It is determined that the transfer would disrupt continuity of care or delay access to services provided to the foster child.

It is determined that the transfer would interfere with family reunification efforts documented in the individual case plan.

The foster child's placement in a county other than the county of original jurisdiction is expected to last less than six months.

The foster child's residence is within 30 minutes of travel time to his or her established specialty mental health care provider in the county of original jurisdiction.

A waiver processed based on an exception to presumptive transfer shall be contingent upon the mental health plan in the county of original jurisdiction demonstrating an existing contract with a specialty mental health care provider, or the ability to enter into a contract within 30 days of the waiver decision, and the ability to deliver timely specialty mental health services directly to the foster child. That information shall be documented in the child's case plan.

A request for waiver, the exceptions claimed as the basis for the request, a determination whether a waiver is determined to be appropriate under this section, and any objections to the determination shall be documented in the foster child's case plan pursuant to Section 16501.1.

If the mental health plan in the county of original jurisdiction has completed an assessment of needed services for the foster child, the mental health plan in the county in which the foster child resides shall accept that assessment. The mental health plan in the county in which the foster child resides may conduct additional assessments if the foster child's needs change or an updated assessment is needed to determine the child's needs and identify the needed treatment and services to address those needs.

Upon presumptive transfer, the mental health plan in the county in which the foster child resides shall assume responsibility for the authorization and provision of specialty mental health services and payments for services. The foster child transferred to the mental health plan in the county in which the foster child resides shall be considered part of the county of residence caseload for claiming purposes from the Behavioral Health Subaccount and the Behavioral Health Services Growth Special Account, both created pursuant to Section 30025 of the Government Code.

The State Department of Social Services and the State Department of Health Care Services shall adopt regulations by July 1, 2019, to implement this section. Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services and the State Department of Health Care Services may implement and administer the changes made by this legislation through all-county letters, information notices, or similar written instructions until regulations are adopted.

If the department determines it is necessary, it shall seek approval from the United States Department of Health and Human Services, federal Centers for Medicare and Medicaid Services (CMS) ~~prior to~~ before implementing this section.

If the department makes the determination that it is necessary to seek CMS approval pursuant to subdivision (h), the department shall make an official request for approval from CMS no later than January 1, 2017.

This section shall be implemented only if and to the extent that federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. ~~1396~~, 1396 et seq.) is available and all necessary federal approvals have been obtained.

SEC. 279.

Section 14717.5 of the Welfare and Institutions Code is amended to read:

14717.5.

A mental health plan review shall be conducted annually by an external quality review organization (EQRO) pursuant to federal regulations at 42 C.F.R. 438.350 et ~~seq.~~ seq. Commencing July 1, 2018, the review shall include specific data for Medi-Cal eligible minor and nonminor dependents in foster care, including all of the following:

The number of Medi-Cal eligible minor and nonminor dependents in foster care served each year.

Details on the types of mental health services provided to children, including prevention and treatment services. These types of services may include, but are not limited to, screenings, assessments, home-based mental health services, outpatient services, day treatment services or inpatient services, psychiatric hospitalizations, crisis interventions, case management, and psychotropic medication support services.

Access to, and timeliness of, mental health services, as described in Sections 1300.67.2, 1300.67.2.1, and 1300.67.2.2 of Title 28 of the California Code of Regulations and consistent with Section 438.206 of Title 42 of the Code of Federal Regulations, available to Medi-Cal eligible minor and nonminor dependents in foster care.

Quality of mental health services available to Medi-Cal eligible minor and nonminor dependents in foster care.

Translation and interpretation services, consistent with Section 438.10(c)(4) and (5) of Title 42 of the Code of Federal Regulations and Section 1810.410 of Title 9 of the California Code of Regulations, available to Medi-Cal eligible minor and nonminor dependents in foster care.

Performance data for Medi-Cal eligible minor and nonminor dependents in foster care.

Utilization data for Medi-Cal eligible minor and nonminor dependents in foster care.

Medication monitoring consistent with the child welfare psychotropic medication measures developed by the State Department of Social Services and any Healthcare Effectiveness Data and Information Set (HEDIS) measures related to psychotropic medications, including, but not limited to, the following:

- Follow-Up Care for Children Prescribed Attention Deficit Hyperactivity Disorder Medication (HEDIS ADD).

- Use of Multiple Concurrent Antipsychotics in Children and Adolescents (HEDIS APC).

- Use of First-Line Psychosocial Care for Children and Adolescents on Antipsychotics (HEDIS APP).

- Metabolic Monitoring for Children and Adolescents on Antipsychotics (HEDIS APM).

The department shall post the EQRO data disaggregated by Medi-Cal eligible minor and nonminor dependents in foster care on the department's Internet Web site in a manner that is publicly accessible.

The department shall review the EQRO data for Medi-Cal eligible minor and nonminor dependents in foster care.

If the EQRO identifies deficiencies in a mental health plan's ability to serve Medi-Cal eligible minor and nonminor dependents in foster care, the department shall notify the mental health plan in writing of identified deficiencies.

The mental health plan shall provide a written corrective action plan to the department within 60 days of receiving the notice required pursuant to paragraph ~~(2)~~ (3). The department shall notify the mental health plan of approval of the corrective action plan or shall request changes, if necessary, within 30 days after receipt of the corrective action plan. Final corrective action plans shall be made publicly available by, at minimum, posting on the department's Internet Web site.

To the extent possible, the department shall, in connection with its duty to implement Section 14707.5, share with county boards of supervisors data that will assist in the development of mental health service plans, such as data described in federal regulations at 42 C.F.R. 438.350 et seq., ~~in~~ subdivision (c) of Section ~~16501.4~~, [16501.4 of this code](#), and ~~in~~ paragraph (1) of subdivision (a) of Section 1538.8 of the Health and Safety Code.

The department shall annually share performance outcome system data with county boards of supervisors for the purpose of informing mental health service plans. Performance outcome system data shared with county boards of supervisors shall include, but not be limited to, the following disaggregated data for Medi-Cal eligible minor and nonminor dependents in foster care:

- The number of youth receiving specialty mental health services.

- The racial distribution of youth receiving specialty mental health services.

- The gender distribution of youth receiving specialty mental health services.

- The number of youth, by race, with one or more specialty mental health service visits.

- The number of youth, by race, with five or more specialty mental health service visits.

- Utilization data for intensive home services, intensive care coordination, case management, therapeutic behavioral services, medication support services, crisis intervention, crisis stabilization, full-day intensive treatment, full-day treatment, full-day rehabilitation, and hospital inpatient days.

- A unique count of youth receiving specialty mental health services who are arriving, exiting, and continuing with services.

The department shall ensure that the performance outcome system data metrics include disaggregated data for Medi-Cal eligible minor and nonminor dependents in foster care. These data shall be in a format that can be analyzed.

SEC. 280.

Section 18250 of the Welfare and Institutions Code is amended to read:

18250.

It is the intent of the Legislature that all counties be authorized to provide children with service alternatives to out-of-home [care](#) through the development of expanded family based services programs. These programs shall include individualized or “wraparound” services, where services are wrapped around a child living with his or her birth parent, relative, nonrelative extended family member as defined in Section 362.7, adoptive parent, licensed or certified foster parent, or guardian. The wraparound services developed under this section shall build on the strengths of each eligible child and family and be tailored to address their unique and changing needs.

It is further the intent of the Legislature that the county wraparound services program include the following elements:

- Enabling the county to access all possible sources of federal funds for the purpose of developing family based service alternatives.

- Encouraging collaboration among persons and entities including, but not limited to, parents, county welfare departments, county mental health departments, county probation departments, county health departments, special education local planning agencies, school districts, and private service providers for the purpose of planning and providing individualized services for children and their birth or substitute families.

Ensuring local community participation in the development and implementation of wraparound services by county placing or referring agencies and service providers.

Preserving and using the service resources and expertise of nonprofit providers to develop family based and community-based service alternatives.

Beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements ~~provided in~~ of Sections 30025 and 30026.5 of the Government Code.

SEC. 281.

The heading of Chapter 12.9 (commencing with Section 18986.40) of Part 6 of Division 9 of the Welfare and Institutions Code, as added by Section 4 of Chapter 1205 of the Statutes of 1991, is amended and renumbered to read:

CHAPTER 12.82. Integrated Children’s Services Programs

SEC. 282.

The heading of Chapter 12.95 (commencing with Section 18986.50) of Part 6 of Division 9 of the Welfare and Institutions Code, as added by Section 2 of Chapter 970 of the Statutes of 1993, is amended and renumbered to read:

CHAPTER 12.84. Interagency Day Care Program

SEC. 283.

Section 18986.50 of the Welfare and Institutions Code is amended to read:

18986.50.

It is the intent of the Legislature, in enacting this chapter, to encourage the development of programs and services, in keeping with Chapter 12.8 (commencing with Section 18986) and Chapter ~~12.9~~ 12.82 (commencing with Section 18986.40), that enhance the successful development of children and reduce the incidence of juvenile crime and delinquency in the community.

The San Bernardino County Youth Justice Center shall provide all available evaluative and operational studies related to its program to any county that requests that information in order to replicate the model or implement a similar program.

This chapter is intended to augment existing interagency collaborative efforts by proposing an additional model.

~~Nothing in this~~ This chapter is not intended to supersede or duplicate existing programs, services, or interagency agreements.

SEC. 284.

Section 18986.60 of the Welfare and Institutions Code is amended and renumbered to read:

~~18986.60.~~18990.

Placer County, with the assistance of the appropriate state departments, within the existing resources of those departments, shall implement a program upon approval of that county, for the funding and delivery of services and benefits through an integrated and comprehensive county health and human services system.

The Placer County program shall, in providing services through an integrated system to families and individuals, among other things, do all of the following:

Implement and evaluate a system of universal intake for those seeking services.

Implement and evaluate a system whereby a family or individual eligible for more than one service may be provided those services by as few as a single county employee, through an integrated, coordinated service plan.

Implement and evaluate a system of administration that centralizes the management and support of client services.

Implement and evaluate a system of reporting and accountability that provides for the combined provision of services as provided for in paragraph (2), without the loss of state or federal funds provided under current law.

The integrated system may include, but need not be limited to, any or all of the following:

Adoption services.

Child abuse prevention services.

Child welfare services.

Delinquency prevention services.

Drug and alcohol services.

Mental health services.

Eligibility determination.

Employment and training services.

Foster care services.

Health services.

Public health services.

Housing services.

Medically indigent program services.

All other appropriately identified and targeted services, except for dental care.

Programs or services shall be included in the program only to the extent that federal funding to either the state or the county will not be reduced as a result of the inclusion of the services in the program. This program shall not generate any increased expenditures from the General Fund.

The county and the appropriate state departments shall jointly seek federal approval of the program, as may be needed to ensure its funding and allow for the integrated provision of services.

This chapter ~~shall~~ **does** not authorize Placer County to discontinue meeting its obligations under current law to provide services or to reduce its accountability for the provision of these services.

This chapter ~~shall~~ **does** not authorize Placer County to reduce ~~Placer County's~~ **its** eligibility under current law for state funding for the services included in the program.

Placer County shall utilize any and all state general and county funds that it is legally allocated or entitled to receive. Through the creation of integrated health and social services structures, the county shall maximize federal matching funds.

The appropriate state departments that are assisting and cooperating in the implementation of the program authorized by this chapter shall have the authority to waive regulations regarding the method of providing services and the method of reporting and accountability, as may be required to meet the goals set forth in subdivision (b).

SEC. 285.

Section 18986.86 of the Welfare and Institutions Code is amended and renumbered to read:

~~18986.86.~~**18991.**

Humboldt County, Mendocino County, Alameda County, and any additional county or counties, as determined by the Secretary of California Health and Human Services, with the assistance and participation of the appropriate state departments, within the existing resources of those departments, may implement a program, upon approval of the county board of supervisors for the funding and delivery of services and benefits through an integrated and comprehensive county health and human services system.

In providing services through an integrated system to families and individuals, the program may, among other things, do all of the following:

- Implement and evaluate a system of universal intake for those seeking services.

- Implement and evaluate a system whereby a family or individual eligible for more than one service may be provided those services through an integrated, coordinated service plan.

- Implement and evaluate a system of administration that integrates and coordinates the management and support of client services.

- Implement and evaluate a system of reporting and accountability that provides for the combined provision of services as provided for in paragraph (2), without the loss of state or federal funds provided under current law.

- In consultation with the appropriate state departments, as designated by the Secretary of Health and Human Services, any participating county may develop specific goals in addition to those specified in paragraphs (1) to (4), inclusive, to achieve an integrated and comprehensive county health and human services system.

The integrated system may include any or all of the following:

- Adoption services.

- Child abuse prevention services.

- Child welfare services.

- Delinquency prevention services.

- Drug and alcohol services.

- Mental health services.

- Eligibility determination.

- Employment and training services.

- Foster care services.

- Health services.

Public health services.

Housing services.

Medically indigent program services.

Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code ~~shall apply~~ applies to the programs or services providing integrated services.

Before a program obtains an individual's medical information, including mental health and drug treatment records, his or her informed authorization shall be obtained, or the informed authorization of his or her custodial parent, or his or her guardian shall be obtained if the individual is a minor, unless the minor is authorized to give consent.

Medical information shall not be disclosed to any individual who is not authorized to have that information pursuant to the authorization provided in paragraph (2).

Medical information shall not be disclosed for any purpose that is not authorized by the authorization in paragraph (2).

The sharing of information permitted under paragraphs (2), (3), and (4) shall be governed by memoranda of understanding among the agencies represented on the team. These memoranda shall specify the types of information that may be shared without a signed release form, and the process to be used to ensure that current confidentiality requirements, as described in subdivision (d), are met.

~~Any~~A client shall have access to his or her medical information and shall have the right to correct any inaccurate information contained in the medical information.

Programs or services shall be included in the program only to the extent that federal funding to either the state or the county will not be reduced as a result of the inclusion of the services in the project. This program shall not generate any increased expenditures from the General Fund.

Each participating county and the appropriate state departments shall jointly seek federal approval of the program, as may be needed to ensure its funding and allow for the integrated provision of services.

This chapter ~~shall~~ does not authorize each participating county to discontinue meeting its obligations under current law to provide services or to reduce its accountability for the provision of these services.

This chapter ~~shall~~ does not authorize a participating county to reduce the county's eligibility under current law for state funding for the services included in the program.

A participating county shall utilize any and all state general and county funds that it is legally allocated or entitled to receive. Through the creation of integrated health and social services structures, the county shall maximize federal matching funds.

The Secretary of Health and Human Services shall designate a lead department to coordinate the state's participation in the county's program.

The appropriate state departments, as designated by the Secretary of Health and Human Services, that are assisting, participating, and cooperating in the implementation of the program authorized by this chapter shall have the authority to waive regulations regarding the method of providing services and the method of reporting and accountability, as may be required to meet the goals set forth in subdivision (b). However, the departments shall not waive regulations pertaining to privacy and confidentiality of records, civil service merit systems, or collective bargaining. The departments shall not waive regulations if the waiver results in a diminished amount or level of services or benefits to eligible

recipients as compared to the benefits and services that would have been provided to recipients absent the waiver.

SEC. 286.

Section 18986.87 of the Welfare and Institutions Code is amended and renumbered to read:

~~18986.87.~~18991.2.

A participating county shall, in consultation with the appropriate state departments, as designated by the Secretary of Health and Human Services, develop outcomes and performance measures specific to the project ~~prior to~~ before the implementation of the pilot program. Implementation of a pilot program pursuant to this chapter shall occur no later than January 1, 2009.

A participating county shall evaluate its program with the participation of the appropriate state departments, as designated by the Secretary of Health and Human Services, and prepare interim and final evaluations and submit them to the Governor or the Governor's designee and the appropriate policy committees of the Legislature. The interim report shall be submitted not later than six months following the third year of the implementation of the program. The final report shall be submitted not later than July 1, 2008.

Each participating county shall provide for the evaluation of the program.

SEC. 287.

Section 18986.89 of the Welfare and Institutions Code, as added by Section 2 of Chapter 469 of the Statutes of 2016, is amended and renumbered to read:

~~18986.89.~~18991.4.

Notwithstanding the dates provided in subdivisions (a) and (b) of Section 18986.87, the County of San Diego may, upon approval of the county board of supervisors, operate an integrated and comprehensive county health and human services system.

A system described in paragraph (1) shall comply with the requirements of this section and is subject to the approval of the California Health and Human Services Agency. The California Health and Human Services Agency shall grant approval if the county furnishes a certified copy of a current ordinance or resolution authorizing an integrated and comprehensive health and human services system in that county.

In providing services through an integrated system to families and individuals, the system may, among other things, do both of the following:

- Maintain and evaluate a system of administration that integrates and coordinates the management and support of client services.

- Maintain a system of reporting and accountability that provides for the combined provision of services without the loss of state or federal funds provided under current law.

The integrated and comprehensive county health and human services system may include, but is not ~~be~~ limited to, any ~~or all~~ of the following:

- Adoption services.

- Child abuse prevention services.

- Child welfare services.

- Delinquency prevention services.

Drug and alcohol services.

Mental health services.

Eligibility determination.

Employment and training services.

Foster care services.

Health services.

Public health services.

Housing services.

Medically indigent program services.

Veterans' services.

Aging services.

Any other related program as designated by the board of supervisors.

The county shall comply with all applicable state and federal privacy laws that govern medical and social service information, including, but not limited to, the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), the federal Health Insurance Portability and Accountability Act (HIPAA), and Sections 827, 5328, and ~~10850~~. [10850 of this code](#).

Programs or services shall be included in the system only to the extent that federal funding to either the state or the county will not be reduced as a result of the inclusion of the services in the project.

This section ~~shall~~ [does](#) not authorize the county to discontinue meeting its obligations under current law to provide services or to reduce its accountability for the provision of these services.

The county shall utilize any and all state general funds and county funds that it is legally allocated or entitled to receive. Through the creation of integrated health and social services structures, the county shall maximize federal matching funds. This integration shall not result in increased expenditures from the State General Fund.

The appropriate state departments, as designated by the Secretary of Health and Human Services, that are assisting, participating, and cooperating in the program authorized by this section shall have the authority to waive regulations, with the concurrence of the county, regarding the method of providing services and the method of reporting and accountability, as may be required to meet the goals set forth in subdivision (b). However, the departments shall not waive regulations pertaining to privacy and confidentiality of records, civil service merit systems, or collective bargaining. The departments shall not waive regulations if the waiver results in a diminished amount or level of services or benefits to eligible recipients as compared to the benefits and services that would have been provided to recipients absent the waiver.

SEC. 288.

The heading of Chapter 12.86 (commencing with Section 18987.6) of Part 6 of Division 9 of the Welfare and Institutions Code is amended to read:

CHAPTER 12.86. ~~Childrens~~ [Children's](#) Services Program Development

SEC. 289.

Section 5 of Chapter 10 of the Statutes of 2016 is amended to read:

Sec. 5.

The Department of Toxic Substances Control shall post on its Internet Web site all of the following:

The number of access agreements signed.

The number of properties sampled.

The number of properties remediated or cleaned up.

The Department of Toxic Substances Control shall update the numbers posted pursuant to paragraph (1) at least twice a month.

At the Department of Toxic Substances Control's presentation of its proposed budget, the department shall provide to the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget a report that addresses all of the following:

An update on the cleanup activities near the Exide Technologies facility in the City of Vernon, California, including a summary of the environmental review of the cleanup activities.

The number of properties sampled and a summary of the findings, which ~~can~~ may be broken down in the approximate number of residences in priority 1, 2, and 3.

The number of properties that have been remediated or cleaned up.

The number of access agreements signed.

SEC. 290.

Section 1 of Chapter 283 of the Statutes of 2016 is amended to read:

Section 1.

The Legislature finds and declares the following:

In 2014 Congress enacted the federal Protecting Access to Medicare Act of 2014.

Under the Protecting Access to Medicare ~~Act~~, Act of 2014, eight states will be selected to have their federal share of costs increased to 65 percent for two years for outpatient behavioral health care for individuals with severe mental illnesses or serious emotional disturbances.

This federal funding would free up substantial funds in participating counties that are currently being used to match federal funds. The money that is currently being used to match federal funds would be available to be used to meet the mental health service and housing needs of those individuals who are not currently receiving the behavioral health care that they need.

In October 2015, the United States Secretary of Health and Human Services awarded California a planning grant pursuant to Section 223 of the federal Protecting Access to Medicare Act of ~~2014~~ 2014, which partially supported California in, among other things, developing its proposal to participate in the two-year demonstration program.

California is among 24 states competing to be one of the eight states chosen to participate in the two-year demonstration program.

The Mental Health Services Act was approved by voters in 2004 for the primary purpose of addressing unmet mental health needs.

It is an appropriate use of Mental Health Services Act funds to support California's application to participate in this demonstration program, including by using these funds to prepare actuarial rates and

provide technical assistance to counties seeking to become certified community behavioral health centers.

This act is consistent with and furthers the intent of the Mental Health Services Act within the meaning of Section 18 of the Mental Health Services Act.

SEC. 291.

Section 501 of the North Fork Kings Groundwater Sustainability Agency (Chapter 392 of the Statutes of 2016) is amended to read:

501.

The agency shall be governed by a board of directors that shall consist of seven members, as follows:

One member shall be a resident or landowner within the territory of the agency chosen by the County of Fresno. The member shall have experience or expertise in land use, water management, or improving access to drinking water in economically disadvantaged communities.

One member shall be a resident or landowner within the territory of the agency chosen by the members of the governing boards of the following entities:

Clark's Fork Reclamation District.

Laguna Irrigation District.

~~Upper~~ San Jose Water Company.

One member shall be a resident or landowner within the territory of the agency chosen by the members of the governing boards of special districts that are authorized to provide drinking water within the territory of the agency, who shall be chosen from the members of the governing boards of the special districts, including, but not limited to, the following special districts:

Laton Community Services District.

Riverdale Public Utility District.

Lanare Community ~~Services~~ Service District.

One member shall be a resident or landowner within the territory of the agency chosen by the members of the governing boards of the following entities:

Crescent Canal Company.

Stinson Canal and Irrigation Company.

One member shall be a resident or landowner within the territory of the agency chosen by the members of the governing boards of the following entities:

Riverdale Irrigation ~~Company~~ District.

Reed Ditch Company.

One member shall be a resident or landowner within the territory of the agency chosen by the members of the governing boards of the following entities:

Liberty Mill Race Company.

Burrel Ditch Company.

One member shall be chosen by the members of the governing boards of the following special districts, who shall be chosen from the members of the governing boards of the special districts:

Liberty Water District.

Liberty Canal Company.

There shall be an alternate for each board member, chosen in the same manner and by the same entities as the board member. The alternate member shall act in place of the board member he or she is an alternate for in case of that board member's absence or inability to act.

Initial members and their alternates shall be chosen on or before January 31, 2017.

SEC. 292.

Section 3 of Chapter 535 of the Statutes of 2016 is amended to read:

Sec. 3.

The Legislature finds and declares that the changes made by this act to Section 987.005 of the Military and Veterans Code are necessary in order to provide a safe environment to female veterans who have been subject to, among others, sexual abuse, harassment, or domestic violence. Providing a gender-specific treatment and housing community to address the needs of at-risk veterans who have been sexually abused or physically **abused** while in service or thereafter is necessary for purposes of treatment and recovery. It is, therefore, necessary that these facilities be focused on "women-only" treatment and services with a focus on treatment related to sexual abuse, harassment, or domestic violence, which may be distinct from other treatment or services that other veterans may be seeking under similar provisions, such as for nonmilitary sexual trauma related post-traumatic stress disorder (PTSD) or job placement.

In that respect, the Legislature finds and declares that providing gender-specific treatment and housing pursuant to this act serves a compelling state interest, which interest is providing the best possible treatment to female veterans who have served our country and who now face additional hurdles that disproportionately affect female veterans over male veterans. The Legislature finds and declares that providing separate facilities distinct from the norm of multifamily housing is substantially related to the achievement of those objectives.

The Legislature further finds and declares all of the following:

There are over 200,000 active duty women in the United States Armed Forces making up approximately 15 percent of active duty personnel. With most military occupations now open to women, it is expected their ranks will continue to grow.

With approximately two million female veterans nationwide, women veterans make up only about 10 percent of the over 21 million veterans nationwide.

California has the second highest female veteran population in the country, with over 164,000 female veterans calling California home.

The United States Department of Veterans' Affairs (VA) national screening program has reported that about one in four women respond they have experienced Military Sexual Trauma (MST) when screened by their VA provider, and the National Center on Family Homelessness has found that female veterans experience sexual assault after their military service at 12 times the rate of the general civilian female population.

Women who are assaulted, raped, or sexually harassed during their military service suffer mental effects of their MST for years after leaving the military, are at a higher risk of developing PTSD than those who are not assaulted, and are disproportionately at risk of becoming homeless after separating from military service.

Ensuring that there is adequate housing for MST victims should be a primary goal of the Department of Veterans Affairs, the Department of Housing and Community Development, and the California Housing Finance Agency as they administer the Veterans Housing and Homelessness Prevention Program enacted by Proposition 41. Effectively housing and treating this population will require acknowledging that victims of MST have unique needs that cannot be adequately treated through the traditionally male-centric housing and services that are available.

Female veterans with PTSD have reported that women-centered treatment is the most important factor contributing to their comfort with VA services. Due to the great majority of veterans being male, most veteran-only housing is occupied by male veterans and most services are utilized by male veterans. This situation deters many MST victims from seeking veteran-only housing because the male dominated living environment triggers the experience of being in the male dominated military where the rape, assault, or harassment occurred. As such, female veterans who are victims of MST do not, as a practical matter, have equal access to veteran-only housing and services that treat MST.

PTSD is a serious condition and classified as a disability under the federal Americans with Disabilities Act (ADA). According to the United States Department of Justice Civil Rights Division, PTSD can also be recognized as a disability under the federal Fair Housing Act. As California's Fair Employment and Housing Act is intended to conform to federal law, victims of MST-related PTSD have a disability and should be afforded a reasonable accommodation that allows them to enjoy veteran-only housing under this act. Access to women's only housing and supportive services for victims of MST shall be considered a reasonable accommodation under this act and is critical in this narrow circumstance to address the needs of this small and vulnerable population.

SEC. 293.

Sections 26, 85, and 281 to 287, inclusive, of this act shall not become operative if any of Sections 281, 282, and 284 to 287, inclusive, of this act do not become operative pursuant to Section 294 of this act or Section 9605 of the Government Code.

SEC. 294.

Any section of any act enacted by the Legislature during the 2017 calendar year that takes effect on or before January 1, 2018, and that amends, amends and rennumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act.

ASSEMBLY BILL No. 1527

Introduced by Assembly Member Cooley

(Coauthor: Assembly Member Lackey)

February 17, 2017

Bill Text:

SECTION 1. Section 19302.3 is added to the Business and Professions Code, to read:

19302.3. (a) A former employee of the bureau, a licensing authority, or a local jurisdiction who had commercial medical cannabis regulatory or licensing responsibilities shall not work for or represent a person or entity that holds a license under this chapter or Division 10 (commencing with Section 26000) for one year following his or her last date of employment with the bureau or licensing authority.

Notwithstanding Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of the Health and Safety Code and subdivision (c) of Section 19360, a violation of subdivision (a) shall not be a crime.

SEC. 2. Section 19328.3 is added to the Business and Professions Code, to read:

19328.3. (a) A licensee shall not employ a former employee of the bureau, a licensing authority, the Marijuana Control Appeals Panel established in Section 26040, or a local jurisdiction who had commercial medical cannabis regulatory or licensing responsibilities or commercial nonmedical marijuana regulatory or licensing responsibilities within one year of the last date of employment with the bureau, licensing authority, panel, or local jurisdiction.

The bureau or the licensing authority may suspend immediately the license of a licensee who violates subdivision (a) and shall investigate whether to revoke the license and whether to bar the licensee, or any person or entity acting as an agent or employee of the licensee, from obtaining a license in the future.

Notwithstanding Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of the Health and Safety Code, a violation of subdivision (a) shall not be a crime.

SEC. 3. Section 26012.3 is added to the Business and Professions Code, to read:

26012.3. (a) A former employee of the bureau, a licensing authority, or a local jurisdiction who had commercial marijuana regulatory or licensing responsibilities shall not work for or represent a person or entity that holds a license under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 for one year following his or her last date of employment with the bureau or licensing authority.

Notwithstanding Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of the Health and Safety Code and subdivision (c) of Section 26038, a violation of subdivision (a) shall not be a crime.

SEC. 4. Section 26041.3 is added to the Business and Professions Code, to read:

26041.3. (a) A former employee of the Marijuana Control Appeals Panel who had regulatory or licensing responsibilities shall not work for or represent a person or entity that holds a license under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 for one year following his or her last date of employment with the panel.

Notwithstanding Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of the Health and Safety Code and subdivision (c) of Section 26038, a violation of subdivision (a) shall not be a crime.

SEC. 5. Section 26052.3 is added to the Business and Professions Code, to read:

26052.3. (a) A licensee shall not employ a former employee of the bureau, a licensing authority, the Marijuana Control Appeals Panel, or a local jurisdiction who had commercial medical cannabis regulatory or licensing responsibilities or who had commercial nonmedical marijuana regulatory or licensing responsibilities within one year of the last date of employment with the bureau, licensing authority, panel, or local jurisdiction.

The bureau or the licensing authority may suspend immediately the license of a licensee who violates subdivision (a) and shall investigate whether to revoke the license and whether to bar the licensee, or any person or entity acting as an agent or employee of the licensee, from ever obtaining a license.

Notwithstanding Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of the Health and Safety Code, a violation of subdivision (a) shall not be a crime.

SEC. 6. The Legislature finds and declares that Sections 3, 4, and 5 of this act, respectively adding Sections 26012.3, 26041.3, and 26052.3 to the Business and Professions Code, further the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act, because these amendments prevent licensees from hiring former employees of the Bureau of Marijuana Control, a licensing authority, the Marijuana Control Appeals Panel, or a local jurisdiction with regulatory or licensing responsibilities to circumvent and undermine the system of state licensing, regulation, and enforcement.

ASSEMBLY BILL No. 1578

Introduced by Assembly Member Jones-Sawyer

(Coauthors: Assembly Members Bonta, Chiu, Wood, Eggman, and Cristina Garcia)

(Coauthors: Senators Skinner and Wiener)

February 17, 2017

Bill Text:

SECTION 1. Section 11362.6 is added to the Health and Safety Code, to read:

11362.6. (a) A state or local agency shall not do any of the following without a court order signed by a judge:

Use agency money, facilities, property, equipment, or personnel to assist a federal agency to investigate, detain, detect, report, or arrest a person for commercial or noncommercial marijuana or medical cannabis activity that is authorized **by** or **allowed under state or local** law in the State of California.

Respond to a request made by a federal agency [for personal](#) or [federal entity](#) for information about an individual who is authorized [pursuant to state](#) or allowed under state or local law to possess, cultivate, transport, manufacture, sell, or possess for sale marijuana or marijuana products or medical cannabis or medical cannabis products, if that request is made for the purpose of investigating or enforcing [federal marijuana law](#), the federal Controlled Substances Act related to marijuana or cannabis or other federal marijuana or cannabis law.

Provide information about a person who has applied for or received a license to engage in commercial marijuana or commercial medical cannabis activity pursuant to MCRSA or AUMA, if that request is made for the purpose of investigating or enforcing [federal marijuana law](#), the federal Controlled Substances Act related to marijuana or cannabis or other federal marijuana or cannabis law.

Transfer an individual to federal law enforcement authorities [for purposes of marijuana enforcement](#) for marijuana- or cannabis-related conduct that is legal under state or local law or detain an individual at the request of federal law enforcement for or federal authorities [for marijuana- or cannabis-related](#) conduct that is legal under state or local law.

[Notwithstanding subdivision \(a\), a state or local agency shall release information related to an Individual or entity upon the written request of the individual or entity to release that information. The release of information pursuant to this subdivision shall be limited to the specific request and shall not extend beyond the circumstances requested by the individual or entity.](#)

[\(b\)](#)

For purposes of this section, the following definitions shall apply:

“AUMA” means the Control, Regulate and Tax Adult Use Marijuana Act, enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election and generally codified in Division 10 (commencing with Section 26000) of the Business and Professions Code.

“MCRSA” means the Medical Cannabis Regulation and Safety Act, generally codified in Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code, and other provisions regarding licensing of cultivators, manufacturers, testing laboratories, distributors, and dispensaries of medical cannabis and medical cannabis products located in this article and in Article 2.5 (commencing with Section 11362.7).

“State or local agency” means all of the following:

A law enforcement agency, including, but not limited to, police, sheriffs, university police, and other campus police agencies.

A licensing authority under AUMA or MCRSA.

Any other state or local agency with information that identifies licensees under AUMA or MCRSA.

A city, county, city and county, or state agency with information regarding individuals who have obtained medical marijuana program cards pursuant to Article 2.5 (commencing with Section 11362.7).

ASSEMBLY BILL No. 1606

Introduced by Assembly Member Cooper

(Principal Co-author: Senator Galgiani)

February 17, 2017

Bill Text:

SECTION 1. Section 12012.81 is added to the Government Code, to read:

12012.81. (a) The tribal-state gaming compact entered into in accordance with the federal Indian Gaming Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Wilton Rancheria, executed on July 19, 2017, is hereby ratified.

In deference to tribal sovereignty, none of the following shall be deemed a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

The execution of an amendment to the tribal-state gaming compact ratified by this section.

The execution of the tribal-state gaming compact ratified by this section.

The execution of an intergovernmental agreement between a tribe and a county or city government negotiated pursuant to the express authority of, or as expressly referenced in, the tribal-state gaming compact ratified by this section.

The execution of an intergovernmental agreement between a tribe and the Department of Transportation, or other state agency, negotiated pursuant to the express authority of, or as expressly referenced in, the tribal-state gaming compact ratified by this section.

The on-reservation impacts of compliance with the terms of the tribal-state gaming compact ratified by this section.

The sale of compact assets, as defined in subdivision (a) of Section 63048.6, or the creation of the special purpose trust established pursuant to Section 63048.65.

Except as expressly provided in this section, this subdivision does not exempt a city, county, or city and county, or the Department of Transportation, or any state agency or local jurisdiction, from the requirements of the California Environmental Quality Act.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enhance, at the earliest possible time, the economic development, long-term stability, and self-sufficiency of the Wilton Rancheria, and to protect the interests of the tribe and its members, the

surrounding community, and the California public, it is necessary for this act to take effect immediately.

SECTION 1. Section 26101 of the Business and Professions Code is amended to read:

26101.(a) Except as otherwise provided by law, marijuana and marijuana products shall not be sold pursuant to a license provided for under this division unless a representative sample of the marijuana or marijuana product has been tested by a certified testing service to determine all of the following:

(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(2) That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. For purposes of this paragraph, contaminants include, but are not limited to, all of the following:

(A) Residual solvent or processing chemicals, including explosive gases, such as butane, propane, O₂ or H₂, and poisons, toxins, or carcinogens, such as Methanol, Isopropyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

(3) Uniform disbursement of cannabinoids throughout a marijuana product.

(4) Accuracy of the labeled dosage.

(b) Residual levels of volatile organic compounds shall satisfy standards of the cannabis inflorescence monograph set by the United States Pharmacopeia (U.S.P. Chapter 467).

(c) The testing required by paragraph (a) shall be performed in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test marijuana and marijuana products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.

(d)Any presale inspection, testing transfer, or transportation of marijuana products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

SEC. 2.The Legislature finds and declares that this act is consistent with, and furthers the purposes of, the Control, Regulate and Tax Adult Use of Marijuana Act.

ASSEMBLY BILL No. 1652

Introduced by Assembly Member Kalra

February 17, 2017

Bill Text

SECTION 1. (a) The Legislature finds and declares both of the following:

California has taken steps in recent years to legalize and regulate the production, sale, distribution, and consumption of both medicinal cannabis and nonmedical marijuana to improve consumer safety, business practices, and to protect the health and well-being of the public.

As the state continues to implement and address the impacts of the Medical Cannabis Regulation and Safety Act and the recently passed Control, Regulate and Tax Adult Use of Marijuana Act, the concerns of the public, the cannabis industry, and health care and public safety advocates about the unlawful commercial transportation of medicinal cannabis and nonmedical marijuana remain.

It is therefore the intent of the Legislature that the state further evaluates what policy options should be considered regarding how to enforce existing laws relating to the unlawful commercial transportation of cannabis.

SEC. 2. Section 11362.6 is added to the Health and Safety Code, to read:

11362.6. (a) The Legislative Analyst's Office shall evaluate the existing regulatory framework for medicinal cannabis and nonmedical marijuana. In consultation with local law enforcement agencies, the medical cannabis and nonmedical marijuana industries, and health care advocates, the Legislative Analyst's office shall report to the Legislature, no later than June 1, 2018, on whether additional changes are necessary to help alleviate the unlawful commercial distribution and transportation of medical cannabis and nonmedical marijuana.

A report to be submitted pursuant to subdivision (a) shall be submitted in compliance Section 9795 of the Government Code.

Pursuant to Section 10231.5 of the Government Code, this section is repealed on June 1, 2022.

SECTION 1.It is the intent of the Legislature to enact legislation to promote access to public transportation.

ASSEMBLY BILL No. 1686

Introduced by Assembly Member Gloria

February 17, 2017

Bill Text

SECTION 1. Section 19322 of the Business and Professions Code is amended to read:

19322.(a) A person shall not submit an application for a state license issued by a licensing authority pursuant to this chapter unless that person has received a license, permit, or authorization from the local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:

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

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

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

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

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

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

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

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

(6)(A)For an applicant with 20 or more employees, electronically submit to the licensing authority a signed and notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

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

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

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

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

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

(10)Pay all applicable fees required for licensure by the licensing authority.

(11)Provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements.

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

(1)Cultivation.

(2)Extraction and infusion methods.

(3)The transportation process.

(4)Inventory procedures.

(5)Quality control procedures.

(6)Security protocols.

SECTION 1. Section 26051.5 of the Business and Professions Code is amended to read:

26051.5. (a) An applicant for any type of state license issued pursuant to this division shall do all of the following:

Require that each owner of the applicant electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a

record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

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

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

The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

Provide evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property or that landowner's agent where the commercial cannabis activity will occur, as proof to demonstrate the landowner has acknowledged and consented to permit commercial cannabis activities to be conducted on the property by the tenant applicant.

Provide evidence that the proposed location is in compliance with subdivision (b) of Section 26054.

Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

For an applicant with 20 or more employees, provide a electronically submit to the licensing authority a signed and notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement. An applicant may submit a physical copy of the labor peace agreement in the event that the licensing authority does not have the ability to receive electronic copies of labor peace agreements.

For the purposes of this paragraph, "employee" does not include a supervisor.

For the purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the applicant, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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

Provide any other information required by the licensing authority.

For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-

Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.

Pay all applicable fees required for licensure by the licensing authority.

Provide proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.

An applicant shall also include in the application a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

Cultivation.

Extraction and infusion methods.

The transportation process.

Inventory procedures.

Quality control procedures.

Security protocols.

For applicants seeking licensure to cultivate, the source or sources of water the applicant will use for cultivation, as provided in subdivisions (a) to (c), inclusive, of Section 26060.1. For purposes of this paragraph, "cultivation" as used in Section 26060.1 shall have the same meaning as defined in Section 26001. The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this paragraph.

The applicant shall also provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy, including aggregate square footage and individual square footage of separate cultivation areas, if any, roads, water crossings, points of diversion, water storage, and all other facilities and infrastructure related to the cultivation.

Provide a complete list of every person with a financial interest in the person applying for the license as required by the licensing authority. For purposes of this subdivision, "persons with a financial interest" does not include persons whose only interest in a licensee is an interest in a diversified mutual fund, blind trust, or similar instrument.

SEC. 2. The Legislature finds and declares that Section 1 of this act, amending Section 26056 26051.5 of the Business and Professions Code by amending cross-referenced Section 19322 of the Business and Professions Code, implements Section 6.1 of the Control, Regulate and Tax Adult Use of Marijuana Act, and that it is consistent with and furthers the purposes of the act as stated in Section 3 of that act.

ASSEMBLY BILL No. 1667

Introduced by Assembly Member Friedman

February 17, 2017

Bill Text:

SECTION 1.

Section 350 of the Water Code is amended to read:

350.

The governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company, ~~may~~shall declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire ~~protection~~. protection or upon determining a water shortage level four or greater exists, as described in paragraph (2) of subdivision (a) of Section 10632.

SEC. 2.

Section 377 of the Water Code is amended to read:

377.

From and after the publication or posting of any ordinance or resolution pursuant to Section 376, a violation of a requirement of a water conservation program adopted pursuant to Section 376 is a misdemeanor. A person convicted under this subdivision shall be punished by imprisonment in the county jail for not more than 30 days, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

A court or public entity may hold a person civilly liable in an amount not to exceed ten thousand dollars (\$10,000) for a violation of any of the following:

An ordinance or resolution adopted pursuant to Section 376.

~~An emergency~~ A regulation adopted by the board under Section ~~1058.5~~, 1058.5 or Chapter 9 (commencing with Section 10609) of Part 2.55 of Division 6, unless the board regulation provides that it cannot be enforced under this ~~section~~. section or provides for a lesser applicable penalty.

Commencing on the 31st day after the public entity notified a person of a violation described in subdivision (b), the person additionally may be civilly liable in an amount not to exceed ten thousand dollars (\$10,000) plus five hundred dollars (\$500) for each additional day on which the violation continues.

Remedies prescribed in this section are cumulative and not alternative, except that no liability shall be recoverable under this section for any violation of paragraph (2) of subdivision (b) if the board has filed a complaint pursuant to Section 1846 alleging the same violation.

A public entity may administratively impose the civil liability described in subdivisions (b) and (c) after providing notice and an opportunity for a hearing. The public entity shall initiate a proceeding under this subdivision by a complaint issued pursuant to Section 377.5. The public entity shall issue the

complaint at least 30 days before the hearing on the complaint and the complaint shall state the basis for the proposed civil liability order.

In determining the amount of civil liability to assess, a court or public entity shall take into consideration all relevant circumstances, including, but not limited to, the nature and persistence of the violation, the extent of the harm caused by the violation, the length of time over which the violation occurs, and any corrective action taken by the violator.

The civil liability calculated pursuant to paragraph (1) for the first violation of subdivision (b) by a residential water user shall not exceed one thousand dollars (\$1,000) except in extraordinary situations where the court or public entity finds all of the following:

The residential user had actual notice of the requirement found to be violated.

The conduct was intentional.

The amount of water involved was substantial.

Civil liability imposed pursuant to this section shall be paid to the public entity and expended solely for the purposes of this chapter.

An order setting administrative civil liability shall become effective and final upon issuance of the order and payment shall be made. Judicial review of any final order shall be pursuant to Section 1094.5 of the Code of Civil Procedure.

In addition to the remedies prescribed in this section, a public entity may enforce water use limitations established by an ordinance or resolution adopted pursuant to this chapter, or as otherwise authorized by law, by a volumetric penalty in an amount established by the public entity.

SEC. 3.

Section 531.10 of the Water Code is amended to read:

531.10.

An agricultural water supplier shall submit an annual report to the department that summarizes aggregated farm-gate delivery data, on a monthly or bimonthly basis, using best professional practices. The annual report for the prior year shall be submitted to the department by April 1 of each year. The annual report shall be organized by basin, as defined in Section 10721, within the service area of the agricultural water supplier, if applicable.

The report, and any amendments to the report, submitted to the department pursuant to this subdivision shall be submitted electronically and shall include any standardized forms, tables, or displays specified by the department.

The department shall post all reports on its Internet Web site in a manner that allows for comparisons across water suppliers. The department shall make the reports available for public viewing in a timely manner after it receives them.

Nothing in this article shall be construed to require the implementation of water measurement programs or practices that are not locally cost effective.

It is the intent of the Legislature that the requirements of this section shall complement and not affect the scope of authority granted to the department or the board by provisions of law other than this article.

SEC. 4.

Section 1058.5 of the Water Code is amended to read:

1058.5.

This section applies to any emergency regulation adopted by the board for which the board makes both of the following findings:

The emergency regulation is adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.

The emergency regulation is adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions.

Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, any findings of emergency adopted by the board, in connection with the adoption of an emergency regulation under this section, are not subject to review by the Office of Administrative Law.

An emergency regulation adopted by the board under this section may remain in effect for up to ~~270 days~~, **one year**, as determined by the board, and is deemed repealed immediately upon a finding by the board that due to changed conditions it is no longer necessary for the regulation to remain in effect. An emergency regulation adopted by the board under this section may be renewed if the board determines that the conditions specified in paragraph (2) of subdivision (a) are still in effect.

In addition to any other applicable civil or criminal penalties, any person or entity who violates a regulation adopted by the board pursuant to this section is guilty of an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Notwithstanding subdivision (b) of Section 1551 or subdivision (e) of Section 1848, a civil liability imposed under Chapter 12 (commencing with Section 1825) of Part 2 of Division 2 by the board or a court for a violation of an emergency conservation regulation adopted pursuant to this section shall be deposited, and separately accounted for, in the Water Rights Fund. Funds deposited in accordance with this subdivision shall be available, upon appropriation, for water conservation activities and programs.

For purposes of this subdivision, an "emergency conservation regulation" means an emergency regulation that requires an end user of water, a water retailer, or a water wholesaler to conserve water or report to the board on water conservation. Water conservation includes restrictions or limitations on particular uses of water or a reduction in the amount of water used or served, but does not include curtailment of diversions when water is not available under the diverter's priority of right or reporting requirements related to curtailments.

SEC. 5.

Section 1120 of the Water Code is amended to read:

1120.

This chapter applies to any decision or order issued under this part or Section 275, Part 2 (commencing with Section 1200), Part 2 (commencing with Section 10500) of Division 6, **Part 2.55 (commencing with Section 10608) of Division 6, or** Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, or the public trust doctrine.

SEC. 6.

Section 1831 of the Water Code is amended to read:

1831.

When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.

The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.

The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:

The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.

Any term or condition of a permit, license, certification, or registration issued under this division.

Any decision or order of the board issued under this part, Section 275, Chapter 9 (commencing with Section 10609) of Part 2.55 of Division 6, or Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

A regulation adopted by the board, except that this paragraph does not apply to any violation or threatened violation of a regulation adopted under Section 10609.1, unless that violation or threatened violation occurs after July 1, 2026.

Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

Any diversion or use of water for **cannabis** cultivation if any of paragraphs (1) to (5), inclusive, or any of the following applies:

A license is required, but has not been obtained, under ~~Article Chapter~~ 6 (commencing with Section ~~19331~~ of 26060) or Chapter ~~3.5~~ 7 (commencing with Section 26070) of Division ~~8~~ 10 of the Business and Professions Code.

The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

The diversion or use is not in compliance with a requirement imposed under paragraphs (1) and (2) of subdivision ~~(d) or (e)~~ (b) of Section ~~19332.2~~ 26060.1 of, and paragraph (3) of subdivision (a) of Section 26070 of, the Business and Professions Code.

This article does not alter the regulatory authority of the board under other provisions of law.

SEC. 7.

Section 10608.20 of the Water Code is amended to read:

10608.20.

Each urban retail water supplier shall develop urban water use targets and an interim urban water use target by July 1, 2011. Urban retail water suppliers may elect to determine and report progress toward achieving these targets on an individual or regional basis, as provided in subdivision (a) of Section 10608.28, and may determine the targets on a fiscal year or calendar year basis.

It is the intent of the Legislature that the urban water use targets described in paragraph (1) cumulatively result in a 20-percent reduction from the baseline daily per capita water use by December 31, 2020.

An urban retail water supplier shall adopt one of the following methods for determining its urban water use target pursuant to subdivision (a):

Eighty percent of the urban retail water supplier's baseline per capita daily water use.

The per capita daily water use that is estimated using the sum of the following performance standards:

For indoor residential water use, 55 gallons per capita daily water use as a provisional standard. Upon completion of the department's 2016 report to the Legislature pursuant to Section 10608.42, this standard may be adjusted by the Legislature by statute.

For landscape irrigated through dedicated or residential meters or connections, water efficiency equivalent to the standards of the Model Water Efficient Landscape Ordinance set forth in Chapter 2.7 (commencing with Section 490) of Division 2 of Title 23 of the California Code of Regulations, as in effect the later of the year of the landscape's installation or 1992. An urban retail water supplier using the approach specified in this subparagraph shall use satellite imagery, site visits, or other best available technology to develop an accurate estimate of landscaped areas.

For commercial, industrial, and institutional uses, a 10-percent reduction in water use from the baseline commercial, industrial, and institutional water use by 2020.

Ninety-five percent of the applicable state hydrologic region target, as set forth in the state's draft 20x2020 Water Conservation Plan (dated April 30, 2009). If the service area of an urban water supplier includes more than one hydrologic region, the supplier shall apportion its service area to each region based on population or area.

A method that shall be identified and developed by the department, through a public process, and reported to the Legislature no later than December 31, 2010. The method developed by the department shall identify per capita targets that cumulatively result in a statewide 20-percent reduction in urban daily per capita water use by December 31, 2020. In developing urban daily per capita water use targets, the department shall do all of the following:

Consider climatic differences within the state.

Consider population density differences within the state.

Provide flexibility to communities and regions in meeting the targets.

Consider different levels of per capita water use according to plant water needs in different regions.

Consider different levels of commercial, industrial, and institutional water use in different regions of the state.

Avoid placing an undue hardship on communities that have implemented conservation measures or taken actions to keep per capita water use low.

If the department adopts a regulation pursuant to paragraph (4) of subdivision (b) that results in a requirement that an urban retail water supplier achieve a reduction in daily per capita water use that is greater than 20 percent by December 31, 2020, an urban retail water supplier that adopted the method described in paragraph (4) of subdivision (b) may limit its urban water use target to a reduction of not more than 20 percent by December 31, 2020, by adopting the method described in paragraph (1) of subdivision (b).

The department shall update the method described in paragraph (4) of subdivision (b) and report to the Legislature by December 31, 2014. An urban retail water supplier that adopted the method described in paragraph (4) of subdivision (b) may adopt a new urban daily per capita water use target pursuant to this updated method.

An urban retail water supplier shall include in its urban water management plan due in 2010 pursuant to Part 2.6 (commencing with Section 10610) the baseline daily per capita water use, urban water use target, interim urban water use target, and compliance daily per capita water use, along with the bases for determining those estimates, including references to supporting data.

When calculating per capita values for the purposes of this chapter, an urban retail water supplier shall determine population using federal, state, and local population reports and projections.

An urban retail water supplier may update its 2020 urban water use target in its 2015 urban water management plan required pursuant to Part 2.6 (commencing with Section 10610).

The department, through a public process and in consultation with the California Urban Water Conservation Council, shall develop technical methodologies and criteria for the consistent implementation of this part, including, but not limited to, both of the following:

- Methodologies for calculating base daily per capita water use, baseline commercial, industrial, and institutional water use, compliance daily per capita water use, gross water use, service area population, indoor residential water use, and landscaped area water use.

- Criteria for adjustments pursuant to subdivisions (d) and (e) of Section 10608.24.

The department shall post the methodologies and criteria developed pursuant to this subdivision on its Internet Web site, and make written copies available, by October 1, 2010. An urban retail water supplier shall use the methods developed by the department in compliance with this part.

The department shall adopt regulations for implementation of the provisions relating to process water in accordance with subdivision (l) of Section 10608.12, subdivision (e) of Section 10608.24, and subdivision (d) of Section 10608.26.

The initial adoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption of an emergency regulation pursuant to this subdivision, the department shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

An urban retail water supplier is granted an extension to July 1, 2011, for adoption of an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) due in 2010 to allow the use of technical methodologies developed by the department pursuant to paragraph (4) of subdivision (b) and subdivision (h). An urban retail water supplier that adopts an urban water management plan due in

2010 that does not use the methodologies developed by the department pursuant to subdivision (h) shall amend the plan by July 1, 2011, to comply with this part.

An urban wholesale water supplier whose urban water management plan prepared pursuant to Part 2.6 (commencing with Section 10610) was due and not submitted in 2010 is granted an extension to July 1, 2011, to permit coordination between an urban wholesale water supplier and urban retail water suppliers.

Nothing in this part limits the authority of the board to adopt standards for water conservation that are in addition to, or exceed, the standards provided under this part.

SEC. 8.

Section 10608.48 of the Water Code is amended to read:

10608.48.

On or before July 31, 2012, an agricultural water supplier shall implement efficient water management practices pursuant to subdivisions (b) and (c).

Agricultural water suppliers shall implement ~~all~~ both of the following critical efficient management practices:

Measure the volume of water delivered to customers with sufficient accuracy to comply with subdivision (a) of Section 531.10 and to implement paragraph (2).

Adopt a pricing structure for water customers based at least in part on quantity delivered.

Agricultural water suppliers shall implement additional efficient management practices, including, but not limited to, practices to accomplish all of the following, if the measures are locally cost effective and technically feasible:

Facilitate alternative land use for lands with exceptionally high water duties or whose irrigation contributes to significant problems, including drainage.

Facilitate use of available recycled water that otherwise would not be used beneficially, meets all health and safety criteria, and does not harm crops or soils.

Facilitate the financing of capital improvements for on-farm irrigation systems.

Implement an incentive pricing structure that promotes one or more of the following goals:

More efficient water use at the farm level.

Conjunctive use of groundwater.

Appropriate increase of groundwater recharge.

Reduction in problem drainage.

Improved management of environmental resources.

Effective management of all water sources throughout the year by adjusting seasonal pricing structures based on current conditions.

Expand line or pipe distribution systems, and construct regulatory reservoirs to increase distribution system flexibility and capacity, decrease maintenance, and reduce seepage.

Increase flexibility in water ordering by, and delivery to, water customers within operational limits.

Construct and operate supplier spill and tailwater recovery systems.

Increase planned conjunctive use of surface water and groundwater within the supplier service area.

Automate canal control structures.

Facilitate or promote customer pump testing and evaluation.

Designate a water conservation coordinator who will develop and implement the water management plan and prepare progress reports.

Provide for the availability of water management services to water users. These services may include, but are not limited to, all of the following:

- On-farm irrigation and drainage system evaluations.

- Normal year and real-time irrigation scheduling and crop evapotranspiration information.

- Surface water, groundwater, and drainage water quantity and quality data.

- Agricultural water management educational programs and materials for farmers, staff, and the public.

Evaluate the policies of agencies that provide the supplier with water to identify the potential for institutional changes to allow more flexible water deliveries and storage.

Evaluate and improve the efficiencies of the supplier's pumps.

Agricultural water suppliers shall include in the agricultural water management plans required pursuant to Part 2.8 (commencing with Section 10800) a report on which efficient water management practices have been implemented and are planned to be implemented, an estimate of the water use efficiency improvements that have occurred since the last report, and an estimate of the water use efficiency improvements estimated to occur five and 10 years in the future. If an agricultural water supplier determines that an efficient water management practice is not locally cost effective or technically feasible, the supplier shall submit information documenting that determination.

The ~~data~~ department shall [require information about the implementation of efficient water management practices to](#) be reported using a standardized form developed pursuant to Section 10608.52.

An agricultural water supplier may meet the requirements of subdivisions (d) and (e) by submitting to the department a water conservation plan submitted to the United States Bureau of Reclamation that meets the requirements described in Section 10828.

On or before December 31, 2013, December 31, 2016, and December 31, 2021, the department, in consultation with the board, shall submit to the Legislature a report on the agricultural efficient water management practices that have been implemented and are planned to be implemented and an assessment of the manner in which the implementation of those efficient water management practices has affected and will affect agricultural operations, including estimated water use efficiency improvements, if any.

The department may update the efficient water management practices required pursuant to subdivision (c), in consultation with the Agricultural Water Management Council, the United States Bureau of Reclamation, and the board. All efficient water management practices for agricultural water use pursuant to this chapter shall be adopted or revised by the department only after the department

conducts public hearings to allow participation of the diverse geographical areas and interests of the state.

The department shall adopt regulations that provide for a range of options that agricultural water suppliers may use or implement to comply with the measurement requirement in paragraph (1) of subdivision (b).

The initial adoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption of an emergency regulation pursuant to this subdivision, the department shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

SEC. 9.

Chapter 9 (commencing with Section 10609) is added to Part 2.55 of Division 6 of the Water Code, to read:

CHAPTER 9. Urban Water Conservation Standards and Use Reporting 10609.

The Legislature finds and declares all of the following:

California has suffered through a severe multiyear drought that has threatened the water supplies of communities and residents, damaged agricultural production in many areas, and harmed fish, other animals, and their habitats.

California's population of nearly 40 million people will continue to grow and climate change is expected to make droughts more frequent and persistent as warmer winter temperatures reduce water held in the Sierra Nevada and cause drier soil conditions.

Recognizing these new conditions, permanent changes are needed to ensure water is used more wisely and efficiently.

Executive Order B-37-16 outlined the objectives of using water more wisely, eliminating water waste, strengthening local drought resilience, and improving agricultural use efficiency and drought planning.

Managing California's water resources to combat climate change and provide for growing demand will require collective and concerted efforts of state and local governments, nongovernmental organizations, businesses, and the public.

It is the intent of the Legislature that water suppliers use water budget-based planning and long-term standards to set urban water use targets to achieve the following objectives after 2020:

Levels of water conservation and efficiency greater than the levels required by Senate Bill 7 of the 2009–10 Seventh Extraordinary Session of the Legislature.

Use of the best available data.

A fair and equitable approach to water savings and efficient water use for each urban water customer.

Input from stakeholders, including, but not limited to, urban water suppliers, local governments, business and industry associations, environmental and environmental justice organizations, and academic experts.

It is further the intent of the Legislature that the following principles apply to the development and implementation of long-term standards for urban water conservation and use:

Long-term standards shall be consistent with objectives identified in the California Water Action Plan, and shall advance the state's goals to mitigate and adapt to climate change.

Long-term standards shall not determine or alter water rights. Section 1011 shall apply to water conserved through implementation of these standards.

The state must adopt long-term standards for water use efficiency as part of a conservation framework for urban water suppliers, consistent with the April 2017 report entitled "Making Water Conservation a California Way of Life."

The state must develop the long-term standards through a diverse and robust stakeholder process with regional differentiation.

Local urban water suppliers should have primary responsibility for meeting standards-based water use targets, and they must retain the flexibility to develop their water supply portfolios, design and implement water conservation strategies, educate their customers, and enforce their rules.

Because recycled water is a key part of the state's larger strategy to develop a more resilient water supply and increase regional self-reliance, recycled water must continue to be incentivized within the long-term standards or through their implementation.

Long-term standards, and the related standards-based water use targets, should acknowledge the shade, air quality, and heat-island reduction benefits provided to communities by trees through the support of water-efficient irrigation practices that keep trees healthy.

Statewide emergency conservation standards can be avoided if urban water suppliers increase drought resilience through improved drought planning and conservation and efficiency gains.

Urban water suppliers should have the time and tools necessary to meet standards-based water use targets. State enforcement of the standards-based water use targets should be limited to water suppliers, not individual customers, and should not occur until an urban water supplier has been given reasonable time, access to technical assistance, and opportunities to meet the standard.

The state should identify opportunities for streamlined reporting, eliminate redundant data submissions, and incentivize open access to data collected by urban and agricultural water suppliers.

Small water suppliers and rural communities are not covered by established water shortage planning requirements. Currently most counties do not address water shortages or do so minimally in their general plan or the hazard mitigation plan. The state should provide guidance to improve drought planning for small water suppliers and rural communities.

10609.1.

The board, in consultation with the department, shall adopt long-term standards for urban water conservation and water use on or before May 20, 2021. The standards shall include, but are not limited to, standards for all of the following:

Indoor residential water use.

Outdoor irrigation in connection with domestic, industrial, institutional, or commercial water use.

On or before May 20, 2021, the board, in consultation with the department, shall adopt performance measures for commercial, industrial, and institutional (CII) water use designed to produce measurable water use efficiency improvements, and that build upon industry best practices, use of innovative technologies, and existing data on cost-effectiveness. Performance measures shall include, but are not limited to, water audits, converting mixed CII irrigation accounts to dedicated irrigation meters, and water management planning.

An urban water supplier shall do both of the following:

Calculate a water use target, in accordance with regulations adopted by the board for purposes of subdivision (a), no later than July 1, beginning the calendar year after the board adopts standards pursuant to subdivision (a). Each urban water supplier's water use target shall be composed of an indoor residential volume, an outdoor irrigation volume, and a volume for water loss as specified by Section 10608.34. The outdoor irrigation volume shall exclude water for commercial agricultural use meeting the definition of subdivision (b) of Section 51201 of the Government Code.

Annually submit a report to the department by July 1 of each year, beginning the calendar year after the board adopts standards pursuant to subdivision (a). The report shall describe the urban water supplier's calculated water use target; actual water use delineated by indoor residential volume, outdoor irrigation volume, and volume for water loss; documentation of the implementation of the performance measures for CII water use pursuant to subdivision (b); and a description of the progress made towards meeting the water use target. The department shall post the reports and information on its Internet Web site.

The board may issue an information order or conservation order to an entity or individual for failure to submit a report under this paragraph.

The department, in coordination with the board, shall conduct necessary studies and investigations and recommend, no later than October 1, 2020, standards for indoor residential use and outdoor irrigation for adoption by the board in accordance with this chapter. After 2026, the department shall recommend updates to its initial recommendation to the board in years ending in two and seven to allow for consideration by the board in accordance with subdivision (h).

In recommending these standards, the department, in coordination with the board, shall develop guidelines and methodologies, as necessary, for calculating irrigable landscape area, irrigated landscape area, and indoor water use for the board to consider in adoption of the standards.

Prior to setting performance measures for CII water use pursuant to subdivision (b), the department, in coordination with the board, shall solicit broad public participation relating to all of the following:

Recommendations for a CII classification system for California.

Recommendations for setting minimum size thresholds for converting mixed CII meters to dedicated irrigation meters, and evaluation of, and recommendations for, technologies that could be used in lieu of requiring dedicated irrigation meters.

Recommendations for CII best management practices, including, but not limited to, water audits and water management plans for CII customers over a recommended size, volume, or other threshold.

In their solicitation for public participation pursuant to paragraph (1), the department and the board shall invite representatives from throughout the state, including at least one representative from each hydrologic region, representing all of the following categories:

Urban retail water suppliers, including combined retail water and wastewater agencies.

Urban wholesale water suppliers.

Academic experts.

Economic development interests.

Business community representatives.

Environmental and environmental justice organizations.

Commercial water users.

Industrial water users.

Institutional water users.

Recommendations of appropriate performance measures for CII water use shall consider the October 21, 2013, report to the Legislature by the Commercial, Industrial, and Institutional Task Force entitled “Water Use Best Management Practices,” and shall support the economic productivity of California’s commercial, industrial, and institutional sectors.

Standards adopted by the board pursuant to subdivision (a) shall include a credit for recycled water, as follows:

For the outdoor irrigation standard, nonpotable recycled water shall be given a special landscape allowance as set forth in the department’s Model Water Efficient Landscape Ordinance.

An urban water supplier shall receive a credit for the volume of its potable water reuse, on an acre-foot basis, that is used to meet its water use target.

A credit received pursuant to paragraph (2) shall not exceed 10 percent of the urban water supplier’s water use target.

The department and the board shall solicit broad public participation relating to the development of the long-term standards for urban water conservation and use adopted pursuant to subdivision (a). In soliciting for public participation, the department and the board shall invite representatives of small, medium, and large urban retail water suppliers from throughout the state, including at least one representative from each hydrologic region, academic experts, urban water wholesale water suppliers, business organizations, environmental and environmental justice organizations, and combined retail water and wastewater agencies.

After 2026, the board and the department shall consider, in years ending in two and seven, whether the board should update long-term standards for urban water conservation and water use and CII performance measures. Before proposing new standards for board adoption, the department and the board shall solicit broad public participation, as described in subdivision (g).

The department and the board may conduct additional studies, pilot projects, and other necessary actions in order to determine whether to update standards and CII performance measures.

Notwithstanding Section 15300.2 of Title 14 of the California Code of Regulations, an action of the board taken under this chapter shall be deemed to be a Class 8 action, within the meaning of Section 15308 of Title 14 of the California Code of Regulations, provided that the action does not involve relaxation of existing water conservation or water use standards.

10609.2.

Beginning on or after July 1, 2022, the board may issue informational orders pertaining to water production, water use, and water conservation to an urban water supplier that does not meet its water use target required by this chapter. Informational orders are intended to obtain information on supplier activities, water production, and conservation efforts in order to identify technical assistance needs and assist urban water suppliers in meeting their water use targets.

In determining whether to issue an informational order, the board shall consider the degree to which the urban water supplier is not meeting its water use target, information provided in the report required by paragraph (2) of subdivision (c) of Section 10609.1, and actions the urban water supplier has implemented or will implement in order to help meet the water use target described in subdivision (c) of Section 10609.1.

The board shall share information received pursuant to this subdivision with the department.

An urban water supplier may request technical assistance from the department. The technical assistance may, to the extent available, include guidance documents, tools, and data.

Beginning on or after July 1, 2023, the board may issue a written notice to an urban water supplier that does not meet its water use target required by this chapter. The written notice may warn the urban water supplier that it is not meeting its water use target described in subdivision (c) of Section 10609.1 and is not making adequate progress in meeting the water use target, and may request that the urban water supplier address areas of concern in its next annual report required by paragraph (2) of subdivision (c) of Section 10609.1. In deciding whether to issue a written notice, the board may consider whether the urban water supplier has received an informational order, the degree to which the urban water supplier is not meeting its water use target, information provided in the report required by paragraph (2) of subdivision (c) of Section 10609.1, and actions the urban water supplier has implemented or will implement in order to help meet its water use target.

Beginning on or after July 1, 2024, the board may issue a conservation order to an urban water supplier that does not meet its water use target required by this chapter. A conservation order may consist of, but is not limited to, referral to the department for technical assistance, requirements for education and outreach, requirements for local enforcement, and other efforts to assist urban water suppliers in meeting their water use targets.

In issuing a conservation order, the board shall identify specific deficiencies in an urban water supplier's progress towards meeting its water use target, and identify specific actions to address the deficiencies.

The board may request that the department provide an urban water supplier with technical assistance to support the urban water supplier's actions to remedy the deficiencies.

10609.3.

The board may issue a regulation or informational order requiring a distributor of a public water supply, as that term is used in Section 350, to submit information relating to water production, water use, or water conservation.

SEC. 10.

Chapter 10 (commencing with Section 10609.7) is added to Part 2.55 of Division 6 of the Water Code, to read:

CHAPTER 10. Countywide Drought Contingency Plans**10609.7.**

The department shall propose to the Governor and the Legislature, on or before August 1, 2020, recommendations and guidance relating to the development and use of countywide drought contingency plans to address drought planning for small water suppliers and rural communities. The department shall consider if such plans should be included in county local hazard mitigation plans. The recommendations and guidance may relate to reporting and data recording, communications planning, roles and responsibilities, and coordination with other relevant water management planning efforts. In formulating the proposal, the department shall utilize a public process involving state agencies, cities, counties, small communities, small water suppliers, and stakeholders.

SEC. 11.

Section 10610.2 of the Water Code is amended to read:

10610.2.

The Legislature finds and declares all of the following:

The waters of the state are a limited and renewable resource subject to ever-increasing demands.

The conservation and efficient use of urban water supplies are of statewide concern; however, the planning for that use and the implementation of those plans can best be accomplished at the local level.

A long-term, reliable supply of water is essential to protect the productivity of California's businesses and economic ~~climate~~. climate and increasing long-term water conservation among Californians, improving water use efficiency within the state's communities and agricultural production, and strengthening local and regional drought planning are critical to California's resilience to drought and climate change.

As part of its long-range planning activities, every urban water supplier should make every effort to ensure the appropriate level of reliability in its water service sufficient to meet the needs of its various categories of customers during normal, dry, and multiple dry water ~~years~~. years now and into the foreseeable future and every urban water supplier should actively engage local land-use authorities to ensure water demand forecasts are consistent with current land-use planning.

Public health issues have been raised over a number of contaminants that have been identified in certain local and imported water supplies.

Implementing effective water management strategies, including groundwater storage projects and recycled water projects, may require specific water quality and salinity targets for meeting groundwater basins water quality objectives and promoting beneficial use of recycled water.

Water quality regulations are becoming an increasingly important factor in water agencies' selection of raw water sources, treatment alternatives, and modifications to existing treatment facilities.

Changes in drinking water quality standards may also impact the usefulness of water supplies and may ultimately impact supply reliability.

The quality of source supplies can have a significant impact on water management strategies and supply reliability.

This part is intended to provide assistance to water agencies in carrying out their long-term resource planning responsibilities to ensure adequate water supplies to meet existing and future demands for water.

SEC. 12.

Section 10610.4 of the Water Code is amended to read:

10610.4.

The Legislature finds and declares that it is the policy of the state as follows:

The management of urban water demands and efficient use of water shall be actively pursued to protect both the people of the state and their water resources.

The management of urban water demands and efficient use of urban water supplies shall be a guiding criterion in public decisions.

Urban water suppliers shall be required to develop water management plans to ~~actively pursue~~ achieve the efficient use of available ~~supplies~~ supplies and strengthen local drought planning.

SEC. 13.

Section 10612 of the Water Code is amended and renumbered to read:

~~10612.~~ **10611.3.**

“Customer” means a purchaser of water from a water supplier who uses the water for municipal purposes, including residential, commercial, governmental, and industrial uses.

SEC. 14.

Section 10612 is added to the Water Code, to read:

10612.

“Drought risk assessment” means a method that examines water shortage risks based on the driest five-year historic sequence for the agency’s water supply.

SEC. 15.

Section 10617 of the Water Code is amended and renumbered to read:

~~10617.~~ **10618.**

“Urban water supplier” means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually. An urban water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers. This part applies only to water supplied from public water systems subject to Chapter 4 (commencing with Section 116275) of Part 12 of Division 104 of the Health and Safety Code.

SEC. 16.

Section 10617 is added to the Water Code, to read:

10617.

“Water budget forecast” means a method that looks at current year and one or more dry year supplies and demands for determining water shortage risks.

SEC. 17.

Section 10617.5 is added to the Water Code, to read:

10617.5.

“Water shortage contingency plan” means a document that incorporates the provisions detailed in subdivision (a) of Section 10632 and is subsequently adopted by an urban water supplier pursuant to this article.

SEC. 18.

Section 10620 of the Water Code is amended to read:

10620.

Every urban water supplier shall prepare and adopt an urban water management plan in the manner set forth in Article 3 (commencing with Section 10640).

Every person that becomes an urban water supplier shall adopt an urban water management plan within one year after it has become an urban water supplier.

An urban water supplier indirectly providing water shall not include planning elements in its water management plan as provided in Article 2 (commencing with Section 10630) that would be applicable to urban water suppliers or public agencies directly providing water, or to their customers, without the consent of those suppliers or public agencies.

An urban water supplier may satisfy the requirements of this part by participation in areawide, regional, watershed, or basinwide urban water management planning where those plans will reduce preparation costs and contribute to the achievement of ~~conservation and~~ conservation, efficient water ~~use~~ use, and improved local drought resilience.

Notwithstanding paragraph (1), each urban water supplier shall develop its own water shortage contingency plan but an urban water supplier may incorporate, collaborate, and otherwise share information with other urban water suppliers or other governing entities participating in an area-wide, regional, watershed, or basin-wide urban water management plan, an agricultural management plan, or groundwater sustainability plan development.

~~(2)~~

Each urban water supplier shall coordinate the preparation of its plan with other appropriate agencies in the area, including other water suppliers that share a common source, water management agencies, and relevant public agencies, to the extent practicable.

The urban water supplier may prepare the plan with its own staff, by contract, or in cooperation with other governmental agencies.

An urban water supplier shall describe in the plan water management tools and options used by that entity that will maximize resources and minimize the need to import water from other regions.

SEC. 19.

Section 10621 of the Water Code is amended to read:

10621.

Each urban water supplier shall update its plan at least once every five years on or before ~~December 31, July 1~~, in years ending in ~~five~~ six and ~~zero, except as provided in subdivisions (d) and (e)~~ one, incorporating updated and new information from the five years preceding each update.

Every urban water supplier required to prepare a plan pursuant to this part shall, at least 60 days before the public hearing on the plan required by Section 10642, notify any city or county within which the supplier provides water supplies that the urban water supplier will be reviewing the plan and considering amendments or changes to the plan. The urban water supplier may consult with, and obtain comments from, any city or county that receives notice pursuant to this subdivision.

An urban water supplier regulated by the Public Utilities Commission shall include its most recent plan and water shortage contingency plan as part of the supplier's general rate case filings.

~~(e)~~

The amendments to, or changes in, the plan shall be adopted and filed in the manner set forth in Article 3 (commencing with Section 10640).

~~(d)~~

Each urban water supplier shall update and submit its 2015 plan to the department by July 1, 2016.

~~(e)~~

Each urban water supplier shall update and submit its 2020 plan to the department by July 1, 2021.

SEC. 20.

Section 10630 of the Water Code is amended to read:

10630.

It is the intention of the Legislature, in enacting this part, to permit levels of water management planning commensurate with the numbers of customers served and the volume of water ~~supplied.~~ supplied, while accounting for impacts from climate change.

SEC. 21.

Section 10631 of the Water Code is amended to read:

10631.

A plan shall be adopted in accordance with this chapter that shall do all of the following:

Describe the service area of the supplier, including current and projected population, ~~climate,~~ impacts from climate change, and other social, economic, and demographic factors affecting the supplier's water management planning. The projected population estimates shall be based upon data from the state, regional, or local service agency population projections within the service area of the urban water supplier and shall be in five-year increments to 20 years or as far as data is available. The description shall include the current and projected land uses within the existing or anticipated service area affecting the supplier's water management planning. Land use information shall be obtained from local or regional land-use authorities, as developed pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code.

Identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over the same five-year increments described in subdivision ~~(a). If groundwater is identified as an existing or planned source of water available to the supplier,~~ (a), including all of the ~~following information shall be included in the plan:~~ following:

For each source of water supply, while considering any information pertinent to the reliability analysis conduct pursuant to Section 10635, provide a detailed discussion of anticipated supply availability under a normal water year, single dry year, and droughts lasting at least five years, as well as more frequent and severe periods of drought, as described in the drought risk assessment.

When multiple sources of water supply are identified, describe the management of each supply in correlation with the other identified supplies.

For any planned sources of water supply, describe the measures that are being undertaken to acquire and develop those water supplies.

If groundwater is identified as an existing or planned source of water available to the supplier, all of the following information shall be included in the plan:

~~(1)~~

A copy of any groundwater management plan adopted by the urban water supplier, including plans adopted pursuant to Part 2.75 (commencing with Section 10750), or any other specific authorization for groundwater management.

(2)

A description of any groundwater basin or basins from which the urban water supplier pumps groundwater. For basins that a court or the board has adjudicated the rights to pump groundwater, a copy of the order or decree adopted by the court or the board and a description of the amount of groundwater the urban water supplier has the legal right to pump under the order or decree. For basins that have not been adjudicated, information as to whether the department has identified the basin or basins as ~~overdrafted~~ a high- or medium-priority basin or has projected that the basin will become ~~overdrafted~~ a high- or medium-priority basin pursuant to Sections 10722.4 and 10933 if present management conditions continue, in the most current official departmental bulletin that characterizes the condition of the groundwater basin, and a detailed description of the efforts being undertaken by the urban water supplier to coordinate with groundwater sustainability agencies to eliminate the ~~long-term overdraft condition~~, undesirable results described in a groundwater sustainability plan pursuant to Section 10727.

(3)

A detailed description and analysis of the location, amount, and sufficiency of groundwater pumped by the urban water supplier for the past five years. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(4)

A detailed description and analysis of the amount and location of groundwater that is projected to be pumped by the urban water supplier. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

~~(c)(1) Describe the reliability (1) of the water supply and vulnerability to seasonal or climatic shortage, to the extent practicable, and provide data for each of the following:~~

~~(A) An average water year.~~

~~(B) A single dry water year.~~

~~(C) Multiple dry water years.~~

~~(2) For any water source that may not be available at a consistent level of use, given specific legal, environmental, water quality, or climatic factors, describe plans to supplement or replace that source with alternative sources or water demand management measures, to the extent practicable.~~

A copy of any pertinent groundwater sustainability plans for groundwater basins underlying the urban water supplier's service area.

(d)

Describe the opportunities for exchanges or transfers of water on a short-term or long-term basis.

(e)

Quantify, to the extent records are available, past and current water use, over the same five-year increments described in subdivision (a), and projected water use, based upon information developed pursuant to subdivision (a), identifying the uses among water use sectors, including, but not necessarily limited to, all of the ~~following uses~~: following:

Single-family residential.

Multifamily.

Commercial.

Industrial.

Institutional and governmental.

Landscape.

Sales to other agencies.

Saline water intrusion barriers, groundwater recharge, or conjunctive use, or any combination thereof.

Agricultural.

Distribution system water loss.

The water use projections shall be in the same five-year increments described in subdivision (a).

~~For the 2015 urban water management plan update, the~~ The distribution system water loss shall be quantified for ~~the most recent 12-month period available. For all subsequent updates, the distribution system water loss shall be quantified for~~ each of the five years preceding the plan ~~update.~~ update in accordance with rules adopted pursuant to Section 10608.34.

The distribution system water loss quantification shall be reported in accordance with a worksheet approved or developed by the department through a public process. The water loss quantification worksheet shall be based on the water system balance methodology developed by the American Water Works Association.

After 2021, data to show whether the urban water supplier met the distribution loss standards enacted by the board pursuant to Section 10608.34.

~~If available and applicable to an urban water supplier, water~~ Water use ~~projections may~~ projections, where available, shall display and account for the water savings estimated to result from adopted codes, standards, ordinances, or transportation and land use plans identified by the urban water supplier, as applicable to the service area.

To the extent that an urban water supplier reports the information described in subparagraph (A), an urban water supplier shall do both of the following:

Provide citations of the various codes, standards, ordinances, or transportation and land use plans utilized in making the projections.

(ii) Indicate the extent that the water use projections consider savings from codes, standards, ordinances, or transportation and land use plans. Water use projections that do not account for these water savings shall be noted of that fact.

(f)

Provide a description of the supplier's water demand management measures. This description shall include all of the following:

For an urban retail water supplier, as defined in Section 10608.12, a narrative description that addresses the nature and extent of each water demand management measure implemented over the past five years. The narrative shall describe the water demand management measures that

the supplier plans to implement to achieve its water use targets pursuant to Section ~~10608.20~~, 10608.20 and any water use standards adopted by the board.

The narrative pursuant to this paragraph shall include descriptions of the following water demand management measures:

Water waste prevention ordinances.

(ii) Metering.

(iii) Conservation pricing.

(iv) Public education and outreach.

Programs to assess and manage distribution system real loss.

Water conservation program coordination and staffing support.

Other demand management measures that have a significant impact on water use as measured in gallons per capita per day, including innovative measures, if implemented.

For an urban wholesale water supplier, as defined in Section 10608.12, a narrative description of the items in clauses (ii), (iv), (vi), and (vii) of subparagraph (B) of paragraph (1), and a narrative description of its distribution system asset management and wholesale supplier assistance programs.

~~(g)~~

Include a description of all water supply projects and water supply programs that may be undertaken by the urban water supplier to meet the total projected water use, as established pursuant to subdivision (a) of Section 10635. The urban water supplier shall include a detailed description of expected future projects and programs that the urban water supplier may implement to increase the amount of the water supply available to the urban water supplier in ~~average, single dry, normal and multiple dry single-dry~~ water years and for a period of drought lasting five or more consecutive water years. The description shall identify specific projects and include a description of the increase in water supply that is expected to be available from each project. The description shall include an estimate with regard to the implementation timeline for each project or program.

~~(h)~~

Describe the opportunities for development of desalinated water, including, but not limited to, ocean water, brackish water, and groundwater, as a long-term supply.

~~(i) For purposes of this part, urban water suppliers that are members of the California Urban Water Conservation Council shall be deemed in compliance with the requirements of subdivision (f) by complying with all the provisions of the "Memorandum of Understanding Regarding Urban Water Conservation in California," dated December 10, 2008, as it may be amended, and by submitting the annual reports required by Section 6.2 of that memorandum.~~

~~(j)~~

An urban water supplier that relies upon a wholesale agency for a source of water shall provide the wholesale agency with water use projections from that agency for that source of water in five-year increments to 20 years or as far as data is available. The wholesale agency shall provide information to the urban water supplier for inclusion in the urban water supplier's plan that identifies and quantifies, to the extent practicable, the existing and planned sources of water as required by subdivision (b), available from the wholesale agency to the urban water supplier over the same five-year increments, and during various water-year types in accordance with subdivision ~~(e)~~ (f). An urban water supplier

may rely upon water supply information provided by the wholesale agency in fulfilling the plan informational requirements of subdivisions (b) and ~~(e)~~ (f).

SEC. 22.

Section 10631.2 of the Water Code is amended to read:

10631.2.

In addition to the requirements of Section 10631, an urban water management plan ~~may, but is not required to,~~ shall include any of the following ~~information:~~ information that the urban water supplier can readily obtain:

An estimate of the amount of energy used to extract or divert water supplies.

An estimate of the amount of energy used to convey water supplies to the water treatment plants or distribution systems.

An estimate of the amount of energy used to treat water supplies.

An estimate of the amount of energy used to distribute water supplies through its distribution systems.

An estimate of the amount of energy used for treated water supplies in comparison to the amount used for nontreated water supplies.

An estimate of the amount of energy used to place water into or withdraw from storage.

Any other energy-related information the urban water supplier deems appropriate.

The department shall include in its guidance for the preparation of urban water management plans a methodology for the voluntary calculation or estimation of the energy intensity of urban water systems. The department may consider studies and calculations conducted by the Public Utilities Commission in developing the methodology.

SEC. 23.

Section 10631.7 of the Water Code is repealed.

~~10631.7.~~

~~The department, in consultation with the California Urban Water Conservation Council, shall convene an independent technical panel to provide information and recommendations to the department and the Legislature on new demand management measures, technologies, and approaches. The panel shall consist of no more than seven members, who shall be selected by the department to reflect a balanced representation of experts. The panel shall have at least one, but no more than two, representatives from each of the following: retail water suppliers, environmental organizations, the business community, wholesale water suppliers, and academia. The panel shall be convened by January 1, 2009, and shall report to the Legislature no later than January 1, 2010, and every five years thereafter. The department shall review the panel report and include in the final report to the Legislature the department's recommendations and comments regarding the panel process and the panel's recommendations.~~

SEC. 24.

Section 10632 of the Water Code is repealed.

~~10632.~~

~~(a) The plan shall provide an urban water shortage contingency analysis that includes each of the following elements that are within the authority of the urban water supplier:~~

- ~~(1) Stages of action to be undertaken by the urban water supplier in response to water supply shortages, including up to a 50 percent reduction in water supply, and an outline of specific water supply conditions that are applicable to each stage.~~
- ~~(2) An estimate of the minimum water supply available during each of the next three water years based on the driest three year historic sequence for the agency's water supply.~~
- ~~(3) Actions to be undertaken by the urban water supplier to prepare for, and implement during, a catastrophic interruption of water supplies including, but not limited to, a regional power outage, an earthquake, or other disaster.~~
- ~~(4) Additional, mandatory prohibitions against specific water use practices during water shortages, including, but not limited to, prohibiting the use of potable water for street cleaning.~~
- ~~(5) Consumption reduction methods in the most restrictive stages. Each urban water supplier may use any type of consumption reduction methods in its water shortage contingency analysis that would reduce water use, are appropriate for its area, and have the ability to achieve a water use reduction consistent with up to a 50 percent reduction in water supply.~~
- ~~(6) Penalties or charges for excessive use, where applicable.~~
- ~~(7) An analysis of the impacts of each of the actions and conditions described in paragraphs (1) to (6), inclusive, on the revenues and expenditures of the urban water supplier, and proposed measures to overcome those impacts, such as the development of reserves and rate adjustments.~~
- ~~(8) A draft water shortage contingency resolution or ordinance.~~
- ~~(9) A mechanism for determining actual reductions in water use pursuant to the urban water shortage contingency analysis.~~
- ~~(b) Commencing with the urban water management plan update due July 1, 2016, for purposes of developing the water shortage contingency analysis pursuant to subdivision (a), the urban water supplier shall analyze and define water features that are artificially supplied with water, including ponds, lakes, waterfalls, and fountains, separately from swimming pools and spas, as defined in subdivision (a) of Section 115921 of the Health and Safety Code.~~

SEC. 25.

Section 10632 is added to the Water Code, to read:

10632.

Every urban water supplier shall prepare and adopt a water shortage contingency plan as part of its urban water management plan that consists of each of the following elements:

The procedures used in conducting an annual water budget forecast that include, at a minimum, both of the following:

The written decisionmaking process that an urban water supplier will use each year to determine its water supply reliability.

The key data inputs and assessment methodology used to evaluate the urban water supplier's water supply reliability for the current year and one or more dry years, including all of the following:

Current year unconstrained demand, considering weather, growth, and other influencing factors, such as policies to manage current supplies to meet demand objectives in future years, as applicable.

(ii) Current year available supply, considering hydrological and regulatory conditions in the current year and one or more dry years.

(iii) Existing infrastructure capabilities and plausible constraints.

(iv) A defined set of locally applicable evaluation criteria that are consistently relied upon for each annual water budget forecast.

A description and quantification of each source of water supply.

Six standard water shortage levels corresponding to progressive ranges of up to 10, 20, 30, 40, and 50 percent shortages and greater than 50 percent shortage. Shortage levels shall also apply to catastrophic interruption of water supplies, including, but not limited to, a regional power outage, an earthquake, and other potential emergency events.

Shortage response actions that align with the defined shortage levels and shall include, at a minimum, all of the following:

Locally appropriate supply augmentation actions.

Locally appropriate demand reduction actions to adequately respond to shortages.

Locally appropriate operational changes.

Additional, mandatory prohibitions against specific water use practices that are in addition to state-mandated prohibitions.

For each action, an estimate of the volume of water or percentage reduction in water use that will be achieved by implementation of the action.

Communication protocols and procedures to inform customers, the public, interested parties, and local, regional, and state governments, regarding, at a minimum, all of the following:

Any current or predicted shortages as determined by the annual water budget forecast as determined pursuant to Section 10632.1.

Any shortage response actions triggered or anticipated to be triggered by the annual water budget forecast as determined pursuant to Section 10632.1.

Any other relevant communications.

Customer compliance, enforcement, appeal, and exemption procedures for triggered shortage response actions as determined pursuant to Section 10632.2.

A description of the legal authorities that empower the urban water supplier to implement and enforce its shortage response actions specified in paragraph (3) that may include, but are not limited to, statutory authorities, ordinances, resolutions, and contract provisions.

An urban water supplier shall declare a water shortage emergency in accordance with Chapter 3 (commencing with Section 350) of Division 1 in the event of either of the following:

A water shortage level four or greater, as described in paragraph (2), is determined to exist.

(ii) A severe catastrophic interruption of the water supply of the urban water supplier has occurred.

An urban water supplier shall coordinate with any city or county within which it provides water supply services for the possible proclamation of a local emergency, as defined in Section 8558 of the Government Code.

A description of the financial consequences of and responses for drought conditions, including, but not limited to, all of the following:

A description of potential revenue reductions and expense increases associated with activated shortage response actions described in paragraph (3).

A description of mitigation actions needed to address revenue reductions and expense increases associated with activated shortage response actions described in paragraph (3).

A description of the cost of compliance with Chapter 3.3 (commencing with Section 365) of Division 1.

Monitoring and reporting requirements and procedures that ensure appropriate data is collected, tracked, and analyzed for purposes of monitoring customer compliance and to meet state reporting requirements.

Reevaluation and improvement procedures for systematically monitoring and evaluating the functionality of the water shortage contingency plan in order to ensure shortage risk tolerance is adequate and appropriate water shortage mitigation strategies are implemented as needed.

Commencing with the urban water management plan update due July 1, 2016, for purposes of developing the water shortage contingency plan pursuant to subdivision (a), the urban water supplier shall analyze and define water features that are artificially supplied with water, including ponds, lakes, waterfalls, and fountains, separately from swimming pools and spas, as defined in subdivision (a) of Section 115921 of the Health and Safety Code.

The urban water supplier shall make available the water shortage contingency plan prepared pursuant to this article to its customers and any city or county within which it provides water supplies no later than 30 days after adoption of the water shortage contingency plan.

SEC. 26.

Section 10632.1 is added to the Water Code, to read:

10632.1.

An urban water supplier shall conduct the annual water budget forecast pursuant to subdivision (a) of Section 10632 and, on or before June 1 of each year, submit an annual water shortage assessment report to the department with information for anticipated shortage, triggered shortage response actions, compliance, and enforcement actions, and communication actions consistent with the supplier's water shortage contingency plan.

SEC. 27.

Section 10632.2 is added to the Water Code, to read:

10632.2.

An urban water supplier shall adhere to the prescribed procedures and implement determined shortage response actions in its water shortage contingency plan as identified in subdivision (a) of Section 10632 in drought and water shortage conditions.

SEC. 28.

Section 10632.3 is added to the Water Code, to read:

10632.3.

The department may update the Urban Water Management Guidebook to include and further clarify, where necessary, the requirements contained in subdivision (a) of Section 10632.

SEC. 29.

Section 10635 of the Water Code is amended to read:

10635.

Every urban water supplier shall include, as part of its urban water management plan, an assessment of the reliability of its water service to its customers during normal, dry, and multiple dry water years. This water supply and demand assessment shall compare the total water supply sources available to the water supplier with the long-term total projected water use over the next 20 years, in five-year increments, for a normal water year, a single dry water year, and ~~multiple dry~~ a drought lasting five or more consecutive water years. The water service reliability assessment shall be based upon the information compiled pursuant to Section 10631, including available data from state, regional, or local agency population projections within the service area of the urban water supplier.

Every urban water supplier shall include, as part of its urban water management plan, a drought risk assessment for its water service to its customers as part of information considered in developing the demand management measures and water supply projects and programs to be included in the urban water management plan. The urban water supplier may conduct an interim update or updates to this drought risk assessment within the five-year cycle of its urban water management plan update. The drought risk assessment shall satisfy the following requirements:

A description of data, methodology, and basis for one or more supply shortage conditions to conduct a drought risk assessment for a drought period that lasts five or more consecutive years, starting from the year following when the assessment is conducted.

A comparison of the total water supply sources available to the water supplier with the total projected water use for the drought period. Potable reuse, recycled water, and desalination are considered fully reliable.

Considerations of the historical drought hydrology, plausible changes on projected supplies and demands under climate change conditions, anticipated regulatory changes, and other locally applicable criteria.

~~(b)~~

The urban water supplier shall provide that portion of its urban water management plan prepared pursuant to this article to any city or county within which it provides water supplies no later than 60 days after the submission of its urban water management plan.

~~(c)~~

Nothing in this article is intended to create a right or entitlement to water service or any specific level of water service.

~~(d)~~

Nothing in this article is intended to change existing law concerning an urban water supplier's obligation to provide water service to its existing customers or to any potential future customers.

SEC. 30.

Section 10640 of the Water Code is amended to read:

10640.

Every urban water supplier required to prepare a plan pursuant to this part shall prepare its plan pursuant to Article 2 (commencing with Section 10630). The supplier shall likewise periodically review the plan as required by Section 10621, and any amendments or changes required as a result of that review shall be adopted pursuant to this article.

Every urban water supplier required to prepare a water shortage contingency plan shall prepare a water shortage contingency plan pursuant to Section 10632. The supplier shall likewise periodically review the water shortage contingency plan as required by paragraph (9) of subdivision (a)

of Section ~~10621~~, 10632 and any amendments or changes required as a result of that review shall be adopted pursuant to this article.

SEC. 31.

Section 10641 of the Water Code is amended to read:

10641.

An urban water supplier required to prepare an urban water management plan or a water shortage contingency plan may consult with, and obtain comments from, any public agency or state agency or any person who has special expertise with respect to water demand management methods and techniques.

SEC. 32.

Section 10642 of the Water Code is amended to read:

10642.

Each urban water supplier shall encourage the active involvement of diverse social, cultural, and economic elements of the population within the service area prior to and during the preparation of both the urban water management plan and the water shortage contingency plan. Prior to adopting ~~a~~ either plan, the urban water supplier shall make both of the ~~plan~~ plans available for public inspection and shall hold a public hearing thereon. Prior to the hearing, notice of the time and place of hearing shall be published within the jurisdiction of the publicly owned water supplier pursuant to Section 6066 of the Government Code. The urban water supplier shall provide notice of the time and place of hearing to any city or county within which the supplier provides water supplies. Notices by a local public agency pursuant to this section shall be provided pursuant to Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1 of the Government Code. A privately owned water supplier shall provide an equivalent notice within its service area. After the hearing, the urban water management plan or water shortage contingency plan shall be adopted as prepared or as modified after the hearing.

SEC. 33.

Section 10644 of the Water Code is amended to read:

10644.

An urban water supplier shall submit to the department, the California State Library, and any city or county within which the supplier provides water supplies a copy of its plan no later than 30 days after adoption. Copies of amendments or changes to the plans shall be submitted to the department, the California State Library, and any city or county within which the supplier provides water supplies within 30 days after adoption.

The plan, or amendments to the plan, submitted to the department pursuant to paragraph (1) shall be submitted electronically and shall include any standardized forms, tables, or displays specified by the department.

If an urban water supplier revises its water shortage contingency plan, the supplier shall submit to the department a copy of its water shortage contingency plan prepared pursuant to subdivision (a) of Section 10632 no later than 30 days after adoption, in accordance with protocols for submission and using electronic reporting tools developed by the department.

~~(b)~~

(A) Notwithstanding Section 10231.5 of the Government Code, ~~and except as provided in subparagraph (B)~~, the department shall prepare and submit to the Legislature, on or before ~~December 31~~, July 1, in the years ending in ~~six~~ seven and ~~one~~, two, a report summarizing the status of the plans adopted pursuant to this part. The report prepared by the department shall identify the exemplary elements of

the individual plans. The department shall provide a copy of the report to each urban water supplier that has submitted its ~~plan~~ plans to the department. The department shall also prepare reports and provide data for any legislative hearings designed to consider the effectiveness of plans submitted pursuant to this part.

The department shall prepare and submit to the board, on or before June 1 of each year, a report summarizing the submitted water budget forecast results along with appropriate reported water shortage conditions and the regional and statewide analysis of water supply conditions developed by the department. As part of the report, the department shall provide a summary and, as appropriate, urban water supplier specific information regarding various shortage response actions implemented as a result of annual supplier-specific water budget forecast assessments performed pursuant to Section 10632.1. The report shall include enough information on the completeness and adequacy of the information submitted for the board to determine if noncompliance enforcement is necessary.

(B)

The department shall submit the report to the Legislature for the 2015 plans by July 1, 2017, and the report to the Legislature for the 2020 plans by July 1, 2022.

A report to be submitted pursuant to subparagraph (A) of paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

For the purpose of identifying the exemplary elements of the individual plans, the department shall identify in the report water demand management measures adopted and implemented by specific urban water suppliers, and identified pursuant to Section 10631, that achieve water savings significantly above the levels established by the department to meet the requirements of Section 10631.5.

The department shall distribute to the panel convened pursuant to Section 10631.7 the results achieved by the implementation of those water demand management measures described in paragraph (1).

The department shall make available to the public the standard the department will use to identify exemplary water demand management measures.

SEC. 34.

Section 10645 of the Water Code is amended to read:

10645.

Not later than 30 days after filing a copy of its plan with the department, the urban water supplier and the department shall make the plan available for public review during normal business hours.

Not later than 30 days after filing a copy of its water shortage contingency plan with the department, the urban water supplier and the department shall make the plan available for public review during normal business hours.

SEC. 35.

Section 10650 of the Water Code is amended to read:

10650.

Any actions or ~~proceedings~~ proceedings, other than actions by the board, to attack, review, set aside, void, or annul the acts or decisions of an urban water supplier on the grounds of noncompliance with this part shall be commenced as follows:

An action or proceeding alleging failure to adopt an urban water management plan or a water shortage contingency plan shall be commenced within 18 months after that adoption is required by this part.

Any action or proceeding alleging that ~~a~~ an urban water management plan or water shortage contingency plan, or action taken pursuant to ~~the~~ either plan, does not comply with this part shall be commenced within 90 days after filing of the urban water management plan or water shortage contingency plan or an amendment ~~thereto~~ to either plan pursuant to Section 10644 or the taking of that action.

SEC. 36.

Section 10651 of the Water Code is amended to read:

10651.

In any action or proceeding to attack, review, set aside, void, or annul an urban water management plan or a water shortage contingency plan, or an action taken pursuant to ~~the~~ either plan by an urban water supplier on the grounds of noncompliance with this part, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the supplier has not proceeded in a manner required by law or if the action by the water supplier is not supported by substantial evidence.

SEC. 37.

Section 10653 of the Water Code is amended to read:

10653.

The adoption of a plan shall satisfy any requirements of state law, regulation, or order, including those of the ~~State Water Resources Control Board~~ board and the Public Utilities Commission, for the preparation of water management ~~plans~~ plans, water shortage contingency plans, or conservation plans; provided, that if the ~~State Water Resources Control Board~~ board or the Public Utilities Commission requires additional information concerning water ~~conservation~~ conservation, drought response measures, and financial information to implement its existing authority, nothing in this part shall be deemed to limit the board or the commission in obtaining that information. The requirements of this part shall be satisfied by any urban water demand management plan ~~prepared to meet that~~ complies with analogous federal laws or regulations after the effective date of this part, and which substantially meets the requirements of this part, or by any existing urban water management plan which includes the contents of a plan required under this part.

SEC. 38.

Section 10654 of the Water Code is amended to read:

10654.

An urban water supplier may recover in its rates the costs incurred in preparing its urban water management plan and its water shortage contingency plan and implementing the reasonable water conservation measures included in ~~the~~ either plan. ~~Any best water management practice that is included in the plan that is identified in the "Memorandum of Understanding Regarding Urban Water Conservation in California" is deemed to be reasonable for the purposes of this section.~~

SEC. 39.

Section 10656 of the Water Code is amended to read:

10656.

An urban water supplier that does not prepare, adopt, and submit its urban water management plan or its water shortage contingency plan to the department in accordance with this part, is ineligible to receive funding pursuant to Division 24 (commencing with Section 78500) or Division 26 (commencing with

Section 79000), or receive drought assistance from the state until the urban water management plan or water shortage contingency plan is submitted pursuant to this article.

SEC. 40.

Section 10814 of the Water Code is amended to read:

10814.

“Person” ~~means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of that entity.~~ has the same meaning as defined in Section 10614.

SEC. 41.

Section 10820 of the Water Code is amended to read:

10820.

~~An~~ (1) Except as provided in paragraph (2), an agricultural water supplier shall prepare and adopt an agricultural water management plan in the manner set forth in this chapter on or before December 31, 2012, and shall update that plan on December 31, ~~2015, and on or before December 31 every five years thereafter.~~ 2015.

(A) The agricultural water management plan shall be updated on or before April 1, 2021, and thereafter on or before April 1 in the years ending in six and the years ending in one. The plan shall satisfy the requirements of Section 10826.

An agricultural water supplier shall submit its plan to the department no later than 30 days after the adoption of the plan. The plan shall be submitted electronically and shall include any standardized forms, tables, or displays specified by the department.

The department shall review each plan that is due pursuant to paragraph (2) of subdivision (a). The department may coordinate its review with the Department of Food and Agriculture and the board.

The department shall notify an agricultural water supplier that it is not in compliance with this part if the department determines that actions are required to comply with the requirements of this part or if a supplier fails to update a plan as provided in paragraph (2) of subdivision (a). The department shall identify the specific deficiencies and the supplier shall have 120 days to remedy an identified deficiency. An agricultural water supplier that fails to submit corrective actions or a completed plan shall not be in compliance with this part.

The department shall notify an agricultural water supplier that does not submit a plan pursuant to subdivision (a) that no plan was received by the department. If an agricultural water supplier does not submit a plan pursuant to subdivision (a) within 120 days of the notice, the agricultural water supplier is in noncompliance with this part.

If the department has not received a plan or the department has determined that the plan submitted does not comply with the requirements of this part, and a revised plan has not been submitted, the department may undertake the following actions:

Contract with a state academic institution or qualified entity to prepare or complete an agricultural water management plan on behalf of the supplier. The department shall assess the cost of the contract, the contract’s administration by the department, and the department’s costs in implementing this paragraph on behalf of the supplier.

If a supplier does not provide data necessary for the preparation or completion of a plan to the department or the contracting entity as determined by the department in

accordance with subparagraph (A), the department may assess a fine of one thousand dollars (\$1,000) per day until data is made available.

A plan prepared or completed pursuant to paragraph (4) shall be deemed the adopted plan for the supplier.

Any action to challenge or invalidate the adequacy of the plan prepared or completed pursuant to paragraph (4) shall be brought against the supplier for whom the plan was prepared.

~~(b)~~

Every supplier that becomes an agricultural water supplier after December 31, 2012, shall prepare and adopt an agricultural water management plan within one year after the date it has become an agricultural water supplier.

~~(c)~~

A water supplier that indirectly provides water to customers for agricultural purposes shall not prepare a plan pursuant to this part without the consent of each agricultural water supplier that directly provides that water to its customers.

SEC. 42.

Section 10826 of the Water Code is amended to read:

10826.

An agricultural water management plan shall be adopted in accordance with this chapter. The plan shall do all of the following:

Describe the agricultural water supplier and the service area, including all of the following:

Size of the service area.

Location of the service area and its water management facilities.

Terrain and soils.

Climate.

Operating rules and regulations.

Water delivery measurements or calculations.

Water rate schedules and billing.

Water shortage allocation policies.

Describe the quantity and quality of water resources of the agricultural water supplier, including all of the following:

Surface water supply.

Groundwater supply.

Other water ~~supplies~~ supplies, including recycled water.

Source water quality monitoring practices.

Water uses within the agricultural water supplier's service area, including all of the following:

Agricultural.

Environmental.

Recreational.

Municipal and industrial.

Groundwater ~~recharge~~: recharge, including estimated flows from deep percolation from irrigation and seepage.

~~(F) Transfers and exchanges.~~

~~(G) Other water uses.~~

~~(6) Drainage from the water supplier's service area.~~

~~(7) Water accounting, including all of the following:~~

~~(A) Quantifying~~

Include an annual water budget based on the quantification of all inflow and outflow components for the service area of the agricultural water ~~supplier's~~ supplier. Components of inflow shall include surface inflow, groundwater pumping in the service area, and effective precipitation. Components of outflow shall include surface outflow, deep percolation, and evapotranspiration. An agricultural water ~~supplies~~ supplier shall report the annual water budget on a water-year basis. The department shall provide tools and resources to assist agricultural water suppliers in developing and quantifying components necessary to develop a water budget.

~~(B) Tabulating water uses.~~

~~(C) Overall water budget.~~

~~(8) Water supply reliability.~~

~~(c)~~

Include an analysis, based on available information, of the effect of climate change on future water supplies.

~~(d)~~

Describe previous water management activities.

Identify water management objectives based on the water budget to improve water system efficiency. The agricultural water supplier shall identify, prioritize, and implement actions to reduce water loss, improve water system management, and meet other water management objectives identified in the plan.

~~(e)~~

Include in the plan ~~the information regarding efficient water use efficiency information~~ management practices required pursuant to Section 10608.48.

Quantify the efficiency of agricultural water use within the service area of the agricultural water supplier using the appropriate method or methods from among the four water use efficiency quantification methods developed by the department in the May 8, 2012, report to the Legislature entitled "A Proposed Methodology for Quantifying the Efficiency of Agricultural Water Use." The agricultural water supplier shall account for all water uses, including crop water use, agronomic water use, environmental water use, and recoverable surface flows.

SEC. 43.

Section 10826.2 is added to the Water Code, to read:

10826.2.

As part of its agricultural water management plan, each agricultural water supplier shall develop a drought plan for periods of limited water supply describing the actions of the agricultural water supplier for drought preparedness and management of water supplies and allocations during drought conditions. The drought plan shall contain both of the following:

Resilience planning, including all of the following:

Data, indicators, and information needed to determine the water supply availability and levels of drought severity.

Analyses and identification of potential vulnerability to drought.

A description of the opportunities and constraints for improving drought resilience planning, including all of the following:

The availability of new technology or information.

The ability of the agricultural water supplier to obtain or use additional water supplies during drought conditions.

A description of other actions planned for implementation to improve drought resilience.

Drought response planning, including all of the following:

Policies and a process for declaring a water shortage and for implementing water shortage allocations and related response actions.

Methods and procedures for the enforcement or appeal of, or exemption from, triggered shortage response actions.

Methods and procedures for monitoring and evaluation of the effectiveness of the drought plan.

Communication protocols and procedures to inform and coordinate customers, the public, interested parties, and local, regional, and state government.

A description of the potential impacts on the revenues, financial condition, and planned expenditures of the agricultural water supplier during drought conditions that reduce water allocations, and proposed measures to overcome those impacts, including reserve-level policies.

SEC. 44.

Section 10843 of the Water Code is amended to read:

10843.

An agricultural water supplier shall submit to the entities identified in subdivision (b) a copy of its plan no later than 30 days after ~~the adoption~~ review of the ~~plan. Copies of amendments or changes plan~~ pursuant to ~~the plans shall be submitted to the entities identified in~~ subdivision (b) ~~within 30 days after the adoption of the amendments or changes.~~ Section 10820.

An agricultural water supplier shall submit a copy of its plan ~~and amendments or changes to the plan~~ to each of the following entities:

The department.

Any city, county, or city and county within which the agricultural water supplier provides water supplies.

Any groundwater management entity within which jurisdiction the agricultural water supplier extracts or provides water supplies.

~~(4) Any urban water supplier within which jurisdiction the agricultural water supplier provides water supplies.~~

~~(5) Any city or county library within which jurisdiction the agricultural water supplier provides water supplies.~~

~~(6)~~

The California State Library.

~~(7)~~

Any local agency formation commission serving a county within which the agricultural water supplier provides water supplies.

SEC. 45.

Section 10845 of the Water Code is amended to read:

10845.

The department shall prepare and submit to the Legislature, on or before ~~December 31, 2013,~~ April 30, 2022, and thereafter in the years ending in ~~six~~ seven and years ending in ~~one,~~ two, a report summarizing the status of the plans adopted pursuant to this part.

The report prepared by the department shall identify the outstanding elements of any plan adopted pursuant to this part. The report shall include an evaluation of the effectiveness of this part in promoting efficient agricultural water management practices and recommendations relating to proposed changes to this part, as appropriate.

The department shall provide a copy of the report to each agricultural water supplier that has submitted its plan to the department. The department shall also prepare reports and provide data for any legislative hearing designed to consider the effectiveness of plans submitted pursuant to this part.

This section does not authorize the department, in preparing the report, to approve, disapprove, or critique individual plans submitted pursuant to this part.

ASSEMBLY BILL No. 1669

Introduced by Assembly Member Friedman

(Coauthor: Senator Allen)

February 17, 2017

Bill Text:

SECTION 1. Section 377 of the Water Code is amended to read:

377. (a) From and after the publication or posting of any ordinance or resolution pursuant to Section 376, a violation of a requirement of a water conservation program adopted pursuant to Section 376 is a misdemeanor. A person convicted under this subdivision shall be punished by imprisonment in the county jail for not more than 30 days, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

A court or public entity may hold a person civilly liable in an amount not to exceed ten thousand dollars (\$10,000) for a violation of any of the following:

An ordinance or resolution adopted pursuant to Section 376.

An emergency A regulation adopted by the board under Section 1058.5, 1058.5 or Chapter 9 (commencing with Section 10609) of Part 2.55 of Division 6, unless the board regulation provides that it cannot be enforced under this section. section or provides for a lesser applicable penalty.

Commencing on the 31st day after the public entity notified a person of a violation described in subdivision (b), the person additionally may be civilly liable in an amount not to exceed ten thousand dollars (\$10,000) plus five hundred dollars (\$500) for each additional day on which the violation continues.

Remedies prescribed in this section are cumulative and not alternative, except that no liability shall be recoverable under this section for any violation of paragraph (2) of subdivision (b) if the board has filed a complaint pursuant to Section 1846 alleging the same violation.

A public entity may administratively impose the civil liability described in subdivisions (b) and (c) after providing notice and an opportunity for a hearing. The public entity shall initiate a proceeding under this subdivision by a complaint issued pursuant to Section 377.5. The public entity shall issue the complaint at least 30 days before the hearing on the complaint and the complaint shall state the basis for the proposed civil liability order.

In determining the amount of civil liability to assess, a court or public entity shall take into consideration all relevant circumstances, including, but not limited to, the nature and persistence of the violation, the extent of the harm caused by the violation, the length of time over which the violation occurs, and any corrective action taken by the violator.

The civil liability calculated pursuant to paragraph (1) for the first violation of subdivision (b) by a residential water user shall not exceed one thousand dollars (\$1,000) except in extraordinary situations where the court or public entity finds all of the following:

The residential user had actual notice of the requirement found to be violated.

The conduct was intentional.

The amount of water involved was substantial.

Civil liability imposed pursuant to this section shall be paid to the public entity and expended solely for the purposes of this chapter.

An order setting administrative civil liability shall become effective and final upon issuance of the order and payment shall be made. Judicial review of any final order shall be pursuant to Section 1094.5 of the Code of Civil Procedure.

In addition to the remedies prescribed in this section, a public entity may enforce water use limitations established by an ordinance or resolution adopted pursuant to this chapter, or as otherwise authorized by law, by a volumetric penalty in an amount established by the public entity.

SEC. 2. Section 1058.5 of the Water Code is amended to read:

1058.5. (a) This section applies to any emergency regulation adopted by the board for which the board makes both of the following findings:

The emergency regulation is adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.

The emergency regulation is adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions.

Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, any findings of emergency adopted by the board, in connection with the adoption of an emergency regulation under this section, are not subject to review by the Office of Administrative Law.

An emergency regulation adopted by the board under this section may remain in effect for up to 270 days, one year, as determined by the board, and is deemed repealed immediately upon a finding by the board that due to changed conditions it is no longer necessary for the regulation to remain in effect. An emergency regulation adopted by the board under this section may be renewed if the board determines that the conditions specified in paragraph (2) of subdivision (a) are still in effect.

In addition to any other applicable civil or criminal penalties, any person or entity who violates a regulation adopted by the board pursuant to this section is guilty of an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Notwithstanding subdivision (b) of Section 1551 or subdivision (e) of Section 1848, a civil liability imposed under Chapter 12 (commencing with Section 1825) of Part 2 of Division 2 by the board or a court for a violation of an emergency conservation regulation adopted pursuant to this section shall be deposited, and separately accounted for, in the Water Rights Fund. Funds deposited in accordance with this subdivision shall be available, upon appropriation, for water conservation activities and programs.

For purposes of this subdivision, an "emergency conservation regulation" means an emergency regulation that requires an end user of water, a water retailer, or a water wholesaler to conserve water or report to the board on water conservation. Water conservation includes restrictions or limitations on particular uses of water or a reduction in the amount of water used or served, but does not include curtailment of diversions when water is not available under the diverter's priority of right or reporting requirements related to curtailments.

SEC. 3. Section 1120 of the Water Code is amended to read:

1120. This chapter applies to any decision or order issued under this part or Section 275, Part 2 (commencing with Section 1200), Part 2 (commencing with Section 10500) of Division 6, Part 2.55 (commencing with Section 10608) of Division 6, or Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, or the public trust doctrine.

SEC. 4. Section 1831 of the Water Code is amended to read:

1831. (a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.

The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.

The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:

- The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.

- Any term or condition of a permit, license, certification, or registration issued under this division.

- Any decision or order of the board issued under this part, Section 275, Chapter 9 (commencing with Section 10609) of Part 2.55 of Division 6, or Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

- A regulation adopted under Section 1058.5. by the board.

- Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

- Any diversion or use of water for cannabis cultivation if any of the following applies:

- A license is required, but has not been obtained, under Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.

- The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

- The diversion or use is not in compliance with a requirement imposed under subdivision (d) or (e) of Section 19332.2 of the Business and Professions Code.

This article does not alter the regulatory authority of the board under other provisions of law.

SEC. 5. Section 10608.20 of the Water Code is amended to read:

10608.20. (a) (1) Each urban retail water supplier shall develop urban water use targets and an interim urban water use target by July 1, 2011. Urban retail water suppliers may elect to determine and report progress toward achieving these targets on an individual or regional basis, as provided in subdivision (a) of Section 10608.28, and may determine the targets on a fiscal year or calendar year basis.

It is the intent of the Legislature that the urban water use targets described in paragraph (1) cumulatively result in a 20-percent reduction from the baseline daily per capita water use by December 31, 2020.

An urban retail water supplier shall adopt one of the following methods for determining its urban water use target pursuant to subdivision (a):

Eighty percent of the urban retail water supplier's baseline per capita daily water use.

The per capita daily water use that is estimated using the sum of the following performance standards:

For indoor residential water use, 55 gallons per capita daily water use as a provisional standard. Upon completion of the department's 2016 report to the Legislature pursuant to Section 10608.42, this standard may be adjusted by the Legislature by statute.

For landscape irrigated through dedicated or residential meters or connections, water efficiency equivalent to the standards of the Model Water Efficient Landscape Ordinance set forth in Chapter 2.7 (commencing with Section 490) of Division 2 of Title 23 of the California Code of Regulations, as in effect the later of the year of the landscape's installation or 1992. An urban retail water supplier using the approach specified in this subparagraph shall use satellite imagery, site visits, or other best available technology to develop an accurate estimate of landscaped areas.

For commercial, industrial, and institutional uses, a 10-percent reduction in water use from the baseline commercial, industrial, and institutional water use by 2020.

Ninety-five percent of the applicable state hydrologic region target, as set forth in the state's draft 20x2020 Water Conservation Plan (dated April 30, 2009). If the service area of an urban water supplier includes more than one hydrologic region, the supplier shall apportion its service area to each region based on population or area.

A method that shall be identified and developed by the department, through a public process, and reported to the Legislature no later than December 31, 2010. The method developed by the department shall identify per capita targets that cumulatively result in a statewide 20-percent reduction in urban daily per capita water use by December 31, 2020. In developing urban daily per capita water use targets, the department shall do all of the following:

Consider climatic differences within the state.

Consider population density differences within the state.

Provide flexibility to communities and regions in meeting the targets.

Consider different levels of per capita water use according to plant water needs in different regions.

Consider different levels of commercial, industrial, and institutional water use in different regions of the state.

Avoid placing an undue hardship on communities that have implemented conservation measures or taken actions to keep per capita water use low.

If the department adopts a regulation pursuant to paragraph (4) of subdivision (b) that results in a requirement that an urban retail water supplier achieve a reduction in daily per capita water use that is greater than 20 percent by December 31, 2020, an urban retail water supplier that adopted the method

described in paragraph (4) of subdivision (b) may limit its urban water use target to a reduction of not more than 20 percent by December 31, 2020, by adopting the method described in paragraph (1) of subdivision (b).

The department shall update the method described in paragraph (4) of subdivision (b) and report to the Legislature by December 31, 2014. An urban retail water supplier that adopted the method described in paragraph (4) of subdivision (b) may adopt a new urban daily per capita water use target pursuant to this updated method.

An urban retail water supplier shall include in its urban water management plan due in 2010 pursuant to Part 2.6 (commencing with Section 10610) the baseline daily per capita water use, urban water use target, interim urban water use target, and compliance daily per capita water use, along with the bases for determining those estimates, including references to supporting data.

When calculating per capita values for the purposes of this chapter, an urban retail water supplier shall determine population using federal, state, and local population reports and projections.

An urban retail water supplier may update its 2020 urban water use target in its 2015 urban water management plan required pursuant to Part 2.6 (commencing with Section 10610).

The department, through a public process and in consultation with the California Urban Water Conservation Council, shall develop technical methodologies and criteria for the consistent implementation of this part, including, but not limited to, both of the following:

Methodologies for calculating base daily per capita water use, baseline commercial, industrial, and institutional water use, compliance daily per capita water use, gross water use, service area population, indoor residential water use, and landscaped area water use.

Criteria for adjustments pursuant to subdivisions (d) and (e) of Section 10608.24.

The department shall post the methodologies and criteria developed pursuant to this subdivision on its Internet Web site, and make written copies available, by October 1, 2010. An urban retail water supplier shall use the methods developed by the department in compliance with this part.

The department shall adopt regulations for implementation of the provisions relating to process water in accordance with subdivision (l) of Section 10608.12, subdivision (e) of Section 10608.24, and subdivision (d) of Section 10608.26.

The initial adoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption of an emergency regulation pursuant to this subdivision, the department shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

An urban retail water supplier is granted an extension to July 1, 2011, for adoption of an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) due in 2010 to allow the use of technical methodologies developed by the department pursuant to paragraph (4) of subdivision (b) and subdivision (h). An urban retail water supplier that adopts an urban water management plan due

in 2010 that does not use the methodologies developed by the department pursuant to subdivision (h) shall amend the plan by July 1, 2011, to comply with this part.

An urban wholesale water supplier whose urban water management plan prepared pursuant to Part 2.6 (commencing with Section 10610) was due and not submitted in 2010 is granted an extension to July 1, 2011, to permit coordination between an urban wholesale water supplier and urban retail water suppliers.

Nothing in this part limits the authority of the board to adopt standards for water conservation that are in addition to, or exceed, the standards provided under this part.

SEC. 6. Chapter 9 (commencing with Section 10609) is added to Part 2.55 of Division 6 of the Water Code, to read:

CHAPTER 9. Urban Water Conservation Standards and Use Reporting

10609. (a) The board, in consultation with the department, shall adopt long-term standards for urban water conservation and water use by May 20, 2021. The standards shall include, but are not limited to, standards for all of the following:

Indoor residential water use.

Outdoor irrigation in connection with domestic, industrial, institutional, or commercial water use.

Industrial, institutional, and commercial water use.

The board, in consultation with the department, may adopt interim standards for urban water conservation and water use pending the adoption of long-term standards pursuant to subdivision (a). The board, in consultation with the department, may update the interim standards as it determines to be reasonably necessary for purposes of this section, except that the board may not set new or revised standards under this subdivision after the board adopts long-term standards pursuant to subdivision (a) or May 20, 2021, whichever occurs first.

Long-term standards, and any amendments to those standards, adopted by the board pursuant to subdivision (a) shall be adopted in accordance with the regular rulemaking process provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(A) Except for long-term standards, and any amendment to those standards, adopted pursuant to subdivision (a), regulations adopted by the board pursuant to this chapter, and any amendment or subsequent adjustment to those regulations, shall be adopted by the board as emergency regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of regulations pursuant to this paragraph shall be deemed an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the board pursuant to this paragraph shall remain in effect until revised by the board.

Before adopting an emergency regulation pursuant to this paragraph, the board shall provide at least 60 days for the public to review and comment on the proposed regulation and shall hold a public hearing.

Notwithstanding Section 15300.2 of Title 14 of the California Code of Regulations, an action of the board taken under this chapter shall be deemed to be a Class 8 action, within the meaning of Section 15308 of Title 14 of the California Code of Regulations, if the action does not involve relaxation of existing water conservation or water use standards.

10609.2. The board may issue a regulation or informational order requiring a distributor of a public water supply, as that term is used in Section 350, to submit information relating to water production, water use, or water conservation.

SECTION 1. Section 10608.18 is added to the Water Code, to read:

10608.18. On or before January 1, 2019, the board, in consultation with the department and other appropriate state agencies, shall establish and adopt a process to increase urban water use efficiency through incremental urban water use efficiency standards and in that regard shall establish an urban water use efficiency standard to be achieved by urban water suppliers by January 1, 2025. Every five years, the board shall review and consider updates to the urban water use efficiency standard for the upcoming five years.

ASSEMBLY BILL No. 1700

Introduced by Assembly Member Cooper

(Coauthor: Assembly Member Reyes)

(Coauthor: Senator Dodd)

February 28, 2017

Bill Text:

~~SECTION 1. Section 19322 of the Business and Professions Code is amended to read:~~
~~19322.(a) A person shall not submit an application for a state license issued by a licensing authority pursuant to this chapter unless that person has received a license, permit, or authorization from the local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10)Pay all applicable fees required for licensure by the licensing authority.

(11)Provide proof of a bond to cover the costs of destruction of medical **cannabis** or medical **cannabis** products if necessitated by a violation of licensing requirements.

(12)(A)Provide a statement that the applicant employs, or will employ within one year of receiving a license, an employee who has successfully completed a federal Occupational Safety and Health Administration 10-hour general industry course based on the federal Occupational Safety and Health Administration regulations (29 C.F.R. 1910.1 et seq.), as those provisions read on January 1, 2017.

(B)For purposes of this paragraph, “employee” has the same meaning as provided in subparagraph (B) of paragraph (6).

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

(1)Cultivation.

(2)Extraction and infusion methods.

(3)The transportation process.

(4)Inventory procedures.

(5)Quality control procedures.

~~(6)Security protocols.~~

SECTION 1.

Section 26051.5 of the Business and Professions Code is amended to read:

26051.5.

An applicant for any type of state license issued pursuant to this division shall do all of the following:

Require that each owner of the applicant electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

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

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

The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

Provide evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property or that landowner's agent where the commercial **cannabis** activity will occur, as proof to demonstrate the landowner has acknowledged and consented to permit commercial **cannabis** activities to be conducted on the property by the tenant applicant.

Provide evidence that the proposed location is in compliance with subdivision (b) of Section 26054.

Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

For the purposes of this paragraph, "employee" does not include a supervisor.

For the purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the applicant, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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

Provide any other information required by the licensing authority.

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

Pay all applicable fees required for licensure by the licensing authority.

Provide proof of a bond to cover the costs of destruction of **cannabis** or **cannabis** products if necessitated by a violation of licensing requirements.

(11)

Provide a statement that the applicant employs, or will employ within one year of receiving a license, an employee who has successfully completed a federal Occupational Safety and Health Administration 10-hour general industry course based on the federal Occupational Safety and Health Administration regulations (29 C.F.R. 1910.1 et seq.), as those provisions read on January 1, 2017.

For purposes of this paragraph, “employee” has the same meaning as provided in subparagraph (B) of paragraph (5).

An applicant shall also include in the application a detailed description of the applicant’s operating procedures for all of the following, as required by the licensing authority:

Cultivation.

Extraction and infusion methods.

The transportation process.

Inventory procedures.

Quality control procedures.

Security protocols.

For applicants seeking licensure to cultivate, the source or sources of water the applicant will use for cultivation, as provided in subdivisions (a) to (c), inclusive, of Section 26060.1. For purposes of this paragraph, “cultivation” as used in Section 26060.1 shall have the same meaning as defined in Section 26001. The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this paragraph.

The applicant shall also provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy, including aggregate square footage and individual square footage of separate cultivation areas, if any, roads, water crossings, points of diversion, water storage, and all other facilities and infrastructure related to the cultivation.

Provide a complete list of every person with a financial interest in the person applying for the license as required by the licensing authority. For purposes of this subdivision, “persons with a financial interest” does not include persons whose only interest in a licensee is an interest in a diversified mutual fund, blind trust, or similar instrument.

SEC. 2.

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

SEC. 3.

The Legislature finds and declares that Section 1 of this act, amending Section ~~26056~~ 26051.5 of the Business and Professions ~~Code by amending cross referenced Section 19322 of the Business and Professions~~ Code, furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act because it enacts protections for employees ~~and other workers~~ of licensees that are in addition to the protections provided for in ~~the Control, Regulate and Tax Adult Use of Marijuana Act.~~ that act.

Senate Bills Pending:

SENATE JOINT RESOLUTION No. 5

Introduced by Senator Stone

(Principal coauthor: Senator Wiener)

(Coauthor: Senator Moorlach)

(Coauthor: Assembly Member Lackey)

February 21, 2017

Bill Text

WHEREAS, Marijuana and its derivatives remain classified as a Schedule I drug by the United States Drug Enforcement Administration (DEA); and

WHEREAS, Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse and include heroin, lysergic acid diethylamide (LSD), marijuana or cannabis, 3,4-methylenedioxymethamphetamine (ecstasy), methaqualone (Quaalude), and peyote; and

WHEREAS, Marijuana or cannabis and its congeners have been studied worldwide outside the United States for years and have shown efficacy for various conditions, such as wasting syndrome, as an antinauseant in those taking chemotherapy, Glaucoma (reduces intraocular pressure), Epilepsy (anti-seizure properties), migraine headaches and other types of pain, and anxiety; and

WHEREAS, The medical and recreational use of marijuana in the State of California has been authorized by the voters through initiatives; and

WHEREAS, Marijuana or cannabis is presently classified by the DEA as a Schedule I drug wherein the possession, sale, or utilization can trigger federal prosecution statutes, including federal forfeiture provisions; and

WHEREAS, Concerns about the criminality and forfeiture provisions in federal law impede traditional banking institutions from doing business with potential clients cultivating, researching, selling, or utilizing marijuana or cannabis and its derivatives, therefore making marijuana commerce very difficult; and

WHEREAS, The inability to use traditional banking institutions impedes local and state government from adequately monitoring true marijuana or cannabis utilization and shortchanges the respective taxes owed to taxing agencies, potentially costing state and local governments hundreds of millions of dollars in lost tax income; and

WHEREAS, Since marijuana or cannabis businesses are unable to legally use traditional banking institutions, many vendors resort to the black market and involvement of organized crime making communities less safe; and

WHEREAS, Marijuana or cannabis and its derivatives cannot be legally studied by research institutions if it remains a Schedule I drug, thereby prohibiting newly discovered and verifiable pharmacological attributes of marijuana or cannabis and its derivatives, which otherwise may enhance the quality of life of those that could truly benefit from its use; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature urges the Congress of the United States to pass a law to reschedule marijuana or cannabis and its derivatives from a Schedule I drug to an alternative schedule, therefore allowing the legal research and development of marijuana or cannabis for medical use and allowing for the legal commerce of marijuana or cannabis so that businesses dealing with marijuana or cannabis can use traditional banks or financial institutions for their banking needs, which would result in providing a legal vehicle for those businesses to pay their taxes, including, but not limited to, payroll taxes, unsecured property taxes, and applicable taxes on the products sold in accordance with state and local laws; and be it further

Resolved, That the Legislature urges the President of the United States to sign such legislation; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the United States Senate, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.

SENATE BILL No. 148

Introduced by Senators Wiener and Atkins

January 17, 2017

Bill Text

SECTION 1.

Section 15630 is added to the Government Code, to read:

15630.

The State Board of Equalization, by January 1, 2019, shall accept cash as a form of remittance from a **cannabis**-related business for any fee, tax, fine, penalty, interest, or any other charge that the business owes under laws specified in subdivision (b) and that the business is authorized by those laws to remit to the board in cash, in at least 50 percent of the offices managed by the board in each equalization district of the state. The board, by January 1, 2020, shall accept the payments described in this subdivision in at least 75 percent of the offices managed by the board in each equalization district of the state.

The Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code).

The Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code).

Laws imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code).

The **Cannabis** State Payment Collection Law (Part 13.5 (commencing with Section 31001) of Division 2 of the Revenue and Taxation Code).

Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

“**Cannabis**-related business” means a person that is licensed under, or is seeking to be licensed under, either the Medical **Cannabis** Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code) or the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (Division 10 (commencing with Section 26000) of the Business and Professions Code).

SEC. 2.

Section 6479.3 of the Revenue and Taxation Code is amended to read:

6479.3.

Except as provided in subdivision (k), any person whose estimated tax liability under this part averages ten thousand dollars (\$10,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.

Any person whose estimated tax liability under this part averages less than ten thousand dollars (\$10,000) per month or any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the board.

Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state’s demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state’s demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment amount incorrectly remitted.

Except as provided in Sections 6476 and 6477, any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

In determining whether a person's estimated tax liability averages ten thousand dollars (\$10,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 6591.

The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 6476 and 6477 shall be limited to a maximum of 6 percent of the prepayment amount.

The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

~~Before January 1, 2022, a person issued a seller's permit for a place of business that is a dispensary, as defined in subdivision (n) of Section 19300.5 of the Business and Professions Code, (1) A~~ **cannabis-related business** may remit amounts due for retail sales ~~at the dispensary~~ by a means other than electronic funds ~~transfer~~ transfer, including by the use of cash.

For purposes of this subdivision, "**cannabis**-related business" means a person that is licensed under, or is seeking to be licensed under, either the Medical **Cannabis** Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code) or the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (Division 10 (commencing with Section 26000) of the Business and Professions Code).

SEC. 3.

Section 7204.5 is added to the Revenue and Taxation Code, to read:

7204.5.

A **cannabis**-related business may remit any amounts due under a sales or use tax ordinance adopted pursuant to this part to the State Board of Equalization by means other than electronic funds transfer, including by the use of cash.

For purposes of this section, “cannabis-related business” means a person that is licensed under, or is seeking to be licensed under, either the Medical Cannabis Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code) or the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (Division 10 (commencing with Section 26000) of the Business and Professions Code).

SEC. 4.

Section 7270.10 is added to the Revenue and Taxation Code, to read:

7270.10.

A cannabis-related business may remit any amounts due under a transaction and use tax imposed pursuant to this part to the State Board of Equalization by means other than electronic funds transfer, including by the use of cash.

For purposes of this section, “cannabis-related business” means a person that is licensed under, or is seeking to be licensed under, either the Medical Cannabis Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code) or the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (Division 10 (commencing with Section 26000) of the Business and Professions Code).

~~SECTION 4.~~ SEC. 5.

The heading of Part 13.5 (commencing with Section 31020) of Division 2 of the Revenue and Taxation Code is repealed.

~~SEC. 2.~~ SEC. 6.

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

PART 13.5. Cannabis State Payment Collection Law

31001.

This part shall be known, and may be cited, as the Cannabis State Payment Collection Law.

31002.

All of the following definitions shall apply for purposes of this part:

“County” means a county and a city and county.

“Regulatory fee” means a charge as defined in paragraph (3) of subdivision (b) of Section 3 of Article XIII A or as defined in paragraph (3) of subdivision (e) of Section 1 of Article XIII C of the California Constitution.

“State agency” means a state entity, as defined in Section 11000 of the Government Code, that administers ~~any fee, fine, penalty, tax, or other charge~~ fees, fines, penalties, taxes, or other charges payable by a cannabis-related business. As used in this part, “state agency” includes, but is not limited to, the following:

The Bureau of Marijuana Control.

The Department of Consumer Affairs.

The Department of Fish and Wildlife.

The Department of Food and Agriculture.

The Department of Pesticide Regulation.

The Employment Development Department.

The Franchise Tax Board.

The regional water boards described in Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code.

The State Department of Public Health.

The State Water Resources Control Board.

31003.

The board or a county may enter into an agreement with a state agency to collect cash payments for ~~any fee, fine, penalty, tax, or other charge~~ fees, fines, penalties, taxes, or other charges payable to the state agency by a person that is a **cannabis**-related business in accordance with provisions of this part.

The board may enter into an agreement with a county to collect cash payments in accordance with provisions of this part for ~~any fee, fine, penalty, tax, or other charge~~ fees, fines, penalties, taxes, or other charges payable to the county relating to the cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing of **cannabis**.

The board shall collect fees, fines, penalties, taxes, ~~and~~ or other charges if the board enters into an agreement with a state agency to make those collections described in paragraph (1) of subdivision (a).

A county shall collect fees, fines, penalties, taxes, ~~and~~ or other charges only if both the board of supervisors of the county and the county tax collector or county treasurer-tax collector approves of entering into an agreement with a state agency to make those collections described in paragraph (1) of subdivision (a).

The board shall collect fees, fines, penalties, taxes, ~~and~~ or other charges if the board enters into an agreement with a county to make those collections described in paragraph (2) of subdivision (a).

For the collection by the board or a county of regulatory fees on behalf of a state agency, or by the board on behalf of a county, pursuant to an agreement authorized by this part, the board or county shall be reimbursed for its costs of collection from the funds or accounts in which those regulatory fees are to be deposited, not to exceed 10 percent of the amounts collected. Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated to the board or county an amount equal to the amount necessary for its costs of collection of regulatory fees on behalf of a state agency, or by the board on behalf of a county, pursuant to an agreement authorized by this part, not to exceed 10 percent of the amounts collected, from the funds or accounts in which those regulatory fees are to be deposited.

For the collection by the board or a county of fees, fines, penalties, taxes, or other charges on behalf of a state agency, or by the board on behalf of a county, pursuant to an agreement authorized by this part, the board or county shall be reimbursed for its costs of collection from the funds or accounts in which those fees, fines, penalties, taxes, or other charges are to be deposited, not to exceed 10 percent of the amounts collected, upon appropriation by the Legislature.

A state agency that enters into an agreement with the board or a county, or a county that enters into an agreement with the board, pursuant to the authorization of this part may impose a cash collection fee in an amount reasonably necessary to recover the collection costs to be incurred by the board or county in dealing with cash payments, which may include, but are not limited to, the costs of processing and securing the cash payments, but shall not exceed 10 percent of any amounts collected.

The amount of the cash collection fee shall be determined by the state agency with respect to an agreement described in paragraph (1) of subdivision (a), or by the board of supervisors of a county with respect to an agreement described in paragraph (2) of subdivision (a). A state agency shall not make reimbursement of the board or county under subdivision (c) contingent upon the imposition of a cash collection fee by the state agency or the amount of revenue derived by the state agency from those fees, fines, penalties, or other charges.

A cash collection fee shall not be imposed pursuant to this subdivision if the ~~fee, fine, penalty, or other charge~~ fees, fines, penalties, or other charges already ~~includes~~ include amounts reasonably necessary to recover the collection costs of cash payments.

Any cash collection fees imposed shall be deposited into the funds or accounts which the ~~fee, fine, penalty, or other charge~~ fees, fines, penalties, or other charges to be collected ~~is~~ are deposited.

This subdivision does not authorize a cash collection fee to be imposed for the collection of a tax, as defined in Section 3 of Article XIII A or as defined in Section 1 of Article XIII C of the California Constitution.

An agreement between the board or a county and a state agency, or between the board and a county, shall include all of the following:

A provision that the board or county be reimbursed for the administrative costs of the collection from the funds or accounts ~~which~~ that the fees, fines, penalties, taxes, or other charges are otherwise required by law to be deposited, and shall specify whether that reimbursement is continuously appropriated or made upon appropriation by the Legislature, as described in subdivision (c).

A provision that the board or county transmit the collected moneys to the Treasurer to be deposited in the State Treasury to the credit of the funds or accounts ~~which~~ that the fees, fines, penalties, taxes, or other charges are otherwise required by law to be deposited.

A provision that describes the administrative costs the board or county will incur in carrying out the collection, which costs shall not exceed 10 percent of the moneys collected.

A provision identifying the specific fees, fines, penalties, taxes, ~~and~~ or other charges that will be collected by the board or county under the agreement.

Any other provisions the board or county and state ~~agency~~ agency, or the board and the county, determines is necessary to properly implement the collection of the fees, fines, penalties, taxes, or other charges.

Any agreement to collect those fees, fines, penalties, taxes, or other charges shall not impede or otherwise preclude a county from collecting its own lawfully authorized fees, fines, penalties, taxes, or other charges on a **cannabis**-related business.

31004.

Any requirement to pay a state agency via electronic funds transfer shall be deemed to have been met when funds are transferred electronically from a county or the board.

SEC. 7.

Section 34015 of the Revenue and Taxation Code is amended to read:

34015.

The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to subdivision (d) of Section 34012 the board may by regulation determine when and how the tax shall be paid.

The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

Notwithstanding Section 55050, a person may remit any amount due under the marijuana excise or cultivation tax imposed by this part to the board by means other than electronic funds transfer, including by the use of cash.

SENATE BILL No. 162

Introduced by Senator Allen (Coauthor: Senator Nielsen)

January 19, 2017

Bill Text

SECTION 1. (a) The Legislature finds and declares all of the following:

The voters of the State of California passed Proposition 64 at the November 8, 2016, statewide general election, decriminalizing and regulating nonmedical cannabis use by adults over 21 years of age.

Proposition 64 expressly prohibits the advertising of cannabis and cannabis products to persons under 21 years of age.

The RAND Corporation Drug Policy Research Center and the American Academy of Pediatricians recommend a ban on advertising through branded merchandise by commercial cannabis and cannabis product licensees in order to reduce youth initiation and use of cannabis.

Research by The RAND Corporation indicates that adolescents who are exposed to advertising of cannabis were more likely to report using cannabis or say they planned to use the substance in the future. The American College of Pediatricians' research has found that

cannabis has adverse effects on the adolescent brain and is associated with psychiatric illness and negative social outcomes.

A great deal of research has shown that branded merchandise, including, but not limited to, t-shirts, sunglasses, or hats can be directly linked to higher use of tobacco and alcohol by teens, and in 1999, in order to reduce tobacco use by youth, the Attorney General and numerous tobacco companies entered into a Master Settlement Agreement that barred tobacco companies from advertising through the use of branded merchandise. In 2009, the United States Congress codified this agreement barring branded merchandise by tobacco companies and declared that obtaining branded merchandise reliably predicted smoking initiation, even when controlling for other factors that were shown to increase smoking rates among youths.

The federal district court case of *Commonwealth Brands, Inc. v. U.S.* 678 F.Supp.2d 512 determined that the prohibition on branded merchandise was constitutional and narrowly tailored to meet the goal of reducing youth use. It cited evidence that youth obtained branded merchandise that had been distributed at adult-only venues and consequently, “there is no way to limit the distribution of these items to adults only.”

In reviewing policies to reduce youth initiation and use of cannabis, The RAND Drug Policy Research Center and the American Academy of Pediatrics recommend a comprehensive ban on advertising through branded merchandise by persons and companies licensed to sell cannabis.

The Legislature finds and declares that this act implements the substantive provisions Sections 6 to 6.36, inclusive, of the Control, Regulate and Tax Adult Use of Marijuana Act and is consistent with and furthers the intent and purposes of the act as stated.

SEC. 2. Section 26152 of the Business and Professions Code is amended to read:

26152. A licensee shall not do any of the following:

Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.

Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

Advertise or market on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

Advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products. [This prohibition includes all advertising of cannabis or cannabis products through the use of branded merchandise, including, but not limited to, clothing, hats, or other merchandise with the name or logo of the product.](#)

Publish or disseminate advertising or marketing that is attractive to children.

Advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

SECTION 1. Article 12 (commencing with Section 19349) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

12. Marketing and Advertising

19349. A licensee shall not advertise medical cannabis or medical cannabis products through the use of branded merchandise, including, but not limited to, clothing, hats, or other merchandise with the name or logo of the product.

19349.5. This article does not apply to any noncommercial speech.

SEC. 2. Section 26151 of the Business and Professions Code is amended to read:

26151.(a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.

Any advertising or marketing placed in broadcast, cable, radio, print and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c) A licensee shall not advertise marijuana or marijuana products through the use of branded merchandise, including, but not limited to, clothing, hats, or other merchandise with the name or logo of the product.

(d) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in that communication or dialogue controlled by the licensee. For purposes of this section, that method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

(e) All advertising shall be truthful and appropriately substantiated.

SEC. 3. The Legislature finds and declares that this measure furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

SENATE BILL No. 173

Introduced by Senator Dodd

January 23, 2017

Bill Text:

SECTION 1. Section 30 of the Business and Professions Code is amended to read:

30. (a) (1) Notwithstanding any other law, any board, as defined in Section 22, and the State Bar and the Bureau of Real Estate shall, at the time of issuance of the license, require that the applicant

provide its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

No later than January 1, 2016, in accordance with Section 135.5, a board, as defined in Section 22, and the State Bar and the Bureau of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for purposes of this subdivision.

A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

Name.

Address or addresses of record.

Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

Type of license.

Effective date of license or a renewal.

Expiration date of license.

Whether license is active or inactive, if known.

Whether license is new or a renewal.

For the purposes of this section:

"Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

"License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

"Licensing board" means any board, as defined in Section 22, the State Bar, and the Bureau of Real Estate.

The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.

Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.

Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of his or her employment or duty, has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided pursuant to this section to the Franchise Tax Board, the Employment Development Department, or the Office of the Chancellor of the California Community Colleges, or as provided in subdivision (k).

It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, and for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, and the State Bar and the Bureau of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar, the Bureau of Real Estate, and the Department of Motor Vehicles.

The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

Name.

Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

Date of birth.

Type of license.

Effective date of license or a renewal.

Expiration date of license.

The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

All of the following apply to the licensure information made available pursuant to subdivision (m):

It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).

It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.

Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.

It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.

It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

This section shall remain in effect only until July 1, 2018, and as of that date is repealed.

SEC. 2. Section 30 is added to the Business and Professions Code, to read:

30. (a) (1) Notwithstanding any other law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall, at the time of issuance of the license, require that the applicant provide its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

No later than January 1, 2016, in accordance with Section 135.5, a board, as defined in Section 22, and the State Bar and the Department of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for purposes of this subdivision.

A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

Name.

Address or addresses of record.

Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

Type of license.

Effective date of license or a renewal.

Expiration date of license.

Whether license is active or inactive, if known.

Whether license is new or a renewal.

For the purposes of this section:

“Licensee” means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

“License” includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

“Licensing board” means any board, as defined in Section 22, the State Bar, and the Department of Real Estate.

The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.

Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.

Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of his or her employment or duty, has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided pursuant to this section to the Franchise Tax Board, the Employment Development Department, or the Office of the Chancellor of the California Community Colleges, or as provided in subdivision (k).

It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, and for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar, the Department of Real Estate, and the Department of Motor Vehicles.

The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

Name.

Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

Date of birth.

Type of license.

Effective date of license or a renewal.

Expiration date of license.

The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

All of the following apply to the licensure information made available pursuant to subdivision (m):

It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).

It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.

Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.

It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.

It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

This section shall become operative on July 1, 2018.

(Amended by Stats. 2016, Ch. 770, Sec. 2. (SB 66) Effective January 1, 2017.)

SEC. 3. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of the following:

- The Dental Board of California.**
- The Medical Board of California.**
- The State Board of Optometry.**
- The California State Board of Pharmacy.**
- The Veterinary Medical Board.**
- The California Board of Accountancy.**
- The California Architects Board.**
- The Bureau of Barbering and Cosmetology.**
- The Board for Professional Engineers and Land Surveyors. Engineers, Land Surveyors, and Geologists.**
- The Contractors' State License Board.**
- The Bureau for Private Postsecondary Education.**
- The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.**
- The Board of Registered Nursing.**
- The Board of Behavioral Sciences.**
- The State Athletic Commission.**
- The Cemetery and Funeral Bureau.**
- The State Board of Guide Dogs for the Blind.**
- The Bureau of Security and Investigative Services.**
- The Court Reporters Board of California.**
- The Board of Vocational Nursing and Psychiatric Technicians.**
- The Landscape Architects Technical Committee.**
- The Division of Investigation.**
- The Bureau of Automotive Repair.**
- The Respiratory Care Board of California.**
- The Acupuncture Board.**
- The Board of Psychology.**
- The California Board of Podiatric Medicine.**
- (ab) The Physical Therapy Board of California.**

- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.
- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) The Professional Fiduciaries Bureau.
- (ak) The State Board of Chiropractic Examiners.
- (al) The Bureau of Real Estate.
- (am) The Bureau of Real Estate Appraisers.
- (an) The Structural Pest Control Board.
- (ao) The Bureau of Medical Cannabis Regulation.
- (ap) Any other boards, offices, or officers subject to its jurisdiction by law.
- (aq) This section shall remain in effect only until July 1, 2018, and as of that date is repealed.

SEC. 4. Section 101 is added to the Business and Professions Code, to read:

101. The department is comprised of the following:

- The Dental Board of California.**
- The Medical Board of California.**
- The State Board of Optometry.**
- The California State Board of Pharmacy.**
- The Veterinary Medical Board.**
- The California Board of Accountancy.**
- The California Architects Board.**
- The Bureau of Barbering and Cosmetology.**
- The Board for Professional Engineers, Land Surveyors, and Geologists.**
- The Contractors' State License Board.**
- The Bureau for Private Postsecondary Education.**
- The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.**

- The Board of Registered Nursing.**
- The Board of Behavioral Sciences.**
- The State Athletic Commission.**
- The Cemetery and Funeral Bureau.**
- The State Board of Guide Dogs for the Blind.**
- The Bureau of Security and Investigative Services.**
- The Court Reporters Board of California.**
- The Board of Vocational Nursing and Psychiatric Technicians.**
- The Landscape Architects Technical Committee.**
- The Division of Investigation.**
- The Bureau of Automotive Repair.**
- The Respiratory Care Board of California.**
- The Acupuncture Board.**
- The Board of Psychology.**
- The California Board of Podiatric Medicine.**
- (ab) The Physical Therapy Board of California.**
- (ac) The Arbitration Review Program.**
- (ad) The Physician Assistant Committee.**
- (ae) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.**
- (af) The California Board of Occupational Therapy.**
- (ag) The Osteopathic Medical Board of California.**
- (ah) The Naturopathic Medicine Committee.**
- (ai) The Dental Hygiene Committee of California.**
- (aj) The Professional Fiduciaries Bureau.**
- (ak) The State Board of Chiropractic Examiners.**
- (al) The Bureau of Real Estate Appraisers.**
- (am) The Structural Pest Control Board.**
- (an) The Bureau of Medical Cannabis Regulation.**
- (ao) Any other boards, offices, or officers subject to its jurisdiction by law.**
- (ap) This section shall become operative on July 1, 2018.**

(Amended by Stats. 2016, Ch. 32, Sec. 2. (SB 837) Effective June 27, 2016.)

SEC. 5. Section 10004 of the Business and Professions Code is amended to read:

10004. (a) “Bureau” means the Bureau of Real Estate in the Department of Consumer Affairs.

This section shall remain in effect only until July 1, 2018, and as of that date is repealed.

SEC. 6. Section 10004 is added to the Business and Professions Code, to read:

10004. (a) “Department” means the Department of Real Estate in the Business, Consumer Services, and Housing Agency.

This section shall become operative on July 1, 2018.

SEC. 7. Section 10005 of the Business and Professions Code is amended to read:

10005. (a) Whenever the terms “bureau,” “division,” “department,” “Department of Real Estate,” “State Real Estate Division,” or “Real Estate Division” are used in this division, they mean the Bureau of Real Estate.

Whenever

Whenever the terms “Department of Real Estate,” “State Real Estate Division,” or “Real Estate Division” are used in any other law, they mean the Bureau of Real Estate.

This section shall remain in effect only until July 1, 2018, and as of that date is repealed.

SEC. 8. Section 10005 is added to the Business and Professions Code, to read:

10005. (a) Whenever the terms “bureau,” “division,” “Bureau of Real Estate,” “State Real Estate Division,” or “Real Estate Division” are used in this division, they mean the Department of Real Estate.

Whenever the terms “Bureau of Real Estate,” “State Real Estate Division,” or “Real Estate Division” are used in any other law, they mean the Department of Real Estate.

This section shall become operative on July 1, 2018.

SEC. 9. Section 10050 of the Business and Professions Code is amended to read:

10050. (a) (1) There is in the Department of Consumer Affairs a Bureau of Real Estate, the chief officer of which bureau is named the Real Estate Commissioner.

Notwithstanding any other law, the powers and duties of the bureau, as set forth in this part and Chapter 1 (commencing with Section 11000) of Part 2, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this part and that chapter were scheduled to be repealed as of January 1, 2021.

It shall be the principal responsibility of the commissioner to enforce all laws in this part and Chapter 1 (commencing with Section 11000) of Part 2 in a manner that achieves the maximum protection for the purchasers of real property and those persons dealing with real estate licensees.

Wherever the term “commissioner” is used in this division, it means the Real Estate Commissioner.

This section shall remain in effect only until July 1, 2018, and as of that date is repealed.

SEC. 10. Section 10050 is added to the Business and Professions Code, to read:

10050. (a) (1) There is in the Business, Consumer Services, and Housing Agency a Department of Real Estate, the chief officer of which department is named the Real Estate Commissioner.

Notwithstanding any other law, the powers and duties of the department, as set forth in this part and Chapter 1 (commencing with Section 11000) of Part 2, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this part and that chapter were scheduled to be repealed as of January 1, 2021.

It shall be the principal responsibility of the commissioner to enforce all laws in this part and Chapter 1 (commencing with Section 11000) of Part 2 in a manner that achieves the maximum protection for the purchasers of real property and those persons dealing with real estate licensees.

Wherever the term “commissioner” is used in this division, it means the Real Estate Commissioner.

This section shall become operative on July 1, 2018.

SEC. 11. Section 12804 of the Government Code is amended to read:

12804. (a) There is in the state government the Business, Consumer Services, and Housing Agency.

The Business, Consumer Services, and Housing Agency shall consist of the following: the Department of Consumer Affairs, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission.

This section shall remain in effect only until July 1, 2018, and as of that date is repealed.

SEC. 12. Section 12804 is added to the Government Code, to read:

12804. (a) There is in the state government the Business, Consumer Services, and Housing Agency.

The Business, Consumer Services, and Housing Agency shall consist of the following: the Department of Consumer Affairs, the Department of Real Estate, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission.

This section shall become operative on July 1, 2018.

SECTION 1. Section 30 of the Business and Professions Code is amended to read:

30.(a)(1)Notwithstanding any other law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall, at the time of issuance of the license, require that the applicant provide its federal employer identification number, if the applicant is a partnership, or the applicant’s social security number for all other applicants.

(2)No later than January 1, 2016, in accordance with Section 135.5, a board, as defined in Section 22, and the State Bar and the Department of Real Estate shall require either the individual taxpayer

identification number or social security number if the applicant is an individual for purposes of this subdivision.

(b)A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c)In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

(d)A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

(1)Name.

(2)Address or addresses of record.

(3)Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(4)Type of license.

(5)Effective date of license or a renewal.

(6)Expiration date of license.

(7)Whether license is active or inactive, if known.

(8)Whether license is new or a renewal.

(e)For the purposes of this section:

(1)"Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2)"License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3)"Licensing board" means any board, as defined in Section 22, the State Bar, and the Department of Real Estate.

(f)The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.

(g)Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.

(h)Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i)A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of his or her employment or duty, has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided pursuant to this section to the Franchise Tax Board, the Employment Development Department, or the Office of the Chancellor of the California Community Colleges, or as provided in subdivision (k).

(j)It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, and for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k)If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(l)For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar, the Department of Real Estate, and the Department of Motor Vehicles.

(m)The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

(1)Name.

(2)Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(3)Date of birth.

(4)Type of license.

(5)Effective date of license or a renewal.

(6)Expiration date of license.

(n)The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

(o)The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

(p)The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

(q)All of the following apply to the licensure information made available pursuant to subdivision (m):

(1)It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).

(2)It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.

(3)Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.

(4)It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.

(5)It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

(r)The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

SEC. 2.Section 101 of the Business and Professions Code is amended to read:

101.The department is comprised of the following:

(a)The Dental Board of California.

(b)The Medical Board of California.

(c)The State Board of Optometry.

(d)The California State Board of Pharmacy.

(e)The Veterinary Medical Board.

(f)The California Board of Accountancy.

(g)The California Architects Board.

(h)The Bureau of Barbering and Cosmetology.

(i)The Board for Professional Engineers, Land Surveyors, and Geologists.

(j)The Contractors' State License Board.

(k)The Bureau for Private Postsecondary Education.

(l)The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.

(m)The Board of Registered Nursing.

(n)The Board of Behavioral Sciences.

(o)The State Athletic Commission.

(p)The Cemetery and Funeral Bureau.

(q)The State Board of Guide Dogs for the Blind.

(r)The Bureau of Security and Investigative Services.

(s)The Court Reporters Board of California.

(t)The Board of Vocational Nursing and Psychiatric Technicians.

(u)The Landscape Architects Technical Committee.

(v)The Division of Investigation.

(w)The Bureau of Automotive Repair.

(x)The Respiratory Care Board of California.

(y)The Acupuncture Board.

(z)The Board of Psychology.

(aa)The California Board of Podiatric Medicine.

(ab)The Physical Therapy Board of California.

(ac)The Arbitration Review Program.

(ad)The Physician Assistant Committee.

(ae)The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(af)The California Board of Occupational Therapy.

(ag)The Osteopathic Medical Board of California.

(ah)The Naturopathic Medicine Committee.

(ai)The Dental Hygiene Committee of California.

(aj)The Professional Fiduciaries Bureau.

(ak)The State Board of Chiropractic Examiners.

(al)The Bureau of Real Estate Appraisers.

(am)The Structural Pest Control Board.

(an)The Bureau of Medical Cannabis Regulation.

(ao)Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 3.Section 10004 of the Business and Professions Code is amended to read:

10004.“Department” means the Department of Real Estate in the Business, Consumer Services, and Housing Agency.

SEC. 4.Section 10005 of the Business and Professions Code is amended to read:

10005.Whenever the terms “bureau,” “division,” “Bureau of Real Estate,” “State Real Estate Division,” or “Real Estate Division” are used in this division, they mean the Department of Real Estate.

Whenever the terms “Bureau of Real Estate,” “ State Real Estate Division,” or “Real Estate Division” are used in any other law, they mean the Department of Real Estate.

SEC. 5.Section 10050 of the Business and Professions Code is amended to read:

10050.(a)(1)There is in the Business, Consumer Services, and Housing Agency a Department of Real Estate, the chief officer of which is named the Real Estate Commissioner.

(2)Notwithstanding any other law, the powers and duties of the department, as set forth in this part and Chapter 1 (commencing with Section 11000) of Part 2, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this part and that chapter were scheduled to be repealed as of January 1, 2021.

(b)It shall be the principal responsibility of the commissioner to enforce all laws in this part and Chapter 1 (commencing with Section 11000) of Part 2 in a manner that achieves the maximum protection for the purchasers of real property and those persons dealing with real estate licensees.

(c)Wherever the term “commissioner” is used in this division, it means the Real Estate Commissioner.

SEC. 6.Section 12804 of the Government Code is amended to read:

12804.(a)There is in the state government the Business, Consumer Services, and Housing Agency.

(b)The Business, Consumer Services, and Housing Agency shall consist of the following: the Department of Consumer Affairs, the Department of Real Estate, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission.

Introduced by Senator McGuire

January 23, 2017

Bill Text

SECTION 1. Section 19332.5 of the Business and Professions Code is amended to read:

19332.5. (a) Not later than January 1, 2020, the Department of Food and Agriculture shall make available a certified organic designation and organic certification program for medical cannabis cultivation, if permitted under federal law and the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.

The Department of Food and Agriculture may establish appellations of origin for cannabis grown in California.

It is unlawful for medical cannabis to be advertised, marketed, labeled, or sold as grown in a California county when the medical cannabis was not grown in that county.

It is unlawful to use the name of a California county, including any similar sounding name that is likely to mislead consumers as to the origin of the product, in the advertising, labeling, marketing, or packaging of medical cannabis products unless the product was grown in that county.

SEC. 2. Section 26063 of the Business and Professions Code is amended to read:

26063. (a) The bureau shall establish standards for recognition of a particular appellation of origin applicable to marijuana grown or cultivated in a certain geographical area in California.

Marijuana shall not be advertised, marketed, labeled, or sold as grown in a California county when the marijuana was not grown in that county.

The name of a California county, including any similar name that is likely to mislead consumers as to the origin of the product, shall not be used in the advertising, labeling, marketing, or packaging of marijuana products unless the marijuana contained in the product was grown in that county.

SEC. 3. The Legislature finds and declares that Section 2 of this act implements substantive provisions of the Control, Regulate and Tax Adult Use of Marijuana Act and is consistent with and furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

SENATE BILL No. 311

Introduced by Senator Pan

February 13, 2017

Bill Text

SECTION 1. Section 19326 of the Business and Professions Code is amended to read:

19326. (a) A person other than a transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.

All cultivators, manufacturers, and licensees holding a producing dispensary license in addition to a cultivation or manufacturing license shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in Section 19300.5, for presale quality assurance and inspection by a distributor and for a batch testing by a testing laboratory prior to distribution to a dispensary.

Notwithstanding paragraph (1), a cultivator shall not be required to send medical cannabis to a distributor if the medical cannabis is to be used, sold, or otherwise distributed by methods approved pursuant to this chapter by a manufacturer for further manufacturing.

Upon receipt of medical cannabis or medical cannabis products from a cultivator, manufacturer, or a licensee holding a producing dispensary license in addition to a cultivation or a manufacturing license, the distributor shall first inspect the product to ensure the identity and quantity of the product and ensure a random sample of the medical cannabis or medical cannabis product is tested by a testing laboratory.

Upon issuance of a certificate of analysis by the testing laboratory that the product is fit for dispensing medical cannabis and medical cannabis products shall undergo a quality assurance review by the distributor prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state.

This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed. However, a distributor responsible for executing the contract is authorized to collect a fee for the services rendered, including, but not limited to, costs incurred by a testing laboratory, as well as applicable state or local taxes and fees.

Medical cannabis and medical cannabis products shall be tested by a licensed testing laboratory, prior to dispensing, pursuant to Section 19344.

This chapter ~~shall~~ **does** not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. ~~This chapter also does not prohibit a licensee from performing testing on the licensee's premises of cannabis or cannabis products obtained from another licensee for the purpose of quality assurance. On-site~~ **On site** testing by the licensee shall not be certified by the Bureau of **Medical Cannabis Regulation**. ~~Marijuana Control and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.~~

SENATE BILL No. 663

Introduced by Senator Nielsen

February 17, 2017

Bill Text

SECTION 1. Section 26123 is added to the Business and Professions Code, to read:

26123. (a) A package or label of cannabis or cannabis products shall be deemed to be attractive to children if the package or label has any of the following characteristics:

Displays the contents of the package through transparent material.

Resembles Displays a name that resembles the name of a candy, snack food, baked good, or beverage commercially sold without cannabis.

Contains a design feature that resembles the package or labeling of a candy, snack food, baked good, or beverage commercially offered for sale that does not contain cannabis.

(3)

Displays a statement, artwork, or design that could reasonably mislead a natural person under 21 years of age to believe that the package contains anything other than cannabis or cannabis products.

(4)

Displays a cartoon, logo, color scheme, image, graphic, or design feature that would reasonably make the package or label attractive appeal primarily to a natural person under 21 years of age.

(5)

Displays a name or slogan that would reasonably make the package or label attractive appeal primarily to a natural person under 21 years of age.

This section does not establish an exclusive list of the characteristics that make a package or label attractive to children.

SEC. 2. The Legislature finds and declares that Section 1 of this bill implements Section 6.1 of the Control, Regulate and Tax Adult Use of Marijuana Act, and that it is consistent with and further the purposes of the act as stated in Section 3 of the act.

SENATE BILL No. 794

Introduced by Senator Stern

February 17, 2017

Bill Text:

SECTION 1. Section 26130 of the Business and Professions Code is amended to read:

26130. (a) Marijuana products shall be:

Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.

Produced and sold with a standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.

Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana product in solid form.

Stamped, marked, or otherwise imprinted on each single serving with a universal symbol, which shall be designed by the bureau. The symbol shall be placed directly on at least one side of each edible marijuana product serving so as to be distinguishable and easily recognizable.

The universal symbol shall be centered either horizontally or vertically on the single serving. If centered horizontally, the height and width of the symbol shall be at least 25 percent of the serving's width, but not less than one-quarter inch square. If centered vertically, the height and width of the symbol shall be at least 25 percent of the serving's height, but not less than one-quarter inch square.

(4)

Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(5)

Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, for preparation, storage, handling handling, and sale of food products.

Sold in packaging that is tamperproof, child resistant, and, if the product contains more than one serving, resealable.

(6)

Provided to customers with sufficient information to enable the informed consumption of such product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.

Marijuana, including concentrated cannabis, included in a marijuana product manufactured in compliance with law is not considered an adulterant under state law.

SEC. 2. The Legislature finds and declares that this act is consistent with, and furthers the purposes of, the Control, Regulate and Tax Adult Use of Marijuana Act.

SECTION 1. Section 218.5 of the Revenue and Taxation Code is amended to read:

218.5. In order to assure the accuracy of the state's reimbursements for the homeowners' property tax exemption and to prevent duplications of the exemptions within the state and improper overlapping with other benefits provided by law, county assessors shall supply information from homeowners' property tax exemption claims and county records as is specified by written request of the board, and with the concurrence of the Controller, necessary to fully identify all homeowners' property tax exemption claims allowed by the assessors. The board may specify that the information include all or

a part of the names and social security numbers of claimants and spouses and the identity and location of the dwelling to which the exemption applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

SENATE BILL No. 798

Introduced by Senator Hill

February 17, 2017

Bill Text

SECTION 1. Section 115.6 of the Business and Professions Code is amended to read:

115.6. (a) A board within the department shall, after appropriate investigation, issue the following eligible temporary licenses to an applicant if he or she meets the requirements set forth in subdivision (c):

Registered nurse license by the Board of Registered Nursing.

Vocational nurse license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

Psychiatric technician license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

Speech-language pathologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

Audiologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

Veterinarian license issued by the Veterinary Medical Board.

All licenses issued by the Board for Professional Engineers, Land Surveyors, and Geologists.

All licenses issued by the Medical Board of California.

All licenses issued by the California Board of Podiatric Medicine.

The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.

An applicant seeking a temporary license pursuant to this section shall meet the following requirements:

The applicant shall supply evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed

Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

The applicant shall hold a current, active, and unrestricted license that confers upon him or her the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which he or she seeks a temporary license from the board.

The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that he or she meets all of the requirements for the temporary license and that the information submitted in the application is accurate, to the best of his or her knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed. A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board.

The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.

A board may adopt regulations necessary to administer this section.

A temporary license issued pursuant to this section may be immediately terminated upon a finding that the temporary licenseholder failed to meet any of the requirements described in subdivision (c) or provided substantively inaccurate information that would affect his or her eligibility for temporary licensure. Upon termination of the temporary license, the board shall issue a notice of termination that shall require the temporary licenseholder to immediately cease the practice of the licensed profession upon receipt.

An applicant seeking a temporary license as a civil engineer, geotechnical engineer, structural engineer, land surveyor, professional geologist, professional geophysicist, certified engineering geologist, or certified hydrogeologist pursuant to this section shall successfully pass the appropriate California-specific examination or examinations required for licensure in those respective professions by the Board for Professional Engineers, Land Surveyors, and Geologists.

A temporary license issued pursuant to this section shall expire 12 months after issuance, upon issuance of an expedited license pursuant to Section 115.5, or upon denial of the application for expedited licensure by the board, whichever occurs first.

SEC. 2. Section 125.3 of the Business and Professions Code is amended to read:

125.3. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.

In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licentiate who has failed to pay all of the costs ordered under this section.

Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

SEC. 3. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

Subdivision (a) applies to the following:

California Board of Accountancy.

State Athletic Commission.

Board of Behavioral Sciences.

Court Reporters Board of California.

State Board of Guide Dogs for the Blind.

California State Board of Pharmacy.

Board of Registered Nursing.

Veterinary Medical Board.

Board of Vocational Nursing and Psychiatric Technicians.

Respiratory Care Board of California.

Physical Therapy Board of California.

Physician Assistant Committee of the Medical Board of California.

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

Medical Board of California.

State Board of Optometry.

Acupuncture Board.

Cemetery and Funeral Bureau.

Bureau of Security and Investigative Services.

Division of Investigation.

Board of Psychology.

California Board of Occupational Therapy.

Structural Pest Control Board.

Contractors' State License Board.

Naturopathic Medicine Committee.

Professional Fiduciaries Bureau.

Board for Professional Engineers, Land Surveyors, and Geologists.

Bureau of Medical Cannabis Regulation.

California Board of Podiatric Medicine.

Osteopathic Medical Board of California.

For purposes of paragraph (26) of subdivision (b), the term “applicant” shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

SEC. 4. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

A complaint or a written notice to appear in court pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

Section 2474.

Sections 2052 and 2054.

Section 2630.

Section 2903.

Section 3575.

Section 3660.

Sections 3760 and 3761.

Section 4080.

Section 4825.

Section 4935.

Section 4980.

Section 4989.50.

Section 4996.

Section 4999.30.

Section 5536.

Section 6704.

Section 6980.10.

Section 7317.

Section 7502 or 7592.

Section 7520.

Section 7617 or 7641.

Subdivision (a) of Section 7872.

Section 8016.

Section 8505.

Section 8725.

Section 9681.

Section 9840.

Subdivision (c) of Section 9891.24.

Section 19049.

Notwithstanding any other law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for his or her conviction.

SEC. 5. Section 328 of the Business and Professions Code is amended to read:

328. (a) In order to implement the Consumer Protection Enforcement Initiative of 2010, the director, through the Division of Investigation, shall implement “Complaint Prioritization Guidelines” for boards to utilize in prioritizing their respective complaint and investigative workloads. The guidelines shall be used to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

Neither the Medical Board of California nor the California Board of Podiatric Medicine shall be required to utilize the guidelines implemented pursuant to subdivision (a).

SEC. 6. Section 651 of the Business and Professions Code is amended to read:

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A “public communication” as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

Contains a misrepresentation of fact.

Is likely to mislead or deceive because of a failure to disclose material facts.

Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents “before” and “after” views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any “before” and “after” views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same “before” and “after” results may not occur for all patients.

Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

Any price advertisement shall be exact, without the use of phrases, including, but not limited to, “as low as,” “and up,” “lowest prices,” or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

Advertising by any person so licensed may include the following:

- A statement of the name of the practitioner.

- A statement of addresses and telephone numbers of the offices maintained by the practitioner.

- A statement of office hours regularly maintained by the practitioner.

- A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

- A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

- A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

- A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician's and surgeon's licensing board prior to January 1, 2019, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified

by a board or association referred to in clause (i), (ii), or (iii) shall not use the term “board certified” unless the full name of the certifying board is also used and given comparable prominence with the term “board certified” in the statement.

For purposes of this subparagraph, a “multidisciplinary board or association” means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant’s education, training, and experience. A multidisciplinary board or association approved by the Medical Board of California prior to January 1, 2019, shall retain that approval.

For purposes of the term “board certified,” as used in this subparagraph, the terms “board” and “association” mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician’s and surgeon’s licensing board prior to January 1, 2019, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term “board certified” unless the full name of the certifying board is also used and given comparable prominence with the term “board certified” in the statement. A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term “board certified” in reference to that certification.

For purposes of this subparagraph, a “multidisciplinary board or association” means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant’s education, training, and experience. For purposes of the term “board certified,” as used in this subparagraph, the terms “board” and “association” mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph,

to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

A statement of publications authored by the practitioner.

A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

A statement of his or her affiliations with hospitals or clinics.

A statement of the charges or fees for services or commodities offered by the practitioner.

A statement that the practitioner regularly accepts installment payments of fees.

Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

A statement, or statements, providing public health information encouraging preventive or corrective care.

Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California or a doctor of podiatric medicine licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars (\$10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

SEC. 7. Section 656 of the Business and Professions Code is amended to read:

656. Whenever any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of this article, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining the conduct on application of the State Board of Optometry, the Medical Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

The remedy provided for in this section shall be in addition to, and not a limitation upon, the authority provided by any other provision of this code.

SEC. 8. Section 683 of the Business and Professions Code is amended to read:

683. (a) A board shall report, within 10 working days, to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive by the licensee, or placed in another category that prohibits the licensee from practicing his or her profession. The purpose of the reporting requirement is to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.

“Board,” as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Behavioral Sciences, the California Board of Podiatric Medicine, and the California Board of Occupational Therapy.

This section shall become operative on January 1, 2015.

SEC. 9. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the Dental Board of California, the Dental Hygiene Committee of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of

Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, and the Physician Assistant Board shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.

Any judgment or settlement requiring the licensee or his or her insurer to pay any amount of damages in excess of three thousand dollars (\$3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

Any public complaints for which provision is made pursuant to subdivision (b).

Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licensee pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

Information reported pursuant to Section 805.01, including any explanatory or exculpatory information submitted by the licensee pursuant to subdivision (b) of that section.

Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or

threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file.

Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

These disclosures shall effect no change in the confidential status of these records.

SEC. 10. Section 803.1 of the Business and Professions Code is amended to read:

803.1. (a) Notwithstanding any other law, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall disclose to an inquiring member of the public information regarding any enforcement actions taken against a licensee, including a former licensee, by the board or by another state or jurisdiction, including all of the following:

Temporary restraining orders issued.

Interim suspension orders issued.

Revocations, suspensions, probations, or limitations on practice ordered by the board, including those made part of a probationary order or stipulated agreement.

Public letters of reprimand issued.

Infractions, citations, or fines imposed.

Notwithstanding any other law, in addition to the information provided in subdivision (a), the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall disclose to an inquiring member of the public all of the following:

Civil judgments in any amount, whether or not vacated by a settlement after entry of the judgment, that were not reversed on appeal and arbitration awards in any amount of a claim or action for damages for death or personal injury caused by the physician's and surgeon's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.

All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the low-risk category if there are three or more settlements for that licensee within the last 10 years, except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action

cause of action. All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the high-risk category if there are four or more settlements for that licensee within the last 10 years except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. Classification of a licensee in either a “high-risk category” or a “low-risk category” depends upon the specialty or subspecialty practiced by the licensee and the designation assigned to that specialty or subspecialty by the Medical Board of California, as described in subdivision (f). For the purposes of this paragraph, “settlement” means a settlement of an action described in paragraph (1) entered into by the licensee on or after January 1, 2003, in an amount of thirty thousand dollars (\$30,000) or more.

The board shall not disclose the actual dollar amount of a settlement but shall put the number and amount of the settlement in context by doing the following:

Comparing the settlement amount to the experience of other licensees within the same specialty or subspecialty, indicating if it is below average, average, or above average for the most recent 10-year period.

Reporting the number of years the licensee has been in practice.

Reporting the total number of licensees in that specialty or subspecialty, the number of those who have entered into a settlement agreement, and the percentage that number represents of the total number of licensees in the specialty or subspecialty.

Current American Board of Medical Specialties certification or board equivalent as certified by the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine.

Approved postgraduate training.

Status of the license of a licensee. By January 1, 2004, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall adopt regulations defining the status of a licensee. The board shall employ this definition when disclosing the status of a licensee pursuant to Section 2027.

Any summaries of hospital disciplinary actions that result in the termination or revocation of a licensee’s staff privileges for medical disciplinary cause or reason, unless a court finds, in a final judgment, that the peer review resulting in the disciplinary action was conducted in bad faith and the licensee notifies the board of that finding. In addition, any exculpatory or explanatory statements submitted by the licensee electronically pursuant to subdivision (f) of that section shall be disclosed. For purposes of this paragraph, “peer review” has the same meaning as defined in Section 805.

Notwithstanding any other law, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant

Board shall disclose to an inquiring member of the public information received regarding felony convictions of a physician and surgeon or doctor of podiatric medicine.

The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may by regulation establish categories of information that need not be disclosed to an inquiring member of the public because that information is unreliable or not sufficiently related to the licensee's professional practice. The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall include the following statement when disclosing information concerning a settlement:

"Some studies have shown that there is no significant correlation between malpractice history and a doctor's competence. At the same time, the State of California believes that consumers should have access to malpractice information. In these profiles, the State of California has given you information about both the malpractice settlement history for the doctor's specialty and the doctor's history of settlement payments only if in the last 10 years, the doctor, if in a low-risk specialty, has three or more settlements or the doctor, if in a high-risk specialty, has four or more settlements. The State of California has excluded some class action lawsuits because those cases are commonly related to systems issues such as product liability, rather than questions of individual professional competence and because they are brought on a class basis where the economic incentive for settlement is great. The State of California has placed payment amounts into three statistical categories: below average, average, and above average compared to others in the doctor's specialty. To make the best health care decisions, you should view this information in perspective. You could miss an opportunity for high-quality care by selecting a doctor based solely on malpractice history.

When considering malpractice data, please keep in mind:

Malpractice histories tend to vary by specialty. Some specialties are more likely than others to be the subject of litigation. This report compares doctors only to the members of their specialty, not to all doctors, in order to make an individual doctor's history more meaningful.

This report reflects data only for settlements made on or after January 1, 2003. Moreover, it includes information concerning those settlements for a 10-year period only. Therefore, you should know that a doctor may have made settlements in the 10 years immediately preceding January 1, 2003, that are not included in this report. After January 1, 2013, for doctors practicing less than 10 years, the data covers their total years of practice. You should take into account the effective date of settlement disclosure as well as how long the doctor has been in practice when considering malpractice averages.

The incident causing the malpractice claim may have happened years before a payment is finally made. Sometimes, it takes a long time for a malpractice lawsuit to settle. Some doctors work primarily with high-risk patients. These doctors may have malpractice settlement histories that are higher than average because they specialize in cases or patients who are at very high risk for problems.

Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the doctor. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred.

You may wish to discuss information in this report and the general issue of malpractice with your doctor.”

The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall, by regulation, develop standard terminology that accurately describes the different types of disciplinary filings and actions to take against a licensee as described in paragraphs (1) to (5), inclusive, of subdivision (a). In providing the public with information about a licensee via the Internet pursuant to Section 2027, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall not use the terms “enforcement,” “discipline,” or similar language implying a sanction unless the physician and surgeon has been the subject of one of the actions described in paragraphs (1) to (5), inclusive, of subdivision (a).

The Medical Board of California shall adopt regulations no later than July 1, 2003, designating each specialty and subspecialty practice area as either high risk or low risk. In promulgating these regulations, the board shall consult with commercial underwriters of medical malpractice insurance companies, health care systems that self-insure physicians and surgeons, and representatives of the California medical specialty societies. The board shall utilize the carriers’ statewide data to establish the two risk categories and the averages required by subparagraph (B) of paragraph (2) of subdivision (b). Prior to issuing regulations, the board shall convene public meetings with the medical malpractice carriers, self-insurers, and specialty representatives.

The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall provide each licensee, including a former licensee under subdivision (a), with a copy of the text of any proposed public disclosure authorized by this section prior to release of the disclosure to the public. The licensee shall have 10 working days from the date the board provides the copy of the proposed public disclosure to propose corrections of factual inaccuracies. Nothing in this section shall prevent the board from disclosing information to the public prior to the expiration of the 10-day period.

Pursuant to subparagraph (A) of paragraph (2) of subdivision (b), the specialty or subspecialty information required by this section shall group physicians by specialty board recognized pursuant to paragraph (5) of subdivision (h) of Section 651 unless a different grouping would be more valid and the board, in its statement of reasons for its regulations, explains why the validity of the grouping would be more valid.

On and after July 1, 2018, the Medical Board of California and the Osteopathic Medical Board of California shall provide the information described in subdivision (d) of Section 2228.1, with respect to licensees on probation and licensees practicing under probationary licenses, to an inquiring member of the public and on any board documents, such as newsletters, informing the public of individual probation orders and probationary licenses.

SEC. 11. Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

“Peer review” means both of the following:

A process in which a peer review body reviews the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of licentiates to make recommendations for quality improvement and education, if necessary, in order to do either or both of the following:

Determine whether a licentiate may practice or continue to practice in a health care facility, clinic, or other setting providing medical services, and, if so, to determine the parameters of that practice.

Assess and improve the quality of care rendered in a health care facility, clinic, or other setting providing medical services.

(ii) Any other activities of a peer review body as specified in subparagraph (B).

“Peer review body” includes:

A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(ii) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(iii) Any medical, psychological, marriage and family therapy, social work, professional clinical counselor, dental, midwifery, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(iv) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

“Licentiate” means a physician and surgeon, doctor of podiatric medicine, clinical psychologist, marriage and family therapist, clinical social worker, professional clinical counselor, dentist, licensed midwife, or physician assistant. “Licentiate” also includes a person authorized to practice medicine pursuant to Section 2113 or 2168.

“Agency” means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

“Staff privileges” means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

“Denial or termination of staff privileges, membership, or employment” includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, if the action is based on medical disciplinary cause or reason.

“Medical disciplinary cause or reason” means that aspect of a licentiate’s competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

“805 report” means the written report required under subdivision (b).

The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date on which any of the following occur as a result of an action of a peer review body:

A licentiate’s application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

A licentiate’s membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

If a licentiate takes any action listed in paragraph (1), (2), or (3) after receiving notice of a pending investigation initiated for a medical disciplinary cause or reason or after receiving notice that his or her application for membership or staff privileges is denied or will be denied for a medical disciplinary cause or reason, the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic where the licentiate is employed or has staff privileges or membership or where the licentiate applied for staff privileges or membership, or sought the renewal thereof, shall file an 805 report with the relevant agency within 15 days after the licentiate takes the action.

Resigns or takes a leave of absence from membership, staff privileges, or employment.

Withdraws or abandons his or her application for staff privileges or membership.

Withdraws or abandons his or her request for renewal of staff privileges or membership.

For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information, electronically or otherwise, pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report. The notice shall also advise the licentiate that information submitted electronically will be publicly disclosed to those who request the information.

The information to be reported in an 805 report shall include the name and license number of the licensee involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licensee is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason. If the Medical Board of California or a licensing agency of another state revokes or suspends, without a stay, the license of a physician and surgeon, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension. If the California Board of Podiatric Medicine or a licensing agency of another state revokes or suspends, without a stay, the license of a doctor of podiatric medicine, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension.

The reporting required by this section shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and Sections 803.1 and 2027, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

The Medical Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, and the Dental Board of California shall disclose reports as required by Section 805.5.

An 805 report shall be maintained electronically by an agency for dissemination purposes for a period of three years after receipt.

No person shall incur any civil or criminal liability as the result of making any report required by this section.

A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars (\$100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. If the person who is designated or otherwise required to file an 805 report is a licensed doctor of podiatric medicine, the action or proceeding shall be brought by the California Board of Podiatric Medicine. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licensee. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, “willful” means a voluntary and intentional violation of a known legal duty.

Except as otherwise provided in subdivision (k), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is

designated or otherwise required by law to file an 805 report, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars (\$50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. If the person who is designated or otherwise required to file an 805 report is a licensed doctor of podiatric medicine, the action or proceeding shall be brought by the California Board of Podiatric Medicine. The fine shall be paid to that agency but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars (\$50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report exercised due diligence despite the failure to file or whether they knew or should have known that an 805 report would not be filed; and whether there has been a prior failure to file an 805 report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that negotiates and enters into a contract with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, when determining participation with the plan or insurer, shall evaluate, on a case-by-case basis, licentiates who are the subject of an 805 report, and not automatically exclude or deselect these licentiates.

(n)State agencies and hospital accrediting agencies shall report to the Medical Board of California any peer review incidents subject to 805 reporting that are found during an inspection of a health care facility or clinic.

SEC. 12. Section 805.01 of the Business and Professions Code is amended to read:

805.01. (a) As used in this section, the following terms have the following definitions:

“Agency” has the same meaning as defined in Section 805.

“Formal investigation” means an investigation performed by a peer review body based on an allegation that any of the acts listed in paragraphs (1) to (4), inclusive, of subdivision (b) occurred.

“Licentiate” has the same meaning as defined in Section 805.

“Peer review body” has the same meaning as defined in Section 805.

The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file a report with the relevant agency within 15 days after a peer review body makes a final decision or recommendation regarding the disciplinary action, as specified in subdivision (b) of Section 805, resulting in a final proposed action to be taken against a licentiate based on the peer review body’s determination, following formal investigation of the licentiate, that any of the acts listed in paragraphs (1) to (4), inclusive, may have occurred, regardless

of whether a hearing is held pursuant to Section 809.2. The licentiate shall receive a notice of the proposed action as set forth in Section 809.1, which shall also include a notice advising the licentiate of the right to submit additional explanatory or exculpatory statements electronically or otherwise.

Incompetence, or gross or repeated deviation from the standard of care involving death or serious bodily injury to one or more patients, to the extent or in such a manner as to be dangerous or injurious to any person or to the public. This paragraph shall not be construed to affect or require the imposition of immediate suspension pursuant to Section 809.5.

The use of, or prescribing for or administering to himself or herself, any controlled substance; or the use of any dangerous drug, as defined in Section 4022, or of alcoholic beverages, to the extent or in such a manner as to be dangerous or injurious to the licentiate, any other person, or the public, or to the extent that such use impairs the ability of the licentiate to practice safely.

Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith effort prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain, consistent with lawful prescribing, be reported for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

Sexual misconduct with one or more patients during a course of treatment or an examination.

The relevant agency shall be entitled to inspect and copy the following documents in the record of any formal investigation required to be reported pursuant to subdivision (b):

Any statement of charges.

Any document, medical chart, or exhibit.

Any opinions, findings, or conclusions.

Any certified copy of medical records, as permitted by other applicable law.

The report provided pursuant to subdivision (b) and the information disclosed pursuant to subdivision (c) shall be kept confidential and shall not be subject to discovery, except that the information may be reviewed as provided in subdivision (c) of Section 800 and may be disclosed in any subsequent disciplinary hearing conducted pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

The report required under this section shall be in addition to any report required under Section 805.

A peer review body shall not be required to make a report pursuant to this section if that body does not make a final decision or recommendation regarding the disciplinary action to be taken against a licentiate based on the body's determination that any of the acts listed in paragraphs (1) to (4), inclusive, of subdivision (b) may have occurred.

A willful failure to file a report pursuant to this section by any person who is designated or otherwise required by law to file a report is punishable by a fine not to exceed one hundred thousand dollars (\$100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding

brought by or on behalf of any agency having regulatory jurisdiction over the person who filed or should have filed the report. If the person who is designated or otherwise required to file a report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency. A violation of this subdivision may constitute unprofessional conduct by the licensee. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, “willful” means a voluntary and intentional violation of a known legal duty.

Except as otherwise provided in subdivision (g), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file a report pursuant to this section, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars (\$50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person who filed or should have filed the report. If the person who is designated or otherwise required to file a report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency. The amount of the fine imposed, not exceeding fifty thousand dollars (\$50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including (i) whether the failure to file caused harm to a patient or created a risk to patient safety, (ii) whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file a report exercised due diligence despite the failure to file or whether they knew or should have known that a report would not be filed, and (3) whether there has been a prior failure to file a report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

(i) State agencies and hospital accrediting agencies shall report to the Medical Board of California any peer review incidents subject to Section 805.01 reporting that are found during an inspection of a health care facility or clinic.

SEC. 13. Section 805.1 of the Business and Professions Code is amended to read:

805.1. (a) The Medical Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, and the Dental Board of California shall be entitled to inspect and copy the following documents in the record of any disciplinary proceeding resulting in action that is required to be reported pursuant to Section 805:

Any statement of charges.

Any document, medical chart, or exhibits in evidence.

Any opinion, findings, or conclusions.

Any certified copy of medical records, as permitted by other applicable law.

The information so disclosed shall be kept confidential and not subject to discovery, in accordance with Section 800, except that it may be reviewed, as provided in subdivision (c) of Section 800, and may be disclosed in any subsequent disciplinary hearing conducted pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 14. Section 805.5 of the Business and Professions Code is amended to read:

805.5. (a) Prior to granting or renewing staff privileges for any physician and surgeon, psychologist, podiatrist, or dentist, any health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, any health care service plan or medical care foundation, the medical staff of the institution, a facility certified to participate in the federal Medicare Program as an ambulatory surgical center, or an outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code shall request a report from the Medical Board of California, the Board of Psychology, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, or the Dental Board of California to determine if any report has been made pursuant to Section 805 indicating that the applying physician and surgeon, psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted as provided in Section 805. The request shall include the name and California license number of the physician and surgeon, psychologist, podiatrist, or dentist. Furnishing of a copy of the 805 report shall not cause the 805 report to be a public record.

Upon a request made by, or on behalf of, an institution described in subdivision (a) or its medical staff the board shall furnish a copy of any report made pursuant to Section 805 as well as any additional exculpatory or explanatory information submitted electronically to the board by the licensee pursuant to subdivision (f) of that section. However, the board shall not send a copy of a report (1) if the denial, removal, or restriction was imposed solely because of the failure to complete medical records, (2) if the board has found the information reported is without merit, (3) if a court finds, in a final judgment, that the peer review, as defined in Section 805, resulting in the report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, or (4) if a period of three years has elapsed since the report was submitted. This three-year period shall be tolled during any period the licensee has obtained a judicial order precluding disclosure of the report, unless the board is finally and permanently precluded by judicial order from disclosing the report. If a request is received by the board while the board is subject to a judicial order limiting or precluding disclosure, the board shall provide a disclosure to any qualified requesting party as soon as practicable after the judicial order is no longer in force.

If the board fails to advise the institution within 30 working days following its request for a report required by this section, the institution may grant or renew staff privileges for the physician and surgeon, psychologist, podiatrist, or dentist.

Any institution described in subdivision (a) or its medical staff that violates subdivision (a) is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars (\$200) nor more than one thousand two hundred dollars (\$1,200).

SEC. 15. Section 805.6 of the Business and Professions Code is amended to read:

805.6. (a) The Medical Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, and the Dental Board of California shall establish a system of electronic notification that is either initiated by the board or can be accessed by qualified subscribers, and that is designed to achieve early notification to qualified recipients of the existence of new reports that are filed pursuant to Section 805.

The State Department of Health Care Services shall notify the appropriate licensing agency of any reporting violations pursuant to Section 805.

The Department of Managed Health Care shall notify the appropriate licensing agency of any reporting violations pursuant to Section 805.

SEC. 16. Section 810 of the Business and Professions Code is amended to read:

810. (a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

It shall constitute cause for automatic suspension of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate.

It shall constitute cause for automatic suspension and for revocation of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has more than one conviction of any felony arising out of separate prosecutions involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to revoke the license or certificate and an order of revocation shall be issued unless the board finds mitigating circumstances to order some other disposition.

It is the intent of the Legislature that paragraph (2) apply to a licensee or certificate holder who has one or more convictions prior to January 1, 2004, as provided in this subdivision.

Nothing in this subdivision shall preclude a board from suspending or revoking a license or certificate pursuant to any other provision of law.

“Board,” as used in this subdivision, means the Dental Board of California, the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.

“More than one conviction,” as used in this subdivision, means that the licensee or certificate holder has one or more convictions prior to January 1, 2004, and at least one conviction on or after that date, or the licensee or certificate holder has two or more convictions on or after January 1, 2004. However, a licensee or certificate holder who has one or more convictions prior to January 1, 2004, but who has no convictions and is currently licensed or holds a certificate after that date, does not have “more than one conviction” for the purposes of this subdivision.

As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

SEC. 17. Section 2001 of the Business and Professions Code is amended to read:

2001. (a) There is in the Department of Consumer Affairs a Medical Board of California that consists of 15 members, 7 of whom shall be public members.

The Governor shall appoint 13 members to the board, subject to confirmation by the Senate, 5 of whom shall be public members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

This section shall remain in effect only until January 1, 2022, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 18. Section 2006 of the Business and Professions Code is amended to read:

2006.(a) Any reference in this chapter to an investigation by the board shall be deemed to refer to an investigation conducted by employees of the Health Quality Investigation Unit within the Department of Consumer Affairs Division of Investigation.

SEC. 19. SEC. 18. Section 2008 of the Business and Professions Code is amended to read:

2008. The board may appoint panels from its members for the purpose of fulfilling the obligations established in subdivision (c) of Section 2004. Any panel appointed under this section shall at no time be comprised of less than four members and the number of public members assigned to the panel shall not exceed the number of licensed physician and surgeon members assigned to the panel. Each panel shall annually elect a chair and a vice chair.

SEC. 20. SEC. 19. Section 2020 of the Business and Professions Code is amended to read:

2020. (a) The board, by and with the approval of the director, may employ an executive director exempt from the provisions of the Civil Service Act and may also employ investigators, legal counsel, medical consultants, and other assistance as it may deem necessary to carry this chapter into effect. The board may fix the compensation to be paid for services subject to the provisions of applicable

state laws and regulations and may incur other expenses as it may deem necessary. Investigators employed by the board shall be provided special training in investigating medical practice activities.

The Attorney General shall act as legal counsel for the board for any judicial and administrative proceedings and his or her services shall be a charge against it.

This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 21. SEC. 20. Section 2026 is added to the Business and Professions Code, to read:

2026. The board shall initiate the process of adopting regulations on or before January 1, 2019, to require its licentiates and registrants to provide notice to their clients or patients that the practitioner is licensed or registered in this state by the board, that the practitioner's license can be checked, and that complaints against the practitioner can be made through the board's Internet Web site or by contacting the board.

SEC. 22. SEC. 21. Section 2052.5 of the Business and Professions Code is repealed.

SEC. 23. SEC. 22. Section 2054 of the Business and Professions Code is amended to read:

2054. (a) Any person who uses in any sign, business card, or letterhead, or, in an advertisement, the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any other terms or letters indicating or implying that he or she is a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, or that he or she is entitled to practice hereunder, or who represents or holds himself or herself out as a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon under this chapter, is guilty of a misdemeanor.

(b) Notwithstanding subdivision (a), any of the following persons may use the words "doctor" or "physician," the letters or prefix "Dr.," or the initials "M.D.":

A graduate of a medical school approved or recognized by the board while enrolled in a postgraduate training program approved by the board.

A graduate of a medical school who does not have a certificate as a physician and surgeon under this chapter if he or she meets all of the following requirements:

If issued a license to practice medicine in any jurisdiction, has not had that license revoked or suspended by that jurisdiction.

Does not otherwise hold himself or herself out as a physician and surgeon entitled to practice medicine in this state except to the extent authorized by this chapter.

Does not engage in any of the acts prohibited by Section 2060.

A person authorized to practice medicine under Section 2111 or 2113 subject to the limitations set forth in those sections.

SEC. 24. SEC. 23. Section 2064 of the Business and Professions Code is amended to read:

2064. Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved medical school, or to prevent a foreign medical student who is enrolled in an approved medical school or clinical training program in

this state, from engaging in the practice of medicine whenever and wherever prescribed as a part of his or her course of study.

SEC. 25. SEC. 24. Section 2064.5 is added to the Business and Professions Code, to read:

2064.5. (a) Within 180 days after enrollment in a board-approved postgraduate training program pursuant to Section 2065, medical school graduates shall obtain a physician's and surgeon's postgraduate training license. To be considered for a postgraduate training license, the applicant shall submit the application forms and primary source documents required by the board, shall successfully pass all required licensing examinations, shall pay the reduced licensing fee, and shall not have committed any act that would be grounds for denial.

Each application submitted pursuant to this section shall be made upon a form provided by the board, and each application form shall contain a legal verification to be signed by the applicant verifying under penalty of perjury that the information provided by the applicant is true and correct and that any information in supporting documents provided by the applicant is true and correct.

Each application shall include the following:

A diploma issued by a board-approved medical school. The requirements of the school shall not have been less than those required under this chapter at the time the diploma was granted or by any preceding medical practice act at the time that the diploma was granted. In lieu of a diploma, the applicant may submit evidence satisfactory to the board of having possessed the same.

An official transcript or other official evidence satisfactory to the board showing each approved medical school in which a resident course of professional instruction was pursued covering the minimum requirements for certification as a physician and surgeon, and that a diploma and degree were granted by the school.

Other information concerning the professional instruction and preliminary education of the applicant as the board may require.

An affidavit showing to the satisfaction of the board that the applicant is the person named in each diploma and transcript that he or she submits, that he or she is the lawful holder thereof, and that the diploma or transcript was procured in the regular course of professional instruction and examination without fraud or misrepresentation.

Either fingerprint cards or a copy of a completed Live Scan form from the applicant in order to establish the identity of the applicant and in order to determine whether the applicant has a record of any criminal convictions in this state or in any other jurisdiction, including foreign countries. The information obtained as a result of the fingerprinting of the applicant shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure under the provisions of Division 1.5 (commencing with Section 475) and Section 2221 of this code.

If the medical school graduate graduated from a foreign medical school approved by the board pursuant to Section 2084, an official Educational Commission for Foreign

Medical Graduates (ECFMG) Certification Status Report confirming the graduate is ECFMG certified.

The physician's and surgeon's postgraduate training license shall be valid until 90 days after the holder has completed 36 months of board-approved postgraduate training. The physician's and surgeon's postgraduate training licensee may engage in the practice of medicine only in connection with his or her duties as an intern or resident physician in a board-approved program, including its affiliated sites, or under those conditions as are approved in writing and maintained in the postgraduate training licensee's file by the director of his or her program.

The postgraduate training licensee may engage in the practice of medicine in locations authorized by subdivision (b), and as permitted by the Medical Practice Act and other applicable statutes and regulations, including, but not limited to, the following:

Diagnose and treat patients.

Prescribe medications without a cosigner, including prescriptions for controlled substances, if the training licensee has the appropriate Drug Enforcement Agency registration/permit and is registered with the Department of Justice CURES program.

Sign birth certificates without a cosigner.

Sign death certificates without a cosigner.

The postgraduate training licensee may be disciplined by the board at any time for any of the grounds that would subject the holder of a physician's and surgeon's certificate to discipline.

If the medical school graduate fails to obtain a postgraduate training license within 180 days after enrollment in a board-approved postgraduate training program or if the board denies his or her application for a postgraduate training license, all privileges and exemptions under this section shall automatically cease.

SEC. 26. SEC. 25. Section 2065 of the Business and Professions Code is amended to read:

2065. (a) Unless otherwise provided by law, no postgraduate trainee, intern, resident, postdoctoral fellow, or instructor may engage in the practice of medicine, or receive compensation therefor, or offer to engage in the practice of medicine unless he or she holds a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board. However, a graduate of an approved medical school may engage in the practice of medicine whenever and wherever required as a part of a postgraduate training program under the following conditions:

The medical school graduate has taken and passed the board-approved medical licensing examinations required to qualify the applicant to participate in an approved postgraduate training program.

The medical school graduate is registered with the board.

If the medical school graduate graduated from a foreign medical school approved by the board pursuant to Section 2084, the Educational Commission for Foreign Medical Graduates (ECFMG) has submitted an official ECFMG Certification Status Report directly to the board confirming the graduate is ECFMG certified.

The medical school graduate is enrolled in a postgraduate training program approved by the board.

The board-approved postgraduate training program has submitted the required board-approved form to the board documenting the medical school graduate is enrolled in an approved postgraduate training program.

The medical school graduate obtains a physician's and surgeon's postgraduate training license in accordance with Section 2064.5.

(b) A medical school graduate enrolled in an approved first-year postgraduate training program in accordance with this section may engage in the practice of medicine whenever and wherever required as a part of the training program, and may receive compensation for that practice not to exceed 12 months.

A graduate who has completed the first year of postgraduate training may, in an approved residency or fellowship, engage in the practice of medicine whenever and wherever required as part of that residency or fellowship, and may receive compensation for that practice not to exceed 27 months. The resident or fellow shall qualify for, take, and pass the next succeeding written examination for licensure. If the resident or fellow fails to receive a license to practice medicine under this chapter within 27 months from the commencement of the residency or fellowship or if the board denies his or her application for licensure, all privileges and exemptions under this section shall automatically cease.

All approved postgraduate training the medical school graduate has participated in the United States or Canada shall count toward the 39-month license exemption.

A medical school graduate from a medical school approved by the board shall have successfully completed a minimum of 36 months of approved postgraduate training with at least 24 consecutive months in the same program, to be eligible for a California physician's and surgeon's certificate.

SEC. 27. SEC. 26. Section 2066 of the Business and Professions Code is repealed.

SEC. 28. SEC. 27. Section 2066.5 of the Business and Professions Code is amended to read:

2066.5. (a) The pilot program authorized by this section shall be known and may be cited as the University of California at Los Angeles David Geffen School of Medicine's International Medical Graduate Pilot Program.

(b) Nothing in this chapter shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine when required as part of the pilot program authorized by this section.

There is currently a preresidency training program at the University of California, Los Angeles David Geffen School of Medicine, Department of Family Medicine, hereafter referred to as UCLA, for selected international medical graduates (IMGs). Participation in the pilot program authorized by this section shall be at the option of UCLA. This section authorizes those IMGs, through the new pilot program authorized by this section, to receive, through the existing program, hands-on clinical instruction. The pilot program, as administered by UCLA, shall include all of the following elements:

Each pilot program participant shall have done all of the following:

Graduated from a medical school recognized by the Medical Board of California at the time of selection.

Taken and passed the United States Medical Licensing Examination Steps 1 and 2 (Clinical Knowledge and Clinical Science).

Submitted an application and materials to the Educational Commission for Foreign Medical Graduates.

A pilot program participant shall receive all clinical instruction at health care facilities operated by the University of California, Los Angeles, or other approved UCLA-designated teaching sites, which shall be hospitals or clinics with either a signed formal affiliation agreement with UCLA or a signed letter of agreement.

Participation of a trainee in clinical instruction offered by the pilot program shall not generally exceed 16 weeks. However, at the discretion of UCLA, an additional eight weeks of clinical instruction may be granted. In no event shall a participant receive more than 24 weeks of clinical instruction under the pilot program.

The clinical instruction shall be supervised by licensed physicians on faculty at UCLA or faculty affiliated with UCLA as specified in an approved affiliation agreement between UCLA and the affiliated entity.

The clinical instruction shall be provided pursuant to written affiliation agreements for clinical instruction of trainees established by UCLA.

The supervising faculty shall evaluate each participant on a regular basis and shall document the completion of each aspect of the clinical instruction portion of the program for each participant.

UCLA shall provide the board with the names of the participants in the pilot program on an annual basis, or more frequently if necessary to maintain accuracy. Upon a reasonable request of the board, UCLA shall provide additional information such as the courses successfully completed by program participants, the dates of instruction, and other relevant information.

On or before January 1, 2018, UCLA is requested to prepare a report for the board and the Legislature. Topics to be addressed in the report shall include the number of participants in the pilot program, the number of participants in the pilot program who were issued physician's and surgeon's certificates by the board, the number of participants who practice in designated medically underserved areas, and the potential for retention or expansion of the pilot program.

This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 29. SEC. 28. Section 2067 of the Business and Professions Code is repealed.

SEC. 30. SEC. 29. Section 2072 of the Business and Professions Code is repealed.

SEC. 31. SEC. 30. Section 2073 of the Business and Professions Code is repealed.

SEC. 32. SEC. 31. Section 2082 of the Business and Professions Code is amended to read:

2082. Each application shall include the following:

A diploma issued by an approved medical school. The requirements of the school shall have been at the time of granting the diploma in no degree less than those required under this chapter or by any preceding medical practice act at the time that the diploma was granted. In lieu of a diploma, the applicant may submit evidence satisfactory to the board of having possessed the same.

An official transcript or other official evidence satisfactory to the board showing each approved medical school in which a resident course of professional instruction was pursued covering the minimum requirements for certification as a physician and surgeon, and that a diploma and degree were granted by the school.

Other information concerning the professional instruction and preliminary education of the applicant as the board may require.

Proof of passage of the written examinations as provided under Article 9 (commencing with Section 2170) with a score acceptable to the board.

Proof of satisfactory completion of the postgraduate training required under Section 2096 on a form approved by the board.

An affidavit showing to the satisfaction of the board that the applicant is the person named in each diploma and transcript that he or she submits, that he or she is the lawful holder thereof, and that the diploma or transcript was procured in the regular course of professional instruction and examination without fraud or misrepresentation.

Either fingerprint cards or a copy of a completed Live Scan form from the applicant in order to establish the identity of the applicant and in order to determine whether the applicant has a record of any criminal convictions in this state or in any other jurisdiction, including foreign countries. The information obtained as a result of the fingerprinting of the applicant shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure under the provisions of Division 1.5 (commencing with Section 475) and Section 2221.

If the applicant attended a foreign medical school approved by the board pursuant to Section 2084, an official Educational Commission for Foreign Medical Graduates (ECFMG) Certification Status Report submitted by the Educational Commission for Foreign Medical Graduates confirming the graduate is ECFMG certified.

If the applicant attended a foreign medical school approved by the board pursuant to Section 2084, official evidence satisfactory to the board of completion of all formal requirements of the medical school for graduation, except the applicant shall not be required to have completed an internship or social service or be admitted or licensed to practice medicine in the country in which the professional instruction was completed.

SEC. 33. SEC. 32. Section 2084 of the Business and Professions Code is amended to read:

2084. (a) Medical schools accredited by a national accrediting agency approved by the board and recognized by the United States Department of Education shall be deemed approved by the board.

(b) The board shall determine a foreign medical school to be a recognized medical school if the foreign medical school meets any of the following requirements:

The foreign medical school has been evaluated by the Educational Commission for Foreign Medical Graduates (ECFMG) or one of the ECFMG authorized foreign medical school accreditation agencies and deemed to meet the minimum requirements substantially equivalent to the requirements of medical schools accredited by the Liaison Committee on Medical Education, the Committee on Accreditation of Canadian Medical Schools, or the Commission on Osteopathic College Accreditation.

The foreign medical school is listed on the World Federation for Medical Education (WFME) and the Foundation for Advancement of International Medical Education and Research (FAIMER) World Directory of Medical Schools joint directory or the World Directory of Medical Schools.

The foreign medical school had been previously approved by the board. The prior approval shall only be valid for a maximum of seven years from the date of enactment of this section.

SEC. 34. SEC. 33. Section 2084.5 of the Business and Professions Code is amended to read:

2084.5. Notwithstanding any other law, a medical school or medical school program accredited by the Liaison Committee on Medical Education, the Committee on Accreditation of Canadian Medical Schools, or the Commission on Osteopathic College Accreditation shall be deemed to meet the requirements of Section 2084.

SEC. 35. SEC. 34. Section 2085 of the Business and Professions Code is repealed.

SEC. 36. SEC. 35. Section 2087 of the Business and Professions Code is amended to read:

2087. If any applicant for licensure is rejected by the board, then the applicant may commence an action in the superior court as provided in Section 2019 against the board to compel it to issue the applicant a certificate or for any other appropriate relief. If the applicant is denied a certificate on the grounds of unprofessional conduct, the provisions of Article 12 (commencing with Section 2220) shall apply. In such an action the court shall proceed under Section 1094.5 of the Code of Civil Procedure, except that the court may not exercise an independent judgment on the evidence. The action shall be speedily determined by the court and shall take precedence over all matters pending therein except criminal cases, applications for injunction, or other matters to which special precedence may be given by law.

SEC. 37. SEC. 36. Section 2089 of the Business and Professions Code is repealed.

SEC. 38. SEC. 37. Section 2089.5 of the Business and Professions Code is repealed.

SEC. 39. SEC. 38. Section 2089.7 of the Business and Professions Code is repealed.

SEC. 40. SEC. 39. Section 2090 of the Business and Professions Code is repealed.

SEC. 41. SEC. 40. Section 2091 of the Business and Professions Code is repealed.

SEC. 42. SEC. 41. Section 2091.1 of the Business and Professions Code is repealed.

SEC. 43. SEC. 42. Section 2091.2 of the Business and Professions Code is repealed.

SEC. 44. SEC. 43. Section 2096 of the Business and Professions Code is amended to read:

2096. (a) In addition to other requirements of this chapter, before a physician's and surgeon's license may be issued, each applicant, including an applicant applying pursuant to Article 5 (commencing

with Section 2100), shall show by evidence satisfactory to the board that he or she has satisfactorily completed at least 36 months of board-approved postgraduate training.

(b) The postgraduate training required by this section shall include at least four months of general medicine and shall be obtained in a postgraduate training program approved by the Accreditation Council for Graduate Medical Education (ACGME), the Royal College of Physicians and Surgeons of Canada (RCPSC), or the College of Family Physicians of Canada (CFPC).

An applicant who has completed at least 36 months of board-approved postgraduate training, not less than 24 months of which was completed as a resident after receiving a medical degree from a combined dental and medical degree program accredited by the Commission on Dental Accreditation (CODA) or approved by the board, shall be eligible for licensure.

SEC. 45. SEC. 44. Section 2100 of the Business and Professions Code is repealed.

SEC. 46. SEC. 45. Section 2102 of the Business and Professions Code is repealed.

SEC. 47. SEC. 46. Section 2103 of the Business and Professions Code is repealed.

SEC. 48. SEC. 47. Section 2104 of the Business and Professions Code is repealed.

SEC. 49. SEC. 48. Section 2104.5 of the Business and Professions Code is repealed.

SEC. 50. SEC. 49. Section 2105 of the Business and Professions Code is amended to read:

2105. No hospital licensed by this state, or operated by the state or a political subdivision thereof, or which receives state financial assistance, directly or indirectly, shall require an individual who at the time of his or her enrollment in a medical school outside the United States is a citizen of the United States, to satisfy any requirements other than those contained in paragraph (3) of subdivision (a) of Section 2065 prior to commencing the postgraduate training which are not required for graduates of approved medical schools located in the United States or Canada.

SEC. 51. SEC. 50. Section 2107 of the Business and Professions Code is repealed.

SEC. 52. SEC. 51. Section 2111 of the Business and Professions Code is amended to read:

2111. (a) Physicians who are not citizens but who meet the requirements of subdivision (b) and who seek postgraduate study in an approved medical school may, after receipt of an appointment from the dean of the California medical school and application to and approval by the board, be permitted to participate in the professional activities of the department or division in the medical school to which they are appointed. The physician shall be under the direction of the head of the department to which he or she is appointed, supervised by the staff of the medical school's medical center, and known for these purposes as a "visiting fellow." The visiting fellow shall wear a visible name tag containing the title "visiting fellow" when he or she provides clinical services.

(b) (1) Application for approval shall be made on a form prescribed by the division and shall be accompanied by a fee fixed by the board in an amount necessary to recover the actual application processing costs of the program. The application shall show that the person does not immediately qualify for a physician's and surgeon's certificate under this chapter and that the person has completed at least three years of postgraduate basic residency requirements. The application shall include a written statement of the recruitment procedures followed by the medical school before offering the appointment to the applicant.

Approval shall be granted only for appointment to one medical school, and no physician shall be granted more than one approval for the same period of time.

Approval may be granted for a maximum of three years and shall be renewed annually. The medical school shall submit a request for renewal on a form prescribed by the board, which shall be accompanied by a renewal fee fixed by the board in an amount necessary to recover the actual application processing costs of the program.

Except to the extent authorized by this section, the visiting fellow may not engage in the practice of medicine. Neither the visiting fellow nor the medical school may assess any charge for the medical services provided by the visiting fellow, and the visiting fellow may not receive any other compensation therefor.

The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure.

The board shall notify both the visiting fellow and the dean of the appointing medical school of any complaint made about the visiting fellow.

The board may terminate its approval of an appointment for any act that would be grounds for discipline if done by a licensee. The board shall provide both the visiting fellow and the dean of the medical school with a written notice of termination including the basis for that termination. The visiting fellow may, within 30 days after the date of the notice of termination, file a written appeal to the board. The appeal shall include any documentation the visiting fellow wishes to present to the board.

Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country and recognized by the board from participating in any program established pursuant to this section.

SEC. 53. SEC. 52. Section 2112 of the Business and Professions Code is amended to read:

2112. (a) Physicians who are not citizens and who seek postgraduate study, may, after application to and approval by the board, be permitted to participate in a fellowship program in a specialty or subspecialty field, providing the fellowship program is given in a hospital in this state which is approved by the Joint Commission and providing the service is satisfactory to the board. Such physicians shall at all times be under the direction and supervision of a licensed, board-certified physician and surgeon who is recognized as a clearly outstanding specialist in the field in which the foreign fellow is to be trained. The supervisor, as part of the application process, shall submit his or her curriculum vitae and a protocol of the fellowship program to be completed by the foreign fellow. Approval of the program and supervisor is for a period of one year, but may be renewed annually upon application to and approval by the board. The approval may not be renewed more than four times. The board may determine a fee, based on the cost of operating this program, which shall be paid by the applicant at the time the application is filed.

(b) Except to the extent authorized by this section, no such visiting physician may engage in the practice of medicine or receive compensation therefor. The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure.

Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

SEC. 54. SEC. 53. Section 2113 of the Business and Professions Code is amended to read:

2113. (a) Any person who does not immediately qualify for a physician's and surgeon's certificate under this chapter and who is offered by the dean of an approved medical school in this state a full-time faculty position may, after application to and approval by the board, be granted a certificate of registration to engage in the practice of medicine only to the extent that the practice is incident to and a necessary part of his or her duties as approved by the board in connection with the faculty position. A certificate of registration does not authorize a registrant to admit patients to a nursing or a skilled or assisted living facility unless that facility is formally affiliated with the sponsoring medical school. A clinical fellowship shall not be submitted as a faculty service appointment.

(b) Application for a certificate of registration shall be made on a form prescribed by the board and shall be accompanied by a registration fee fixed by the board in an amount necessary to recover the actual application processing costs of the program. To qualify for the certificate, an applicant shall submit all of the following:

If the applicant is a graduate of a medical school other than in the United States or Canada, documentary evidence satisfactory to the board that he or she has been licensed to practice medicine and surgery for not less than four years in another state or country whose requirements for licensure are satisfactory to the board, or has been engaged in the practice of medicine in the United States for at least four years in approved facilities, or has completed a combination of that licensure and training.

If the applicant is a graduate of a medical school in the United States or Canada, documentary evidence that the medical school is approved by the board.

Written certification by the head of the department in which the applicant is to be appointed of all of the following:

The applicant will be under his or her direction.

The applicant will not be permitted to practice medicine unless incident to and a necessary part of his or her duties as approved by the board in subdivision (a).

The applicant will be accountable to the medical school's department chair or division chief for the specialty in which the applicant will practice.

The applicant will be proctored in the same manner as other new faculty members, including, as appropriate, review by the medical staff of the school's medical center.

The applicant will not be appointed to a supervisory position at the level of a medical school department chair or division chief.

Demonstration by the dean of the medical school that the applicant has the requisite qualifications to assume the position to which he or she is to be appointed and that shall include a written statement of the recruitment procedures followed by the medical school before offering the faculty position to the applicant.

A certificate of registration shall be issued only for a faculty position at one approved medical school, and no person shall be issued more than one certificate of registration for the same period of time.

A certificate of registration is valid for one year from its date of issuance and may be renewed twice.

A request for renewal shall be submitted on a form prescribed by the board and shall be accompanied by a renewal fee fixed by the board in an amount necessary to recover the actual application processing costs of the program.

The dean of the medical school may request renewal of the registration by submitting a plan at the beginning of the third year of the registrant's appointment demonstrating the registrant's continued progress toward licensure and, if the registrant is a graduate of a medical school other than in the United States or Canada, that the registrant has been issued a certificate by the Educational Commission for Foreign Medical Graduates. The board may, in its discretion, extend the registration for a two-year period to facilitate the registrant's completion of the licensure process.

If the registrant is a graduate of a medical school other than in the United States or Canada, he or she shall meet the requirements of Section 2065 or 2135, as appropriate, in order to obtain a physician's and surgeon's certificate. Notwithstanding any other provision of law, the board may, in its discretion, waive the examination and the Educational Commission for Foreign Medical Graduates certification requirements specified in paragraph (3) of subdivision (a) of Section 2065 in the event the registrant applies for a physician's and surgeon's certificate. As a condition to waiving any examination or the Educational Commission for Foreign Medical Graduates certification requirement, the board in its discretion, may require an applicant to pass a clinical competency examination approved by the board. The board shall not waive any examination for an applicant who has not completed at least one year in the faculty position.

Except to the extent authorized by this section, the registrant shall not engage in the practice of medicine, bill individually for medical services provided by the registrant, or receive compensation therefor, unless he or she is issued a physician's and surgeon's certificate.

When providing clinical services, the registrant shall wear a visible name tag containing the title "visiting professor" or "visiting faculty member," as appropriate, and the institution at which the services are provided shall obtain a signed statement from each patient to whom the registrant provides services acknowledging that the patient understands that the services are provided by a person who does not hold a physician's and surgeon's certificate but who is qualified to participate in a special program as a visiting professor or faculty member.

The board shall notify both the registrant and the dean of the medical school of a complaint made about the registrant. The board may terminate a registration for any act that would be grounds for discipline if done by a licensee. The board shall provide both the registrant and the dean of the medical school with written notice of the termination and the basis for that termination. The registrant may, within 30 days after the date of the notice of termination, file a written appeal to the board. The appeal shall include any documentation the registrant wishes to present to the board.

SEC. 55. SEC. 54. Section 2115 of the Business and Professions Code is repealed.

SEC. 56. SEC. 55. Section 2135 of the Business and Professions Code is amended to read:

2135. The board shall issue a physician and surgeon's certificate to an applicant who meets all of the following requirements:

The applicant holds an unlimited license as a physician and surgeon in another state or states, or in a Canadian province or Canadian provinces, which was issued upon:

Successful completion of a resident course of professional instruction leading to a degree of medical doctor from a board-approved medical school pursuant to Section 2084.

Taking and passing a written examination that is recognized by the board to be equivalent in content to that administered in California.

The applicant has held an unrestricted license to practice medicine, in a state or states, in a Canadian province or Canadian provinces, or as a member of the active military, United States Public Health Services, or other federal program, for a period of at least four years. Any time spent by the applicant in an approved postgraduate training program or clinical fellowship acceptable to the board shall not be included in the calculation of this four-year period.

The board determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

The applicant has satisfactorily completed at least one year of approved postgraduate training and is certified by a specialty board approved by the American Board of Medical Specialties or approved by the board pursuant to subdivision (h) of Section 651.

The applicant has not committed any acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

Any application received from an applicant who has held an unrestricted license to practice medicine, in a state or states, or Canadian province or Canadian provinces, or as a member of the active military, United States Public Health Services, or other federal program for four or more years shall be reviewed and processed pursuant to this section. Any time spent by the applicant in an approved postgraduate training program or clinical fellowship acceptable to the board shall not be included in the calculation of this four-year period. This subdivision does not apply to applications that may be reviewed and processed pursuant to Section 2151.

SEC. 57. SEC. 56. Section 2135.5 of the Business and Professions Code is amended to read:

2135.5. Upon review and recommendation, the board may determine that an applicant for a physician's and surgeon's certificate has satisfied the medical education requirements of Sections 2135 and 2084 and the examination requirements of Section 2170 if the applicant meets all of the following criteria:

He or she holds an unlimited and unrestricted license as a physician and surgeon in another state and has held that license continuously for a minimum of four years prior to the date of application.

He or she is certified by a specialty board that is a member board of the American Board of Medical Specialties.

He or she is not subject to denial of licensure under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

He or she has not been the subject of a disciplinary action by a medical licensing authority or of an adverse judgment or settlement resulting from the practice of medicine that, as determined by the board, constitutes a pattern of negligence or incompetence.

SEC. 58. SEC. 57. Section 2135.7 of the Business and Professions Code is repealed.

SEC. 59. SEC. 58. Section 2143 of the Business and Professions Code is amended to read:

2143. An applicant for a reciprocity certificate need not have completed the postgraduate training required in Section 2096 prior to the issuance of a license in another state, if the applicant complies with the requirements of Section 2096 before application is made to the board for a reciprocity certificate.

SEC. 60. SEC. 59. Section 2168.4 of the Business and Professions Code is amended to read:

2168.4. (a) A special faculty permit expires and becomes invalid at midnight on the last day of the month in which the permit was issued during the second year of a two-year term commencing from the date of issuance, if not renewed.

(b) A person who holds a special faculty permit shall show at the time of license renewal that he or she continues to meet the eligibility criteria set forth in Section 2168.1. After the first renewal of a special faculty permit, the permitholder shall not be required to hold a full-time faculty position, and may instead be employed part-time in a position that otherwise meets the requirements set forth in paragraph (1) of subdivision (a) of Section 2168.1.

A person who holds a special faculty permit shall show at the time of license renewal that he or she meets the continuing medical education requirements of Article 10 (commencing with Section 2190).

In addition to the requirements set forth above, a special faculty permit shall be renewed in accordance with Article 19 (commencing with Section 2420) in the same manner as a physician's and surgeon's certificate.

Those fees applicable to a physician's and surgeon's certificate shall also apply to a special faculty permit and shall be paid into the State Treasury and credited to the Contingent Fund of the Medical Board of California.

SEC. 61. SEC. 60. Section 2191 of the Business and Professions Code is amended to read:

2191. (a) In determining its continuing education requirements, the board shall consider including a course in human sexuality, defined as the study of a human being as a sexual being and how he or she functions with respect thereto, and nutrition to be taken by those licensees whose practices may require knowledge in those areas.

(b) The board shall consider including a course in child abuse detection and treatment to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with abused or neglected children.

The board shall consider including a course in acupuncture to be taken by those licensees whose practices may require knowledge in the area of acupuncture and whose education has not included instruction in acupuncture.

The board shall encourage every physician and surgeon to take nutrition as part of his or her continuing education, particularly a physician and surgeon involved in primary care.

The board shall consider including a course in elder abuse detection and treatment to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with abused or neglected persons 65 years of age and older.

In determining its continuing education requirements, the board shall consider including a course in the early detection and treatment of substance abusing pregnant women to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with these women.

In determining its continuing education requirements, the board shall consider including a course in the special care needs of drug addicted infants to be taken by those licensees whose practices are of a nature that there is a likelihood of contact with these infants.

In determining its continuing education requirements, the board shall consider including a course providing training and guidelines on how to routinely screen for signs exhibited by abused women, particularly for physicians and surgeons in emergency, surgical, primary care, pediatric, prenatal, and mental health settings. In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

In determining its continuing education requirements, the board shall consider including a course in the special care needs of individuals and their families facing end-of-life issues, including, but not limited to, all of the following:

- Pain and symptom management.

- The psycho-social dynamics of death.

- Dying and bereavement.

- Hospice care.

In determining its continuing education requirements, the board shall give its highest priority to considering a course on pain management.

In determining its continuing education requirements, the board shall consider including a course in geriatric care for emergency room physicians and surgeons.

SEC. 62. SEC. 61. Section 2216.3 of the Business and Professions Code is amended to read:

2216.3. (a) An outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code shall report an adverse event to the board no later than five days after the adverse event has been detected, or, if that event is an ongoing urgent or emergent threat to the welfare, health, or safety of patients, personnel, or visitors, not later than 24 hours after the adverse event has been detected. Disclosure of individually identifiable patient information shall be consistent with applicable law.

(b) For the purposes of this section, “adverse event” includes any of the following:

- Surgical or other invasive procedures, including the following:

- Surgical or other invasive procedure performed on a wrong body part that is inconsistent with the documented informed consent for that patient. A reportable event under this subparagraph does not include a situation requiring prompt action

that occurs in the course of surgery or a situation that is so urgent as to preclude obtaining informed consent.

Surgical or other invasive procedure performed on the wrong patient.

The wrong surgical or other invasive procedure performed on a patient, which is a procedure performed on a patient that is inconsistent with the documented informed consent for that patient. A reportable event under this subparagraph does not include a situation requiring prompt action that occurs in the course of surgery, or a situation that is so urgent as to preclude the obtaining of informed consent.

Retention of a foreign object in a patient after surgery or other procedure, excluding objects intentionally implanted as part of a planned intervention and objects present prior to surgery that are intentionally retained.

Death of a patient during or up to 24 hours after admittance of a patient to an outpatient setting that follows induction of anesthesia after surgery of a normal, healthy patient who has no organic, physiologic, biochemical, or psychiatric disturbance and for whom the pathologic processes for which the operation is to be performed are localized and do not entail a systemic disturbance.

Transfer of a patient to a hospital or emergency center for medical treatment for a period exceeding 24 hours following a scheduled procedure outside of a general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

Product or device events, including the following:

Patient death or serious disability associated with the use of a contaminated drug, device, or biologic provided by the outpatient setting when the contamination is the result of generally detectable contaminants in the drug, device, or biologic, regardless of the source of the contamination or the product.

Patient death or serious disability associated with the use or function of a device in patient care in which the device is used or functions other than as intended. For purposes of this subparagraph, “device” includes, but is not limited to, a catheter, drain, or other specialized tube, infusion pump, or ventilator.

Patient death or serious disability associated with intravascular air embolism that occurs while being cared for in an outpatient setting, excluding deaths associated with neurosurgical procedures known to present a high risk of intravascular air embolism.

Patient protection events, including the following:

A minor discharged to the wrong person.

A patient suicide or attempted suicide resulting in serious disability while being cared for in an outpatient setting due to patient actions after admission to the outpatient setting.

Care management events, including the following:

A patient death or serious disability associated with a medication error, including, but not limited to, an error involving the wrong drug, the wrong dose, the wrong patient, the wrong time, the wrong rate, the wrong preparation, or the wrong route of administration, excluding reasonable differences in clinical judgment on drug selection and dose.

A patient death or serious disability associated with a hemolytic reaction due to the administration of ABO-incompatible blood or blood products.

Patient death or serious disability directly related to hypoglycemia, the onset of which occurs while the patient is being cared for in an outpatient setting.

A patient death or serious disability due to spinal manipulative therapy performed at the outpatient setting.

Environmental events, including the following:

A patient death or serious disability associated with an electric shock while being cared for in an outpatient setting, excluding events involving planned treatments, such as electric countershock.

Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by a toxic substance.

A patient death or serious disability associated with a burn incurred from any source while being cared for in an outpatient setting.

A patient death associated with a fall while being cared for in an outpatient setting.

A patient death or serious disability associated with the use of restraints or bed rails while being cared for in an outpatient setting.

Criminal events, including the following:

Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed health care provider.

The abduction of a patient of any age.

The sexual assault on a patient within or on the grounds of an outpatient setting.

The death or significant injury of a patient or staff member resulting from a physical assault that occurs within or on the grounds of an outpatient setting.

An adverse event or series of adverse events that cause the death or serious disability of a patient, personnel, or visitor.

The outpatient setting shall inform the patient or the party responsible for the patient of the adverse event by the time the report is made.

“Serious disability” means a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or the loss of bodily function, if the impairment or loss lasts more than seven days or is still present at the time of discharge from an inpatient health care facility, or the loss of a body part.

“Surgical or other invasive procedures” are defined for the purposes of this section as operative procedures in which skin or mucous membranes and connective tissue are incised or an instrument is introduced through a natural body orifice. They include all procedures described by the codes in the surgery section of the Current Procedural Terminology.

SEC. 63. SEC. 62. Section 2216.5 is added to the Business and Professions Code, to read:

2216.5. (a) An outpatient setting accredited pursuant to Section 1248.1 of the Health and Safety Code shall, on or before February 15 of each year, file with the Office of Statewide Health Planning and Development upon forms to be furnished by the office, or through an approved benchmarking provider, a verified report showing the following information relating to the previous calendar year:

Number of patients served and descriptive information, including age, gender, race, and ethnic background of patients.

Number of patient visits by type of service.

Number of hospital transfers and admissions upon discharge from an outpatient setting.

Number of patient falls within the outpatient setting.

Number of patient burns prior to discharge from an outpatient setting.

Number of patients who experience a wrong site, side, patient, procedure, or implant.

Retention of a foreign object in a patient after surgery or other procedure, excluding objects intentionally implanted as part of a planned intervention and objects present prior to surgery that are intentionally retained.

Death of a patient within 24 hours after admittance of a patient to an outpatient setting.

(b) It is the expressed intent of the Legislature that the patient’s rights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of this section.

SEC. 64. SEC. 63. Section 2220.05 of the Business and Professions Code is amended to read:

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

Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon or the doctor of podiatric medicine represents a danger to the public.

Drug or alcohol abuse by a physician and surgeon or a doctor of podiatric medicine involving death or serious bodily injury to a patient.

Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

Repeated acts of clearly excessive recommending of cannabis to patients for medical purposes, or repeated acts of recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.

Sexual misconduct with one or more patients during a course of treatment or an examination.

Practicing medicine while under the influence of drugs or alcohol.

Repeated acts of clearly excessive prescribing, furnishing, or administering psychotropic medications to a minor without a good faith prior examination of the patient and medical reason therefor.

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

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

SEC. 65. SEC. 64. Section 2221 of the Business and Professions Code is amended to read:

2221. (a) The board may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license. The board in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

Total or partial restrictions on drug prescribing privileges for controlled substances.

Continuing medical or psychiatric treatment.

Ongoing participation in a specified rehabilitation program.

Enrollment and successful completion of a clinical training program.

Abstention from the use of alcohol or drugs.

Restrictions against engaging in certain types of medical practice.

Compliance with all provisions of this chapter.

Payment of the cost of probation monitoring.

(b) The board may modify or terminate the terms and conditions imposed on the probationary certificate upon receipt of a petition from the licensee; however, the requirements of Section 2228.1 are mandatory with any probationary licensee. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board.

The board shall deny a physician's and surgeon's certificate to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the denial of his or her application, except that the board may, in its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the denial.

SEC. 66. SEC. 65. Section 2225 of the Business and Professions Code is amended to read:

2225. (a) Notwithstanding Section 2263 and any other law, including laws pertaining to the psychotherapist-patient privilege, making a communication between a physician and surgeon or a doctor of podiatric medicine and his or her patients a privileged communication, those provisions shall not apply to investigations or proceedings conducted under this chapter. Members of the board, the Senior Assistant Attorney General of the Health Quality Enforcement Section, members of the California Board of Podiatric Medicine, and deputies, employees, agents, and representatives of the board or the California Board of Podiatric Medicine and the Senior Assistant Attorney General of the Health Quality Enforcement Section shall keep in confidence during the course of investigations, the names of any patients whose records are reviewed and shall not disclose or reveal those names, except as is necessary during the course of an investigation, unless and until proceedings are instituted. The authority of the board or the California Board of Podiatric Medicine and the Health Quality Enforcement Section to examine records of patients in the office of a physician and surgeon or a doctor of podiatric medicine is limited to records of patients who have complained to the board or the California Board of Podiatric Medicine about that licensee.

(b) Notwithstanding any other law, the Attorney General and his or her investigative agents, and investigators and representatives of the board or the California Board of Podiatric Medicine, may inquire into any alleged violation of the Medical Practice Act or any other federal or state law, regulation, or rule relevant to the practice of medicine or podiatric medicine, whichever is applicable, and may inspect documents relevant to those investigations in accordance with the following procedures:

Any document relevant to an investigation may be inspected, and copies may be obtained, where patient consent is given.

Any document relevant to the business operations of a licensee, and not involving medical records attributable to identifiable patients, may be inspected and copied if relevant to an investigation of a licensee.

Notwithstanding subdivision (b) or any other law, in any investigation that involves the death of a patient, the board may inspect and copy the medical records of the deceased patient without the authorization of the beneficiary or personal representative of the deceased patient or a court order solely for the purpose of determining the extent to which the death was the result of the physician and surgeon's conduct in violation of the Medical Practice Act, if the board provides a written request to either the physician and surgeon or the facility where the medical records are located or the care to the deceased patient was provided, that includes a declaration that the board has been unsuccessful in locating or contacting the deceased patient's beneficiary or personal representative after reasonable efforts. Nothing in this subdivision shall be construed to allow the board to inspect and copy the medical records of a deceased patient without a court order when the beneficiary or personal representative of the deceased patient has been located and contacted but has refused to consent to the board inspecting and copying the medical records of the deceased patient.

The Legislature finds and declares that the authority created in the board pursuant to this section, and a physician and surgeon's compliance with this section, are consistent with the public interest and benefit activities of the federal Health Insurance Portability and Accountability Act (HIPAA).

In all cases in which documents are inspected or copies of those documents are received, their acquisition or review shall be arranged so as not to unnecessarily disrupt the medical and business operations of the licensee or of the facility where the records are kept or used.

If documents are lawfully requested from licensees in accordance with this section by the Attorney General or his or her agents or deputies, or investigators of the board or the California Board of Podiatric Medicine, the documents shall be provided within 15 business days of receipt of the request, unless the licensee is unable to provide the documents within this time period for good cause, including, but not limited to, physical inability to access the records in the time allowed due to illness or travel. Failure to produce requested documents or copies thereof, after being informed of the required deadline, shall constitute unprofessional conduct. The board may use its authority to cite and fine a physician and surgeon for any violation of this section. This remedy is in addition to any other authority of the board to sanction a licensee for a delay in producing requested records.

Searches conducted of the office or medical facility of any licensee shall not interfere with the recordkeeping format or preservation needs of any licensee necessary for the lawful care of patients.

SEC. 67. SEC. 66. Section 2228.1 is added to the Business and Professions Code, to read:

2228.1. (a) On and after July 1, 2018, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation and the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate prior to

the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made after July 1, 2018, in any of the following circumstances:

The accusation alleges, the statement of issues indicates, or the legal conclusions of an administrative law judge find or in a stipulated settlement the licensee admits, or if no admissions, the accusation or the statement of issues charges, that the licensee is implicated in any of the following:

Sexual misconduct.

Drug or alcohol abuse during practice.

Criminal conviction involving the practice of medicine.

If the licensee has previously surrendered his or her license, had his or her license revoked, or has been ordered to be on probation. probation for a violation constituting a threat to public health and safety.

Any violation constituting a threat to public health and safety where the board believes notification is appropriate.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled. unscheduled, including consultations in inpatient facilities.

The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

The licensee does not have a direct treatment relationship with the patient.

On and after July 1, 2018, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information site.

For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

For a licensee granted a probationary license, the causes by which the probationary license was imposed.

The length of the probation and end date.

All practice restrictions placed on the license by the board.

Section 2314 shall not apply to this section.

SEC. 68. SEC. 67. Section 2232 of the Business and Professions Code is amended to read:

2232. (a) Except as provided in subdivisions (c), (d), and (e), the board shall automatically revoke the license of any person who, at any time after January 1, 1947, has been required to register as a sex offender pursuant to the provisions of Section 290 of the Penal Code, regardless of whether the related conviction has been appealed. The board shall notify the licensee of the license revocation and of his or her right to elect to have a hearing as provided in subdivision (b).

(b) Upon revocation of the physician's and surgeon's certificate, the holder of the certificate may request a hearing within 30 days of the revocation. The proceeding shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

This section shall not apply to a person who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

Five years after the effective date of the revocation and three years after successful discharge from parole, probation, or both parole and probation if under simultaneous supervision, an individual who after January 1, 1947, and prior to January 1, 2005, was subject to subdivision (a), may petition the superior court, in the county in which the individual has resided for, at minimum, five years prior to filing the petition, to hold a hearing within one year of the date of the petition, in order for the court to determine whether the individual no longer poses a possible risk to patients. The individual shall provide notice of the petition to the Attorney General and to the board at the time of its filing. The Attorney General and the board shall present written and oral argument to the court on the merits of the petition.

If the court finds that the individual no longer poses a possible risk to patients, and there are no other underlying reasons for which the board pursued disciplinary action, the court shall order, in writing, the board to reinstate the individual's license within 180 days of the date of the order. The board may issue a probationary license to a person subject to this paragraph subject to terms and conditions, including, but not limited to, any of the conditions of probation specified in Section 2221.

If the court finds that the individual continues to pose a possible risk to patients, the court shall deny relief. The court's decision shall be binding on the individual and the board, and the individual shall be prohibited from filing a subsequent petition under this section based on the same conviction.

This section shall not apply to a person who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law.

If the related conviction of the certificate holder is overturned on appeal, the revocation ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

The other provisions of this article setting forth a procedure for the revocation of a physician's and surgeon's certificate shall not apply to proceedings conducted pursuant to this section.

SEC. 69. SEC. 68. Section 2291.5 is added to the Business and Professions Code, to read:

2291.5. A physician and surgeon's failure to comply with an order issued under Section 820 shall may result in the issuance of notification from the board to cease the practice of medicine within three calendar days after being so notified. The physician and surgeon shall cease the practice of medicine until the ordered examinations have been completed. A physician and surgeon's continued failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of his or her certificate.

SEC. 70. SEC. 69. Section 2334 of the Business and Professions Code is amended to read:

2334. (a) Notwithstanding any other provision of law, with respect to the use of expert testimony in matters brought by the Medical Board of California, no expert testimony shall be permitted by any party unless the following information is exchanged in written form with counsel for the other party, as ordered by the Office of Administrative Hearings:

- A curriculum vitae setting forth the qualifications of the expert.

- A complete expert witness report, which must include the following:

- A complete statement of all opinions the expert will express and the bases and reasons for each opinion.

- The facts or data considered by the expert in forming the opinions.

- Any exhibits that will be used to summarize or support the opinions.

- A representation that the expert has agreed to testify at the hearing.

- A statement of the expert's hourly and daily fee for providing testimony and for consulting with the party who retained his or her services.

(b) The exchange of the information described in subdivision (a) shall be completed no later than 90 days from the filing of an accusation or petition to revoke probation or 30 calendar days prior to the originally scheduled commencement date of the hearing, whichever occurs first, or as determined by an administrative law judge when Section 11529 of the Government Code applies.

The Office of Administrative Hearings may adopt regulations governing the required exchange of the information described in this section.

SEC. 71. SEC. 70. Section 2415 of the Business and Professions Code is amended to read:

2415. (a) Any physician and surgeon or any doctor of podiatric medicine, as the case may be, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of Section 2285 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the Division of Licensing, or, in the case of doctors of podiatric medicine, the California Board of Podiatric Medicine, under the provisions of this section.

(b) The division or the board shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the division or the board finds to its satisfaction that:

The applicant or applicants or shareholders of the professional corporation hold valid and current licenses as physicians and surgeons or doctors of podiatric medicine, as the case may be.

The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants.

The name under which the applicant or applicants propose to practice is not deceptive, misleading, or confusing.

Each permit shall be accompanied by a notice that shall be displayed in a location readily visible to patients and staff. The notice shall be displayed at each place of business identified in the permit.

This section shall not apply to licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Care Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code or any medical school approved by the division or a faculty practice plan connected with that medical school.

Fictitious-name permits issued under this section shall be subject to Article 19 (commencing with Section 2421) pertaining to renewal of licenses.

The division or the board may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with the provisions of this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2230.

A fictitious-name permit issued to any licensee in a sole practice is automatically revoked in the event the licensee's certificate to practice medicine or podiatric medicine is revoked.

The division or the board may delegate to the executive director, or to another official of the board, its authority to review and approve applications for fictitious-name permits and to issue those permits.

The California Board of Podiatric Medicine shall administer and enforce this section as to doctors of podiatric medicine and shall adopt and administer regulations specifying appropriate podiatric medical name designations.

SEC. 72. SEC. 71. Section 2420 of the Business and Professions Code is repealed.

SEC. 73. SEC. 72. Section 2421 of the Business and Professions Code is amended to read:

2421. As used in this article, the terms:

“License” includes “certificate,” “permit,” and “registration.”

“Licensee” includes the holder of a license.

“Licensing authority” means the board, which has jurisdiction over a particular licensee.

SEC. 74. SEC. 73. Section 2422 of the Business and Professions Code is repealed.

SEC. 75. SEC. 74. Section 2423 of the Business and Professions Code is amended to read:

2423. (a) Notwithstanding Section 2422:

All physician and surgeon's certificates, and certificates to practice midwifery, research psychoanalyst registrations, polysomnographic trainee, technician, and technologist registrations, and fictitious-name permits shall expire at 12 midnight on the last day of the birth month of the licensee during the second year of a two-year term if not renewed.

Registrations of dispensing opticians will expire at midnight on the last day of the month in which the license was issued during the second year of a two-year term if not renewed.

(b) The board shall establish by regulation procedures for the administration of a birth date renewal program, including, but not limited to, the establishment of a system of staggered license expiration dates such that a relatively equal number of licenses expire monthly.

To renew an unexpired license, the licensee shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the licensing authority and pay the prescribed renewal fee.

SEC. 76. SEC. 75. Section 2435 of the Business and Professions Code is amended to read:

2435. The following fees apply to the licensure of physicians and surgeons:

Each applicant for a certificate based upon a national board diplomate certificate, each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee, as set forth in subdivision (b), at the time the application is filed.

The application and processing fee shall be fixed by the board by May 1 of each year, to become effective on July 1 of that year. The fee shall be fixed at an amount necessary to recover the actual costs of the licensing program as projected for the fiscal year commencing on the date the fees become effective.

Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any, in an amount fixed by the board consistent with this section. The initial license fee shall not exceed seven hundred ninety dollars (\$790). An applicant enrolled in an approved postgraduate training program shall be required to pay only 50 percent of the initial license fee.

The biennial renewal fee shall be fixed by the board consistent with this section and shall not exceed seven hundred ninety dollars (\$790).

Notwithstanding Section 163.5, the delinquency fee shall be 10 percent of the biennial renewal fee.

The duplicate certificate and endorsement fees shall each be fifty dollars (\$50), and the certification and letter of good standing fees shall each be ten dollars (\$10).

It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Contingent Fund of the Medical Board of California in an amount not less than two nor more than four months' operating expenditures.

Not later than January 1, 2012, the Office of State Audits and Evaluations within the Department of Finance shall commence a preliminary review of the board's financial status, including, but not limited to, its projections related to expenses, revenues, and reserves, and the impact of the loan from the Contingent Fund of the Medical Board of California to the General Fund made pursuant to the Budget Act of 2008. The office shall make the results of this review available upon request by June 1, 2012. This review shall be funded from the existing resources of the office during the 2011–12 fiscal year.

SEC. 77. SEC. 76. Section 2435.2 of the Business and Professions Code is amended to read:

2435.2. (a) Notwithstanding any other provision of law, if Article 14 (commencing with Section 2340) becomes inoperative or the diversion program described in that article is discontinued, the board shall reduce the amount of the following fees:

The initial license fee, as described in subdivision (c) of Section 2435.

The biennial renewal fee, as described in subdivision (d) of Section 2435.

(b) The amount of the reductions made pursuant to subdivision (a) shall equal the board's cost of operating the diversion program.

The board shall not make the reductions described in subdivision (a) if a diversion program is established by statute and requires the board to fund it in whole or in part from licensure fees.

SEC. 78. SEC. 77. Section 2445 of the Business and Professions Code is amended to read:

2445. All moneys paid to and received by the board shall be paid into the State Treasury and shall be credited to the Contingent Fund of the Medical Board of California. Those moneys shall be reported at the beginning of each month, for the month preceding, to the Controller.

Moneys in the contingent fund shall be available, upon appropriation by the Legislature, for the use of the board and from it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter.

If there is any surplus in these receipts after the board's salaries and expenses are paid, such surplus shall be applied solely to expenses incurred under the provisions of this chapter. No surplus in these receipts shall be deposited in or transferred to the General Fund.

SEC. 79. SEC. 78. Section 2450 of the Business and Professions Code is amended to read:

2450. There is a Board of Osteopathic Examiners of the State of California, established by the Osteopathic Act, which shall be known as the Osteopathic Medical Board of California which enforces this chapter relating to persons holding or applying for physician's and surgeon's certificates issued by the Osteopathic Medical Board of California under the Osteopathic Act.

Persons who elect to practice using the term of suffix "M.D.," as provided in Section 2275, shall not be subject to this article, and the Medical Board of California shall enforce the provisions of this chapter relating to persons who made the election.

Notwithstanding any other law, the powers and duties of the Osteopathic Medical Board of California, as set forth in this article and under the Osteopathic Act, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2022.

SEC. 80. SEC. 79. Section 2454.5 of the Business and Professions Code is amended to read:

2454.5. In order to ensure the continuing competence of licensed osteopathic physicians and surgeons, the board shall adopt and administer standards for the continuing education of those licensees. The board shall require each licensed osteopathic physician and surgeon to demonstrate satisfaction of the continuing education requirements as a condition for the renewal of a license at intervals of not less than one year nor more than two years. Commencing January 1, 2018, the board shall require each licensed osteopathic physician and surgeon to complete a minimum of 100 hours of American Osteopathic Association continuing education hours during each two-year cycle, of which 40 hours shall be completed in American Osteopathic Association Category 1 continuing education hours and the remaining 60 hours shall be either American Osteopathic Association or American Medical Association accredited as a condition for renewal of an active license.

For purposes of this section, “American Osteopathic Association Category 1” means continuing education activities and programs approved for Category 1 credit by the Committee on Continuing Medical Education of the American Osteopathic Association.

SEC. 81. SEC. 80. Section 2460 of the Business and Professions Code is amended to read:

2460. (a) There is created in the Department of Consumer Affairs the California Board of Podiatric Medicine.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the California Board of Podiatric Medicine subject to review by the appropriate policy committees of the Legislature.

The amendments made by the act adding this subdivision relating to podiatrists shall not be construed to change any rights or privileges held by podiatrists prior to the enactment of the act.

SEC. 82. SEC. 81. Section 2461 of the Business and Professions Code is amended to read:

2461. As used in this article:

“Board” means the California Board of Podiatric Medicine.

“Podiatric licensing authority” refers to any officer, board, commission, committee, or department of another state that may issue a license to practice podiatric medicine.

SEC. 83. SEC. 82. Section 2472 of the Business and Professions Code is amended to read:

2472. (a) The certificate to practice podiatric medicine authorizes the holder to practice podiatric medicine.

As used in this chapter, “podiatric medicine” means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

A doctor of podiatric medicine may not administer an anesthetic other than local. If an anesthetic other than local is required for any procedure, the anesthetic shall be administered by another licensed health care practitioner who is authorized to administer the required anesthetic within the scope of his or her practice.

A doctor of podiatric medicine may do the following:

Perform surgical treatment of the ankle and tendons at the level of the ankle pursuant to subdivision (e).

Perform services under the direct supervision of a physician and surgeon, as an assistant at surgery, in surgical procedures that are otherwise beyond the scope of practice of a doctor of podiatric medicine.

Perform a partial amputation of the foot no further proximal than the Chopart's joint.

Nothing in this subdivision shall be construed to permit a doctor of podiatric medicine to function as a primary surgeon for any procedure beyond his or her scope of practice.

A doctor of podiatric medicine may perform surgical treatment of the ankle and tendons at the level of the ankle only in the following locations:

A licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code.

A licensed surgical clinic, as defined in Section 1204 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical clinic.

An ambulatory surgical center that is certified to participate in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical center.

A freestanding physical plant housing outpatient services of a licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1). For purposes of this section, a "freestanding physical plant" means any building that is not physically attached to a building where inpatient services are provided.

An outpatient setting accredited pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.

SEC. 84. SEC. 83. Section 2475 of the Business and Professions Code is amended to read:

2475. Unless otherwise provided by law, no postgraduate trainee, intern, resident postdoctoral fellow, or instructor may engage in the practice of podiatric medicine, or receive compensation therefor, or offer to engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine issued by the board. However, a graduate of an approved college or school of podiatric medicine upon whom the degree doctor of podiatric medicine has been conferred, who is issued a resident's license, which may be renewed annually for up to eight years for this purpose by the board, and who is enrolled in a postgraduate training program approved by the board, may engage in the practice of podiatric medicine whenever and wherever required as a part of that program and may receive compensation for that practice under the following conditions:

A graduate with a resident's license in an approved internship, residency, or fellowship program may participate in training rotations outside the scope of podiatric medicine, under the supervision of a physician and surgeon who holds a medical doctor or doctor of osteopathy degree wherever and whenever required as a part of the training program, and may receive compensation for that practice. If the graduate fails to receive a license to practice podiatric medicine under this chapter within three years from the commencement of the postgraduate training, all privileges and exemptions under this section shall automatically cease.

Hospitals functioning as a part of the teaching program of an approved college or school of podiatric medicine in this state may exchange instructors or resident or assistant resident doctors of podiatric medicine with another approved college or school of podiatric medicine not located in this state, or those hospitals may appoint a graduate of an approved school as such a resident for purposes of postgraduate training. Those instructors and residents may practice and be compensated as provided in this section, but that practice and compensation shall be for a period not to exceed two years.

SEC. 85. SEC. 84. Section 2479 of the Business and Professions Code is amended to read:

2479. The board shall issue a certificate to practice podiatric medicine to each applicant who meets the requirements of this chapter. Every applicant for a certificate to practice podiatric medicine shall comply with the provisions of Article 4 (commencing with Section 2080) which are not specifically applicable to applicants for a physician's and surgeon's certificate, in addition to the provisions of this article.

SEC. 86. SEC. 85. Section 2486 of the Business and Professions Code is amended to read:

2486. The board shall issue a certificate to practice podiatric medicine if the applicant has submitted directly to the board from the credentialing organizations verification that he or she meets all of the following requirements:

The applicant has graduated from an approved school or college of podiatric medicine and meets the requirements of Section 2483.

The applicant, within the past 10 years, has passed parts I, II, and III of the examination administered by the National Board of Podiatric Medical Examiners of the United States or has passed a written examination that is recognized by the board to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

The applicant has satisfactorily completed the postgraduate training required by Section 2484.

The applicant has passed within the past 10 years any oral and practical examination that may be required of all applicants by the board to ascertain clinical competence.

The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

The board determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

A disciplinary databank report regarding the applicant is received by the board from the Federation of Podiatric Medical Boards.

SEC. 87. SEC. 86. Section 2488 of the Business and Professions Code is amended to read:

2488. The board shall issue a certificate to practice podiatric medicine by credentialing if the applicant has submitted directly to the board from the credentialing organizations verification that he or she is licensed as a doctor of podiatric medicine in any other state and meets all of the following requirements:

The applicant has graduated from an approved school or college of podiatric medicine.

The applicant, within the past 10 years, has passed either part III of the examination administered by the National Board of Podiatric Medical Examiners of the United States or a written examination that is recognized by the board to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

The applicant has satisfactorily completed a postgraduate training program approved by the Council on Podiatric Medical Education.

The applicant, within the past 10 years, has passed any oral and practical examination that may be required of all applicants by the board to ascertain clinical competence.

The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

The board determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

A disciplinary databank report regarding the applicant is received by the board from the Federation of Podiatric Medical Boards.

SEC. 88. SEC. 87. Section 2492 of the Business and Professions Code is amended to read:

2492. (a) The board shall examine every applicant for a certificate to practice podiatric medicine to ensure a minimum of entry-level competence at the time and place designated by the board in its discretion, but at least twice a year.

Unless the applicant meets the requirements of Section 2486, applicants shall be required to have taken and passed the examination administered by the National Board of Podiatric Medical Examiners.

The board may appoint qualified persons to give the whole or any portion of any examination as provided in this article, who shall be designated as examination commissioners. The board may fix the compensation of those persons subject to the provisions of applicable state laws and regulations.

The provisions of Article 9 (commencing with Section 2170) shall apply to examinations administered by the board except where those provisions are in conflict with or inconsistent with the provisions of this article.

SEC. 89. SEC. 88. Section 2499 of the Business and Professions Code is amended to read:

2499. There is in the State Treasury the Board of Podiatric Medicine Fund. Notwithstanding Section 2445, the board shall report to the Controller at the beginning of each calendar month for the month

preceding the amount and source of all revenue received by it on behalf of the board, pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit into the fund. All revenue received by the board and the division from fees authorized to be charged relating to the practice of podiatric medicine shall be deposited in the fund as provided in this section, and shall be available, upon appropriation of the Legislature, to carry out the provisions of this chapter relating to the regulation of the practice of podiatric medicine.

SEC. 90. SEC. 89. Section 2499.7 is added to the Business and Professions Code, to read:

2499.7. (a) Certificates to practice podiatric medicine shall expire at midnight on the last day of the birth month of the licensee during the second year of a two-year term.

(b) To renew an unexpired certificate, the licensee, on or before the date on which the certificate would otherwise expire, shall apply for renewal on a form prescribed by the board and pay the prescribed renewal fee.

SEC. 91. SEC. 90. Section 2525.2 of the Business and Professions Code is amended to read:

2525.2. An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California, the California Board of Podiatric Medicine, or the Osteopathic Medical Board of California shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

SEC. 92. SEC. 91. The heading of Chapter 5.1 (commencing with Section 2529) of Division 2 of the Business and Professions Code is repealed.

SEC. 93. SEC. 92. Section 2529 of the Business and Professions Code is amended to read:

2529. (a) Graduates of the Southern California Psychoanalytic Institute, the Los Angeles Psychoanalytic Society and Institute, the San Francisco Psychoanalytic Institute, the San Diego Psychoanalytic Center, or institutes deemed equivalent by the Medical Board of California who have completed clinical training in psychoanalysis may engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and students in those institutes may engage in psychoanalysis under supervision, if the students and graduates do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrists," "psychometrics," or "psychometry," or that they do not state or imply that they are licensed to practice psychology.

(b) Those students and graduates seeking to engage in psychoanalysis under this chapter shall register with the Medical Board of California, presenting evidence of their student or graduate status. The board may suspend or revoke the exemption of those persons for unprofessional conduct as defined in Sections 726, 2234, 2235, and 2529.1

This section shall become inoperative on January 1, 2019, and shall be repealed as of that date.

SEC. 94. SEC. 93. Section 2529.1 of the Business and Professions Code is amended to read:

2529.1. (a) The use of any controlled substance or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the registrant, or to any other person or to the public, or to the extent that this use impairs the ability of the registrant to practice safely or more than one misdemeanor or any felony conviction

involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of this unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order discipline of the registrant in accordance with Section 2227 or may order the denial of the registration when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing this person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

This section shall become inoperative on January 1, 2019, and shall be repealed as of that date.

SEC. 95. SEC. 94. Section 2529.5 of the Business and Professions Code is amended to read:

2529.5. (a) Each person to whom registration is granted under the provisions of this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the Medical Board of California at a sum not in excess of one hundred dollars (\$100).

(b) The registration shall expire after two years. The registration may be renewed biennially at a fee to be fixed by the board at a sum not in excess of fifty dollars (\$50). Students seeking to renew their registration shall present to the board evidence of their continuing student status.

The money in the Contingent Fund of the Medical Board of California shall be used for the administration of this chapter.

This section shall become inoperative on January 1, 2019, and shall be repealed as of that date.

SEC. 96. SEC. 95. Section 2529.6 of the Business and Professions Code is amended to read:

2529.6. (a) Except as provided in subdivisions (b) and (c), the board shall revoke the registration of any person who has been required to register as a sex offender pursuant to Section 290 of the Penal Code for conduct that occurred on or after January 1, 2017.

(b) This section shall not apply to a person who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

This section shall not apply to a person who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law.

A proceeding to revoke a registration pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

This section shall become inoperative on January 1, 2019, and shall be repealed as of that date.

SEC. 97. SEC. 96. Section 2566.2 is added to the Business and Professions Code, to read:

2566.2. Every registration issued to a dispensing optician, contact lens dispenser, and spectacle lens dispenser shall expire 24 months after the initial date of issuance. To renew an unexpired registration, the registrant shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 98. The heading of Article 3.5 (commencing with Section 2950) is added to Chapter 6.6 of Division 2 of the Business and Professions Code, to read:

3.5. Research Psychoanalysts

SEC. 99. Section 2950 is added to the Business and Professions Code, to read:

2950.(a) Graduates of the Southern California Psychoanalytic Institute, the Los Angeles Psychoanalytic Society and Institute, the San Francisco Psychoanalytic Institute, the San Diego Psychoanalytic Center, or institutes deemed equivalent by the board, who have completed clinical training in psychoanalysis may engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and students in those institutes may engage in psychoanalysis under supervision, if the students and graduates do not hold themselves out to the public by any title or description of services incorporating the words “psychological,” “psychologist,” “psychology,” “psychometrists,” “psychometrics,” or “psychometry,” or that they do not state or imply that they are licensed to practice psychology.

(b) Those students and graduates seeking to engage in psychoanalysis under this article shall register with the board, presenting evidence of their student or graduate status. The board may suspend or revoke the exemption of those persons for unprofessional conduct as defined in Sections 726, 2960, 2960.6, 2969, and 2996.

(c) This section shall become operative on January 1, 2019.

SEC. 100. Section 2951 is added to the Business and Professions Code, to read:

2951.(a) The use of any controlled substance or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent or in such a manner as to be dangerous or injurious to the registrant, or to any other person or to the public, or to the extent that this use impairs the ability of the registrant to practice safely, or more than one misdemeanor or any felony conviction involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of this unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order discipline of the registrant in accordance with Article 4 (commencing with Section 2960) or may order the denial of the registration when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code, allowing this person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(c) This section shall become operative on January 1, 2019.

SEC. 101. Section 2952 is added to the Business and Professions Code, to read:

2952.(a)Each person to whom registration is granted under the provisions of this chapter shall pay into the Psychology Fund a fee to be fixed by the board at a sum not in excess of one hundred dollars (\$100).

(b)The registration shall expire after two years. The registration may be renewed biennially at a fee to be fixed by the board at a sum not in excess of fifty dollars (\$50). Students seeking to renew their registration shall present to the board evidence of their continuing student status.

(c)The money in the Contingent Fund of the Medical Board of California shall be used for the administration of this chapter. Any moneys within the Contingent Fund of the Medical Board of California collected pursuant to Chapter 5.1 (commencing with Section 2529) as it read before the enactment of the statute that added this section, shall be deposited in the Psychology Fund.

(d)The board may employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of this article.

(e)This section shall become operative on January 1, 2019.

SEC. 102.Section 2953 is added to the Business and Professions Code, to read:

2953.(a)Except as provided in subdivisions (b) and (c), the board shall revoke the registration of any person who has been required to register as a sex offender pursuant to Section 290 of the Penal Code for conduct that occurred on or after January 1, 2017.

(b)This section shall not apply to a person who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(c)This section shall not apply to a person who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law.

(d)A proceeding to revoke a registration pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(e)This section shall become operative on January 1, 2019.

SEC. 103.Section 2954 is added to the Business and Professions Code, to read:

2954.(a)All agreements entered into with, and orders and regulations issued by, the Medical Board of California shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Board of Psychology, respectively.

(b)This section shall become operative on January 1, 2019.

SEC. 104.**SEC. 97. Section 4170 of the Business and Professions Code is amended to read:**

4170. (a) No prescriber shall dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:

The dangerous drugs or dangerous devices are dispensed to the prescriber's own patient, and the drugs or dangerous devices are not furnished by a nurse or physician attendant.

The dangerous drugs or dangerous devices are necessary in the treatment of the condition for which the prescriber is attending the patient.

The prescriber does not keep a pharmacy, open shop, or drugstore, advertised or otherwise, for the retailing of dangerous drugs, dangerous devices, or poisons.

The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.

The prescriber does not use a dispensing device unless he or she personally owns the device and the contents of the device, and personally dispenses the dangerous drugs or dangerous devices to the patient packaged, labeled, and recorded in accordance with paragraph (4).

The prescriber, prior to dispensing, offers to give a written prescription to the patient that the patient may elect to have filled by the prescriber or by any pharmacy.

The prescriber provides the patient with written disclosure that the patient has a choice between obtaining the prescription from the dispensing prescriber or obtaining the prescription at a pharmacy of the patient's choice.

A certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, a physician assistant who functions pursuant to Section 3502.1, or a naturopathic doctor who functions pursuant to Section 3640.5, may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, a manufacturer as defined in this chapter, or a pharmacist.

(b) The Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Board of Registered Nursing, the Veterinary Medical Board, and the Physician Assistant Committee shall have authority with the California State Board of Pharmacy to ensure compliance with this section, and those boards are specifically charged with the enforcement of this chapter with respect to their respective licensees.

"Prescriber," as used in this section, means a person, who holds a physician's and surgeon's certificate, a license to practice optometry, a license to practice naturopathic medicine, a license to practice dentistry, a license to practice veterinary medicine, or a certificate to practice podiatry, and who is duly registered by the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Veterinary Medical Board, or the California Board of Podiatric Medicine.

SEC. 105. SEC. 98. Section 4175 of the Business and Professions Code is amended to read:

4175. (a) The California State Board of Pharmacy shall promptly forward to the appropriate licensing entity, including the Medical Board of California, the Veterinary Medical Board, the Dental Board of California, the State Board of Optometry, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Board of Registered Nursing, the Bureau of Naturopathic Medicine, or the Physician Assistant Committee, all complaints received related to dangerous drugs or

dangerous devices dispensed by a prescriber, certified nurse-midwife, nurse practitioner, naturopathic doctor, or physician assistant pursuant to Section 4170.

(b) All complaints involving serious bodily injury due to dangerous drugs or dangerous devices dispensed by prescribers, certified nurse-midwives, nurse practitioners, naturopathic doctors, or physician assistants pursuant to Section 4170 shall be handled by the Medical Board of California, the Dental Board of California, the State Board of Optometry, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Bureau of Naturopathic Medicine, the Board of Registered Nursing, the Veterinary Medical Board, or the Physician Assistant Committee as a case of greatest potential harm to a patient.

SEC. 106. SEC. 99. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Section 14725 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of the committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if the committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after the reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of the committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, optometric, acupuncture, psychotherapy, midwifery, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, marriage and family therapists, professional clinical counselors, licensed midwives, or psychologists, which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, marriage and family therapists, professional clinical counselors, licensed midwives or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, optometric, acupuncture, psychotherapy, midwifery, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, marriage and family therapists, professional clinical counselors, midwifery, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if the professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after the reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic,

accounting, optometric, acupuncture, podiatric, pharmaceutical, chiropractic, physical therapist, veterinary, licensed marriage and family therapy, licensed clinical social work, licensed professional clinical counselor, and engineering organizations having as members at least 25 percent of the eligible persons or licentiates in the geographic area served by the particular society. However, if the society has fewer than 100 members, it shall have as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

“Medical specialty society” means an organization having as members at least 25 percent of the eligible physicians and surgeons within a given professionally recognized medical specialty in the geographic area served by the particular society.

This section does not affect the official immunity of an officer or employee of a public corporation.

There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon, podiatrist, or chiropractor who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, or chiropractors for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if the evaluating physician and surgeon, podiatrist, or chiropractor acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after the reasonable effort to obtain the facts.

This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Section 14725 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Section 14725 of the Welfare and Institutions Code or hospital, the cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 107. SEC. 100. Section 43.8 of the Civil Code is amended to read:

43.8. (a) In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person on account of the communication of information in the possession of that person to any hospital, hospital medical staff, veterinary hospital staff, professional society, medical, dental, podiatric, psychology, marriage and family therapy, professional clinical counselor, midwifery, or veterinary school, professional licensing board or division, committee or panel of a licensing board, the Senior Assistant Attorney General of the Health Quality Enforcement Section appointed under Section 12529 of the Government Code, peer review committee, quality assurance committees established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, or underwriting committee described in Section 43.7 when the communication is intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts.

(b) The immunities afforded by this section and by Section 43.7 shall not affect the availability of any absolute privilege that may be afforded by Section 47.

Nothing in this section is intended in any way to affect the California Supreme Court's decision in *Hassan v. Mercy American River Hospital* (2003) 31 Cal.4th 709, holding that subdivision (a) provides a qualified privilege.

SEC. 108. SEC. 101. Section 13401 of the Corporations Code is amended to read:

13401. As used in this part:

“Professional services” means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.

“Professional corporation” means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Dental Board of California, the Dental Hygiene Committee of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, or the State Board of Optometry shall not be required to obtain a certificate of registration in order to render those professional services.

“Foreign professional corporation” means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

“Licensed person” means any natural person who is duly licensed under the provisions of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is, or intends to become, an officer, director, shareholder, or employee.

“Disqualified person” means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

SEC. 109. SEC. 102. Section 13401.5 of the Corporations Code is amended to read:

13401.5. Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation. This section does not

limit employment by a professional corporation designated in this section to only those licensed professionals listed under each subdivision. Any person duly licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act may be employed to render professional services by a professional corporation designated in this section.

Medical corporation.

- Licensed doctors of podiatric medicine.
- Licensed psychologists.
- Registered nurses.
- Licensed optometrists.
- Licensed marriage and family therapists.
- Licensed clinical social workers.
- Licensed physician assistants.
- Licensed chiropractors.
- Licensed acupuncturists.
- Naturopathic doctors.
- Licensed professional clinical counselors.
- Licensed physical therapists.
- Licensed pharmacists.
- Licensed midwives.

Podiatric medical corporation.

- Licensed physicians and surgeons.
- Licensed psychologists.
- Registered nurses.
- Licensed optometrists.
- Licensed chiropractors.
- Licensed acupuncturists.
- Naturopathic doctors.
- Licensed physical therapists.

Psychological corporation.

- Licensed physicians and surgeons.

Licensed doctors of podiatric medicine.
Registered nurses.
Licensed optometrists.
Licensed marriage and family therapists.
Licensed clinical social workers.
Licensed chiropractors.
Licensed acupuncturists.
Naturopathic doctors.
Licensed professional clinical counselors.
Licensed midwives.
Speech-language pathology corporation.
Licensed audiologists.
Audiology corporation.
Licensed speech-language pathologists.
Nursing corporation.
Licensed physicians and surgeons.
Licensed doctors of podiatric medicine.
Licensed psychologists.
Licensed optometrists.
Licensed marriage and family therapists.
Licensed clinical social workers.
Licensed physician assistants.
Licensed chiropractors.
Licensed acupuncturists.
Naturopathic doctors.
Licensed professional clinical counselors.
Licensed midwives.
Marriage and family therapist corporation.
Licensed physicians and surgeons.
Licensed psychologists.

Licensed clinical social workers.

Registered nurses.

Licensed chiropractors.

Licensed acupuncturists.

Naturopathic doctors.

Licensed professional clinical counselors.

Licensed midwives.

Licensed clinical social worker corporation.

Licensed physicians and surgeons.

Licensed psychologists.

Licensed marriage and family therapists.

Registered nurses.

Licensed chiropractors.

Licensed acupuncturists.

Naturopathic doctors.

Licensed professional clinical counselors.

Physician assistants corporation.

Licensed physicians and surgeons.

Registered nurses.

Licensed acupuncturists.

Naturopathic doctors.

Licensed midwives.

Optometric corporation.

Licensed physicians and surgeons.

Licensed doctors of podiatric medicine.

Licensed psychologists.

Registered nurses.

Licensed chiropractors.

Licensed acupuncturists.

Naturopathic doctors.

Chiropractic corporation.

- Licensed physicians and surgeons.
- Licensed doctors of podiatric medicine.
- Licensed psychologists.
- Registered nurses.
- Licensed optometrists.
- Licensed marriage and family therapists.
- Licensed clinical social workers.
- Licensed acupuncturists.
- Naturopathic doctors.
- Licensed professional clinical counselors.
- Licensed midwives.

Acupuncture corporation.

- Licensed physicians and surgeons.
- Licensed doctors of podiatric medicine.
- Licensed psychologists.
- Registered nurses.
- Licensed optometrists.
- Licensed marriage and family therapists.
- Licensed clinical social workers.
- Licensed physician assistants.
- Licensed chiropractors.
- Naturopathic doctors.
- Licensed professional clinical counselors.
- Licensed midwives.

Naturopathic doctor corporation.

- Licensed physicians and surgeons.
- Licensed psychologists.
- Registered nurses.
- Licensed physician assistants.

Licensed chiropractors.
Licensed acupuncturists.
Licensed physical therapists.
Licensed doctors of podiatric medicine.
Licensed marriage and family therapists.
Licensed clinical social workers.
Licensed optometrists.
Licensed professional clinical counselors.
Licensed midwives.

Dental corporation.

Licensed physicians and surgeons.
Dental assistants.
Registered dental assistants.
Registered dental assistants in extended functions.
Registered dental hygienists.
Registered dental hygienists in extended functions.
Registered dental hygienists in alternative practice.

Professional clinical counselor corporation.

Licensed physicians and surgeons.
Licensed psychologists.
Licensed clinical social workers.
Licensed marriage and family therapists.
Registered nurses.
Licensed chiropractors.
Licensed acupuncturists.
Naturopathic doctors.
Licensed midwives.

Physical therapy corporation.

Licensed physicians and surgeons.
Licensed doctors of podiatric medicine.

Licensed acupuncturists.
Naturopathic doctors.
Licensed occupational therapists.
Licensed speech-language therapists.
Licensed audiologists.
Registered nurses.
Licensed psychologists.
Licensed physician assistants.
Licensed midwives.
Registered dental hygienist in alternative practice corporation.
Registered dental assistants.
Licensed dentists.
Registered dental hygienists.
Registered dental hygienists in extended functions.
Licensed midwifery corporation.
Licensed physicians and surgeons.
Licensed psychologists.
Registered nurses.
Licensed marriage and family therapists.
Licensed clinical social workers.
Licensed physician assistants.
Licensed chiropractors.
Licensed acupuncturists.
Licensed naturopathic doctors.
Licensed professional clinical counselors.
Licensed physical therapists.

SEC. 110. SEC. 103. Section 1157 of the Evidence Code is amended to read:

1157. (a) Neither the proceedings nor the records of organized committees of medical, medical-dental, podiatric, registered dietitian, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, or veterinary staffs in hospitals, or of a peer review body, as defined in Section 805 of the Business and Professions Code, having the

responsibility of evaluation and improvement of the quality of care rendered in the hospital, or for that peer review body, or medical or dental review or dental hygienist review or chiropractic review or podiatric review or registered dietitian review or pharmacist review or veterinary review or acupuncturist review or licensed midwife review committees of local medical, dental, dental hygienist, podiatric, dietetic, pharmacist, veterinary, acupuncture, or chiropractic societies, marriage and family therapist, licensed clinical social worker, professional clinical counselor, or psychological review committees of state or local marriage and family therapist, state or local licensed clinical social worker, state or local licensed professional clinical counselor, or state or local psychological associations or societies or licensed midwife associations or societies having the responsibility of evaluation and improvement of the quality of care, shall be subject to discovery.

(b) Except as hereinafter provided, a person in attendance at a meeting of any of the committees described in subdivision (a) shall not be required to testify as to what transpired at that meeting.

The prohibition relating to discovery or testimony does not apply to the statements made by a person in attendance at a meeting of any of the committees described in subdivision (a) if that person is a party to an action or proceeding the subject matter of which was reviewed at that meeting, to a person requesting hospital staff privileges, or in an action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

The prohibitions in this section do not apply to medical, dental, dental hygienist, podiatric, dietetic, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, veterinary, acupuncture, midwifery, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any of those committees if a person serves upon the committee when his or her own conduct or practice is being reviewed.

The amendments made to this section by Chapter 1081 of the Statutes of 1983, or at the 1985 portion of the 1985–86 Regular Session of the Legislature, at the 1990 portion of the 1989–90 Regular Session of the Legislature, at the 2000 portion of the 1999–2000 Regular Session of the Legislature, at the 2011 portion of the 2011–12 Regular Session of the Legislature, or at the 2015 portion of the 2015–16 Regular Session of the Legislature, do not exclude the discovery or use of relevant evidence in a criminal action.

SEC. 111. SEC. 104. Section 11529 of the Government Code is amended to read:

11529. (a) The administrative law judge of the Medical Quality Hearing Panel established pursuant to Section 11371 may issue an interim order suspending a license, imposing drug testing, continuing education, supervision of procedures, limitations on the authority to prescribe, furnish, administer, or dispense controlled substances, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. The failure to comply with an order issued pursuant to Section 820 of the Business and Professions Code may constitute grounds to issue an interim suspension order under this section.

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee

shall receive at least 15 days' prior notice of the hearing, which notice shall include affidavits and all other information in support of the order.

If an interim order is issued without notice, the administrative law judge who issued the order without notice shall cause the licensee to be notified of the order, including affidavits and all other information in support of the order by a 24-hour delivery service. That notice shall also include the date of the hearing on the order, which shall be conducted in accordance with the requirement of subdivision (d), not later than 20 days from the date of issuance. The order shall be dissolved unless the requirements of subdivision (a) are satisfied.

For the purposes of the hearing conducted pursuant to this section, the licensee shall, at a minimum, have the following rights:

- To be represented by counsel.

- To have a record made of the proceedings, copies of which may be obtained by the licensee upon payment of any reasonable charges associated with the record.

- To present written evidence in the form of relevant declarations, affidavits, and documents.

The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil Procedure.

- To present oral argument.

Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall grant the interim order if, in the exercise of discretion, the administrative law judge concludes that:

- There is a reasonable probability that the petitioner will prevail in the underlying action.

- The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

In all cases in which an interim order is issued, and an accusation or petition to revoke probation is not filed and served pursuant to Sections 11503 and 11505 within 30 days of the date on which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation or petition to revoke probation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within 15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

If an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

Notwithstanding the fact that interim orders issued pursuant to this section are not issued after a hearing as otherwise required by this chapter, interim orders so issued shall be subject to judicial

review pursuant to Section 1094.5 of the Code of Civil Procedure. The relief that may be ordered shall be limited to a stay of the interim order. Interim orders issued pursuant to this section are final interim orders and, if not dissolved pursuant to subdivision (c) or (f), may only be challenged administratively at the hearing on the accusation.

The interim order provided for by this section shall be:

In addition to, and not a limitation on, the authority to seek injunctive relief provided for in the Business and Professions Code.

A limitation on the emergency decision procedure provided in Article 13 (commencing with Section 11460.10) of Chapter 4.5.

SEC. 112. Section 12529.6 of the Government Code is repealed.

SEC. 105. Section 12529.6 of the Government Code is amended to read:

12529.6. (a) The Legislature finds and declares that the Medical Board of California, by ensuring the quality and safety of medical care, performs one of the most critical functions of state government. Because of the critical importance of the board's public health and safety function, the complexity of cases involving alleged misconduct by physicians and surgeons, and the evidentiary burden in the board's disciplinary cases, the Legislature finds and declares that using a vertical enforcement and prosecution model for those investigations is in the best interests of the people of California.

(b) Notwithstanding any other provision of law, as of January 1, 2006, each complaint that is referred to a district office of the board for investigation shall be simultaneously and jointly assigned to an investigator and to the deputy attorney general in the Health Quality Enforcement Section responsible for prosecuting the case if the investigation results in the filing of an accusation. The joint assignment of the investigator and the deputy attorney general shall exist for the duration of the disciplinary matter. During the assignment, the investigator so assigned shall, under the direction but not the supervision of the deputy attorney general, be responsible for obtaining the evidence required to permit the Attorney General to advise the board on legal matters such as whether the board should file a formal accusation, dismiss the complaint for a lack of evidence required to meet the applicable burden of proof, or take other appropriate legal action.

(c) The Medical Board of California, the Department of Consumer Affairs, and the Office of the Attorney General shall, if necessary, enter into an interagency agreement to implement this section.

(d) This section does not affect the requirements of Section 12529.5 as applied to the Medical Board of California where complaints that have not been assigned to a field office for investigation are concerned.

(e) It is the intent of the Legislature to enhance the vertical enforcement and prosecution model as set forth in subdivision (a). The Medical Board of California shall do all of the following:

(1) Increase its computer capabilities and compatibilities with the Health Quality Enforcement Section in order to share case information.

(2) Establish and implement a plan to locate its enforcement staff and the staff of the Health Quality Enforcement Section in the same offices, as appropriate, in order to carry out the intent of the vertical enforcement and prosecution model.

(3) Establish and implement a plan to assist in team building between its enforcement staff and the staff of the Health Quality Enforcement Section in order to ensure a common and consistent knowledge base.

(b) It is the intent of the Legislature to establish a vertical enforcement and prosecution model for the joint investigation of an investigation conducted by the Health Quality Investigation Unit established pursuant to Section 159.5 of the Business and Professions Code and a deputy attorney general in the Health Quality Enforcement Section.

SEC. 113. SEC. 106. Section 11362.7 of the Health and Safety Code is amended to read:

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

“Attending physician” means an individual who possesses a license in good standing to practice medicine, podiatry, or osteopathy issued by the Medical Board of California, the California Board of Podiatric Medicine, or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient’s medical record the physician’s assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

“Department” means the State Department of Public Health.

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

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

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

An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

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

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

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

“Serious medical condition” means all of the following medical conditions:

- Acquired immune deficiency syndrome (AIDS).

- Anorexia.

- Arthritis.

- Cachexia.

- Cancer.

- Chronic pain.

- Glaucoma.

- Migraine.

- Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.

- Seizures, including, but not limited to, seizures associated with epilepsy.

- Severe nausea.

- Any other chronic or persistent medical symptom that either:

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

 - If not alleviated, may cause serious harm to the patient’s safety or physical or mental health.

“Written documentation” means accurate reproductions of those portions of a patient’s medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit to a county health department or the county’s designee as part of an application for an identification card.

SEC. 114. SEC. 107. Section 128335 of the Health and Safety Code is amended to read:

128335. (a) The office shall establish a nonprofit public benefit corporation, to be known as the Health Professions Education Foundation, that shall be governed by a board consisting of nine

members appointed by the Governor, one member appointed by the Speaker of the Assembly, one member appointed by the Senate Committee on Rules, and two members appointed by the Medical Board of California. The members of the foundation board appointed by the Governor, Speaker of the Assembly, and Senate Committee on Rules may include representatives of minority groups which are underrepresented in the health professions, persons employed as health professionals, and other appropriate members of health or related professions. All persons considered for appointment shall have an interest in health programs, an interest in health educational opportunities for underrepresented groups, and the ability and desire to solicit funds for the purposes of this article as determined by the appointing power. The chairperson of the commission shall also be a nonvoting, ex officio member of the board.

(b) The Governor shall appoint the president of the board of trustees from among those members appointed by the Governor, the Speaker of the Assembly, the Senate Committee on Rules, and the Medical Board of California.

The director, after consultation with the president of the board, may appoint a council of advisers comprised of up to nine members. The council shall advise the director and the board on technical matters and programmatic issues related to the Health Professions Education Foundation Program.

Members of the board and members of the council shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the board or the council. The Medical Board of California shall reimburse the members it appointed to the foundation board for any actual and necessary expenses incurred in connection with their duties as members of the foundation board.

The foundation shall be subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code), except that if there is a conflict with this article and the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code), this article shall prevail.

This section shall become operative January 1, 2016.

SEC. 115. SEC. 108. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 116. SEC. 109.

SEC. 116. SEC. 109. The repeal of the heading of Chapter 5.1 (commencing with Section 2529) of Division 2 of the Business and Professions Code contained in Section 92 91 of this act shall not become operative until January 1, 2019.

SENATE BILL No. 805

Introduced by Senator Galgiani

February 17, 2017

Bill Text:

SECTION 1. Section 48915 of the Education Code is amended to read:

48915. (a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

Causing serious physical injury to another person, except in self-defense.

Possession of any knife or other dangerous object of no reasonable use to the pupil.

Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:

The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

Robbery or extortion.

Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee or a staff member contracted to provide services to pupils.

If the principal or the superintendent of schools determines, pursuant to paragraph (1), that expulsion should not be recommended under the circumstances or that an alternative means of correction would address a pupil's conduct described in clause (i), the governing board of the school district shall, if the pupil's conduct resulted in serious bodily injury, transfer the pupil to another school in the school district, if any.

If the principal or the superintendent of schools makes a determination as described in paragraph (1), determines, pursuant to paragraph (1), that expulsion should not be recommended under the circumstances or that an alternative means of correction would address a pupil's conduct, he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

(b) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil committed an act listed in paragraph (1) of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel a pupil for any of those acts shall be based on a finding of one or both of the following:

Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.

Brandishing a knife at another person.

Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.

Possession of an explosive.

(6) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee or a staff member contracted to provide services to pupils.

d) The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

Is appropriately prepared to accommodate pupils who exhibit discipline problems.

Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.

Is not housed at the schoolsite attended by the pupil at the time of suspension.

Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

The governing board of a school district shall refer a pupil who has been expelled pursuant to subdivision (b) or (e) to a program of study that meets all of the conditions specified in subdivision (d). Notwithstanding this subdivision, with respect to a pupil expelled pursuant to subdivision (e), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

As used in this section, “knife” means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3 1/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

As used in this section, the term “explosive” means “destructive device” as described in Section 921 of Title 18 of the United States Code.

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

SENATE BILL No. 903

SECTION 1. Section 34019 of the Revenue and Taxation Code is amended to read:

34019. (a) Beginning with fiscal year 2017–2018 the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part. Those costs shall not exceed 4 percent of tax revenues received.

Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022–2023.

Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act (the act), including the audit required by Section 34020.

Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 (commencing with Section 19300) of Division 8 and Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018–2019 until fiscal year 2028–2029 to research and evaluate the implementation and effect of the act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include, but not necessarily be limited to:

Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.

The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.

Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.

Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.

Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.

Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.

The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law

enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

Whether the regulatory agencies tasked with implementing and enforcing the act are doing so in a manner consistent with the purposes of the act, and whether different agencies might do so more effectively.

Environmental issues related to marijuana production and the criminal prohibition of marijuana production.

The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.

The outcomes achieved by the changes in criminal penalties made under the act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.

The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018–2019 until fiscal year 2022–2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, to study the viability of standards for marijuana impairment, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants fund the department to do all of the following:

Coordinate with research organizations within the state to do all of the following:

Establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

Study the viability of standards for marijuana impairment.

Establish and adopt protocols setting forth best practices to assist law enforcement agencies.

Hire personnel to establish the protocols specified in this subdivision.

Make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning fiscal year 2018–2019 and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until fiscal year 2022–2023, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor’s Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address

barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

By July 15 of each fiscal year beginning in fiscal year 2018–2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about, and to prevent, substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families, and caregivers. The programs may include, but are not limited to, the following components:

Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.

Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma informed, evidence based, and provide a continuum of

care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other cooccurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals shall be made to other providers.

To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers, and all their children.

Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use, including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise, including providing ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

Construction of community-based youth treatment facilities.

The departments may contract with each county behavioral health program for the provision of services.

Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments, or submitted reports prepared by the applicable county to demonstrate and validate need.

The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation, and oversight of the programs.

If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers,

and professional education associations with relevant expertise as to the administration of grants made pursuant to this paragraph.

Twenty percent shall be deposited in the Environmental Restoration and Protection Account and disbursed by the Controller as follows:

To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities, including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale, and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses, and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

To the Department of the California Highway Patrol for conducting training programs for detecting, testing, and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The department may hire personnel to conduct the training programs specified in this subparagraph.

To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.

To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the act. The board shall not make any grants to local governments that have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022–2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before fiscal year 2022–2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

Effective July 1, 2028, the Legislature may amend this section by a majority vote to further the purposes of the act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027–2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

SEC. 2. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act, for the following reason:

This act would enhance the ability of the Department of the California Highway Patrol to improve enforcement of the laws relating to driving under the influence of alcohol and drugs, including marijuana.

Bills Approved By Governor Brown

SENATE BILL 94: Cannabis: medicinal and adult use.

Introduced January 11th, 2017

Enrolled and Presented to Governor June 22nd, 2017

Signed June 27th, 2017

Bill Text

SECTION 1. The Legislature finds and declares as follows:

In November 1996, voters approved Proposition 215, which decriminalized the use of medicinal cannabis in California. Since the proposition was passed, most, if not all the regulation has been left to local governments.

In 2015, California enacted three bills—Assembly Bill 243 (Wood, Chapter 688 of the Statutes of 2015); Assembly Bill 266 (Bonta, Chapter 689 of the Statutes of 2015); and Senate Bill 643 (McGuire, Chapter 719 of the Statutes of 2015)—that collectively established a comprehensive state regulatory framework for the licensing and enforcement of cultivation, manufacturing, retail sale, transportation, storage, delivery, and testing of medicinal cannabis in California. This regulatory scheme is known as the Medical Cannabis Regulation and Safety Act (MCRSA).

In November 2016, voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). Under Proposition 64, adults 21 years of age or older may legally grow, possess, and use cannabis for nonmedicinal purposes, with certain restrictions. In addition, beginning on January 1, 2018, AUMA makes it legal to sell and distribute cannabis through a regulated business.

Although California has chosen to legalize the cultivation, distribution, and use of cannabis, it remains an illegal Schedule I controlled substance under federal law. The intent of Proposition 64 and MCRSA was to ensure a comprehensive regulatory system that takes production and sales of cannabis away from an illegal market and curtails the illegal diversion of cannabis from California into other states or countries.

Cannabis is cultivated in all 50 states however; the majority of domestically produced cannabis comes from California. In 2014, the United States Drug Enforcement Agency’s Domestic Cannabis Eradication Suppression Program eradicated 4.3 million plants in the United States; 2.68 million of which were grown in California. Much of the cannabis grown in the state is grown for exportation purposes. To prevent illegal production and avoid illegal diversion to other states, California must place strict limits on cultivation.

In order to strictly control the cultivation, processing, manufacturing, distribution, testing, and sale of cannabis in a transparent manner that allows the state to fully implement and enforce a robust regulatory system, licensing authorities must know the identity of those individuals who have a significant financial interest in a licensee, or who can direct its operation. Without this knowledge, regulators would not know if an individual who controlled one licensee also had control over another. To ensure accountability and preserve the state’s ability to adequately enforce against all responsible parties the state must have access to key information.

So that state entities can implement the voters’ intent to issue licenses beginning January 1, 2018, while avoiding duplicative costs and inevitable confusion among licensees, regulatory agencies, and the public and ensuring a regulatory structure that prevents access to minors, protects public safety, public health and the environment, as well as maintaining local control, it is necessary to provide for a

single regulatory structure for both medicinal and adult-use cannabis and provide for temporary licenses to those applicants that can show compliance with local requirements.

Before denying a license and creating arbitrary barriers to entry into the legal regulated marketplace, it is the intent of the state to compile data that will inform how to best craft licensure policies that will prevent the proliferation of the illegal market while allowing a balanced regulatory scheme that allows legitimate businesses that comply with local standards to succeed. This will also permit licensing entities to issue licenses in a more timely manner.

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

The use of pesticides is not adequately regulated due to the omissions in federal law, and cannabis cultivated in California for California patients can and often does contain pesticide residues.

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

SEC. 2. Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code is repealed.

SEC. 3. The heading of Division 10 (commencing with Section 26000) of the Business and Professions Code is amended to read:

DIVISION 10. Cannabis

SEC. 4. Section 26000 of the Business and Professions Code is amended to read:

26000. (a) This division shall be known, and may be cited, as the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

(b) The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both of the following:

Medicinal cannabis and medicinal cannabis products for patients with valid physician's recommendations.

Adult-use cannabis and adult-use cannabis products for adults 21 years of age and over.

In the furtherance of subdivision (b), this division sets forth the power and duties of the state agencies responsible for controlling and regulating the commercial medicinal and adult-use cannabis industry.

The Legislature may, by majority vote, enact laws to implement this division, provided those laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

SEC. 5. Section 26001 of the Business and Professions Code is amended to read:

26001. For purposes of this division, the following definitions shall apply:

“A-license” means a state license issued under this division for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician’s recommendations.

“A-licensee” means any person holding a license under this division for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician’s recommendations.

“Applicant” means an owner applying for a state license pursuant to this division.

“Batch” means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:

Harvest batch. “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals, and harvested at the same time.

Manufactured cannabis batch. “Manufactured cannabis batch” means either of the following:

An amount of cannabis concentrate or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.

An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.

“Bureau” means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

“Cannabis accessories” has the same meaning as in Section 11018.2 of the Health and Safety Code.

“Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

“Cannabis products” has the same meaning as in Section 11018.1 of the Health and Safety Code.

“Child resistant” means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

“Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this division.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Cultivation site” means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

“Customer” means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician’s recommendation.

“Day care center” has the same meaning as in Section 1596.76 of the Health and Safety Code.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer.

“Director” means the Director of Consumer Affairs.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

“Dried flower” means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

“Edible cannabis product” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

“Fund” means the Cannabis Control Fund established pursuant to Section 26210.

“Kind” means applicable type or designation regarding a particular cannabis variant or cannabis product type, including, but not limited to, strain name or other grower trademark, or growing area designation.

“Labeling” means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.

“Labor peace agreement” means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the state’s proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant’s business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant’s employees. The agreement shall provide a bona fide labor

organization access at reasonable times to areas in which the applicant’s employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

“License” means a state license issued under this division, and includes both an A-license and an M-license, as well as a testing laboratory license.

“Licensee” means any person holding a license under this division, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

“Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.

(ab) “Live plants” means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(ac) “Local jurisdiction” means a city, county, or city and county.

(ad) “Lot” means a batch or a specifically identified portion of a batch.

(ae) “M-license” means a state license issued under this division for commercial cannabis activity involving medicinal cannabis.

(af) “M-licensee” means any person holding a license under this division for commercial cannabis activity involving medicinal cannabis.

(ag) “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(ah) “Manufacturer” means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

(ai) “Medicinal cannabis” or “medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

(aj) “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(ak) “Operation” means any act for which licensure is required under the provisions of this division, or any commercial transfer of cannabis or cannabis products.

(al) “Owner” means any of the following:

A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.

The chief executive officer of a nonprofit or other entity.

A member of the board of directors of a nonprofit.

An individual who will be participating in the direction, control, or management of the person applying for a license.

(am) “Package” means any container or receptacle used for holding cannabis or cannabis products.

(an) “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(ao) “Physician’s recommendation” means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

(ap) “Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

(aq) “Purchaser” means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.

(ar) “Sell,” “sale,” and “to sell” include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

(as) “Testing laboratory” means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.

Licensed by the bureau.

(at) “Unique identifier” means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

(au) “Youth center” has the same meaning as in Section 11353.1 of the Health and Safety Code.

SEC. 6. Section 26010 of the Business and Professions Code is repealed.

SEC. 7. Section 26010 is added to the Business and Professions Code, to read:

26010. There is in the Department of Consumer Affairs the Bureau of Cannabis Control, under the supervision and control of the director. The director shall administer and enforce the provisions of this division related to the bureau.

SEC. 8. Section 26010.5 is added to the Business and Professions Code, to read:

26010.5. (a) The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the Director of Consumer Affairs with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the Director of Consumer Affairs and at the pleasure of the Governor.

Every power granted to or duty imposed upon the Director of Consumer Affairs under this division may be exercised or performed in the name of the director by a deputy or assistant director or by the chief, subject to conditions and limitations that the director may prescribe. In addition to every power granted or duty imposed under this division, the director shall have all other powers and duties generally applicable in relation to bureaus that are part of the Department of Consumer Affairs.

The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service laws and regulations. The Governor may also appoint a deputy chief and an assistant chief counsel to the bureau. These positions shall hold office at the pleasure of the Governor.

The bureau has the power, duty, purpose, responsibility, and jurisdiction to regulate commercial cannabis activity as provided in this division.

The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction formerly vested in the Bureau of Marijuana Control, also formerly known as the Bureau of Medical Cannabis Regulation and the Bureau of Medical Marijuana Regulation, under the former Medical Cannabis Regulation and Safety Act (former Chapter 3.5 (commencing with Section 19300) of Division 8).

Upon the effective date of this section, whenever “Bureau of Marijuana Control,” “Bureau of Medical Cannabis Regulation,” or “Bureau of Medical Marijuana Regulation” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

Upon the effective date of this section, whenever any reference to the “Medical Cannabis Regulation and Safety Act,” “Medical Marijuana Regulation and Safety Act,” or former Chapter 3.5 (commencing with Section 19300) of Division 8 appears in any statute, regulation, contract, or in any other code, it shall be construed to refer to this division as it relates to medicinal cannabis and medicinal cannabis products.

SEC. 9. Section 26011 of the Business and Professions Code is amended to read:

26011. Neither the chief of the bureau nor any member of the Cannabis Control Appeals Panel established under Section 26040 shall do any of the following:

Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division.

Engage or have any interest in the sale or any insurance covering a licensee’s business or premises.

Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial cannabis activity.

Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.

Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

SEC. 10. Section 26011.5 is added to the Business and Professions Code, to read:

26011.5. The protection of the public shall be the highest priority for all licensing authorities in exercising licensing, regulatory, and disciplinary functions under this division. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 11. Section 26012 of the Business and Professions Code is amended to read:

26012. (a) It being a matter of statewide concern, except as otherwise authorized in this division:

The bureau shall have the sole authority to create, issue, deny, renew, discipline, suspend, or revoke licenses for microbusinesses, transportation, storage unrelated to manufacturing activities, distribution, testing, and sale of cannabis and cannabis products within the state.

The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of cannabis. The Department of Food and Agriculture shall have the authority to create, issue, deny, and suspend or revoke cultivation licenses for violations of this division.

The State Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing of cannabis products. The State Department of Public Health shall have the authority to create, issue, deny, and suspend or revoke manufacturing licenses for violations of this division.

(b) The licensing authorities shall have the authority to collect fees in connection with activities they regulate concerning cannabis. The licensing authorities may create licenses in addition to those identified in this division that the licensing authorities deem necessary to effectuate their duties under this division.

For the performance of its duties, each licensing authority has the power conferred by Sections 11180 to 11191, inclusive, of the Government Code.

Licensing authorities shall begin issuing licenses under this division by January 1, 2018.

SEC. 12. Section 26013 of the Business and Professions Code is amended to read:

26013. (a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Those rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

(b) (1) Each licensing authority may adopt emergency regulations to implement this division.

Each licensing authority may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted as authorized by this section. Any such readoption shall be limited to one time for each regulation.

Notwithstanding any other law, the initial adoption of emergency regulations and the readoption of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readopted emergency regulations authorized by this section shall be each submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent businessperson.

SEC. 13. Section 26013.5 is added to the Business and Professions Code, to read:

26013.5. Notice of any action of a licensing authority required by this division to be given may be signed and given by the director of the licensing authority or an authorized employee of the licensing authority and may be made personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure, or in the manner prescribed by Section 124 of this code.

SEC. 14. Section 26014 of the Business and Professions Code is amended to read:

26014. (a) The bureau shall convene an advisory committee to advise the licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose such barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis.

(b) The advisory committee members shall include, but not be limited to, representatives of the cannabis industry, including medicinal cannabis, representatives of labor organizations, appropriate state and local agencies, persons who work directly with racially, ethnically, and economically diverse populations, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

Commencing on January 1, 2019, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the licensing authorities.

SEC. 15. Section 26030 of the Business and Professions Code is amended to read:

26030. Grounds for disciplinary action include, but are not limited to, all of the following:

Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.

Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5 or discipline of a license pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.

Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.

Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.

Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.

Failure to comply with the requirement of a local ordinance regulating commercial cannabis activity.

The intentional and knowing sale of cannabis or cannabis products by an A-licensee to a person under 21 years of age.

The intentional and knowing sale of medicinal cannabis or medicinal cannabis products by an M-licensee to a person without a physician's recommendation.

Failure to maintain safe conditions for inspection by a licensing authority.

Failure to comply with any operating procedure submitted to the licensing authority pursuant to subdivision (b) of Section 26051.5.

Failure to comply with license conditions established pursuant to subdivision (b) of Section 26060.1.

SEC. 16. Section 26031 of the Business and Professions Code is amended to read:

26031. (a) Each licensing authority may suspend, revoke, place on probation with terms and conditions, or otherwise discipline licenses issued by that licensing authority and fine a licensee, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

(b) A licensing authority may suspend or revoke a license when a local agency has notified the licensing authority that a licensee within its jurisdiction is in violation of state rules and regulations relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for suspension or revocation of the license.

Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's officers, directors, owners, agents, or employees while acting on behalf of the licensee or engaged in commercial cannabis activity.

A licensing authority may recover the costs of investigation and enforcement of a disciplinary proceeding pursuant to Section 125.3 of this code.

Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities. Upon any other enforcement action against a licensee, the licensing authority shall notify all other licensing authorities.

SEC. 17. Section 26032 of the Business and Professions Code is repealed.

SEC. 18. Section 26032 is added to the Business and Professions Code, to read:

26032. (a) The actions of a licensee, its employees, and its agents are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law if they are all of the following:

Permitted pursuant to a state license.

Permitted pursuant to a local authorization, license, or permit issued by the local jurisdiction, if any.

Conducted in accordance with the requirements of this division and regulations adopted pursuant to this division.

(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and, if required by the applicable local ordinances, a local license or permit, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

SEC. 19. Section 26033 of the Business and Professions Code is repealed.

SEC. 20. Section 26033 is added to the Business and Professions Code, to read:

26033. (a) A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this division.

(b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code, is exempt from the licensure requirements of this division.

SEC. 21. Section 26034 of the Business and Professions Code is repealed.

SEC. 22. Section 26034 is added to the Business and Professions Code, to read:

26034. All accusations against licensees shall be filed by the licensing authority within five years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in that case shall not be deemed to have accrued until discovery, by the licensing authority, of the facts constituting the fraud or misrepresentation, and, in that case, the accusation shall be filed within five years after that discovery.

SEC. 23. Section 26038 of the Business and Professions Code is amended to read:

26038. (a) A person engaging in commercial cannabis activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b). A violator shall be responsible for the cost of the destruction of cannabis associated with his or her violation.

(b) If an action for civil penalties is brought against a person pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial cannabis activity in violation of this division.

SEC. 24. Section 26040 of the Business and Professions Code is amended to read:

26040. (a) (1) There is established in state government a Cannabis Control Appeals Panel which shall consist of the following members:

One member appointed by the Senate Committee on Rules.

One member appointed by the Speaker of the Assembly.

Three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate.

Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The members of the panel may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty, corruption, or incompetency.

A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if 5 Members of the Senate, or 10 Members of the Assembly, join as authors.

SEC. 25. Section 26043 of the Business and Professions Code is amended to read:

26043. (a) After proceedings pursuant to Section 26031 or 26058 or Chapter 2 (commencing with Section 480) or Chapter 3 (commencing with Section 490) of Division 1.5, any person aggrieved by the decision of a licensing authority denying the person's application for any license, denying the person's renewal of any license, placing any license on probation, imposing any condition on any

license, imposing any fine on any license, assessing any penalty on any license, or canceling, suspending, revoking, or otherwise disciplining any license as provided for under this division, may appeal the licensing authority's written decision to the panel.

(b) The panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the licensing authority.

Review by the panel of a decision of a licensing authority shall be limited to the following questions:

Whether the licensing authority has proceeded without or in excess of its jurisdiction.

Whether the licensing authority has proceeded in the manner required by law.

Whether the decision is supported by the findings.

Whether the findings are supported by substantial evidence in the light of the whole record.

SEC. 26. Section 26044 of the Business and Professions Code is amended to read:

26044. (a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the licensing authority, it may enter an order remanding the matter to the licensing authority for reconsideration in the light of that evidence.

(b) Except as provided in subdivision (a), in all appeals, the panel shall enter an order either affirming or reversing the decision of the licensing authority. When the order reverses the decision of the licensing authority, the panel may direct the reconsideration of the matter in the light of its order and may direct the licensing authority to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the licensing authority.

SEC. 27. Section 26045 of the Business and Professions Code is repealed.

SEC. 28. Section 26045 is added to the Business and Professions Code, to read:

26045. (a) No court of this state, except the Supreme Court and the courts of appeal to the extent specified in this chapter, shall have jurisdiction to review, affirm, reverse, correct, or annul any order, rule, or decision of a licensing authority or to suspend, stay, or delay the operation or execution thereof, or to restrain, enjoin, or interfere with a licensing authority in the performance of its duties, but a writ of mandate shall lie from the Supreme Court or the courts of appeal in any proper case.

(b) Any person affected by a final order of the panel, including a licensing authority, may apply to the Supreme Court or to the court of appeal for the appellate district in which the proceeding arose, for a writ of review of that final order.

The application for writ of review shall be made within 30 days after filing of the final order.

The provisions of the Code of Civil Procedure relating to writs of review shall, insofar as applicable, apply to proceedings in the courts as provided by this chapter. A copy of every pleading filed pursuant to this chapter shall be served on the panel, the licensing authority, and on each party who entered an appearance before the panel.

No decision of a licensing authority that has been appealed to the panel and no final order of the panel shall become effective during the period in which application may be made for a writ of review, as provided by subdivision (c).

The filing of a petition for, or the pendency of, a writ of review shall not of itself stay or suspend the operation of any order, rule, or decision of a licensing authority, but the court before which the petition is filed may stay or suspend, in whole or in part, the operation of the order, rule, or decision of the licensing authority subject to review, upon the terms and conditions which it by order directs.

SEC. 29. Section 26046 is added to the Business and Professions Code, to read:

26046. (a) The review by the court shall not extend further than to determine, based on the whole record of the licensing authority as certified by the panel, whether:

The licensing authority has proceeded without or in excess of its jurisdiction.

The licensing authority has proceeded in the manner required by law.

The decision of the licensing authority is supported by the findings.

The findings in the licensing authority's decision are supported by substantial evidence in the light of the whole record.

There is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the licensing authority.

(b) Nothing in this chapter shall permit the court to hold a trial de novo, to take evidence, or to exercise its independent judgment on the evidence.

SEC. 30. Section 26047 is added to the Business and Professions Code, to read:

26047. The findings and conclusions of the licensing authority on questions of fact are conclusive and final and are not subject to review. Those questions of fact shall include ultimate facts and the findings and conclusions of the licensing authority. The panel, the licensing authority, and each party to the action or proceeding before the panel shall have the right to appear in the review proceeding. Following the hearing, the court shall enter judgment either affirming or reversing the decision of the licensing authority, or the court may remand the case for further proceedings before or reconsideration by the licensing authority.

SEC. 31. Section 26050 of the Business and Professions Code is amended to read:

26050. (a) The license classification pursuant to this division shall, at a minimum, be as follows:

Type 1—Cultivation; Specialty outdoor; Small.

Type 1A—Cultivation; Specialty indoor; Small.

Type 1B—Cultivation; Specialty mixed-light; Small.

Type 1C—Cultivation; Specialty cottage; Small.

Type 2—Cultivation; Outdoor; Small.

Type 2A—Cultivation; Indoor; Small.

Type 2B—Cultivation; Mixed-light; Small.

Type 3—Cultivation; Outdoor; Medium.

Type 3A—Cultivation; Indoor; Medium.

Type 3B—Cultivation; Mixed-light; Medium.

Type 4—Cultivation; Nursery.

Type 5—Cultivation; Outdoor; Large.

Type 5A—Cultivation; Indoor; Large.

Type 5B—Cultivation; Mixed-light; Large.

Type 6—Manufacturer 1.

Type 7—Manufacturer 2.

Type 8—Testing laboratory.

Type 10—Retailer.

Type 11—Distributor.

Type 12—Microbusiness.

(b) With the exception of testing laboratory licenses, which may be used to test cannabis and cannabis products regardless of whether they are intended for use by individuals who possesses a physician's recommendation, all licenses issued under this division shall bear a clear designation indicating whether the license is for commercial adult-use cannabis activity as distinct from commercial medicinal cannabis activity by prominently affixing an "A" or "M," respectively. Examples of such a designation include, but are not limited to, "A-Type 1" or "M-Type 1." Except as specifically specified in this division, the requirements for A-licenses and M-licenses shall be the same. For testing laboratories, the bureau shall create a license that indicates a testing laboratory may test both adult-use and medicinal cannabis.

A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.

Each licensing authority shall establish procedures for the issuance and renewal of licenses.

SEC. 32. Section 26050.1 is added to the Business and Professions Code, to read:

26050.1. (a) Notwithstanding subdivision (c) of Section 26050, until January 1, 2019, a licensing authority may, in its sole discretion, issue a temporary license if the applicant submits all of the following:

A written request to the licensing authority in a manner prescribed by the licensing authority.

A copy of a valid license, permit, or other authorization, issued by a local jurisdiction, that enables the applicant to conduct commercial cannabis activity at the location requested for the temporary license.

The temporary license application fee, if any, required by the licensing authority.

(b) Temporary licenses issued pursuant to this section are subject to the following conditions:

Except as provided for in paragraph (4) below, the temporary license shall be valid for a period of 120 days and may be extended for additional 90-day periods at the discretion of the licensing authority. Temporary licenses shall only be eligible for an extension of the expiration date if the applicant has submitted a complete application for licensure pursuant to regulations adopted under this division.

A temporary license is a conditional license and authorizes the holder thereof to engage in commercial cannabis activity as would be permitted under the privileges of the license for which the applicant has submitted an application to the licensing authority.

Refusal by the licensing authority to issue or extend a temporary license shall not entitle the applicant to a hearing or appeal of the decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to temporary licenses.

A temporary license does not obligate the licensing authority to issue a nontemporary license nor does the temporary license create a vested right in the holder to either an extension of the temporary license or to the granting of a subsequent nontemporary license.

This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 33. Section 26051 of the Business and Professions Code is repealed.

SEC. 34. Section 26051 is added to the Business and Professions Code, to read:

26051. (a) The Cartwright Act, the Unfair Practices Act, the Unfair Competition Law, and the other provisions of Part 2 (commencing with Section 16600) of Division 7 apply to all licensees regulated under this division.

(b) It shall be unlawful for any person to monopolize, or attempt to monopolize, or to combine or conspire with any person or persons, to monopolize any part of the trade or commerce related to cannabis. The Attorney General shall have the sole authority to enforce the provisions of this subdivision.

In determining whether to grant, deny, or renew a license for a retail license, microbusiness license, or a license issued under Section 26070.5, the bureau shall consider if an excessive concentration exists in the area where the licensee will operate. For purposes of this section “excessive concentration” applies when either of the following conditions exist:

The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis or cannabis products.

The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to the population in the census tract, census division, or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

SEC. 35. Section 26051.5 is added to the Business and Professions Code, to read:

26051.5. (a) An applicant for any type of state license issued pursuant to this division shall do all of the following:

Require that each owner of the applicant electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

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

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

The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

Provide evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property or that landowner's agent where the commercial cannabis activity will occur, as proof to demonstrate the landowner has acknowledged and consented to permit commercial cannabis activities to be conducted on the property by the tenant applicant.

Provide evidence that the proposed location is in compliance with subdivision (b) of Section 26054.

Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

For the purposes of this paragraph, "employee" does not include a supervisor.

For the purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the applicant, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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

Provide any other information required by the licensing authority.

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

Pay all applicable fees required for licensure by the licensing authority.

Provide proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.

(b) An applicant shall also include in the application a detailed description of the applicant’s operating procedures for all of the following, as required by the licensing authority:

Cultivation.

Extraction and infusion methods.

The transportation process.

Inventory procedures.

Quality control procedures.

Security protocols.

For applicants seeking licensure to cultivate, the source or sources of water the applicant will use for cultivation, as provided in subdivisions (a) to (c), inclusive, of Section 26060.1. For purposes of this paragraph, “cultivation” as used in Section 26060.1 shall have the same meaning as defined in Section 26001. The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this paragraph.

The applicant shall also provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy, including aggregate square footage and individual square footage of separate cultivation areas, if any, roads, water crossings, points of diversion, water storage, and all other facilities and infrastructure related to the cultivation.

Provide a complete list of every person with a financial interest in the person applying for the license as required by the licensing authority. For purposes of this subdivision, “persons with a financial interest” does not include persons whose only interest in a licensee is an interest in a diversified mutual fund, blind trust, or similar instrument.

SEC. 36. Section 26052 of the Business and Professions Code is amended to read:

26052. (a) A licensee shall not perform any of the following acts, or permit any of the following acts to be performed by any employee, agent, or contractor of the licensee:

Make any contract in restraint of trade in violation of Section 16600.

Form a trust or other prohibited organization in restraint of trade in violation of Section 16720.

Make a sale or contract for the sale of cannabis or cannabis products, or to fix a price charged therefor, or discount from, or rebate upon, that price, on the condition, agreement, or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of the seller, where the effect of that sale, contract, condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce.

Sell any cannabis or cannabis products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers.

Discriminate between different sections, communities, or cities or portions thereof, or between different locations in those sections, communities, or cities or portions thereof in this state, by selling or furnishing cannabis or cannabis products at a lower price in one section, community, or city or any portion thereof, or in one location in that section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition.

Sell any cannabis or cannabis products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.

(b) Any person who, either as director, officer, or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter, or assists or aids, directly or indirectly, in that violation is responsible therefor equally with the person, firm, or corporation for which that person acts.

Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.

SEC. 37. Section 26053 of the Business and Professions Code is amended to read:

26053. (a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this division.

(b) A person that holds a state testing laboratory license under this division is prohibited from licensure for any other activity, except testing, as authorized under this division. A person that holds a state testing laboratory license shall not employ an individual who is also employed by any other licensee that does not hold a state testing laboratory license.

Except as provided in subdivision (b), a person may apply for and be issued more than one license under this division, provided the licensed premises are separate and distinct.

Each applicant or licensee shall apply for, and if approved, shall obtain, a separate license for each location where it engages in commercial cannabis activity.

SEC. 38. Section 26054 of the Business and Professions Code is amended to read:

26054. (a) A licensee shall not sell alcoholic beverages or tobacco products on or at any premises licensed under this division.

(b) A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

It shall not be a violation of state or local law for a business engaged in the manufacture of cannabis accessories to possess, transport, purchase, or otherwise obtain small amounts of cannabis or cannabis products as necessary to conduct research and development related to the cannabis accessories, provided the cannabis and cannabis products are obtained from a person licensed under this division permitted to provide or deliver the cannabis or cannabis products.

It shall not be a violation of state or local law for an agent of a licensing authority to possess, transport, or obtain cannabis or cannabis products as necessary to conduct activities reasonably related to the duties of the licensing authority.

SEC. 39. Section 26054.1 of the Business and Professions Code is repealed.

SEC. 40. Section 26054.2 of the Business and Professions Code is amended to read:

26054.2. (a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws before September 1, 2016.

(b) The licensing authorities shall request that local jurisdictions identify for the licensing authorities potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws, and any applicable local laws.

In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence as deemed appropriate by the licensing authority to demonstrate operation in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code). The licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).

This section shall cease to be operative on December 31, 2019, unless otherwise provided by law.

SEC. 41. Section 26055 of the Business and Professions Code is amended to read:

26055. (a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate pursuant to that license within California until a new license is obtained.

A licensee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until written approval by the licensing authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises

previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

An applicant may voluntarily provide proof of a license, permit, or other authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction.

A local jurisdiction shall provide to the bureau a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. If a local jurisdiction does not provide a contact person, the bureau shall assume that the clerk of the legislative body of the local jurisdiction is the contact person.

Whenever there is a change in a local ordinance or regulation adopted pursuant to Section 26200 or a change in the contact person for the jurisdiction, the local jurisdiction shall provide that information to the bureau.

The bureau shall share the information required by this subdivision with the other licensing authorities.

The licensing authority shall deny an application for a license under this division for a commercial cannabis activity that the local jurisdiction has notified the bureau is prohibited in accordance with subdivision (f). The licensing authority shall notify the contact person for the local jurisdiction of each application denied due to the local jurisdictions indication that the commercial cannabis activity for which a license is sought is prohibited by a local ordinance or regulation.

Prior to issuing a state license under this division for any commercial cannabis activity:

The licensing authority shall notify the contact person for the local jurisdiction of the receipt of an application for commercial cannabis activity within their jurisdiction.

A local jurisdiction may notify the licensing authority that the applicant is not in compliance with a local ordinance or regulation. In this instance, the licensing authority shall deny the application.

A local jurisdiction may notify the licensing authority that the applicant is in compliance with all applicable local ordinances and regulations. In this instance, the licensing authority may proceed with the licensing process.

If the local jurisdiction does not provide notification of compliance or noncompliance with applicable local ordinances or regulations, or otherwise does not provide notification indicating that the completion of the local permitting process is still pending, within 60 business days of receiving the inquiry from a licensing authority submitted pursuant to subparagraph (A), the licensing authority shall make a rebuttable presumption that the applicant is in compliance with all local ordinances and regulations adopted in accordance with Section 26200, except as provided in subparagraphs (E) and (F).

At any time after expiration of the 60-business-day period set forth in subparagraph (D), the local jurisdiction may provide written notification to the licensing authority that the applicant or licensee is not in compliance with a local ordinance or regulation adopted in accordance with Section 26200. Upon receiving this notification, the licensing authority shall not presume that the applicant or licensee has complied with all local ordinances and regulations adopted in accordance with Section 26200, and may commence disciplinary action in accordance with Chapter 3 (commencing with Section 26030). If the licensing authority does not take action against the licensee before the time of the renewal of the license, the license shall not be renewed until and unless the local jurisdiction notifies the licensing authority that the licensee is once again in compliance with local ordinances.

A presumption by a licensing authority pursuant to this paragraph that an applicant has complied with all local ordinances and regulations adopted in accordance with Section 26200 shall not prevent, impair, or preempt the local government from enforcing all applicable local ordinances or regulations against the applicant, nor shall the presumption confer any right, vested or otherwise, upon the applicant to commence or continue operating in any local jurisdiction except in accordance with all local ordinances or regulations.

For purposes of this section, “notification” includes written notification or access by a licensing authority to a local jurisdiction’s registry, database, or other platform designated by a local jurisdiction, containing information specified by the licensing authority, on applicants to determine local compliance.

Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.

A local or state public agency may charge and collect a fee from a person proposing a project pursuant to subdivision (a) of Section 21089 of the Public Resources Code.

SEC. 42. Section 26056 of the Business and Professions Code is repealed.

SEC. 43. Section 26056.5 of the Business and Professions Code is repealed.

SEC. 44. Section 26056 is added to the Business and Professions Code, to read:

26056. The requirements of Sections 13143.9, 13145, and 13146 of the Health and Safety Code shall apply to all licensees.

SEC. 45. Section 26057 of the Business and Professions Code is amended to read:

26057. (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

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

Failure or inability to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow, water quality, and fish and wildlife.

Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.

Failure to provide information required by the licensing authority.

The applicant, owner, or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

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

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

- A felony conviction involving fraud, deceit, or embezzlement.

- A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

- A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.

Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

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

The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis

activities, has had a license suspended or revoked under this division in the three years immediately preceding the date the application is filed with the licensing authority.

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

Any other condition specified in law.

SEC. 46. Section 26058 of the Business and Professions Code is amended to read:

26058. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein. Any appeal from a final decision of the licensing authority shall be conducted in accordance with Chapter 4 (commencing with Section 26040).

SEC. 47. Section 26060 of the Business and Professions Code is amended to read:

26060. (a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, nursery, special cottage, and mixed-light cultivation sites shall apply to licensed cultivators under this division. The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this division, including regulations governing the licensing of indoor, outdoor, mixed-light cultivation site, nursery, and special cottage cultivation.

(b) The regulations shall do all of the following:

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

Require that cannabis cultivation by licensees is conducted in accordance with state and local laws.

Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Chapter 6.5 (commencing with Section 26067). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers pursuant to Chapter 6.5 (commencing with Section 26067).

The Department of Food and Agriculture shall serve as the lead agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) related to the licensing of cannabis cultivation.

The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis.

A cannabis cultivator shall not use any pesticide that has been banned for use in the state.

The regulations promulgated by the Department of Food and Agriculture under this division shall implement the requirements of subdivision(b) of Section 26060.1.

The Department of Pesticide Regulation shall require that the application of pesticides or other pest control in connection with the indoor, outdoor, nursery, specialty cottage, or mixed-light cultivation of cannabis complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

SEC. 48. Section 26060.1 is added to the Business and Professions Code, to read:

26060.1. (a) An application for a license for cultivation issued by the Department of Food and Agriculture shall identify the source of water supply as follows:

If water will be supplied by a retail water supplier, as defined in Section 13575 of the Water Code, the application shall identify the retail water supplier.

Paragraphs (2) and (3) do not apply to any water subject to subparagraph (A) unless the retail water supplier has 10 or fewer customers, the applicant receives 10 percent or more of the water supplied by the retail water supplier, 25 percent or more of the water delivered by the retail water supplier is used for cannabis cultivation, or the applicant and the retail water supplier are affiliates, as defined in Section 2814.20 of Title 23 of the California Code of Regulations.

If the water supply includes a diversion within the meaning of Section 5100 of the Water Code, the application shall identify the point of diversion and the maximum amount to be diverted as follows:

For an application submitted before January 1, 2019, the application shall include a copy of one of the following:

A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

A statement of water diversion and use filed with the State Water Resources Control Board before July 1, 2017, that covers the diversion and specifies the amount of water used for cannabis cultivation.

A pending application for a permit to appropriate water, filed with the State Water Resources Control Board before July 1, 2017.

Documentation submitted to the State Water Resources Control Board before July 1, 2017, demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of the Water Code.

Documentation submitted to the State Water Resources Control Board before July 1, 2017, demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used

in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

For an application submitted after December 31, 2018, the application shall include a copy of one of the following:

A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

(ii) A statement of water diversion and use filed with the State Water Resources Control Board that covers the diversion and specifies the amount of water used for cannabis cultivation.

(iii) Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of the Water Code.

(iv) Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and in the calendar year in which the application is submitted. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

If water will be supplied from a groundwater extraction not subject to paragraph (2), the application shall identify the location of the extraction and the maximum amount to be diverted for cannabis cultivation in any year.

(b) The Department of Food and Agriculture shall include in any license for cultivation all of the following:

Conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to (A) ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability; (B) ensure that cultivation does not negatively impact springs, riparian habitat, wetlands, or aquatic habitat; and (C) otherwise protect fish, wildlife, fish and wildlife habitat, and water quality. The conditions shall include, but not be limited to, the principles, guidelines, and requirements established pursuant to Section 13149 of the Water Code.

Any relevant mitigation requirements the Department of Food and Agriculture identifies as part of its approval of the final environmental documentation for the cannabis cultivation licensing program as requirements that should be included in a license for cultivation. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the identification of these mitigation measures. This paragraph does not reduce any requirements established pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

A condition that the license shall not be effective until the licensee has demonstrated compliance with Section 1602 of the Fish and Game Code or receives written verification

from the Department of Fish and Wildlife that a streambed alteration agreement is not required.

The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this section.

Notwithstanding paragraph (1) of subdivision (b), the Department of Food and Agriculture is not responsible for verifying compliance with the conditions requested or imposed by the Department of Fish and Wildlife or the State Water Resources Control Board. The Department of Fish and Wildlife or the State Water Resources Control Board, upon finding and making the final determination of a violation of a condition included pursuant to paragraph (1) of subdivision (b), shall notify the Department of Food and Agriculture, which may take appropriate action with respect to the licensee in accordance with Chapter 3 (commencing with Section 26030).

SEC. 49. Section 26061 of the Business and Professions Code is amended to read:

26061. (a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include all of the following:

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

Type 1A, or “specialty indoor,” for indoor cultivation using exclusively artificial lighting of between 501 and 5,000 square feet of total canopy size on one premises.

Type 1B, or “specialty mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between 2,501 and 5,000 square feet of total canopy size on one premises.

Type 1C, or “specialty cottage,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of 2,500 square feet or less of total canopy size for mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

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

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

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

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

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

Type 3B, or “mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

Type 4, or “nursery” for cultivation of cannabis solely as a nursery.

(b) Except as otherwise provided by law:

Type 5, or “outdoor,” means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

Type 5A, or “indoor,” means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

Type 5B, or “mixed-light,” means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

Commencing on January 1, 2023, a Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold a Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not be eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

SEC. 50. Section 26062 of the Business and Professions Code is repealed.

SEC. 51. Section 26062 is added to the Business and Professions Code, to read:

26062. (a) No later than January 1, 2021, the Department of Food and Agriculture shall establish a program for cannabis that is comparable to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code) and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code. The Department of Food and Agriculture shall be the sole determiner of designation and certification.

(b) If at any time preceding or following the establishment of a program by the Department of Food and Agriculture pursuant to subdivision (a), the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)) authorizes organic designation and certification for cannabis, this section shall become inoperative and, as of January 1, of the following year, is repealed.

SEC. 52. Section 26062.5 is added to the Business and Professions Code, to read:

26062.5. A person shall not represent, sell, or offer for sale any cannabis or cannabis product as organic except in accordance with the National Organic Program (Section 6517 of the federal Organic

Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), if applicable. A person shall not represent, sell, or offer for sale any cannabis or cannabis product with the designation or certification established by the Department of Food and Agriculture pursuant to subdivision (a) of Section 26062 except in accordance with that subdivision.

SEC. 53. Section 26063 of the Business and Professions Code is amended to read:

26063. (a) No later than January 1, 2018, the Department of Food and Agriculture shall establish standards by which a licensed cultivator may designate a county of origin for cannabis. To be eligible for the designation, 100 percent of the cannabis shall be produced within the designated county, as defined by finite political boundaries.

Cannabis shall not be advertised, marketed, labeled, or sold as grown in a California county when the cannabis was not grown in that county.

The name of a California county, including any similar name that is likely to mislead consumers as to the origin of the product, shall not be used in the advertising, labeling, marketing, or packaging of cannabis products unless the cannabis contained in the product was grown in that county.

(b) No later than January 1, 2021, the Department of Food and Agriculture shall establish a process by which licensed cultivators may establish appellations of standards, practices, and varieties applicable to cannabis grown in a certain geographical area in California, not otherwise specified in subdivision (a).

SEC. 54. Section 26064 of the Business and Professions Code is repealed.

SEC. 55. Section 26065 of the Business and Professions Code is amended to read:

26065. An employee engaged in the cultivation of cannabis under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

SEC. 56. Section 26066 of the Business and Professions Code is amended to read:

26066. Indoor and outdoor cannabis cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, current building and fire standards, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies, shall address environmental impacts of cannabis cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

SEC. 57. Section 26067 of the Business and Professions Code is repealed.

SEC. 58. Chapter 6.5 (commencing with Section 26067) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 6.5. Unique Identifiers and Track and Trace

26067. (a) The department, in consultation with the bureau, shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that

utilizes a unique identifier pursuant to Section 26069, secure packaging, and is capable of providing information that captures, at a minimum, all of the following:

The licensee receiving the product.

The transaction date.

The cultivator from which the product originates, including the associated unique identifier pursuant to Section 26069.

(b) (1) The department, in consultation with the State Board of Equalization, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:

The variety and quantity or weight of products shipped.

The estimated times of departure and arrival.

The variety and quantity or weight of products received.

The actual time of departure and arrival.

A categorization of the product.

The license number and the unique identifier pursuant to Section 26069 issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.

The database shall be designed to flag irregularities for all licensing authorities in this division to investigate. All licensing authorities pursuant to this division may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.

The department shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.

Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.

The bureau shall have 24-hour access to the electronic database administered by the department. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.

The department shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the department.

Information received and contained in records kept by the department or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this division or a local ordinance.

Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this division.

26068. (a) The department, in consultation with the bureau and the State Board of Equalization, shall ensure that the track and trace program can also track and trace the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity, including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

(b) The department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs, and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of cannabis and cannabis products throughout the distribution chain and communicate the information to licensing agencies as required by law.

Any software, database, or other information technology system utilized by the department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology that is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

26069. (a) The department shall establish a Cannabis Cultivation Program to be administered by the secretary. The secretary shall administer this section as it pertains to the cultivation of cannabis. For purposes of this division, cannabis is an agricultural product.

(b) A person or entity shall not cultivate cannabis without first obtaining a state license issued by the department pursuant to this section.

The department, in consultation with, but not limited to, the bureau, shall implement a unique identification program for cannabis. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. If the State Water Resources Control Board or the Department of Fish and Wildlife finds, based on substantial evidence, that cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area, the department shall not issue new licenses or increase the total number of plant identifiers within that watershed or area.

(A) The department shall establish a program for the identification of permitted cannabis plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each cannabis plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

Unique identifiers shall only be issued to those persons appropriately licensed by this section.

Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26067.

The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each cannabis plant.

The department may promulgate regulations to implement this section.

The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

A city, county, or city and county may administer unique identifiers and associated identifying information but a city, county, or city and county's identifiers shall not supplant the department's track and trace program.

This section does not apply to the cultivation of cannabis in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.

Subdivision (b) does not apply to persons or entities licensed under subdivision (b) of Section 26070.5.

26069.1. The secretary may enter into a cooperative agreement with a county agricultural commissioner or other state or local agency to assist the department in implementing the provisions of this division related to administration, investigation, inspection, fee collection, document management, education and outreach, distribution of individual licenses approved by the secretary, and technical assistance pertaining to the cultivation of cannabis. The department shall pay compensation under a cooperative agreement from fees collected and deposited pursuant to this division and shall provide reimbursement to a county agricultural commissioner, state, or local agency for associated costs. The secretary shall not delegate through a cooperative agreement, or otherwise, its authority to issue cultivation licenses to a county agricultural commissioner, local agency, or another state agency. The secretary shall provide notice of any cooperative agreement entered into pursuant to this section to other relevant state agencies involved in the regulation of cannabis cultivation. No cooperative agreement under this section shall relieve the department of its obligations under paragraph (2) of subdivision (a) of Section 26012 to administer the provisions of this division related to, and associated with, the cultivation of cannabis.

26069.9. For purposes of this chapter:

“Department” means the Department of Food and Agriculture.

“Secretary” means the Secretary of Food and Agriculture.

SEC. 59. Section 26070 of the Business and Professions Code is amended to read:

26070. Retailers and Distributors.

State licenses to be issued by the bureau related to the sale and distribution of cannabis and cannabis products are as follows:

“Retailer,” for the retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. A retailer’s premises may be closed to the public. A retailer may conduct sales exclusively by delivery.

“Distributor,” for the distribution of cannabis and cannabis products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

“Microbusiness,” for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of cannabis shall include the license conditions described in subdivision (b) of Section 26060.1.

In coordination with each other, the licensing authorities shall establish a process by which an applicant for a microbusiness license can demonstrate compliance with all the requirements under this division for the activities that will be conducted under the license.

The bureau may enter into interagency agreements with licensing authorities to implement and enforce the provisions of this division related to microbusinesses. The costs of activities carried out by the licensing authorities as requested by the bureau pursuant to the interagency agreement shall be calculated into the application and licensing fees collected pursuant to this division, and shall provide for reimbursement to state agencies for associated costs as provided for in the interagency agreement.

The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of cannabis and cannabis products. The transportation of cannabis and cannabis products shall only be conducted by persons holding a distributor license under this division or employees of those persons. Transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which cannabis and cannabis products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

The driver of a vehicle transporting cannabis or cannabis products shall be directly employed by a licensee authorized to transport cannabis or cannabis products.

Notwithstanding any other law, all vehicles transporting cannabis and cannabis products for hire shall be required to have a valid motor carrier permit pursuant to Chapter 2 (commencing with Section 34620) of Division 14.85 of the Vehicle Code. The Department of the California Highway Patrol shall have authority over the safe operation of these vehicles, including, but not limited to, requiring licensees engaged in the transportation of cannabis or cannabis products to participate in the Basic Inspection of Terminals (BIT) program pursuant to Section 34501.12 of the Vehicle Code.

Prior to transporting cannabis or cannabis products, a licensed distributor shall do both of the following:

Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest shall include the unique identifier, pursuant to Section 26069, issued by the Department of Food and Agriculture for the original cannabis product.

Securely transmit the manifest to the bureau and the licensee that will receive the cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 26067.

During transportation, the licensed distributor shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the Department of Consumer Affairs and law enforcement officers.

The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to the Department of Consumer Affairs and any law enforcement officers.

Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing authority a record verifying receipt of the shipment and the details of the shipment.

Transporting, or arranging for or facilitating the transport of, cannabis or cannabis products in violation of this chapter is grounds for disciplinary action against the license.

Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products from the premises. These security measures shall include, but not be limited to, all of the following:

- Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the retailer.

- Establishing limited access areas accessible only to authorized personnel.

- Other than limited amounts of cannabis used for display purposes, samples, or immediate sale, storing all finished cannabis and cannabis products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

A retailer shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

- Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.

- Diversion, theft, loss, or any criminal activity pertaining to the operation of the retailer.

- Diversion, theft, loss, or any criminal activity by any agent or employee of the retailer pertaining to the operation of the retailer.

- The loss or unauthorized alteration of records related to cannabis or cannabis products, registered qualifying patients, primary caregivers, or retailer employees or agents.

- Any other breach of security.

Beginning January 1, 2018, a licensee may sell cannabis or cannabis products that have not been tested for a limited and finite time as determined by the bureau. The cannabis and cannabis products

must have a label affixed to each package containing cannabis or cannabis products that clearly states “This product has not been tested as required by the Medicinal and Adult-Use Cannabis Regulation and Safety Act” and must comply with any other requirement as determined by the bureau.

SEC. 60. Section 26070.1 is added to the Business and Professions Code, to read:

26070.1. Cannabis or cannabis products purchased by a customer shall not leave a licensed retail premises unless they are placed in an opaque package.

SEC. 61. Section 26070.5 of the Business and Professions Code is amended to read:

26070.5. (a) The bureau shall, by January 1, 2020, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:

Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?

Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons?

Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons so long as the local jurisdiction does all of the following:

Confirms the license applicant’s status as a nonprofit entity registered with the California Attorney General’s Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities.

Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division.

Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity’s operation.

Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

SEC. 62. Section 26080 of the Business and Professions Code is amended to read:

26080. (a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, cannabis or cannabis products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of cannabis or cannabis products on public roads by a licensee transporting cannabis or cannabis products in compliance with this division.

SEC. 63. Section 26090 of the Business and Professions Code is amended to read:

26090. (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.

(b) All employees of a retailer, microbusiness, or nonprofit delivering cannabis or cannabis products shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this division.

During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.

A local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

SEC. 64. The heading of Chapter 10 (commencing with Section 26100) of Division 10 of the Business and Professions Code is amended to read:

CHAPTER 10. Testing Laboratories

SEC. 65. Section 26100 of the Business and Professions Code is repealed.

SEC. 66. Section 26101 of the Business and Professions Code is amended and renumbered to read:

26100. (a) Except as otherwise provided by law, cannabis or cannabis products shall not be sold pursuant to a license provided for under this division unless a representative sample of the cannabis or cannabis products has been tested by a licensed testing laboratory.

(b) The bureau shall develop criteria to determine which batches shall be tested. All testing of the samples shall be performed on the final form in which the cannabis or cannabis product will be consumed or used.

(c) Testing of batches to meet the requirements of this division shall only be conducted by a licensed testing laboratory.

For each batch tested, the testing laboratory shall issue a certificate of analysis for selected lots at a frequency determined by the bureau with supporting data, to report both of the following:

Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following, unless limited through regulation by the bureau:

Tetrahydrocannabinol (THC).

Tetrahydrocannabinolic Acid (THCA).

Cannabidiol (CBD).

Cannabidiolic Acid (CBDA).

The terpenes required by the bureau in regulation.

Cannabigerol (CBG).

Cannabinol (CBN).

Any other compounds or contaminants required by the bureau.

That the presence of contaminants does not exceed the levels established by the bureau. In establishing the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (d) of Section 26060, and any other relevant sources. For purposes of this paragraph, “contaminants” includes, but is not limited to, all of the following:

Residual solvent or processing chemicals.

Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

Microbiological impurities as identified by the bureau in regulation.

Standards for residual levels of volatile organic compounds shall be established by the bureau.

The testing laboratory shall conduct all testing required by this section in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling and using verified methods.

All testing laboratories performing tests pursuant to this section shall obtain and maintain ISO/IEC 17025 accreditation as required by the bureau in regulation.

If a test result falls outside the specifications authorized by law or regulation, the testing laboratory shall follow a standard operating procedure to confirm or refute the original result.

A testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis, as determined by the bureau through regulations.

Any presale inspection, testing transfer, or transportation of cannabis products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

This division does not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. This division also does not prohibit a licensee from performing testing on the licensee's premises of cannabis or cannabis products obtained from another licensee. Onsite testing by the licensee shall not be certified by the bureau and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

SEC. 67. Section 26102 of the Business and Professions Code is repealed.

SEC. 68. Section 26102 is added to the Business and Professions Code, to read:

26102. A testing laboratory shall not be licensed by the bureau unless the laboratory meets all of the following:

Complies with any other requirements specified by the bureau.

Notifies the bureau within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

SEC. 69. Section 26103 of the Business and Professions Code is repealed.

SEC. 70. Section 26104 of the Business and Professions Code is amended to read:

26104. (a) A licensed testing laboratory shall, in performing activities concerning cannabis and cannabis products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The bureau shall develop procedures to do all of the following:

Ensure that testing of cannabis and cannabis products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5.

Specify how often licensees shall test cannabis and cannabis products, and that the cost of testing cannabis shall be borne by the licensed cultivators and the cost of testing cannabis products shall be borne by the licensed manufacturer, and that the costs of testing cannabis and cannabis products shall be borne by a nonprofit licensed under Section 26070.5.

Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by the bureau, unless remedial measures can bring the cannabis or cannabis products into compliance with quality assurance standards as specified by law and implemented by the bureau.

Ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by this division and that the testing laboratory employee transports the sample to the testing laboratory.

Except as provided in this division, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with this division, and shall not distribute, sell, deliver, transfer, transport, or dispense cannabis or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purposes. A testing laboratory shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of cannabis or cannabis product received.

SEC. 71. Section 26106 of the Business and Professions Code is amended to read:

26106. Standards for the production, packaging, and labeling of all cannabis products developed by the State Department of Public Health apply to all licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5, unless otherwise specified by the State Department of Public Health.

SEC. 72. Section 26110 of the Business and Professions Code is repealed.

SEC. 73. Section 26110 is added to the Business and Professions Code, to read:

26110. (a) Cannabis batches are subject to quality assurance and testing prior to sale at a retailer, microbusiness, or nonprofit licensed under Section 26070.5, except for immature cannabis plants and seeds, as provided for in this division.

(b) A licensee that holds a valid distributor license may act as the distributor for the licensee's cannabis and cannabis products.

(c) The distributor shall store, as determined by the bureau, the cannabis batches on the premises of the distributor before testing and continuously until either of the following occurs:

The cannabis batch passes the testing requirements pursuant to this division and is transported to a licensed retailer.

The cannabis batch fails the testing requirements pursuant to this division and is destroyed or transported to a manufacturer for remediation as allowed by the bureau or the Department of Public Health.

The distributor shall arrange for a testing laboratory to obtain a representative sample of each cannabis batch at the distributor's licensed premises. After obtaining the sample, the testing laboratory representative shall maintain custody of the sample and transport it to the testing laboratory.

Upon issuance of a certificate of analysis by the testing laboratory that the cannabis batch has passed the testing requirements pursuant to this division, the distributor shall conduct a quality assurance review before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.

There shall be a quality assurance compliance monitor who is an employee or contractor of the bureau and who shall not hold a license in any category or own or have an ownership interest in a licensee or the premises of a licensee.

The quality assurance compliance monitor shall conduct random quality assurance reviews at a distributor's licensed premises before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.

The quality assurance compliance monitor shall have access to all records and test results required of a licensee by law in order to conduct quality assurance analysis and to confirm test results. All records of inspection and verification by the quality assurance compliance monitor shall be provided to the bureau. Failure to comply shall be noted by the quality assurance compliance monitor for further investigation. Violations shall be reported to the bureau. The quality assurance compliance monitor shall also verify the tax payments collected and paid under Sections 34011 and 34012 of the Revenue and Tax Code are accurate. The monitor shall also have access to the inputs and assumptions in the track and trace system and shall be able to verify the accuracy of those and that they are commensurate with the tax payments.

After testing, all cannabis and cannabis products fit for sale may be transported only from the distributor's premises to the premises of a licensed retailer, microbusiness, or nonprofit.

A licensee is not required to sell cannabis or cannabis products to a distributor and may directly contract for sale with a licensee authorized to sell cannabis and cannabis products to purchasers.

A distributor performing services pursuant to this section may collect a fee from the licensee for the services provided. The fee may include, but is not limited to, the costs incurred for laboratory testing. A distributor may also collect applicable state or local taxes and fees.

This section does not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. The testing conducted on the licensee's premises by the licensee does not meet the testing requirements pursuant to this division.

SEC. 74. Section 26120 of the Business and Professions Code is amended to read:

26120. (a) Prior to delivery or sale at a retailer, cannabis and cannabis products shall be labeled and placed in a resealable, tamper-evident, child-resistant package and shall include a unique identifier for the purposes of identifying and tracking cannabis and cannabis products.

(b) Packages and labels shall not be made to be attractive to children.

(c) All cannabis and cannabis product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the State Department of Public Health:

The following statements, in bold print:

For cannabis: “GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

For cannabis products: “GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

For packages containing only dried flower, the net weight of cannabis in the package.

Identification of the source and date of cultivation, the type of cannabis or cannabis product and the date of manufacturing and packaging.

The appellation of origin, if any.

List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total.

A warning if nuts or other known allergens are used.

Information associated with the unique identifier issued by the Department of Food and Agriculture.

For a medicinal cannabis product sold at a retailer, the statement “FOR MEDICAL USE ONLY.”

Any other requirement set by the bureau or the State Department of Public Health.

Only generic food names may be used to describe the ingredients in edible cannabis products.

In the event the Attorney General determines that cannabis is no longer a Schedule I controlled substance under federal law, the label prescribed in subdivision (c) shall no longer require a statement that cannabis is a Schedule I controlled substance.

SEC. 75. Section 26121 is added to the Business and Professions Code, to read:

26121. (a) A cannabis product is misbranded if it is any of the following:

Manufactured, packed, or held in this state in a manufacturing premises not duly licensed as provided in this division.

Its labeling is false or misleading in any particular.

Its labeling or packaging does not conform to the requirements of Section 26120 or any other labeling or packaging requirement established pursuant to this division.

(b) It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale a cannabis product that is misbranded.

(c) It is unlawful for any person to misbrand a cannabis product.

It is unlawful for any person to receive in commerce a cannabis product that is misbranded or to deliver or offer for delivery any such cannabis product.

SEC. 76. The heading of Chapter 13 (commencing with Section 26130) of Division 10 of the Business and Professions Code is amended to read:

CHAPTER 13. Manufacturers and Cannabis Products

SEC. 77. Section 26130 of the Business and Professions Code is amended to read:

26130. (a) The State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. Licenses to be issued are as follows:

“Manufacturing Level 1,” for sites that manufacture cannabis products using nonvolatile solvents, or no solvents. A Manufacturing Level 1 M-Type 6 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license.

“Manufacturing Level 2,” for sites that manufacture cannabis products using volatile solvents. A Manufacturing Level 2 M-Type 7 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license.

(b) For purposes of this section, “volatile solvents” shall have the same meaning as in paragraph (3) of subdivision (d) of Section 11362.3 of the Health and Safety Code, unless otherwise provided by law or regulation.

(c) Edible cannabis products shall be:

Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.

Produced and sold with a standardized concentration of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.

Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis product in solid form.

Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, that are similar to the standards for preparation, storage, handling, and sale of food products.

Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary.

Marked with a universal symbol, as determined by the State Department of Public Health through regulation.

Cannabis, including concentrated cannabis, included in a cannabis product manufactured in compliance with law is not considered an adulterant under state law.

SEC. 78. Section 26131 is added to the Business and Professions Code, to read:

26131. (a) A cannabis product is adulterated if it is any of the following:

It has been produced, prepared, packed, or held under unsanitary conditions in which it may have become contaminated with filth or in which it may have been rendered injurious.

It consists in whole or in part of any filthy, putrid, or decomposed substance.

It bears or contains any poisonous or deleterious substance that may render it injurious to users under the conditions of use suggested in the labeling or under conditions as are customary or usual.

It bears or contains a substance that is restricted or limited under this division or regulations promulgated pursuant to this division and the level of substance in the product exceeds the limits specified pursuant to this division or in regulation.

Its concentrations differ from, or its purity or quality is below, that which it is represented to possess.

The methods, facilities, or controls used for its manufacture, packing, or holding do not conform to, or are not operated or administered in conformity with, practices established by regulations adopted under this division to ensure that the cannabis product meets the requirements of this division as to safety and has the concentrations it purports to have and meets the quality and purity characteristics that it purports or is represented to possess.

Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

It is an edible cannabis product and a substance has been mixed or packed with it after testing by a testing laboratory so as to reduce its quality or concentration or if any substance has been substituted, wholly or in part, for the edible cannabis product.

(b) It is unlawful for a person to manufacture, sell, deliver, hold, or offer for sale a cannabis product that is adulterated.

(c) It is unlawful for a person to adulterate a cannabis product.

It is unlawful for a person to receive in commerce a cannabis product that is adulterated or to deliver or proffer for delivery any such cannabis product.

SEC. 79. Section 26132 is added to the Business and Professions Code, to read:

26132. (a) When the State Department of Public Health has evidence that a cannabis product is adulterated or misbranded, the department shall notify the manufacturer.

(b) The State Department of Public Health may order a manufacturer to immediately cease distribution of a cannabis product and recall the product if the department determines both of the following:

The manufacture, distribution, or sale of the cannabis product creates or poses an immediate and serious threat to human life or health.

Other procedures available to the State Department of Public Health to remedy or prevent the occurrence of the situation would result in an unreasonable delay.

(c) The State Department of Public Health shall provide the manufacturer an opportunity for an informal proceeding on the matter, as determined by the department, within five days, on the actions required by the order and on why the product should not be recalled. Following the proceeding, the order shall be affirmed, modified, or set aside as determined appropriate by the State Department of Public Health.

The State Department of Public Health's powers set forth in this section expressly include the power to order movement, segregation, isolation, or destruction of cannabis products, as well as the power to hold those products in place.

If the State Department of Public Health determines it is necessary, it may issue the mandatory recall order and may use all appropriate measures to obtain reimbursement from the manufacturer for any and all costs associated with these orders. All funds obtained by the State Department of Public Health from these efforts shall be deposited into a fee account specific to the State Department of Public Health, to be established in the Cannabis Control Fund, and will be available for use by the department upon appropriation by the Legislature.

It is unlawful for any person to move or allow to be moved a cannabis product subject to an order issued pursuant to this section unless that person has first obtained written authorization from the State Department of Public Health.

SEC. 80. Section 26133 is added to the Business and Professions Code, to read:

26133. (a) If the State Department of Public Health finds or has probable cause to believe that a cannabis product is adulterated or misbranded within the meaning of this division or the sale of the cannabis product would be in violation of this division, the department shall affix to the cannabis product, or component thereof, a tag or other appropriate marking. The State Department of Public Health shall give notice that the cannabis product is, or is suspected of being, adulterated or misbranded, or the sale of the cannabis would be in violation of this division and has been embargoed

and that no person shall remove or dispose of the cannabis product by sale or otherwise until permission for removal or disposal is given by the State Department of Public Health or a court.

(b) It is unlawful for a person to remove, sell, or dispose of a detained or embargoed cannabis product without written permission of the State Department of Public Health or a court. A violation of this subdivision is punishable by a fine of not more than ten thousand dollars (\$10,000).

(c) If the adulteration or misbranding can be corrected by proper labeling or additional processing of the cannabis product and all of the provisions of this division can be complied with, the licensee or owner may request the State Department of Public Health to remove the tag or other marking. If, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected, the department may remove the tag or other marking.

If the State Department of Public Health finds that a cannabis product that is embargoed is not adulterated or misbranded, or that its sale is not otherwise in violation of this division, the State Department of Public Health may remove the tag or other marking.

The cannabis product may be destroyed by the owner pursuant to a corrective action plan approved by the State Department of Public Health and under the supervision of the department. The cannabis product shall be destroyed at the expense of the licensee or owner.

A proceeding for condemnation of a cannabis product under this section shall be subject to appropriate notice to, and the opportunity for a hearing with regard to, the person affected in accordance with Section 26016.

Upon a finding by the administrative law judge that the cannabis product is adulterated or misbranded, or that its sale is otherwise in violation of this division, the administrative law judge may direct the cannabis product to be destroyed at the expense of the licensee or owner. The administrative law judge may also direct a licensee or owner of the affected cannabis product to pay fees and reasonable costs, including the costs of storage and testing, incurred by the bureau or the State Department of Public Health in investigating and prosecuting the action taken pursuant to this section.

When, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected by proper labeling or additional processing of the cannabis and cannabis product and when all provisions of this division have been complied with, and after costs, fees, and expenses have been paid, the State Department of Public Health may release the embargo and remove the tag or other marking.

The State Department of Public Health may condemn a cannabis product under provisions of this division. The cannabis product shall be destroyed at the expense of the licensee or owner.

SEC. 81. Section 26134 is added to the Business and Professions Code, to read:

26134. (a) The State Department of Public Health may issue a citation, which may contain an order of abatement and an order to pay an administrative fine assessed by the department if the licensee is in violation of this division or any regulation adopted pursuant to it.

Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the law determined to have been violated.

If appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

The administrative fine assessed by the State Department of Public Health shall not exceed five thousand dollars (\$5,000) for each violation, unless a different fine amount is expressly provided by this division. In assessing a fine, the department shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

A citation issued or a fine assessed pursuant to this section shall notify the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the State Department of Public Health within 30 days of the date of issuance of the citation or fine. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Failure of a licensee to pay a fine within 30 days of the date of assessment of the fine, unless assessment of the fine or the citation is being appealed, may result in further legal action being taken by the State Department of Public Health. If a licensee does not contest a citation or pay the fine, the full amount of the fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee, including the amount of the fine.

A citation may be issued without the assessment of an administrative fine.

The State Department of Public Health may limit the assessment of administrative fines to only particular violations of this division and establish any other requirement for implementation of the citation system by regulation.

(b) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

SEC. 82. Section 26135 is added to the Business and Professions Code, to read:

26135. A peace officer, including a peace officer within the State Department of Public Health or the bureau, may seize cannabis and cannabis products in any of the following circumstances:

The cannabis or cannabis product is subject to recall or embargo by any licensing authority.

The cannabis or cannabis product is subject to destruction pursuant to this division.

The cannabis or cannabis product is seized related to an investigation or disciplinary action for violation of this division.

SEC. 83. Section 26140 of the Business and Professions Code is amended to read:

26140. (a) An A-licensee shall not:

Sell cannabis or cannabis products to persons under 21 years of age.

Allow any person under 21 years of age on its premises.

Employ or retain persons under 21 years of age.

Sell or transfer cannabis or cannabis products unless the person to whom the cannabis or cannabis product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish cannabis to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any cannabis while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase cannabis. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Notwithstanding subdivision (a), an M-licensee may:

Allow on the premises any person 18 years of age or older who possesses a valid government-issued identification card and either a valid physician's recommendation or a valid county-issued identification card under Section 11362.712 of the Health and Safety Code.

Sell cannabis, cannabis products, and cannabis accessories to a person 18 years of age or older who possesses a valid government-issued identification card and either a valid physician's recommendation or a valid county-issued identification card under Section 11362.712 of the Health and Safety Code.

SEC. 84. Section 26150 of the Business and Professions Code is amended to read:

26150. For purposes of this chapter:

“Advertise” means the publication or dissemination of an advertisement.

“Advertisement” includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

Any label affixed to any cannabis or cannabis products, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of this division.

Any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

“Advertising sign” is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of cannabis or cannabis products which are not cultivated, manufactured, distributed, or sold on the same lot.

“Health-related statement” means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of cannabis or cannabis products and health benefits, or effects on health.

“Market” or “Marketing” means any act or process of promoting or selling cannabis or cannabis products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

SEC. 85. Section 26151 of the Business and Professions Code is amended to read:

26151. (a) (1) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee’s license number.

A technology platform shall not display an advertisement by a licensee on an Internet Web page unless the advertisement displays the license number of the licensee.

An outdoor advertising company subject to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200) of Division 3) shall not display an advertisement by a licensee unless the advertisement displays the license number of the licensee.

(b) Any advertising or marketing placed in broadcast, cable, radio, print, and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the licensee. For purposes of this section, that method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

All advertising shall be truthful and appropriately substantiated.

SEC. 86. Section 26152 of the Business and Professions Code is amended to read:

26152. A licensee shall not do any of the following:

Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.

Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

Advertise or market on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

Advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

Publish or disseminate advertising or marketing that is attractive to children.

Advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

SEC. 87. Section 26153 of the Business and Professions Code is amended to read:

26153. A licensee shall not give away any amount of cannabis or cannabis products, or any cannabis accessories, as part of a business promotion or other commercial activity.

SEC. 88. Section 26154 of the Business and Professions Code is amended to read:

26154. A licensee shall not include on the label of any cannabis or cannabis product or publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of cannabis consumption.

SEC. 89. Section 26155 of the Business and Professions Code is amended to read:

26155. (a) The provisions of subdivision (g) of Section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

(b) This chapter does not apply to any noncommercial speech.

SEC. 90. Section 26156 is added to the Business and Professions Code, to read:

26156. The requirements of Section 5272 apply to this division.

SEC. 91. Section 26160 of the Business and Professions Code is amended to read:

26160. (a) A licensee shall keep accurate records of commercial cannabis activity.

(b) All records related to commercial cannabis activity as defined by the licensing authorities shall be maintained for a minimum of seven years.

(c) Licensing authorities may examine the records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections and examinations of records shall be conducted during standard business hours of the licensed facility or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.

Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing authority upon request.

A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.

If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of up to thirty thousand dollars (\$30,000) per individual violation.

SEC. 92. Section 26161 of the Business and Professions Code is amended to read:

26161. (a) Every sale or transport of cannabis or cannabis products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the licensing authorities or State Board of Equalization and shall not be commingled with invoices covering other commodities.

(b) Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:

Name and address of the purchaser.

Date of sale and invoice number.

Kind, quantity, size, and capacity of packages of cannabis or cannabis products sold.

The cost to the purchaser, together with any discount applied to the price as shown on the invoice.

The place from which transport of the cannabis or cannabis product was made unless transport was made from the premises of the licensee.

Any other information specified by the licensing authority.

SEC. 93. Section 26162 is added to the Business and Professions Code, to read:

26162. (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

(b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, and other state and federal laws relating to confidential patient information.

(c) Nothing in this section precludes the following:

Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

Notifications from the bureau or any licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.

Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.

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

Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

SEC. 94. Section 26162.5 is added to the Business and Professions Code, to read:

26162.5. Information contained in a physician's recommendation issued in accordance with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 and received by a licensee, including, but not limited to, the name, address, or social security number of the patient, the patient's medical condition, or the name of the patient's primary caregiver is hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by a licensee except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

SEC. 95. Chapter 17 (commencing with Section 26170) of Division 10 of the Business and Professions Code is repealed.

SEC. 96. Section 26180 of the Business and Professions Code is amended to read:

26180. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26067, but shall not exceed the reasonable regulatory costs to the licensing authority.

The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.

All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Cannabis Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

SEC. 97. Section 26180.5 is added to the Business and Professions Code, to read:

26180.5. No later than January 1, 2018, the Secretary of Business, Consumer Services, and Housing or his or her designee shall initiate work with the Legislature, the Department of Consumer Affairs,

the Department of Food and Agriculture, the State Department of Public Health, and any other related departments to ensure that there is a safe and viable way to collect cash payments for taxes and fees related to the regulation of cannabis activity throughout the state.

SEC. 98. Section 26181 of the Business and Professions Code is amended to read:

26181. The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their cannabis programs.

SEC. 99. Section 26190 of the Business and Professions Code is amended to read:

26190. Beginning on March 1, 2023, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities, in compliance with Section 9795 of the Government Code, and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

The amount of funds allocated and spent by the licensing authority for cannabis licensing, enforcement, and administration.

The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.

The average time for processing state license applications, by state license category.

The number of appeals from the denial of state licenses or other disciplinary actions taken by the licensing authority and the average time spent on these appeals.

The number of complaints submitted by citizens or representatives of cities or counties regarding licensees, provided as both a comprehensive statewide number and by geographical region.

The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities.

The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

A detailed list of the petitions for regulatory relief or rulemaking changes received by the licensing authorities from licensees requesting modifications of the enforcement of rules under this division.

For the first publication of the reports, the licensing authorities shall provide a joint report to the Legislature regarding the state of the cannabis market in California. This report shall identify any statutory or regulatory changes necessary to ensure that the implementation of this division does not do any of the following:

Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power.

Perpetuate the presence of an illegal market for cannabis or cannabis products in the state or out of the state.

Encourage underage use or adult abuse of cannabis or cannabis products, or illegal diversion of cannabis or cannabis products out of the state.

Result in an excessive concentration of licensees in a given city, county, or both.

Present an unreasonable risk of minors being exposed to cannabis or cannabis products.

Result in violations of any environmental protection laws.

For purposes of this subdivision, “excessive concentration” means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:

The ratio of licensees to population in a census tract or census division exceeds the ratio of licensees to population in the county in which the census tract or census division is located, unless reduction of that ratio would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis or cannabis products.

The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division, or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

SEC. 100. Section 26190.5 is added to the Business and Professions Code, to read:

26190.5. The bureau shall contract with the California Cannabis Research Program, known as the Center for Medicinal Cannabis Research, and formerly known as the California Marijuana Research Program, authorized pursuant to Section 11362.9 of the Health and Safety Code, to develop a study that identifies the impact that cannabis has on motor skills.

SEC. 101. Section 26191 of the Business and Professions Code is amended to read:

26191. (a) Commencing January 1, 2019, and by January 1 triennially thereafter, the Office of State Audits and Evaluations within the Department of Finance shall conduct a performance audit of the bureau’s activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

The actual costs of the program.

The overall effectiveness of enforcement programs.

Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(b) The Legislature shall provide sufficient funds to the Department of Finance to conduct the triennial audit required by this section.

SEC. 102. Section 26200 of the Business and Professions Code is amended to read:

26200. (a) (1) This division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

This division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(b) This division shall not be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 60 days of being so informed by the bureau, the relevant licensing authorities shall begin the process to determine whether a license issued to the licensee should be suspended or revoked pursuant to Chapter 3 (commencing with Section 26030).

For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that the activities, at a minimum, comply with the requirements of paragraphs (1) to (3), inclusive, of subdivision (g), that all participants are licensed under this division, and that the activities are otherwise consistent with regulations promulgated and adopted by the bureau governing state temporary event licenses. These temporary event licenses shall only be issued in local jurisdictions that authorize such events.

This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if all of the following are met:

Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older.

Cannabis consumption is not visible from any public place or nonage-restricted area.

Sale or consumption of alcohol or tobacco is not allowed on the premises.

SEC. 103. Section 26202 of the Business and Professions Code is amended to read:

26202. (a) A local jurisdiction may enforce this division and the regulations promulgated by any licensing authority if delegated the power to do so by the licensing authority.

(b) A licensing authority shall implement the delegation of enforcement authority in subdivision (a) through an agreement between the licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

SEC. 104. Section 26210 of the Business and Professions Code is amended to read:

26210. (a) The Marijuana Control Fund, formerly known as the Medical Cannabis Regulation and Safety Act Fund and the Medical Marijuana Regulation and Safety Act Fund, is hereby renamed the Cannabis Control Fund. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on moneys in the fund.

(b) Upon the effective date of this section, whenever “Marijuana Control Fund,” “Medical Cannabis Regulation and Safety Act Fund,” or “Medical Marijuana Regulation and Safety Act Fund” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Cannabis Control Fund.

(c) Any General Fund or special fund loan that was used to establish and support the regulatory activities of the state licensing entities pursuant to former Section 19351 shall be repaid by the initial proceeds from fees collected pursuant to this division or any rule or regulation adopted pursuant to this division, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

The Medical Cannabis Fines and Penalties Account established in former Section 19351 is hereby renamed the Cannabis Fines and Penalties Account.

SEC. 105. Section 26210.5 is added to the Business and Professions Code, to read:

26210.5. By July 1, 2018, the bureau, in coordination with the Department of General Services, shall establish an office to collect fees and taxes in the County of Humboldt, County of Trinity, or County of Mendocino in order to ensure the safe payment and collection of cash in those counties.

SEC. 106. Section 26211 of the Business and Professions Code is amended to read:

26211. (a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the State Board of Equalization under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.

Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the State Board of Equalization, as necessary, to implement the provisions of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

Within 45 days of November 9, 2016, the date this section became operative:

The Director of Finance shall determine an amount of the initial advance from the General Fund to the Cannabis Control Fund that does not exceed thirty million dollars (\$30,000,000); and

There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the State Department of Health Care Services to provide for the public information program described in subdivision (c).

(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Cannabis Control Fund to support the activities of the bureau, state licensing authorities under this division, and the State Board of Equalization to support its activities under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

(c) The State Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of cannabis and cannabis products to persons under the age of 21 years, describe the penalties for providing access to cannabis and cannabis products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from cannabis use, the potential harms of using cannabis while pregnant or breastfeeding, and the potential harms of overusing cannabis or cannabis products.

SEC. 107. Chapter 22 (commencing with Section 26220) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 22. Cannabis Cooperative Associations

Article 1. Definitions

26220. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

26220.1. “Association” means any cannabis cooperative that is organized pursuant to this chapter. An association shall be deemed incorporated pursuant to this chapter, or organized pursuant to this chapter and shall be deemed a cultivator of a cannabis product within the meaning of this chapter, if it is functioning under, or is subject to, the provisions of this chapter, irrespective of whether it was originally incorporated pursuant to those provisions or was incorporated under other provisions.

26220.2. “Member” includes members of associations without capital stock and holders of common stock in associations that are organized with shares of stock.

26220.3. “Cannabis product” includes any cannabis associated with a licensed cultivator.

Article 2. General Provisions

26222. The purpose of this chapter is to do all of the following:

Promote, foster, and encourage the intelligent and orderly marketing of cannabis product through cooperation.

Eliminate speculation and waste.

Make the distribution of cannabis product as direct as can be efficiently done.

Stabilize the marketing of cannabis product.

Satisfy the conditions of Section 26052.

26222.1. An exemption under law that applies to a cannabis product in the possession, or under the control, of the individual cultivator, shall apply similarly and completely to the cannabis product that is delivered by its cultivator members that are in the possession, or under the control, of the association.

26222.2. A person, firm, corporation, or association, that is hereafter organized or doing business in this state, may not use the word “cannabis cooperative” as part of its corporate name or other business name or title for producers’ cooperative marketing activities, unless it has complied with this chapter.

26222.3. An association that is organized pursuant to this chapter shall not conspire in restraint of trade, or serve as an illegal monopoly, attempt to lessen competition, or to fix prices in violation of law of this state.

26222.4. The marketing contracts and agreements between an association that is organized pursuant to this chapter and its members and any agreements authorized in this chapter shall not result in restraint of trade, or violation of law of this state.

26222.5. The General Corporation Law (Division 1 (commencing with Section 100) of Title 1 of the Corporations Code) applies to each association that is organized pursuant to this chapter, except where those provisions are in conflict with or inconsistent with the express provisions of this chapter. For the purpose of associations organized without shares of stock, the members shall be deemed to be “shareholders” as the term is used in the General Corporation Law.

26222.6. (a) Except as provided in subdivision (c), Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure does not apply to a proprietary interest in an association organized in accordance with this chapter. A proprietary interest that would otherwise escheat to the state pursuant to Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure shall instead become the property of the association.

(b) Notwithstanding subdivision (a), no proprietary interest shall become the property of the association under this section unless all of the following requirements are satisfied:

At least 60 days’ prior notice of the proposed transfer of the proprietary interest to the association is given to the affected member by first-class or certified mail to the last address of the member shown on the association’s records, and by publication in a newspaper of general circulation in the county in which the member last resided as shown on the association’s records. Notice given pursuant to this paragraph constitutes actual notice.

No written notice objecting to the transfer is received by the association from the affected member or, if the member is deceased, from the member’s heirs or the executor or executrix of the estate, prior to the date of the proposed transfer.

(c) “Proprietary interest” means and includes any membership, membership certificate, membership share, share certificate, or equity or dividend certificate of any class representing a proprietary interest in, and issued by, the association together with all accrued and unpaid earnings, dividends, and patronage distributions relating thereto.

Article 3. Purposes

26223. (a) Three or more natural persons, who are engaged in the cultivation of any cannabis product, may form an association pursuant to this chapter for the purpose of engaging in any activity in connection with any of the following:

The cultivation, marketing, or selling of the cannabis products of its members.

The growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any product of its members.

The manufacturing, selling, or supplying to its members of machinery, equipment, or supplies.

The financing of the activities that are specified by this section.

(b) Members of a cannabis cooperative shall be disclosed to the licensing authority before the application is processed.

(c) Members of a cannabis cooperative formed pursuant to this chapter shall be limited to cultivators who only hold a single Type 1 or Type 2 license.

Collectively, members of a cannabis cooperative shall not grow more than four acres of total canopy size of cultivation throughout the state during the period that the respective licensees are valid.

No member of a cooperative formed pursuant to this section shall be licensed to operate a cannabis business in another state or country.

Article 4. Articles of Incorporation

26224. The articles of incorporation of an association shall show that the signers of the articles of incorporation are engaged in the cultivation of cannabis products, and that they propose to incorporate an association pursuant to this chapter, and shall state all of the following:

The name of the association.

The purposes for which it is formed.

The city, county, or city and county where the principal office for the transaction of business of the association is to be located.

The number of directors of the association, which shall not be less than three, and the names and addresses of the persons who are to serve as first directors. If it is desired that the first directors shall serve for terms of different lengths, the term for which each person so named to serve shall also be stated.

If organized without shares of stock, whether the voting power and the property rights and interest of each member are equal or unequal. If voting power and property rights and interest of each member are unequal, the general rule or rules that are applicable to all members by which the voting power and the property rights and interests, respectively, of each member may be and are determined and fixed shall also be stated.

If organized with shares of stock, the number of shares that may be issued and if the shares are to have a par value, the par value of each share, and the aggregate par value of all shares. If the shares are to be without par value, it shall be so stated.

If the shares of stock are to be classified, a description of the classes of shares and a statement of the number of shares of each kind or class and the nature and extent of the preferences, rights, privileges, and restrictions that are granted to or imposed upon the holders of the respective classes of stock. Except as to the matters and things so stated, no distinction shall exist between the classes of stock or the holders of them. One class of stock shall always be known as common stock, and voting power may be restricted to holders of common stock.

26224.1. Articles of incorporation shall be signed, acknowledged, and filed in the manner that is prescribed by the general laws of this state for domestic corporations.

26224.2. The articles of incorporation of any association may be amended in the manner and for the purposes which are authorized by the General Corporation Law, Division 1 (commencing with Section 100) of Title 1 of the Corporations Code.

Article 5. Bylaws

26225. Each association shall, within 30 days after its incorporation, adopt for its government and management, a code of bylaws, consistent with this chapter. The vote or written assent of shareholders or members that hold at least a majority of the voting power is necessary to adopt the bylaws and is effectual to repeal or amend a bylaw, or to adopt an additional bylaw. The power to repeal and amend the bylaws, and adopt new bylaws, may, by a similar vote, or similar written assent, be delegated to the board of directors, which authority may, by a similar vote, or similar written assent, be revoked.

26225.1. The bylaws may prescribe the time, place, and manner of calling and conducting its meetings. Meetings of members or stockholders shall be held at the place as provided in the bylaws, or, if no provision is made, in the city, county, or city and county where the principal place of business is located at a place designated by the board of directors. Meetings of the board of directors may be held at any place within or without the state that is fixed by a quorum of the board of directors unless otherwise provided in the articles of incorporation or bylaws.

26225.2. The bylaws may prescribe the number of stockholders, directors, or members that constitutes a quorum.

26225.3. The bylaws may prescribe the following:

The right of members or stockholders to vote by proxy or by mail or both, and the conditions, manner, form, and effects of those votes.

The right of members or stockholders to cumulate their votes and the prohibition, if any, of cumulative voting.

26225.4. (a) The bylaws may prescribe the qualifications, compensation, duties, and term of office of directors and officers and the time of their election.

The number of directors set forth in the articles of incorporation shall be either a fixed number or a variable number. If a fixed number, it shall not be less than three, and if a variable number, the stated

minimum shall not be less than three and the stated maximum shall not be greater than two times the stated minimum minus one.

The number of directors may also be set forth in the bylaws either as a fixed number or as a variable number subject to the same limitations as in subdivision (b). After shares have been issued or members have been admitted, any adoption or amendment of the bylaw provision shall be approved by the outstanding shares as provided in Section 152 of the Corporations Code.

In the event of an inconsistency between an article provision referred to in subdivision (b) and a bylaw provision referred to in subdivision (c), the provision more recently adopted or amended shall prevail.

If a variable number of directors is set forth in the articles of incorporation or the bylaws, the exact number of directors shall be fixed, within the limits specified, by approval of the board of directors or the shareholders as provided in Section 153 of the Corporations Code in the manner designated in the bylaws.

26225.5. The bylaws may prescribe penalties for violations of the bylaws.

26225.6. The bylaws may prescribe the amount of entrance, organization, and membership fees, if any, the manner and method of collection of the fees, and the purposes for which they may be used.

26225.7. The bylaws may prescribe the amount that each member or stockholder shall be required to pay annually, or from time to time, if at all, to carry on the business of the association, the charge, if any, to be paid by each member or stockholder for services that are rendered by the association to him, the time of payment and the manner of collection, and the marketing contract between the association and its members or stockholders that every member or stockholder may be required to sign.

26225.8. The bylaws may prescribe the amount of dividends, if any, that may be declared on the stock or membership capital. To the extent that dividends are payable out of the excess of association income over association expenses attributable to business transacted with or for members, dividends shall not exceed 8 percent per annum.

26225.9. The bylaws may prescribe any of the following:

The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock.

The method, time, and manner of permitting members to withdraw or the holders of common stock to transfer their stock.

The manner of assignment and transfer of the interest of members, and of the shares of common stock.

The conditions under which, and time when, membership of a member shall cease.

The automatic suspension of the rights of a member when he or she ceases to be eligible to membership in the association.

The mode, manner, and effect of the expulsion of a member.

26225.95. (a) The bylaws may prescribe any of the following:

The manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture of his or her membership, or at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors.

The conditions and terms for the repurchase by the association from its stockholders of their stock upon their disqualification as stockholders.

(b) If a member is expelled and the bylaws do not provide any procedure or penalty for expulsion, the board of directors shall equitably and conclusively appraise his or her property interest in the association and shall fix the amount of his or her property interest in money, which shall be paid to him or her within one year after such expulsion.

Article 6. Directors and Management

26226. The affairs of the association shall be managed by a board of not less than three directors who are elected by the members or stockholders.

26226.1. The bylaws may provide that the territory in which the association has members shall be divided into districts and that directors shall be elected from the several districts. If the bylaws divides the territory into districts for the election of directors, the bylaws shall specify the number of directors to be elected by each district and the manner and method of reapportioning the directors and of redistricting the territory covered by the association.

26226.2. The bylaws may provide that primary elections shall be held to nominate directors. If the bylaws provide that the territory in which the association has members shall be divided into districts, the bylaws may also provide that the results of the primary elections in the various districts shall be final and shall be ratified at the annual meeting of the association.

26226.3. The bylaws may provide that the territory in which the association has members shall be divided into districts, and that the directors shall be elected by representatives or advisers, who themselves have been elected by the members or stockholders from the several territorial districts. If the bylaws divide the territory into districts for the election of representatives or advisers who elect the directors, the bylaws shall specify the number of representatives or advisers to be elected by each district and the manner and method of reapportioning the representatives or advisers and of redistricting the territory that is covered by the association.

26226.4. The bylaws may provide that one or more directors may be chosen by a public official or commission or by the other directors selected by the members. The director shall represent primarily the interest of the general public in the association. The director shall have the same powers and rights as other directors. These directors shall not number more than one-fifth of the entire number of directors.

26226.5. The bylaws may provide for an executive committee and may allot to the committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

26226.6. An association may provide a fair remuneration for the time that is actually spent by its officers and directors in its service and for the service of the members of its executive committee.

26226.7. If a vacancy on the board of directors occurs, except by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the bylaws provide for an

election of directors by districts. If the bylaws provide for an election of directors by districts, the vacancy shall be filled either by the election of a director from the district in which the vacancy occurs or by the board of directors calling a special meeting of the members or stockholders in that district to fill the vacancy.

26226.8. (a) The directors shall elect a president, one or more vice presidents, a secretary, a treasurer, and such other officers as may be prescribed by the bylaws. Any two or more offices, except those of president and secretary, may be held by the same person.

(b) The treasurer may be a bank or a depository and, as such, shall not be considered as an officer, but as a function of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds shall be deposited only as and where authorized by the board of directors.

26226.9. (a) A member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition that is signed by 5 percent of the members, which requests the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer, against whom the charges have been brought, shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses. The person bringing the charges against him or her shall have the same opportunity.

(b) If the bylaws provide for election of directors by districts with primary elections in each district, the petition for removal of a director shall be signed by 20 percent of the members that reside in the district from which the director was elected. The board of directors shall call a special meeting of the members who reside in that district to consider the removal of the director. By a vote of the majority of the members of that district at the special meeting, the director in question shall be removed from office.

Article 7. Powers

26227. An association may engage in any activity in connection with the growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any cannabis product that is produced or delivered to it by its members; or any activity in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment, or in the financing of any such activities; or in any one or more of the activities that are specified in this section with a valid license.

26227.1. An association may borrow without limitation as to the amount of corporate indebtedness or liability and may make advances to members.

26227.2. An association may act as the agent or representative of any member or members in any of the activities specified in Section 26226.2 or 26226.3.

26227.3. An association may purchase or otherwise acquire, hold, own, and exercise all rights of ownership in, sell, transfer, pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of an association that is engaged in any related activity or in the growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of a cannabis product that is handled by the association.

26227.4. An association may establish reserves and invest the funds of the reserves in bonds or in other property as may be provided in the bylaws.

26227.5. An association may buy, hold, and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conduct and operation of, or incidental to, the business of the association.

26227.6. An association may levy assessments in the manner and in the amount as may be provided in its bylaws.

26227.7. An association may do any of the following anywhere:

That which is what is necessary, suitable, or proper for the accomplishment of a purpose, or the attainment of an object, that is enumerated in this article.

That which is conducive to, or expedient for, the interest or benefit of the association.

Contract accordingly.

Exercise and possess all powers, rights, and privileges that are necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged.

Exercise any other rights, powers, and privileges that are granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this chapter.

26227.75. An association may use or employ any of its facilities for any purpose, provided the proceeds that arise from such use and employment shall go to reduce the cost of operation for its members. The cannabis products that are handled for, or the services, machinery, equipment, or supplies or facilities that are furnished to, nonmembers shall not, however, exceed in value the cannabis products that are handled for, or the services, merchandise, or facilities that are supplied to, members during the same period.

26227.8. (a) An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other association, with or without capital stock, that is engaged in growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any cannabis product that is handled by the association, or the byproducts of the cannabis product.

(b) Any two or more associations that are organized pursuant to this section may be merged into one constituent association or consolidated into a new association. The merger or consolidation shall be made in the manner that is prescribed by the general laws of the state that cover domestic corporations.

26227.9. (a) Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations and arrangements with another cannabis cooperative or association that is formed in this or in any other state for the cannabis cooperative and more economical carrying on of its business or any part of its business.

(b) Any two or more associations may, by agreement between them, unite in employing and using, or may separately employ and use, the same personnel, methods, means, and agencies for carrying on and conducting their respective business.

Article 8. Financial Provisions

26228. An association is not subject in any manner to the terms of the Corporate Securities Law (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code), and any association may issue its membership certificates or stock or other securities as provided in this chapter without the necessity of any qualification under that law.

26228.1. If an association issues nonpar value stock, the issuance of the stock shall be governed by the terms of all general laws that cover the issuance of nonpar value stock in domestic corporations.

26228.2. If an association with preferred shares of stock purchases the stock or any property, or any interest in any property of any person, it may discharge the obligations that are so incurred, wholly or in part, by exchanging for the acquired interest, shares of its preferred stock to an amount that at par value would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. In that case, the transfer to the association of the stock or interest that is purchased is equivalent to payment in cash for the shares of stock that are issued.

26228.3. The board of directors of every association shall cause to be sent to the members of the association not later than 120 days after the close of the fiscal or calendar year an annual report of the operations of the association, unless the report is expressly dispensed with in the bylaws. If required by the bylaws, interim reports of the operations of the association for the three-month, six-month, or nine-month periods of the current fiscal year of the association shall be furnished to the members of the association. Such annual report and any such interim reports shall include a balance sheet as of such closing date. Such financial statement shall be prepared from, and be in accordance with, the books. It shall be prepared in a form that is sanctioned by sound accounting practice for the association or approved by a duly certified public accountant or a public accountant.

Article 9. Members

26229. Under the terms and conditions that are prescribed in the bylaws adopted by it, an association may admit as members or issue common stock only to persons engaged in the cultivation of a cannabis product that is to be handled by or through the association.

26229.1. If a member of a nonstock association is other than a natural person, the member may be represented by any individual, associate, officer, or manager or member of it, who is duly authorized in writing.

26229.2. Any association may become a member or stockholder of any other association.

26229.3. If a member of an association that is established without shares of stock has paid his membership fee in full, he or she shall receive a certificate of membership.

26229.4. An association shall not issue a certificate for stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but the retention as security does not affect the member's right to vote.

26229.5. An association, in its bylaws, may limit the amount of common stock that any member may own.

26229.6. The bylaws shall prohibit the transfer of the common stock or membership certificates of the associations to a person that is not qualified to be a shareholder or member as specified in this chapter. These restrictions shall be printed upon every certificate of stock or membership that is subject to them.

26229.7. The association may, at any time, as specified in the bylaws, except when the debts of the association exceed 50 percent of its assets, buy in or purchase its common stock at the book value of the common stock, as conclusively determined by the board of directors, and pay for it in cash within one year thereafter.

26229.8. A member or stockholder is not liable for the debts of the association to an amount that exceeds the sum that remains unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory note that is given in payment of the membership fee or the subscription to the capital stock.

Article 10. Marketing Contracts

26230. The association and its members may make and execute marketing contracts that require the members to sell, for any period of time, but not over 15 years, all or a specified part of a cannabis product exclusively to or through the association, or a facility that is created by the association. If the members contract a sale to the association, title to the cannabis product passes absolutely and unreservedly, except for recorded liens, to the association upon delivery or at another specified time that is expressly and definitely agreed in the contract.

26230.1. Notwithstanding any provisions of the Civil Code, a contract that is entered into by a member or stockholder of an association that provides for the delivery to the association of a cannabis product that is produced or acquired by the member or stockholder may be specifically enforced by the association to secure the delivery to it of the cannabis product.

26230.2. The bylaws or a marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by him or her of any provision of the marketing contract regarding the sale or delivery or withholding of a cannabis product and may provide that the member will pay all costs, premiums for bonds, expenses, and fees, if any action is brought upon the contract by the association. These provisions are valid and enforceable in the courts of this state. The clauses that provide for liquidated damages are enforceable as such and shall not be regarded as penalties.

26230.3. If there is a breach or threatened breach of a marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance of the contract. Pending the adjudication of the action and upon filing a verified complaint that shows the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

Article 11. Reorganization of Corporations Organized Pursuant to Other Laws

26231. A corporation that is organized or existing pursuant to any law except Title 23 (commencing with Section 653aa) of Part 4 of Division 1 of the Civil Code may be brought under the provisions of this chapter by amending its articles of incorporation, in the manner that is prescribed by the general corporation laws, to conform to this chapter. If a corporation amends its articles of incorporation to conform to this chapter, it shall be deemed to be organized and existing pursuant to, and entitled to the benefit of, and subject to this chapter for all purposes and as fully as though it had been originally organized pursuant to this chapter.

26231.1. Articles of incorporation shall be deemed to conform to this chapter within the meaning of Section 26231 if it clearly appears from the articles of incorporation that the corporation desires to be subject to, and to be organized, exist, and function pursuant to this chapter.

26231.2. If the amended articles conform, as provided in Section 26231.1, provisions in the articles of incorporation that appeared in the original articles or some previous amended articles, are ineffective if, and to the extent that, they are inapplicable to, or inconsistent with, this chapter.

SEC. 108. Section 1602 of the Fish and Game Code is amended to read:

1602. (a) An entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:

A detailed description of the project's location and a map.

The name, if any, of the river, stream, or lake affected.

A detailed project description, including, but not limited to, construction plans and drawings, if applicable.

A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

A copy of any other applicable local, state, or federal permit or agreement already issued.

Any other information required by the department.

The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.

The entity pays the applicable fees, pursuant to Section 1609.

One of the following occurs:

The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the

log to that person monthly for one year. A request made pursuant to this clause may be renewed annually.

The department determines that the activity may substantially adversely affect an existing fish or wildlife resource and issues a final agreement to the entity that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.

A panel of arbitrators issues a final agreement to the entity in accordance with subdivision (b) of Section 1603, and the entity conducts the activity in accordance with the agreement.

The department does not issue a draft agreement to the entity within 60 days from the date notification is complete, and the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(b) (1) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required after the initial notification and agreement, unless the department determines either of the following:

The work described in the agreement has substantially changed.

Conditions affecting fish and wildlife resources have substantially changed, and those resources are adversely affected by the activity conducted under the agreement.

This subdivision applies only if notice to, and agreement with, the department was attained prior to January 1, 1977, and the department has been provided a copy of the agreement or other proof of the existence of the agreement that satisfies the department, if requested.

(c) Notwithstanding subdivision (a), the department is not required to determine whether the notification is complete or otherwise process the notification until the department has received the applicable fees.

Notwithstanding subdivision (a), an entity shall not be required to obtain an agreement with the department pursuant to this chapter for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if all of the following occur:

The entity submits all of the following to the department:

The written notification described in paragraph (1) of subdivision (a).

A copy of the license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture that includes the requirements specified in Section 26060.1 of the Business and Professions Code.

The fee specified in paragraph (3) of subdivision (a).

The department determines in its sole discretion that compliance with the requirements specified in Section 26060.1 of the Business and Professions Code that are included in the license will adequately protect existing fish and wildlife resources

that may be substantially adversely affected by the cultivation without the need for additional measures that the department would include in a draft streambed alteration agreement in accordance with Section 1603.

The department notifies the entity in writing that the exemption applies to the cultivation authorized by the license or renewed license.

The department shall notify the entity in writing whether the exemption in paragraph (1) applies to the cultivation authorized by the license or renewed license within 60 days from the date that the notification is complete and the fee has been paid.

If an entity receives an exemption pursuant to this subdivision and fails to comply with any of the requirements described in Section 26060.1 of the Business and Professions Code that are included in the license, the failure shall constitute a violation under this section, and the department shall notify the Department of Food and Agriculture of any enforcement action taken.

It is unlawful for any entity to violate this chapter.

SEC. 109. Section 1617 of the Fish and Game Code is amended to read:

1617. (a) The department may adopt general agreements for the cultivation of cannabis.

(b) Any general agreement adopted by the department subsequent to adoption of regulations under this section shall be in lieu of an individual agreement described in subparagraph (B) of paragraph (4) of subdivision (a) of Section 1602.

(c) Subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and all other time periods to process agreements specified in this chapter do not apply to the issuance of a general agreement adopted by the department pursuant to this section.

Any general agreement issued by the department pursuant to this section is a final agreement and is not subject to Section 1603 or 1604.

The department shall charge a fee for a general agreement adopted by the department under this section in accordance with Section 1609.

If the department adopts or amends a general agreement under this section, it shall do so as an emergency regulation. An emergency regulation adopted pursuant to this section, and any amendments to it, shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the department, or any amendments to it made by the department pursuant to this section, shall stay in effect until revised by the department.

Regulations adopted pursuant to this section, and any amendment thereto, shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 110. Section 37104 of the Food and Agricultural Code is amended to read:

37104. Notwithstanding Section 26001 of the Business and Professions Code, butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with medicinal or adult-use cannabis at the premises or location that is not subject to licensing as a milk product plant is exempt from the provisions of this division.

SEC. 111. Section 54036 of the Food and Agricultural Code is amended to read:

54036. A person, firm, corporation, or association, that is hereafter organized or doing business in this state, may not use the word “cooperative” as part of its corporate name or other business name or title for producers’ cooperative marketing activities, unless it has complied with this chapter or is otherwise authorized by Chapter 22 (commencing with Section 26220) of Division 10 of the Business and Professions Code.

SEC. 112. Section 81010 of the Food and Agricultural Code is amended to read:

81010. This division, and Section 221 shall become operative on January 1, 2017.

SEC. 113. Section 11006.5 of the Health and Safety Code is amended to read:

11006.5. “Concentrated cannabis” means the separated resin, whether crude or purified, obtained from cannabis.

SEC. 114. Section 11014.5 of the Health and Safety Code is amended to read:

11014.5. (a) “Drug paraphernalia” means all equipment, products and materials of any kind which are designed for use or marketed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this division. It includes, but is not limited to:

Kits designed for use or marketed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

Kits designed for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

Isomerization devices designed for use or marketed for use in increasing the potency of any species of plant which is a controlled substance.

Testing equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.

Scales and balances designed for use or marketed for use in weighing or measuring controlled substances.

Containers and other objects designed for use or marketed for use in storing or concealing controlled substances.

Hypodermic syringes, needles, and other objects designed for use or marketed for use in parenterally injecting controlled substances into the human body.

Objects designed for use or marketed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, such as:

Carburetion tubes and devices.

Smoking and carburetion masks.

Roach clips, meaning objects used to hold burning material, such as a cannabis cigarette, that has become too small or too short to be held in the hand.

Miniature cocaine spoons, and cocaine vials.

Chamber pipes.

Carburetor pipes.

Electric pipes.

Air-driven pipes.

Chillums.

Bongs.

Ice pipes or chillers.

(b) For the purposes of this section, the phrase “marketed for use” means advertising, distributing, offering for sale, displaying for sale, or selling in a manner which promotes the use of equipment, products, or materials with controlled substances.

(c) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

Statements by an owner or by anyone in control of the object concerning its use.

Instructions, oral or written, provided with the object concerning its use for ingesting, inhaling, or otherwise introducing a controlled substance into the human body.

Descriptive materials accompanying the object which explain or depict its use.

National and local advertising concerning its use.

The manner in which the object is displayed for sale.

Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

Expert testimony concerning its use.

If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

SEC. 115. Section 11018 of the Health and Safety Code is amended to read:

11018. “Cannabis” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include either of the following:

Industrial hemp, as defined in Section 11018.5.

The weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

SEC. 116. Section 11018.1 of the Health and Safety Code is amended to read:

11018.1. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

SEC. 117. Section 11018.2 of the Health and Safety Code is amended to read:

11018.2. “Cannabis accessories” means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

SEC. 118. Section 11018.5 of the Health and Safety Code is amended to read:

11018.5. (a) “Industrial hemp” means a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

Industrial hemp shall not be subject to the provisions of this division or of Division 10 (commencing with Section 26000) of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 (commencing with Section 81000) of the Food and Agricultural Code, inclusive.

SEC. 119. Section 11032 of the Health and Safety Code is amended to read:

11032. If reference is made to the term “narcotics” in any law not in this division, unless otherwise expressly provided, it means those controlled substances classified in Schedules I and II, as defined in this division. If reference is made to “restricted dangerous drugs” not in this division, unless otherwise expressly provided, it means those controlled substances classified in Schedules III and IV. If reference is made to the term “marijuana” in any law not in this division, unless otherwise expressly provided, it means cannabis as defined in this division.

SEC. 120. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) The controlled substances listed in this section are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever

the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetylmethadol.

Allylprodine.

Alphacetylmethadol (except levoalphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).

Alphameprodine.

Alphamethadol.

Benzethidine.

Betacetylmethadol.

Betameprodine.

Betamethadol.

Betaprodine.

Clonitazene.

Dextromoramide.

Diampromide.

Diethylthiambutene.

Difenoxin.

Dimenoxadol.

Dimepheptanol.

Dimethylthiambutene.

Dioxaphetyl butyrate.

Dipipanone.

Ethylmethylthiambutene.

Etonitazene.

Etoxidine.

Furethidine.

Hydroxypethidine.

Ketobemidone.

Levomoramide.

Levophenacymorphan.

Morpheridine.

Noracymethadol.

Norlevorphanol.

Normethadone.

Norpipanone.

Phenadoxone.

Phenampromide.

Phenomorphane.

Phenoperidine.

Piritramide.

Proheptazine.

Properidine.

Propiram.

Racemoramide.

Tilidine.

Trimeperidine.

Any substance which contains any quantity of acetylfentanyl (N-[1-phenethyl-4-piperidinyl] acetanilide) or a derivative thereof.

Any substance which contains any quantity of the thiophene analog of acetylfentanyl (N-[1-[2-(2-thienyl)ethyl]-4-piperidinyl] acetanilide) or a derivative thereof.

(47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPPP).

(48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).

Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine.

Acetyldihydrocodeine.

Benzylmorphine.

Codeine methylbromide.

Codeine-N-Oxide.

Cyprenorphine.

Desomorphine.
Dihydromorphine.
Drotebanol.
Etorphine (except hydrochloride salt).
Heroin.
Hydromorphenol.
Methyldesorphine.
Methyldihydromorphine.
Morphine methylbromide.
Morphine methylsulfonate.
Morphine-N-Oxide.
Myrophine.
Nicocodeine.
Nicomorphine.
Normorphine.
Pholcodine.
Thebacon.

Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term “isomer” includes the optical, position, and geometric isomers):

(1) 4-bromo-2,5-dimethoxy-amphetamine—Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.

2,5-dimethoxyamphetamine—Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.

(3) 4-methoxyamphetamine—Some trade or other names: 4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.

(4) 5-methoxy-3,4-methylenedioxy-amphetamine.

(5) 4-methyl-2,5-dimethoxy-amphetamine—Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; “DOM”; and “STP.”

3,4-methylenedioxy amphetamine.

3,4,5-trimethoxy amphetamine.

Bufotenine—Some trade or other names: 3-(beta-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserotonin, 5-hydroxy-N,N-dimethyltryptamine; mappine.

Diethyltryptamine—Some trade or other names: N,N-Diethyltryptamine; DET.

Dimethyltryptamine—Some trade or other names: DMT.

Ibogaine—Some trade or other names: 7-Ethyl-6,6beta, 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernantheiboga.

Lysergic acid diethylamide.

Cannabis.

Mescaline.

Peyote—Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).

N-ethyl-3-piperidyl benzilate.

N-methyl-3-piperidyl benzilate.

Psilocybin.

Psilocyn.

Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

Because nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.

Ethylamine analog of phencyclidine—Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

Pyrrolidine analog of phencyclidine—Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCP, PHP.

Thiophene analog of phencyclidine—Some trade or other names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.

Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a

depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

Mecloqualone.

Methaqualone.

Gamma hydroxybutyric acid (also known by other names such as GHB; gamma hydroxy butyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate), including its immediate precursors, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, including, but not limited to, gammabutyrolactone, for which an application has not been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its isomers:

Cocaine base.

Fenethylline, including its salts.

N-Ethylamphetamine, including its salts.

SEC. 121. The heading of Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of the Health and Safety Code is amended to read:

Article 2. Cannabis

SEC. 122. Section 11357 of the Health and Safety Code is amended to read:

11357. (a) Except as authorized by law, possession of not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, or both, shall be punished or adjudicated as follows:

Persons under the age of 18 are guilty of an infraction and shall be required to:

Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.

Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.

Persons at least 18 years of age but less than 21 years of age are guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).

(b) Except as authorized by law, possession of more than 28.5 grams of cannabis, or more than four grams of concentrated cannabis, shall be punished as follows:

Persons under the age of 18 who possess more than 28.5 grams of cannabis or more than four grams of concentrated cannabis, or both, are guilty of an infraction and shall be required to:

Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.

Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.

Persons 18 years of age or over who possess more than 28.5 grams of cannabis, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both that fine and imprisonment.

(c) Except as authorized by law, a person 18 years of age or over who possesses not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished as follows:

A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

A fine of not more than five hundred dollars (\$500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

Except as authorized by law, a person under the age of 18 who possesses not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of an infraction and shall be punished in the same manner provided in paragraph (1) of subdivision (b).

SEC. 123. Section 11358 of the Health and Safety Code is amended to read:

11358. Each person who plants, cultivates, harvests, dries, or processes cannabis plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

Each person under the age of 18 who plants, cultivates, harvests, dries, or processes any cannabis plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

Each person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living cannabis plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

Each person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living cannabis plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both that fine and imprisonment.

Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living cannabis plants, or any part thereof, except as otherwise

provided by law, may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if any of the following conditions exist:

The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.

The person has two or more prior convictions under subdivision (c).

The offense resulted in any of the following:

Violation of Section 1052 of the Water Code relating to illegal diversion of water.

Violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of water.

Violation of Section 5650 or 5652 of the Fish and Game Code relating to waters of the state.

Violation of Section 1602 of the Fish and Game Code relating to rivers, streams, and lakes.

Violation of Section 374.8 of the Penal Code relating to hazardous substances or Section 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous waste.

Violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act, or Section 2000 of the Fish and Game Code relating to the unlawful taking of fish and wildlife.

Intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

SEC. 124. Section 11359 of the Health and Safety Code is amended to read:

11359. Every person who possesses for sale any cannabis, except as otherwise provided by law, shall be punished as follows:

Every person under the age of 18 who possesses cannabis for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

Every person 18 years of age or over who possesses cannabis for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

Notwithstanding subdivision (b), a person 18 years of age or over who possesses cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

The person has two or more prior convictions under subdivision (b); or

The offense occurred in connection with the knowing sale or attempted sale of cannabis to a person under the age of 18 years.

Notwithstanding subdivision (b), a person 21 years of age or over who possesses cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any cannabis.

SEC. 125. Section 11360 of the Health and Safety Code is amended to read:

11360. (a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any cannabis shall be punished as follows:

Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of Section 11357.

Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three, or four years if:

The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

The person has two or more prior convictions under paragraph (2);

The offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer, or give away cannabis to a person under the age of 18 years; or

The offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of cannabis or more than four grams of concentrated cannabis.

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of cannabis, other than concentrated cannabis, is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, that person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) For purposes of this section, "transport" means to transport for sale.

This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

SEC. 126. Section 11361 of the Health and Safety Code is amended to read:

11361. (a) A person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any cannabis, who unlawfully sells, or offers to sell, any cannabis to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any cannabis to a minor under 14 years of age, or who induces a minor to use cannabis in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

(b) A person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any cannabis to a minor 14 years of age or older in violation of law shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 127. Section 11361.1 of the Health and Safety Code is amended to read:

11361.1. (a) The drug education and counseling requirements under Sections 11357, 11358, 11359, and 11360 shall be:

Mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;

Free to participants, and shall consist of at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of cannabis and other controlled substances.

(b) For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under Sections 11357, 11358, 11359, and 11360.

SEC. 128. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. (a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of Section 11357 or subdivision (b) of Section 11360, or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (d) of Section 11357, or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records, including the statewide criminal databases, shall provide for the timely destruction of the records in accordance with subdivision (c), and those records shall also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether the defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction,

incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall commence from the date the person is released from custody. The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

Any violation of Section 11357 or a statutory predecessor thereof.

Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking cannabis, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Unlawful visitation or presence in a room or place in which cannabis is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Unlawfully using or being under the influence of cannabis, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents (\$37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars (\$10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c)

and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

SEC. 129. Section 11362.1 of the Health and Safety Code is amended to read:

11362.1. (a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:

Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis;

Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of cannabis in the form of concentrated cannabis, including as contained in cannabis products;

Possess, plant, cultivate, harvest, dry, or process not more than six living cannabis plants and possess the cannabis produced by the plants;

Smoke or ingest cannabis or cannabis products; and

Possess, transport, purchase, obtain, use, manufacture, or give away cannabis accessories to persons 21 years of age or older without any compensation whatsoever.

(b) Paragraph (5) of subdivision (a) is intended to meet the requirements of subsection (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. Sec. 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute cannabis accessories.

(c) Cannabis and cannabis products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.

SEC. 130. Section 11362.2 of the Health and Safety Code is amended to read:

11362.2. (a) Personal cultivation of cannabis under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:

A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b).

The living plants and any cannabis produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.

Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

(b) (1) A city, county, or city and county may enact and enforce reasonable regulations to regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.

Notwithstanding paragraph (1), a city, county, or city and county shall not completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.

Paragraph (3) shall become inoperative upon a determination by the California Attorney General that adult use of cannabis is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) is unenforceable upon the date of that determination by the Attorney General.

For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

SEC. 131. Section 11362.3 of the Health and Safety Code is amended to read:

11362.3. (a) Section 11362.1 does not permit any person to:

Smoke or ingest cannabis or cannabis products in a public place, except in accordance with Section 26200 of the Business and Professions Code.

Smoke cannabis or cannabis products in a location where smoking tobacco is prohibited.

Smoke cannabis or cannabis products within 1,000 feet of a school, day care center, or youth center while children are present at the school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of the school, day care center, or youth center while children are present.

Possess an open container or open package of cannabis or cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

Possess, smoke, or ingest cannabis or cannabis products in or upon the grounds of a school, day care center, or youth center while children are present.

Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Division 10 (commencing with Section 26000) of the Business and Professions Code.

Smoke or ingest cannabis or cannabis products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

Smoke or ingest cannabis or cannabis products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under 21 years of age are present.

(b) For purposes of this section, the following definitions apply:

“Day care center” has the same meaning as in Section 1596.76.

“Smoke” means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated cannabis or cannabis product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoke” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

“Volatile solvent” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

“Youth center” has the same meaning as in Section 11353.1.

(c) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

SEC. 132. Section 11362.4 of the Health and Safety Code is amended to read:

11362.4. (a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one-hundred-dollar (\$100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.

(b) A person who engages in the conduct described in paragraphs (2), (3), or (4) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine, unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivision (c) or (d) of Section 11357.

A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.

A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine.

Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.

The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that such a program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.

The drug education program required by this section for persons under the age of 18 shall be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of cannabis and other controlled substances.

Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

SEC. 133. Section 11362.45 of the Health and Safety Code is amended to read:

11362.45. Section 11362.1 does not amend, repeal, affect, restrict, or preempt:

Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, cannabis or cannabis products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.

Laws prohibiting the sale, administering, furnishing, or giving away of cannabis, cannabis products, or cannabis accessories, or the offering to sell, administer, furnish, or give away cannabis, cannabis products, or cannabis accessories to a person younger than 21 years of age.

Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.

Laws pertaining to smoking or ingesting cannabis or cannabis products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting cannabis or cannabis products.

The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace, or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 within a building owned, leased, or occupied by the state or local government agency.

The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 on the individual's or entity's privately owned property.

Laws pertaining to the Compassionate Use Act of 1996.

SEC. 134. Section 11362.7 of the Health and Safety Code is amended to read:

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

“Attending physician” means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of cannabis is appropriate.

“Department” means the State Department of Public Health.

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

“Primary caregiver” means the individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient, and may include any of the following:

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

An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

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

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

“Identification card” means a document issued by the department that identifies a person authorized to engage in the medical use of cannabis and the person’s designated primary caregiver, if any.

“Serious medical condition” means all of the following medical conditions:

- Acquired immune deficiency syndrome (AIDS).

- Anorexia.

- Arthritis.

- Cachexia.

- Cancer.

- Chronic pain.

- Glaucoma.

- Migraine.

- Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.

- Seizures, including, but not limited to, seizures associated with epilepsy.

- Severe nausea.

- Any other chronic or persistent medical symptom that either:

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

 - If not alleviated, may cause serious harm to the patient’s safety or physical or mental health.

“Written documentation” means accurate reproductions of those portions of a patient’s medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit as part of an application for an identification card.

SEC. 135. Section 11362.71 of the Health and Safety Code is amended to read:

11362.71. (a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.

The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.

(b) Every county health department, or the county's designee, shall do all of the following:

Provide applications upon request to individuals seeking to join the identification card program.

Receive and process completed applications in accordance with Section 11362.72.

Maintain records of identification card programs.

Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).

Issue identification cards developed by the department to approved applicants and designated primary caregivers.

(c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes cannabis.

The department shall develop all of the following:

Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.

Application forms that shall be issued to requesting applicants.

An identification card that identifies a person authorized to engage in the medical use of cannabis and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.

No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medicinal cannabis in an amount established pursuant to this article, unless there is probable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.

It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

SEC. 136. Section 11362.715 of the Health and Safety Code is amended to read:

11362.715. (a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:

The name of the person and proof of his or her residency within the county.

Written documentation by the attending physician in the person's medical records stating that the person has been diagnosed with a serious medical condition and that the medicinal use of cannabis is appropriate.

The name, office address, office telephone number, and California medical license number of the person's attending physician.

The name and the duties of the primary caregiver.

A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.

(b) If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person's legal representative, including, but not limited to, any of the following:

A conservator with authority to make medical decisions.

An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.

Any other individual authorized by statutory or decisional law to make medical decisions for the person.

(c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.

The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

SEC. 137. Section 11362.765 of the Health and Safety Code is amended to read:

11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. This section does not authorize the individual to smoke or otherwise consume cannabis unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute cannabis for profit.

(b) Subdivision (a) shall apply to all of the following:

A qualified patient or a person with an identification card who transports or processes cannabis for his or her own personal medical use.

A designated primary caregiver who transports, processes, administers, delivers, or gives away cannabis for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

An individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medicinal cannabis to the

qualified patient or person or acquiring the skills necessary to cultivate or administer cannabis for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use cannabis under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section 11359 or 11360.

SEC. 138. Section 11362.768 of the Health and Safety Code is amended to read:

11362.768. (a) This section shall apply to individuals specified in subdivision (b) of Section 11362.765.

(b) No medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medicinal cannabis pursuant to this article shall be located within a 600-foot radius of a school.

(c) The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.

This section shall not apply to a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider that is also a licensed residential medical or elder care facility.

This section shall apply only to a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider that is authorized by law to possess, cultivate, or distribute medicinal cannabis and that has a storefront or mobile retail outlet which ordinarily requires a local business license.

Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider.

This section does not preempt local ordinances, adopted prior to January 1, 2011, that regulate the location or establishment of a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider.

For the purposes of this section, “school” means any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

SEC. 139. Section 11362.77 of the Health and Safety Code is amended to read:

11362.77. (a) A qualified patient or primary caregiver may possess no more than eight ounces of dried cannabis per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature cannabis plants per qualified patient.

(b) If a qualified patient or primary caregiver has a physician’s recommendation that this quantity does not meet the qualified patient’s medical needs, the qualified patient or primary caregiver may possess an amount of cannabis consistent with the patient’s needs.

(c) Counties and cities may retain or enact medicinal cannabis guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a).

Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of cannabis under this section.

A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of cannabis consistent with this article.

SEC. 140. Section 11362.775 of the Health and Safety Code is amended to read:

11362.775. (a) Subject to subdivision (d), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medicinal purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

(b) A collective or cooperative that operates pursuant to this section and manufactures medicinal cannabis products shall not, solely on the basis of that fact, be subject to state criminal sanctions under Section 11379.6 if the collective or cooperative abides by all of the following requirements:

The collective or cooperative does either or both of the following:

Utilizes only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

Utilizes only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:

The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(ii) The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.

(iii) A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).

The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

The collective or cooperative receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility.

The collective or cooperative meets required fire, safety, and building code requirements in one or more of the following:

The California Fire Code.

The National Fire Protection Association (NFPA) standards.

International Building Code (IBC).

The International Fire Code (IFC).

Other applicable standards, including complying with all applicable fire, safety, and building codes in processing, handling, and storage of solvents or gasses.

The collective or cooperative is in possession of a valid seller's permit issued by the State Board of Equalization.

The collective or cooperative is in possession of a valid local license, permit, or other authorization specific to the manufacturing of medicinal cannabis products, and in compliance with any additional conditions imposed by the city or county issuing the local license, permit, or other authorization.

(c) For purposes of this section, "manufacturing" means compounding, converting, producing, deriving, processing, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, medicinal cannabis products.

This section shall remain in effect only until one year after the Bureau of Cannabis Control posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business and Professions Code).

This section is repealed one year after the date upon which the notice is posted pursuant to subdivision (d).

SEC. 141. Section 11362.777 of the Health and Safety Code is repealed.

SEC. 142. Section 11362.78 of the Health and Safety Code is amended to read:

11362.78. A state or local law enforcement agency or officer shall not refuse to accept an identification card issued pursuant to this article unless the state or local law enforcement agency or officer has probable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

SEC. 143. Section 11362.785 of the Health and Safety Code is amended to read:

11362.785. (a) Nothing in this article shall require any accommodation of medicinal use of cannabis on the property or premises of a place of employment or during the hours of employment or on the property or premises of a jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

(b) Notwithstanding subdivision (a), a person shall not be prohibited or prevented from obtaining and submitting the written information and documentation necessary to apply for an identification card on the basis that the person is incarcerated in a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained.

(c) This article does not prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under

arrest who has an identification card, to use cannabis for medicinal purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

This article does not require a governmental, private, or any other health insurance provider or health care service plan to be liable for a claim for reimbursement for the medicinal use of cannabis.

SEC. 144. Section 11362.79 of the Health and Safety Code is amended to read:

11362.79. This article does not authorize a qualified patient or person with an identification card to engage in the smoking of medicinal cannabis under any of the following circumstances:

In a place where smoking is prohibited by law.

In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medicinal use occurs within a residence.

On a schoolbus.

While in a motor vehicle that is being operated.

While operating a boat.

SEC. 145. Section 11362.795 of the Health and Safety Code is amended to read:

11362.795. (a) (1) Any criminal defendant who is eligible to use cannabis pursuant to Section 11362.5 may request that the court confirm that he or she is allowed to use medicinal cannabis while he or she is on probation or released on bail.

The court's decision and the reasons for the decision shall be stated on the record and an entry stating those reasons shall be made in the minutes of the court.

During the period of probation or release on bail, if a physician recommends that the probationer or defendant use medicinal cannabis, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of medicinal cannabis.

The court's consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(b) (1) Any person who is to be released on parole from a jail, state prison, school, road camp, or other state or local institution of confinement and who is eligible to use medicinal cannabis pursuant to Section 11362.5 may request that he or she be allowed to use medicinal cannabis during the period he or she is released on parole. A parolee's written conditions of parole shall reflect whether or not a request for a modification of the conditions of his or her parole to use medicinal cannabis was made, and whether the request was granted or denied.

During the period of the parole, where a physician recommends that the parolee use medicinal cannabis, the parolee may request a modification of the conditions of the parole to authorize the use of medicinal cannabis.

Any parolee whose request to use medicinal cannabis while on parole was denied may pursue an administrative appeal of the decision. Any decision on the appeal shall be in writing and shall reflect the reasons for the decision.

The administrative consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

SEC. 146. Section 11362.8 of the Health and Safety Code is amended to read:

11362.8. A professional licensing board shall not impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11362.72. However, this section shall not apply to acts performed by a physician relating to the discussion or recommendation of the medical use of cannabis to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

SEC. 147. Section 11362.81 of the Health and Safety Code is amended to read:

11362.81. (a) A person specified in subdivision (b) shall be subject to the following penalties:

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

For a second or subsequent offense, imprisonment in the county jail for no more than one year, or a fine not to exceed one thousand dollars (\$1,000), or both.

(b) Subdivision (a) applies to any of the following:

A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining an identification card.

A person who steals or fraudulently uses any person's identification card in order to acquire, possess, cultivate, transport, use, produce, or distribute cannabis.

A person who counterfeits, tampers with, or fraudulently produces an identification card.

A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program.

(c) In addition to the penalties prescribed in subdivision (a), a person described in subdivision (b) may be precluded from attempting to obtain, or obtaining or using, an identification card for a period of up to six months at the discretion of the court.

In addition to the requirements of this article, the Attorney General shall develop and adopt appropriate guidelines to ensure the security and nondiversion of cannabis grown for medicinal use by patients qualified under the Compassionate Use Act of 1996.

SEC. 148. Section 11362.83 of the Health and Safety Code is amended to read:

11362.83. Nothing in this article shall prevent a city or other local governing body from adopting and enforcing any of the following:

Adopting local ordinances that regulate the location, operation, or establishment of a medicinal cannabis cooperative or collective.

The civil and criminal enforcement of local ordinances described in subdivision (a).

Enacting other laws consistent with this article.

SEC. 149. Section 11362.85 of the Health and Safety Code is amended to read:

11362.85. Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify cannabis, the Legislature may amend or repeal the provisions of this code, as necessary, to conform state law to such changes in federal law.

SEC. 150. Section 11362.9 of the Health and Safety Code is amended to read:

11362.9. (a) (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering cannabis as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California Cannabis Research Program. Whenever “California Marijuana Research Program” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the California Cannabis Research Program.

The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of cannabis and, if found valuable, shall develop medical guidelines for the appropriate administration and use of cannabis. The studies may include studies to ascertain the effect of cannabis on motor skills.

(b) The program may immediately solicit proposals for research projects to be included in the cannabis studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding cannabis’ general medical efficacy and safety.

Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on cannabis.

Proposals shall contain provisions for a patient registry.

Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

Proposals shall contain protocols suitable for research on cannabis, addressing patients diagnosed with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of cannabis.

Proposals shall demonstrate the use of a laboratory capable of analyzing cannabis, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

It is the intent of the Legislature that the program be established as follows:

The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.

When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.

The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.

The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.

The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.

All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.

Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, cannabis. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.

The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.

The cannabis studies shall employ state-of-the-art research methodologies.

The program shall ensure that all cannabis used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply cannabis for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

To enhance understanding of the efficacy and adverse effects of cannabis as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of cannabis in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of cannabis as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of cannabis.

The program shall examine the safety of cannabis in patients with various medical disorders, including cannabis's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of cannabis as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of cannabis.

Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.

If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

In order to maximize the scope and size of the cannabis studies, the program may do any of the following:

Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the cannabis studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.

Include within the scope of the cannabis studies other cannabis research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of cannabis as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of cannabis and that he or she will have no control over the use of these funds.

Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the cannabis studies.

Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:

The names and number of diseases or conditions under study.

The number of patients enrolled in each study by disease.

Any scientifically valid preliminary findings.

If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section.

This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act.

SEC. 151. Section 11364.5 of the Health and Safety Code is amended to read:

11364.5. (a) Except as authorized by law, no person shall maintain or operate any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away unless such drug paraphernalia is completely and wholly kept, displayed or offered within a separate room or enclosure to which persons under the age of 18 years not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia is kept, displayed or offered

in such room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

(b) Except as authorized by law, no owner, manager, proprietor or other person in charge of any room or enclosure, within any place of business, in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away shall permit or allow any person under the age of 18 years to enter, be in, remain in or visit such room or enclosure unless that minor person is accompanied by one of his or her parents or by his or her legal guardian.

(c) Unless authorized by law, no person under the age of 18 years shall enter, be in, remain in, or visit any room or enclosure in any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred, or given away unless accompanied by one of his or her parents or by his or her legal guardian.

As used in this section, “drug paraphernalia” means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. “Drug paraphernalia” includes, but is not limited to, all of the following:

Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.

Scales and balances intended for use or designed for use in weighing or measuring controlled substances.

Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.

Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, cannabis.

Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.

Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.

Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, such as the following:

Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

Water pipes.

Carburetion tubes and devices.

Smoking and carburetion masks.

Roach clips, meaning objects used to hold burning material, such as a cannabis cigarette that has become too small or too short to be held in the hand.

Miniature cocaine spoons, and cocaine vials.

Chamber pipes.

Carburetor pipes.

Electric pipes.

Air-driven pipes.

Chillums.

Bongs.

Ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

Statements by an owner or by anyone in control of the object concerning its use.

Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

Instructions, oral or written, provided with the object concerning its use.

Descriptive materials, accompanying the object which explain or depict its use.

National and local advertising concerning its use.

The manner in which the object is displayed for sale.

Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

The existence and scope of legitimate uses for the object in the community.

Expert testimony concerning its use.

This section shall not apply to any of the following:

Any pharmacist or other authorized person who sells or furnishes drug paraphernalia described in paragraph (11) of subdivision (d) upon the prescription of a physician, dentist, podiatrist, or veterinarian.

Any physician, dentist, podiatrist, or veterinarian who furnishes or prescribes drug paraphernalia described in paragraph (11) of subdivision (d) to his or her patients.

Any manufacturer, wholesaler, or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in paragraph (11) of subdivision (d).

Notwithstanding any other provision of law, including Section 11374, violation of this section shall not constitute a criminal offense, but operation of a business in violation of the provisions of this section shall be grounds for revocation or nonrenewal of any license, permit, or other entitlement previously issued by a city, county, or city and county for the privilege of engaging in such business and shall be grounds for denial of any future license, permit, or other entitlement authorizing the conduct of such business or any other business, if the business includes the sale of drug paraphernalia.

SEC. 152. Section 11470 of the Health and Safety Code is amended to read:

11470. The following are subject to forfeiture:

All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

All property except real property or a boat, airplane, or any vehicle which is used, or intended for use, as a container for property described in subdivision (a) or (b).

All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an instrument to facilitate the manufacture of, or possession for sale or sale of 14.25 grams or more of heroin, or a substance containing 14.25 grams or more of heroin, or 14.25 grams or more of a substance containing heroin, or 28.5 grams or more of Schedule I controlled substances except cannabis, peyote, or psilocybin; 10 pounds dry weight or more of cannabis, peyote, or psilocybin; or 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or a substance containing 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or

methamphetamine; or 57 grams or more of a substance containing cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or 28.5 grams or more of Schedule II controlled substances. An interest in a vehicle which may be lawfully driven on the highway with a class C, class M1, or class M2 license, as prescribed in Section 12804.9 of the Vehicle Code, shall not be forfeited under this subdivision if there is a community property interest in the vehicle by a person other than the defendant and the vehicle is the sole class C, class M1, or class M2 vehicle available to the defendant's immediate family.

All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, or securities used or intended to be used to facilitate any violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property, or the filing of a petition under this chapter, or the issuance of an order of forfeiture of the property, whichever comes first.

The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

Subject to the requirements of Section 11488.5 and except as further limited by this subdivision to protect innocent parties who claim a property interest acquired from a defendant, all right, title, and interest in any personal property described in this section shall vest in the state upon commission of the act giving rise to forfeiture under this chapter, if the state or local governmental entity proves a violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves the manufacture, sale, possession for sale, offer for sale, offer to manufacture, or conspiracy to commit at least one of those offenses, in accordance with the burden of proof set forth in paragraph (1) of subdivision (i) of Section 11488.4 or, in the case of cash or negotiable instruments in excess of twenty-five thousand dollars (\$25,000), paragraph (4) of subdivision (i) of Section 11488.4.

The operation of the special vesting rule established by this subdivision shall be limited to circumstances where its application will not defeat the claim of any person, including a bona fide purchaser or encumbrancer who, pursuant to Section 11488.5, 11488.6, or 11489, claims an interest in the property seized, notwithstanding that the interest in the property being claimed was acquired from a defendant whose property interest would otherwise have been subject to divestment pursuant to this subdivision.

SEC. 153. Section 11478 of the Health and Safety Code is amended to read:

11478. Cannabis may be provided by the Attorney General to the heads of research projects which have been registered by the Attorney General, and which have been approved by the research advisory panel pursuant to Section 11480.

The head of the approved research project shall personally receipt for such quantities of cannabis and shall make a record of their disposition. The receipt and record shall be retained by the Attorney General. The head of the approved research project shall also, at intervals and in the manner required by the research advisory panel, report the progress or conclusions of the research project.

SEC. 154. Section 11479 of the Health and Safety Code is amended to read:

11479. Notwithstanding Sections 11473 and 11473.5, at any time after seizure by a law enforcement agency of a suspected controlled substance, except in the case of growing or harvested cannabis, that amount in excess of 10 pounds in gross weight may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. In the case of growing or harvested cannabis, that amount in excess of two pounds, or the amount of cannabis a medicinal cannabis patient or designated caregiver is authorized to possess by ordinance in the city or county where the cannabis was seized, whichever is greater, may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. These samples shall be in addition to the 10 pounds required above. When the suspected controlled substance consists of growing or harvested cannabis plants, at least one 2-pound sample or a sample in the amount of medicinal cannabis a medicinal cannabis patient or designated caregiver is authorized to possess by ordinance in the city or county where the cannabis was seized, whichever is greater, shall be retained. This sample may include stalks, branches, or leaves. In addition, five representative samples of leaves or buds shall be retained for evidentiary purposes from the total amount of suspected controlled substances to be destroyed.

Photographs and videos have been taken that reasonably and accurately demonstrate the total amount of the suspected controlled substance to be destroyed.

The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating that weight after dimensional measurement of the total suspected controlled substance.

The chief of the law enforcement agency has determined that it is not reasonably possible to preserve the suspected controlled substance in place, or to remove the suspected controlled substance to another location. In making this determination, the difficulty of transporting and storing the suspected controlled substance to another site and the storage facilities may be taken into consideration.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court that has jurisdiction over any pending criminal proceedings pertaining to that suspected controlled substance, reciting the applicable information required by subdivisions (a), (b), (c), and (d) together with information establishing the location of the suspected controlled substance, and specifying the date and time of the destruction. In the event that there are no criminal proceedings pending that pertain to that suspected controlled substance, the affidavit may be filed in any court within the county that would have jurisdiction over a person against whom those criminal charges might be filed.

SEC. 155. Section 11479.2 of the Health and Safety Code is amended to read:

11479.2. Notwithstanding the provisions of Sections 11473, 11473.5, 11474, 11479, and 11479.1, at any time after seizure by a law enforcement agency of a suspected controlled substance, except cannabis, any amount, as determined by the court, in excess of 57 grams may, by court order, be destroyed by the chief of a law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. Those samples shall be in addition to the 57 grams required above and each sample shall weigh not less than one gram at the time the sample is collected.

Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance to be destroyed.

The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating such weight after dimensional measurement of the total suspected controlled substance.

In cases involving controlled substances suspected of containing cocaine or methamphetamine, an analysis has determined the qualitative and quantitative nature of the suspected controlled substance.

The law enforcement agency with custody of the controlled substance sought to be destroyed has filed a written motion for the order of destruction in the court which has jurisdiction over any pending criminal proceeding in which a defendant is charged by accusatory pleading with a crime specifically involving the suspected controlled substance sought to be destroyed. The motion shall, by affidavit of the chief of the law enforcement agency or designated subordinate, recite the applicable information required by subdivisions (a), (b), (c), and (d), together with information establishing the location of the suspected controlled substance and the title of any pending criminal proceeding as defined in this subdivision. The motion shall bear proof of service upon all parties to any pending criminal proceeding. No motion shall be made when a defendant is without counsel until the defendant has entered his or her plea to the charges.

The order for destruction shall issue pursuant to this section upon the motion and affidavit in support of the order, unless within 20 days after application for the order, a defendant has requested, in writing, a hearing on the motion. Within 10 days after the filing of that request, or a longer period of time upon good cause shown by either party, the court shall conduct a hearing on the motion in which each party to the motion for destruction shall be permitted to call and examine witnesses. The hearing shall be recorded. Upon conclusion of the hearing, if the court finds that the defendant would not be prejudiced by the destruction, it shall grant the motion and make an order for destruction. In making the order, the court shall ensure that the representative samples to be retained are of sufficient quantities to allow for qualitative analyses by both the prosecution and the defense. Any order for destruction pursuant to this section shall include the applicable information required by subdivisions (a), (b), (c), (d), and (e) and the name of the agency responsible for the destruction. Unless waived, the order shall provide for a 10-day delay prior to destruction in order to allow expert analysis of the controlled substance by the defense.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which ordered destruction stating the location of the retained, suspected controlled substance and specifying the date and time of destruction.

This section does not apply to seizures involving hazardous chemicals or controlled substances in mixture or combination with hazardous chemicals.

SEC. 156. Section 11480 of the Health and Safety Code is amended to read:

11480. (a) The Legislature finds that there is a need to encourage further research into the nature and effects of cannabis and hallucinogenic drugs and to coordinate research efforts on such subjects.

(b) There is a Research Advisory Panel that consists of a representative of the State Department of Health Services, a representative of the California State Board of Pharmacy, the State Public Health Officer, a representative of the Attorney General, a representative of the University of California who shall be a pharmacologist, a physician, or a person holding a doctorate degree in the health sciences, a representative of a private university in this state who shall be a pharmacologist, a physician, or a person holding a doctorate degree in the health sciences, a representative of a statewide professional medical society in this state who shall be engaged in the private practice of medicine and shall be experienced in treating controlled substance dependency, a representative appointed by and serving at the pleasure of the Governor who shall have experience in drug abuse, cancer, or controlled substance research and who is either a registered nurse, licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, or other health professional. The Governor shall annually designate the private university and the professional medical society represented on the panel. Members of the panel shall be appointed by the heads of the entities to be represented, and they shall serve at the pleasure of the appointing power.

(c) The Research Advisory Panel shall appoint two special members to the Research Advisory Panel, who shall serve at the pleasure of the Research Advisory Panel only during the period Article 6 (commencing with Section 11260) of Chapter 5 remains effective. The additional members shall be physicians and surgeons, and who are board certified in oncology, ophthalmology, or psychiatry.

The panel shall annually select a chairperson from among its members.

The panel may hold hearings on, and in other ways study, research projects concerning cannabis or hallucinogenic drugs in this state. Members of the panel shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties.

The panel may approve research projects, which have been registered by the Attorney General, into the nature and effects of cannabis or hallucinogenic drugs, and shall inform the Attorney General of the head of the approved research projects that are entitled to receive quantities of cannabis pursuant to Section 11478.

The panel may withdraw approval of a research project at any time, and when approval is withdrawn shall notify the head of the research project to return any quantities of cannabis to the Attorney General.

The panel shall report annually to the Legislature and the Governor those research projects approved by the panel, the nature of each research project, and, where available, the conclusions of the research project.

SEC. 157. Section 11485 of the Health and Safety Code is amended to read:

11485. Any peace officer of this state who, incident to a search under a search warrant issued for a violation of Section 11358 with respect to which no prosecution of a defendant results, seizes

personal property suspected of being used in the planting, cultivation, harvesting, drying, processing, or transporting of cannabis, shall, if the seized personal property is not being held for evidence or destroyed as contraband, and if the owner of the property is unknown or has not claimed the property, provide notice regarding the seizure and manner of reclamation of the property to any owner or tenant of real property on which the property was seized. In addition, this notice shall be posted at the location of seizure and shall be published at least once in a newspaper of general circulation in the county in which the property was seized. If, after 90 days following the first publication of the notice, no owner appears and proves his or her ownership, the seized personal property shall be deemed to be abandoned and may be disposed of by sale to the public at public auction as set forth in Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code, or may be disposed of by transfer to a government agency or community service organization. Any profit from the sale or transfer of the property shall be expended for investigative services with respect to crimes involving cannabis.

SEC. 158. Section 11532 of the Health and Safety Code is amended to read:

11532. (a) It is unlawful for any person to loiter in any public place in a manner and under circumstances manifesting the purpose and with the intent to commit an offense specified in Chapter 6 (commencing with Section 11350) and Chapter 6.5 (commencing with Section 11400).

(b) Among circumstances that may be considered in determining whether a person has the requisite intent to engage in drug-related activity are that the person:

Acts as a “look-out.”

Transfers small objects or packages for currency in a furtive fashion.

Tries to conceal himself or herself or any object that reasonably could be involved in an unlawful drug-related activity.

Uses signals or language indicative of summoning purchasers of illegal drugs.

Repeatedly beckons to, stops, attempts to stop, or engages in conversations with passersby, whether on foot or in a motor vehicle, indicative of summoning purchasers of illegal drugs.

Repeatedly passes to or receives from passersby, whether on foot or in a motor vehicle, money or small objects.

Is under the influence of a controlled substance or possesses narcotic or drug paraphernalia. For the purposes of this paragraph, “narcotic or drug paraphernalia” means any device, contrivance, instrument, or apparatus designed or marketed for the use of smoking, injecting, ingesting, or consuming cannabis, hashish, PCP, or any controlled substance, including, but not limited to, roach clips, cigarette papers, and rollers designed or marketed for use in smoking a controlled substance.

Has been convicted in any court within this state, within five years prior to the arrest under this chapter, of any violation involving the use, possession, or sale of any of the substances referred to in Chapter 6 (commencing with Section 11350) or Chapter 6.5 (commencing with Section 11400), or has been convicted of any violation of those provisions or substantially similar laws of any political subdivision of this state or of any other state.

Is currently subject to any order prohibiting his or her presence in any high drug activity geographic area.

Has engaged, within six months prior to the date of arrest under this section, in any behavior described in this subdivision, with the exception of paragraph (8), or in any other behavior indicative of illegal drug-related activity.

(c) The list of circumstances set forth in subdivision (b) is not exclusive. The circumstances set forth in subdivision (b) should be considered particularly salient if they occur in an area that is known for unlawful drug use and trafficking, or if they occur on or in premises that have been reported to law enforcement as a place suspected of unlawful drug activity. Any other relevant circumstances may be considered in determining whether a person has the requisite intent. Moreover, no one circumstance or combination of circumstances is in itself determinative of intent. Intent must be determined based on an evaluation of the particular circumstances of each case.

SEC. 159. Section 11553 of the Health and Safety Code is amended to read:

11553. The fact that a person is or has been, or is suspected of being, a user of cannabis is not alone sufficient grounds upon which to invoke Section 11551 or 11552.

This section shall not be construed to limit the discretion of a judge to invoke Section 11551 or 11552 if the court has reason to believe a person is or has been a user of narcotics or drugs other than cannabis.

SEC. 160. Section 109925 of the Health and Safety Code is amended to read:

109925. (a) “Drug” means any of the following:

An article recognized in an official compendium.

An article used or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or any other animal.

An article other than food, that is used or intended to affect the structure or any function of the body of human beings or any other animal.

An article used or intended for use as a component of an article designated in paragraphs (1) to (3), inclusive.

(b) The term “drug” does not include any device.

(c) Any food for which a claim (as described in Sections 403(r)(1)(B) (21 U.S.C. Sec. 343(r)(1)(B)) and 403(r)(3) (21 U.S.C. Sec. 343(r)(3)) or Sections 403(r)(1)(B) (21 U.S.C. Sec. 343(r)(1)(B)) and 403(r)(5)(D) (21 U.S.C. Sec. 343(r)(5)(D)) of the federal act), is made in accordance with the requirements set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act, is not a drug under subdivision (b) solely because the label or labeling contains such a claim.

Cannabis product, including any cannabis product intended for external use, is not a drug.

SEC. 161. The heading of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code is amended to read:

PART 14.5. Cannabis Tax

SEC. 162. Section 34010 of the Revenue and Taxation Code is amended to read:

34010. For purposes of this part:

“Arm’s length transaction” shall mean a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

“Average market price” shall mean:

In an arm’s length transaction, the average market price means the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the board on a biannual basis in six-month intervals.

In a nonarm’s length transaction, the average market price means the cannabis retailer’s gross receipts from the retail sale of the cannabis or cannabis products.

“Board” shall mean the State Board of Equalization or its successor agency.

“Bureau” shall mean the Bureau of Cannabis Control within the Department of Consumer Affairs.

“Tax Fund” means the California Cannabis Tax Fund created by Section 34018.

“Cannabis” shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medicinal cannabis.

“Cannabis products” shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medicinal concentrates and medicinal cannabis products.

“Cannabis flowers” shall mean the dried flowers of the cannabis plant as defined by the board.

“Cannabis leaves” shall mean all parts of the cannabis plant other than cannabis flowers that are sold or consumed.

“Cannabis retailer” shall mean a person required to be licensed as a retailer, microbusiness, or nonprofit pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

“Cultivator” shall mean all persons required to be licensed to cultivate cannabis pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

“Distributor” shall mean a person required to be licensed as a distributor pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

“Enters the commercial market” shall mean cannabis or cannabis product that has completed and complies with all quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code.

“Gross receipts” shall have the same meaning as set forth in Section 6012.

“Microbusiness” shall have the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.

“Nonprofit” shall have the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

“Person” shall have the same meaning as set forth in Section 6005.

“Retail sale” shall have the same meaning as set forth in Section 6007.

“Sale” and “purchase” shall mean any change of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

“Transfer” shall mean to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration.

“Unprocessed cannabis” shall include cannabis flowers, cannabis leaves, or other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers.

SEC. 163. Section 34011 of the Revenue and Taxation Code is amended to read:

34011. (a) Effective January 1, 2018, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. A purchaser’s liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers. Each cannabis retailer shall provide a purchaser with an invoice, receipt, or other document that displays the cannabis excise tax separately from the list price, the price advertised in the premises, the marked price, or other price and includes a statement that reads: “The cannabis cultivation and excise taxes are included in the total amount of this invoice.”

(b) (1) A distributor in an arm’s length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer. A distributor in a nonarm’s length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer, or at the time of retail sale by the cannabis retailer, whichever is earlier. A distributor shall report and remit the cannabis excise tax to the board pursuant to Section 34015. A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting the cannabis excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the board.

A distributor shall provide an invoice, receipt, or other similar document to the cannabis retailer that identifies the licensee receiving the product, the distributor from which the product originates, including the associated unique identifier, the amount of cannabis excise tax, and any other information deemed necessary by the board. The board may authorize other forms of documentation under this paragraph.

(c) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use tax under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

Cannabis or cannabis products shall not be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

The sales and use taxes imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical cannabis as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

SEC. 164. Section 34012 of the Revenue and Taxation Code is amended to read:

34012. (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested cannabis that enters the commercial market upon all cultivators. The tax shall be due after the cannabis is harvested and enters the commercial market.

The tax for cannabis flowers shall be nine dollars and twenty-five cents (\$9.25) per dry-weight ounce.

The tax for cannabis leaves shall be set at two dollars and seventy-five cents (\$2.75) per dry-weight ounce.

(b) The board may adjust the tax rate for cannabis leaves annually to reflect fluctuations in the relative price of cannabis flowers to cannabis leaves.

(c) The board may from time to time establish other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with cannabis flowers.

The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the cannabis is packaged.

The tax stamps and product bags shall be of the designs, specifications, and denominations as may be prescribed by the board and may be purchased by any licensee under Division 10 (commencing with Section 26000) of the Business and Professions Code.

Subsequent to the establishment of a tax stamp program, the board may by regulation provide that cannabis shall not be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26068 of the Business and Professions Code.

Cultivators shall be responsible for payment of the tax pursuant to regulations adopted by the board. A cultivator's liability for the tax is not extinguished until the tax has been paid to this state except that an invoice, receipt, or other document from a distributor or manufacturer given to the cultivator pursuant to paragraph (3) is sufficient to relieve the cultivator from further liability for the tax to which the invoice, receipt, or other document refers. Cannabis shall not be sold unless the tax has been paid as provided in this part.

A distributor shall collect the cultivation tax from a cultivator upon entry into the commercial market. This paragraph shall not apply where a cultivator is not required to send, and does not send, the harvested cannabis to a distributor.

A manufacturer shall collect the cultivation tax from a cultivator on the first sale or transfer of unprocessed cannabis by a cultivator to a manufacturer. The manufacturer shall remit the cultivation tax collected on the cannabis product sold or transferred to a distributor for quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code. All cultivation tax applicable to a unique identifier shall be paid upon the first sale or transfer of cannabis or cannabis product with an associated unique identifier. This paragraph shall not apply where a distributor collects the cultivation tax from a cultivator pursuant to paragraph (1).

Notwithstanding subparagraph (A), the board may prescribe a substitute method and manner for collection and remittance of the cultivation tax under this paragraph, including a method and manner for collection of the cultivation tax by a distributor.

A distributor or manufacturer shall provide to the cultivator, and a distributor that collects the cultivation tax from a manufacturer pursuant to paragraph (2) shall provide to the manufacturer, an invoice, receipt, or other similar document that identifies the licensee receiving the product, the cultivator from which the product originates, including the associated unique identifier, the amount of cultivation tax, and any other information deemed necessary by the board. The board may authorize other forms of documentation under this paragraph.

The board may adopt regulations prescribing procedures for the refund of cultivation tax collected on cannabis or cannabis product that fails quality assurance, inspection, and testing as described in Section 26110 of the Business and Professions Code.

All cannabis removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

The tax imposed by this section shall be imposed on all cannabis cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to cannabis cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code).

Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

The Department of Food and Agriculture is not responsible for enforcing any provisions of the cultivation tax.

SEC. 165. Section 34012.5 is added to the Revenue and Taxation Code, to read:

34012.5. (a) The cultivation tax and cannabis excise tax required to be collected by the distributor, or required to be collected by the manufacturer pursuant to paragraph (2) of subdivision (h) of Section 34012, and any amount unreturned to the cultivator or cannabis retailer that is not tax but was collected from the cultivator or cannabis retailer under the representation by the distributor or the manufacturer that it was tax constitute debts owed by the distributor or the manufacturer to this state.

(b) A distributor or manufacturer that has collected any amount of tax in excess of the amount of tax imposed by this part and actually due from a cultivator or cannabis retailer, may refund such amount to the cultivator or cannabis retailer, even though such tax amount has already been paid over to the board and no corresponding credit or refund has yet been secured. The distributor or manufacturer may claim credit for that overpayment against the amount of tax imposed by this part that is due upon any other quarterly return, providing that credit is claimed in a return dated no later than three years from the date of overpayment.

(c) Any tax collected from a cultivator or cannabis retailer that has not been remitted to the board shall be deemed a debt owed to the State of California by the person required to collect and remit the tax.

SEC. 166. Section 34013 of the Revenue and Taxation Code is amended to read:

34013. (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to “fee” shall include the taxes imposed by this part, and references to “feepayer” shall include a person required to pay or collect the taxes imposed by this part.

(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag cannabis or cannabis products, or the packages thereof, to designate prior tax payment.

Until January 1, 2019, the board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer, and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

Any person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code.

The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board’s request, the Attorney General shall bring the actions.

SEC. 167. Section 34014 of the Revenue and Taxation Code is amended to read:

34014. (a) All distributors must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a distributor without a permit or after a permit

has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

(b) The board may require every licensed distributor, retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on cannabis produced or received by the retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. “Good cause” includes, but is not limited to, the inability of a distributor, retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a cannabis business. A person may not commence or continue any business or operation relating to cannabis cultivation until any surety required by the board with respect to the business or operation has been properly prepared, executed, and submitted under this part.

(c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

SEC. 168. Section 34015 of the Revenue and Taxation Code is amended to read:

34015. (a) Unless otherwise prescribed by the board pursuant to subdivision (c), the excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each distributor using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to subdivision (d) of Section 34012 the board may by regulation determine when and how the tax shall be paid.

(b) The board may require every person engaged in the cultivation, distribution, manufacturing, retail sale of cannabis or cannabis products, or any other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person’s inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

(c) The board may adopt regulations prescribing the due date for returns and remittances of excise tax collected by a distributor in an arm’s length transaction pursuant to subdivision (b) of Section 34011.

The board may make examinations of the books and records of any person licensed, or required to be licensed, pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, as it may deem necessary in carrying out this part.

SEC. 169. Section 34016 of the Revenue and Taxation Code is amended to read:

34016. (a) Any peace officer or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

Inspections may be at any place at which cannabis or cannabis products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

Inspections shall be conducted no more than once in a 24-hour period.

(b) Any person who fails or refuses to allow an inspection shall be guilty of a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Cannabis Tax Fund.

(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of cannabis or cannabis products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the cannabis or cannabis products. Any cannabis or cannabis products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.

Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

All moneys remitted to the board under this part shall be credited to the California Cannabis Tax Fund.

SEC. 170. Section 34018 of the Revenue and Taxation Code is amended to read:

34018. (a) The California Cannabis Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.

(b) Notwithstanding any other law, the California Cannabis Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.

(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered “moneys” for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

SEC. 171. Section 34019 of the Revenue and Taxation Code is amended to read:

34019. (a) Beginning with the 2017–18 fiscal year, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code. This paragraph shall remain operative through the 2022–23 fiscal year.

Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

Reasonable costs incurred by the Department of Finance for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

Reasonable costs incurred by the Legislative Analyst’s Office for performing duties imposed by Section 34017.

Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with the 2018–19 fiscal year until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

Impacts on public health, including health costs associated with cannabis use, as well as whether cannabis use is associated with an increase or decrease in use of alcohol or other drugs.

The impact of treatment for maladaptive cannabis use and the effectiveness of different treatment programs.

Public safety issues related to cannabis use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of cannabis and cannabis products, and studying the health-related effects among users of varying potency levels of cannabis and cannabis products.

Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis rates of cannabis-related substance use disorders.

Cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax cannabis based on potency, and the structure and function of licensed cannabis businesses.

Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the adult-use cannabis industry and, if so, recommendations as to the most effective measures for preventing such behavior.

The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

Environmental issues related to cannabis production and the criminal prohibition of cannabis production.

The geographic location, structure, and function of licensed cannabis businesses, and demographic data, including race, ethnicity, and gender, of license holders.

The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for cannabis-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of cannabis or cannabis products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department

may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products.

The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning with the 2018–19 fiscal year and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor’s Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center, including the enhanced understanding of the efficacy and adverse effects of cannabis as a pharmacological agent.

By July 15 of each fiscal year beginning in the 2018–19 fiscal year, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, fostercare providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of

school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.

Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other cooccurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

Construction of community-based youth treatment facilities.

The departments may contract with each county behavioral health program for the provision of services.

Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments, or submitted reports prepared by the applicable county to demonstrate and validate need.

The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation, and oversight of the programs.

If the Department of Finance ever determines that funding pursuant to cannabis taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by cannabis cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale, and use of cannabis and cannabis products on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal cultivation, production, sale, and use of cannabis or cannabis products on public lands.

To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of cannabis cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation

shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of cannabis. The department may hire personnel to conduct the training programs specified in this subparagraph.

To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis.

To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of cannabis or cannabis products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before the 2022–23 fiscal year pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in the 2027–28 fiscal year. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

SEC. 172. Section 34021.5 of the Revenue and Taxation Code is amended to read:

34021.5. (a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products by a licensee operating under Division 10 (commencing with Section 26000) of the Business and Professions Code.

The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

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

The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.

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

(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use taxes imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of this code.

SEC. 173. Section 2429.7 is added to the Vehicle Code, to read:

2429.7. (a) The commissioner shall appoint an impaired driving task force to develop recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of impaired driving, including driving under the influence of cannabis and controlled substances. The task force shall also examine the use of technology, including field testing technologies and validated field sobriety tests, to identify drivers under the influence of prescription drugs, cannabis, and controlled substances. The task force shall include, but is not limited to, the commissioner, who shall serve as chairperson, and at least one member from each of the following:

The Office of Traffic Safety.

The National Highway Traffic Safety Administration.

Local law enforcement.

District attorneys.

Public defenders.

California Association of Crime Laboratory Directors.

California Attorneys for Criminal Justice.

The California Cannabis Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code.

An organization that represents medicinal cannabis patients.

Licensed physicians with expertise in substance abuse disorder treatment.

Researchers with expertise in identifying impairment caused by prescription medications and controlled substances.

Nongovernmental organizations committed to social justice issues.

A nongovernmental organization that focuses on improving roadway safety.

(b) The members of the task force shall serve at the pleasure of the commissioner and without compensation.

(c) The task force members shall be free of economic relationships with any company that profits from the sale of technologies or equipment that is intended to identify impairment. Members and their organizations shall not receive pay from, grants from, or any form of financial support from companies or entities that sell such technologies or equipment.

The task force shall make recommendations regarding prevention of impaired driving, means of identifying impaired driving, and responses to impaired driving that reduce reoccurrence, including, but not limited to, evidence-based approaches that do not rely on incarceration.

The task force shall make recommendations regarding how to best capture data to evaluate the impact that cannabis legalization is having on roadway safety.

By January 1, 2021, the task force shall report to the Legislature its policy recommendations and the steps state agencies are taking regarding impaired driving. The report shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 174. Section 23222 of the Vehicle Code is amended to read:

23222. (a) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

(b) (1) Except as authorized by law, every person who has in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any receptacle containing any cannabis or cannabis products, as defined by Section 11018.1 of the Health and Safety Code, which has been opened or has a seal broken, or loose cannabis flower not in a container, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).

Paragraph (1) does not apply to a person who has a receptacle containing cannabis or cannabis products that has been opened, has a seal broken, or the contents of which have been partially removed, or to a person who has loose cannabis flower not in a container, if the receptacle or loose cannabis flower not in a container is in the trunk of the vehicle.

(c) Subdivision (b) does not apply to a qualified patient or person with an identification card, as defined in Section 11362.7 of the Health and Safety Code, if both of the following apply:

The person is carrying a current identification card or a physician's recommendation.

The cannabis or cannabis product is contained in a container or receptacle that is either sealed, resealed, or closed.

SEC. 175. Section 1831 of the Water Code is amended to read:

1831. (a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.

(b) The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.

(c) The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:

The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.

Any term or condition of a permit, license, certification, or registration issued under this division.

Any decision or order of the board issued under this part, Section 275, Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

A regulation adopted under Section 1058.5.

Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

Any diversion or use of water for cannabis cultivation if any of paragraphs (1) to (5), inclusive, or any of the following applies:

A license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) or Chapter 7 (commencing with Section 26070) of Division 10 of the Business and Professions Code.

The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

The diversion or use is not in compliance with a requirement imposed under paragraphs (1) and (2) of subdivision (b) of Section 26060.1 of, and paragraph (3) of subdivision (a) of Section 26070 of, the Business and Professions Code.

This article does not alter the regulatory authority of the board under other provisions of law.

SEC. 176. Section 1847 of the Water Code is amended to read:

1847. (a) A person or entity may be liable for a violation of any of the requirements of subdivision (b) in an amount not to exceed the sum of the following:

Five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of that person.

Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

(b) Liability may be imposed for any of the following violations:

Violation of a principle, guideline, or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

Failure to submit information, or making a material misstatement in information submitted, under Section 26060.1 of the Business and Professions Code.

Violation of any requirement imposed under subdivision (b) of Section 26060.1 of the Business and Professions Code.

Diversion or use of water for cannabis cultivation for which a license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) or Chapter 7 (commencing with Section 26070) of Division 10 of the Business and Professions Code.

(c) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

Civil liability may be imposed administratively by the board pursuant to Section 1055.

SEC. 177. Section 13276 of the Water Code is amended to read:

13276. (a) The multiagency task force, the Department of Fish and Wildlife and state board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by cannabis cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on water quality and on fish and wildlife throughout the state.

(b) The state board or the appropriate regional board shall address discharges of waste resulting from cannabis cultivation under Division 10 of the Business and Professions Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, the state board or the regional board shall include conditions to address items that include, but are not limited to, all of the following:

Site development and maintenance, erosion control, and drainage features.

Stream crossing installation and maintenance.

Riparian and wetland protection and management.

Soil disposal.

Water storage and use.

Irrigation runoff.

Fertilizers and soil.

Pesticides and herbicides.

Petroleum products and other chemicals.

Cultivation-related waste.

Refuse and human waste.

Cleanup, restoration, and mitigation.

SEC. 178. The amount of three million dollars (\$3,000,000) is hereby appropriated from the Cannabis Control Fund to the Department of the California Highway Patrol to be used to for training drug recognition experts. Program costs may include, but are not limited to, training, overtime, and backfill of state and local law enforcement officers to attend training.

SEC. 179. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 180. The Legislature finds and declares that Sections 58 and 93 of this act, which add Sections 26067 and 26162 to the Business and Professions Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect public safety and prevent the diversion of cannabis to the illegal market, it is necessary for that information to be confidential.

SEC. 181. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

SEC. 182. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act by accomplishing all of the following:

Taking adult-use cannabis production and sales out of the hands of the illegal market and bringing them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.

Strictly controlling the cultivation, processing, manufacture, distribution, testing, and sale of adult-use cannabis through a system of state licensing, regulation, and enforcement.

Allowing local governments to enforce state laws and regulations for adult-use cannabis businesses if that authority is delegated to them by the state, and enact additional local requirements for adult-use cannabis businesses, but not require that they do so for an adult-use cannabis business to be issued a state license and be legal under state law.

Requiring track and trace management procedures to track adult-use cannabis from cultivation to sale.

Requiring licensed adult-use cannabis businesses to follow strict environmental and product safety standards as a condition of maintaining their license.

Denying access to cannabis by persons younger than 21 years of age who are not medicinal cannabis patients.

Preventing the illegal production or distribution of cannabis.

Preventing the illegal diversion of cannabis from California to other states or countries or to the illegal market.

Reducing barriers to entry into the legal, regulated market.

Allowing industrial hemp to be grown as an agricultural product, and for agricultural or academic research, and regulated separately from the strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

SEC. 183. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.