

THE CONTROL, REGULATE, AND TAX CANNABIS ACT OF 2016

SECTION 1: Title

This Act shall be known and may be cited as the Control, Regulate, and Tax Cannabis Act of 2016.

SECTION 2: Declaration of Intent and Purpose

The People of the State of California hereby declare that the intents and purposes of this Act are to:

(A) Control, tax, and regulate cannabis as a legal product for adult use by removing existing civil and criminal penalties for adults 21 years of age or older who consume, possess, cultivate, or transport personal use quantities of cannabis, without affecting existing laws proscribing unsafe activities while under the influence of cannabis, preventing consumption of cannabis by children unless for approved medical use, or trafficking and violent crime by criminal enterprises, and encourage a process and additional legislation to reduce or remove the implications of prior nonviolent offenses relating to cannabis.

(B) Continue to prohibit dangerous activities done under the influence of cannabis; to prohibit conduct that attracts children to use, possess, cultivate, or consume cannabis; and to prohibit trafficking by criminal enterprises, while also discouraging the criminalization of youth, especially in disadvantaged communities, and instead focus on treatment, education, counseling, gang diversion, and job training programs.

(C) Establish a state office to regulate and license the commercial cultivation, manufacture, processing, testing, distribution, and sale of cannabis for adult use in such a manner as to prevent criminal activity and diversion, to protect public health and safety and the environment, and to ensure that cannabis is regulated in a manner consistent with other legal agricultural products in this State.

(D) Prevent revenues from licensed cannabis businesses from going to criminal enterprises, gangs, and cartels; prevent the diversion of cannabis from California to other states where it is not legal; prevent the use of state-authorized cannabis activity as a cover for trafficking of illegal drugs or other illegal activity; prevent the use of violence in the production and distribution of cannabis; prevent violence and the use of illegal firearms in the cultivation and distribution of cannabis; and prevent driving under the influence and other adverse public health consequences associated with cannabis use.

(E) Prevent the cultivation of cannabis on public lands and the attendant public safety and environmental dangers, and to prevent the illegal possession or use of cannabis on federal property.

(F) Raise tax revenues for California for education, public health, drug abuse prevention, environmental protection, and necessary strategies for safe and responsible legalization; and to ensure community-based nonprofit organizations receive a portion of these funds, in grants, to advance community restoration programs, health services, and environmental protection and restoration.

(G) Improve law enforcement resources for targeting violent crime by eliminating felony penalties for minor cannabis-related crimes, while assigning felony penalties to serious offenses which undermine public safety, the environment, or the welfare of children, or which pose a risk of substantial diversion to the criminal market.

(H) Ensure that responsible small and midsize entities are licensed and have access to a market for cannabis, and that the industry and regulatory system are not monopolized by large, corporate interests.

(I) Ensure that, unless expressly stated in this Act, existing laws governing the control, use, and regulation of medical cannabis and medical cannabis products operate in parallel with the control, use, and regulation of cannabis and cannabis products for general adult use, while also safeguarding the rights of patients using medical cannabis and medical cannabis products in a manner reasonably equivalent to other legal medications.

(J) Encourage the development of legislation in a manner that is responsive to societal, legal, and scientific developments, including federal legislation that will authorize state oversight of the cannabis industry, allow banking by the cannabis industry, and treat the activities of the cannabis industry the same as other legal activities for federal tax purposes.

(K) Express the will of the People of the State of California that the scheduling of cannabis be changed under Title 21 United States Code Controlled Substances Act, and to deschedule cannabis from the California Uniform Controlled Substances Act.

(L) Allow industrial hemp to be grown as an agricultural product, and grown for agricultural or academic research, and regulated separately from the strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

(M) To build upon the Legislature’s creation of a regulated system for the cultivation, production, distribution, and sale of medical cannabis and cannabis products by developing an equitable system for the cultivation, production, distribution and sale of nonmedical cannabis and cannabis products.

SECTION 3: Cannabis Control and Regulation

Division 10 (commencing with Section 26000) is added to the Business and Professions Code, to read:

CHAPTER 1. Cannabis Control and Regulation

Article 1. General Provisions and Definitions

26000. Definitions. For purposes of this Act, the following terms, phrases, words, and their derivations shall have the meaning given in this Article. Words not defined in this Article, unless defined elsewhere in this Act, shall have their plain and ordinary meaning.

(a) “Applicant” means an individual person, or responsible party representing a partnership, corporation, or limited liability company, seeking a cannabis license under this Act.

(b) “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 marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. “Cannabis” does not include “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

(c) “Cannabis license” means a license granted under Article 6.

(d) “Cannabis products” means manufactured products containing cannabis that are intended for use or consumption, including, but not limited to, compounds, mixtures, derivatives, extracts, or concentrated extracts. This definition shall not include industrial hemp as defined under Health and Safety Code Section 11018.5.

(e) “Concentrated extracts” means the separate resin, whether crude or purified, obtained from cannabis.

(f) “Distribute” or “distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensed persons or entities.

(g) “Homegrown” or “homemade” cannabis means cannabis grown or cannabis products made, out of public view, and secure from public access, by a person 21 years of age or older for noncommercial purposes at his or her primary place of residence or lawful collective cultivation site or garden, without the use of flammable or volatile solvents.

(h) “Manufacture” or “manufacturing” means the preparation, compounding, blending, grinding, and extracting of cannabis and cannabis products, including, but not limited to, extracts, compounds, concentrated extracts, topicals, and edibles. “Manufacture” or “manufacturing” shall also refer to the labeling and packaging of cannabis products.

(i) “One ounce of cannabis” means 28.3495 grams of cannabis as measured by dry weight or, where not dry, the reasonable equivalent of 28.3495 grams of dry cannabis.

(j) “One ounce equivalent of cannabis products” means the weight or quantity of cannabis products that contain one ounce of cannabis or extracts of one ounce of cannabis.

(k) “Process” or “processing” means the harvesting, trimming, drying, or curing of cannabis in preparation for manufacture, packaging, or sale.

26001. (a) The following statutes are hereby repealed from the Health and Safety Code: Section 11357, Section 11358, Section 11359, Section 11360, Section 11361, and Section 11485. Section 23222(b) of the California Vehicle Code is hereby repealed.

(b) No person shall be prosecuted for possession or use of a controlled substance pursuant to subsection (d)(13) of Section 11054 of the Health and Safety Code. Subsection (d)(13) of Section 11054 of the Health and Safety Code shall remain in effect only until January 1, 2018, and as of that date is repealed. In repealing subsection (d)(13) of Section 11054 of the Health and Safety Code, and unless expressly provided in this Act, it is the intent of the People of the State of California to encourage the Legislature to include cannabis in existing laws protecting children, families, and the general public from the continual or habitual abuse of alcohol or controlled substances.

Article 2. Unlawful Acts

26002. Infractions.

(a) Except as otherwise provided by law, the following activities shall be an infraction, punishable by a fine of not more than one hundred dollars (\$100):

(1) For a person under the age of 21 to possess, process, share, or transport for sale not more than one ounce of cannabis or one ounce equivalent of cannabis products.

(2) For a person to smoke or consume cannabis or cannabis products on or in a public street, school, playground, public transit vehicle, or any public property unless otherwise permitted.

(3) For a person to smoke or consume cannabis or cannabis products on any property where such activity is prohibited by the property owner, resident, operator, manager, or business owner.

(b) Except as otherwise provided by law, the following activities shall be an infraction punishable by a fine of not more than five hundred dollars (\$500):

(1) For a person under the age of 21 to possess, process, share, or transport more than one ounce of cannabis or one ounce equivalent of cannabis products, but not more than sixteen ounces of cannabis or sixteen ounces equivalent of cannabis products.

(2) For a person 21 years of age or older (i) to share or give away without compensation not more than one ounce of cannabis or one ounce equivalent of cannabis products to a person under the age of 21, but 18 years of age or older; (ii) to unlawfully possess, process, share, or transport more than one ounce of cannabis or one ounce equivalent of cannabis products outside a person's home; or (iii) to unlawfully possess, process or share more than sixteen ounces of cannabis or sixteen ounces equivalent of cannabis products at a person's home except as allowed under Section 26011(c).

(3) For a person to unlawfully possess, process, share, or transport more than one ounce of homegrown cannabis with intent to sell or export out of state, or the possession of more than one ounce of homegrown cannabis outside of the person's home. This provision shall not apply to the lawful possession and transportation of homegrown cannabis as otherwise provided in Section 26011(c).

(4) For a person to cultivate homegrown cannabis in public view or in a location not secure from public access.

26003. Misdemeanors or Infractions.

(a) Except as authorized by law, the following activities shall be treated as a misdemeanor or infraction, punishable by a fine of not more than five hundred dollars (\$500).

(1) To unlawfully possess, process, share, or transport more than sixteen ounces of cannabis, or sixteen ounces equivalent of cannabis products.

(2) To unlawfully possess, process, share, or transport more than sixteen ounces of homegrown cannabis with intent to sell or export out of state, or the possession of more than sixteen ounces of homegrown cannabis outside of the person's home. This provision shall not apply to the lawful possession and transportation of homegrown cannabis as otherwise provided in Section 26011(c).

(3) To unlawfully sell less than sixteen ounces of cannabis or sixteen ounces equivalent cannabis products.

(4) To transport or possess, with intent to sell, over one ounce but not more than sixteen ounces of cannabis or sixteen ounces equivalent of cannabis products.

(5) To engage in the unlawful cultivation of cannabis. Unlawful cultivation occurs when:

- (i) Any amount of cannabis is cultivated by a person under the age of 21.
- (ii) Cannabis is cultivated beyond the personal use amounts delineated in Section 26011 without a license to do so.
- (iii) Cannabis is cultivated on public or private lands without the consent of the property owner.

(b) Persons 18 years or older convicted of a misdemeanor under this section shall be subject to imprisonment in a county jail for a period of not more than six (6) months or by a fine of not more than one thousand dollars (\$1,000), or by both such fine and imprisonment. Persons under the age of 18 convicted of a misdemeanor under this section shall be penalized pursuant to Section 26007.

26004. Misdemeanors.

(a) Except as authorized by law, the following activities shall be treated as a misdemeanor:

- (1) For a person to unlawfully sell, or to possess, process, or transport with an intent to sell, more than sixteen ounces of cannabis or sixteen ounces equivalent of cannabis products.
- (2) For a person 21 years of age or over to possess cannabis or cannabis products upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs.

(b) Persons 18 years or older convicted of a misdemeanor under this section shall be subject to imprisonment in a county jail for a period of not more than six months or by a fine of not more than one thousand dollars (\$1,000), or by both such fine and imprisonment. Persons under the age of 18 convicted of a misdemeanor under this section shall be penalized pursuant to Section 26007.

26005. Felonies or Misdemeanors. Except as otherwise provided by law, the following activities may be punished as a felony or misdemeanor:

- (a) The knowing sale of cannabis or cannabis products by a person 21 years or older to a person under the age of 18 years old.
- (b) The unlawful diversion, exportation, delivery, or distribution of cannabis or cannabis products to other states.
- (c) The unlawful cultivation, manufacturing, or distribution of cannabis or cannabis products on federal lands or protected park or wilderness lands.
- (d) The cultivation, transportation, distribution, or sale of cannabis or cannabis products as a cover or pretext for the trafficking of illegal drugs or other illegal activity.
- (e) The use of violence, coercion, illegal weapons, or duress in the cultivation or distribution of cannabis or cannabis products.
- (f) Except as authorized by law, knowingly hiring, employing, or using individuals under the age of 21 to cultivate, manufacture, purchase, distribute, sell, or transport cannabis or cannabis products.
- (g) The unlawful commercial cultivation, manufacturing, distribution, sale, transportation, or possession with intent to sell, of cannabis or cannabis products with a market value of more than ten thousand dollars (\$10,000).
- (h) The unlawful manufacture of cannabis products using explosive volatile solvents.

26006. Driving Under the Influence of Cannabis or Cannabis Products. Driving while under the influence of cannabis or cannabis products shall be punished by Vehicle Code Sections 23103, 23152, and 23153. A person shall be deemed to be under the influence of cannabis if, as a result of consuming cannabis, his or her mental or physical abilities are so impaired that he or she is no longer able to drive a vehicle or operate a vessel with the caution of a sober person, using ordinary care, under similar circumstances. This standard shall be the sole standard used in determining driving under the influence allegations.

26007. Penalties for Minors. Violations of Section 26003 and Section 26004 by persons under the age of 18 shall be penalized as follows:

(a) Upon a finding that a first offense has been committed, violators shall be subject to a misdemeanor and shall be subject to a fine of not more than two hundred fifty dollars (\$250), or the performance of not less than twenty-four (24) hours but no more than thirty-two (32) hours of community service during hours when the person is not employed or attending school.

(b) All subsequent violations of this section shall each be punishable as a misdemeanor and the person shall be subject to a fine of not more than five hundred dollars (\$500), or the performance of not less than thirty-two (32) hours but no more than forty-eight (48) hours of community service during hours when the person is not employed or attending school, or a combination of fine and community service as the court deems appropriate.

26008. Penalties for Unlawful Cultivation. In addition to other penalties provided by law, a fine of up to fifty dollars (\$50) per ounce of unlawful cannabis or cannabis products, and up to ten dollars (\$10) per square foot of unlawful canopy area cultivated upon conviction for each violation of Sections 26003, 26004, and 26005. These monetary penalties for unlawful cultivation shall be paid to the Environmental Restoration and Protection Account within the Cannabis Safety Fund as provided in Article 5 of this Act. An action to recover monetary penalties as permitted by this section must be commenced within two (2) years after the violation occurred or the date of reasonable discovery if the occurrence could not reasonably have been discovered upon its occurrence.

26009. Protections and Exemptions.

(a) Except as stated within this Act, this Act shall not be construed or interpreted to amend or affect:

(1) The ability of public and private employers to maintain, enact, and enforce workplace policies prohibiting or restricting actions or conduct otherwise permitted under this Act in the workplace.

(2) The ability of a locality to regulate public nuisances as defined in Section 3480 of the Civil Code.

(3) The ability of a state or local government agency to prohibit or restrict actions or conduct otherwise permitted under this Act within a building owned, leased, or occupied by the state or local government agency.

(4) The ability of an individual or private entity to prohibit or restrict actions or conduct otherwise permitted under this Act on the individual's or entity's privately owned, managed, controlled, or rented property.

(5) Laws pertaining to actions or conduct otherwise permitted under this Act on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

(6) The ability of the State to prosecute against the violation of statutes related to the protection of the environment.

(7) Current laws regarding the rights of a property owner or landlord to regulate or prohibit smoking of any type in the interior or on the grounds of a rented property.

(b) Except as specifically provided otherwise, this Act shall not infringe upon the protections granted under the Compassionate Use Act of 1996 (codified in Section 11362.5, Article 2 of Chapter 6 of Division 10 of the Health and Safety Code) or to qualified patients and primary caregivers as defined in Health and Safety Code Section 11362.7. Patients with valid physician recommendations, prescriptions, or proof of authorization to use medical cannabis from the state in which he or she resides shall be deemed to be qualified patients for purposes of this section.

(c) Except as specifically provided otherwise, this Act shall not alter the provisions of existing laws governing the control, use, and regulation of medical cannabis and medical cannabis products.

26010. Nondiscrimination. Schools, employers, and landlords may not discriminate against or penalize a person solely for their status as a qualified patient or primary caregiver as defined under Health and Safety Code Section 11362.7, unless failing to do so would put the school, employer, or landlord in violation of federal law or cause it to lose a federal contract or funding. It is the intent of the People in enacting this Act that, to the extent feasible, schools, child protective services, employers, and landlords shall treat qualified patients or primary caregivers in a manner reasonably equivalent to patients or caregivers using or dispensing other legal medications.

Article 3. Lawful Activities

26011. Lawful Acts. Except as otherwise provided in this Act, the following activities shall be deemed lawful and shall not be a crime, public offense, cause for property seizure, cause for action by the Department of Motor Vehicles, or cause for incarceration or civil sanctions under California or local law for each person 21 years of age or older:

(a) To possess in public, process, share, or transport not more than one ounce of cannabis or one ounce equivalent of cannabis products, solely for personal use, and not for sale.

(b) To possess, at a personal residence, not more than sixteen ounces of lawfully obtained cannabis or lawfully obtained sixteen ounces equivalent of cannabis products; and to consume cannabis or cannabis products obtained and possessed in compliance with this Act, when such consumption occurs at a private residence or such other location as permitted under this Act. Nothing in this section shall alter the lawful possession of homegrown cannabis in excess of the amounts specified in this section or modify current law regarding the rights of a property owner or landlord to regulate or prohibit smoking on their property.

(c) To cultivate homegrown cannabis in an area not to exceed one hundred (100) square feet; to possess the living and harvested plants and results of any lawfully harvested homegrown cannabis pursuant to this Article; and to transport homegrown cannabis between a lawful cultivation site and the cultivator's residence.

26012. Parental Rights.

(a) No person shall be prosecuted for child endangerment pursuant to Section 273(a) of the Penal Code, or any similar or successor statutes, for an action taken that is in compliance with the provisions of this Act, unless it is determined that there exists an immediate and actual threat to the health and welfare of a child.

(b) Notwithstanding any other provision of law, an action taken that is in compliance with the provisions of this Act, by itself, shall not be sufficient evidence of parental unfitness, or child abuse, or otherwise be used to restrict or abridge custodial or parental rights to minor children, and shall not be the basis of a criminal act or the basis to diminish parental rights or remove a child from his or her home, unless it is determined that there exists an immediate and actual threat to the health and welfare of a child.

Article 4. California Cannabis Commission and Office of Cannabis Regulation

26013. Administration.

(a) There is hereby established in state government, within the California Department of Consumer Affairs, the Office of Cannabis Regulation.

(b) The office shall be subject to the oversight of the California Cannabis Commission. The commission shall consist of seven public members and six ex officio members, appointed as follows:

(1) Three public members appointed by the Governor. One appointee shall have substantial experience in public health and medical cannabis, one shall represent local government, and one shall represent law enforcement. At least one of the Governor's appointees shall also have substantial expertise with the public policy issues associated with cannabis.

(2) Two public members appointed by the Senate Committee on Rules. One appointee shall have substantial expertise with environmental best practices for cannabis cultivation, and one appointee shall be a medical cannabis patient or cannabis consumer advocate.

(3) Two public members appointed by the Speaker of the Assembly. One appointee shall have substantial expertise producing or providing cannabis or cannabis products, and one appointee shall be from organized labor.

(4) The Lieutenant Governor of California, or his or her designee, as an ex officio member.

(5) The Attorney General, or her or his representative, as an ex officio member.

(6) A member of the Board of Equalization, or authorized representative, as an ex officio member appointed by a vote of the Board of Equalization.

(7) The Secretary of the California Department of Food and Agriculture, or her or his designee, as an ex officio member.

(8) The Secretary of the Department of Consumer Affairs, or her or his designee, as an ex officio member.

(9) The Secretary of the Environmental Protection Agency, or her or his designee, as an ex officio member.

(c) Public members serve four-year terms beginning on January 1 and ending on December 31 or as soon thereafter as their successors are qualified. With respect to the initial appointees, the Governor shall appoint one member for a five-year term and two members for a three-year term. The Senate Committee on Rules and the Speaker of the Assembly shall each initially appoint one member for a two-year term and one member for a four-year term. Public members may be reappointed for an additional two terms.

(d) The appointing authority of a member of the commission may remove the member and make an appointment replacing the member for the duration of the term if the member ceases to discharge the duties of his or her office for the period of three consecutive commission meetings. Vacancies shall be filled by the appointing authority for the unexpired portion of the terms.

(e) Public members of the commission shall receive one hundred dollars (\$100) per diem while on official business of the commission. Each member of the commission shall also be entitled to receive his or her actual necessary traveling expenses while on official business of the commission.

(f) Until January 1, 2019, the commission chair shall be the Lieutenant Governor of California, or his or her designee. The commission may thereafter select annually from its membership a chairperson and a vice chairperson.

(g) Appointments under this section shall be completed no later than April 1, 2017.

26014. Staffing.

(a) The commission shall appoint an executive director of the office, who shall be exempt from civil service and who shall serve at the pleasure of the commission. The executive director shall manage and conduct the business and affairs of the office under the general direction and subject to the approval of the commission, and shall perform other duties as the commission prescribes.

(b) The commission may appoint up to five additional individuals for the key executive positions within the office, exempt from civil service, who shall serve at the pleasure of the commission.

(c) The commission shall set the salary for each appointment made pursuant to this section. These positions shall not be subject to otherwise applicable provisions of the Government Code and the Public Contract Code, and for those purposes, the commission shall not be considered a state agency or other public entity.

(d) Upon request of the commission, the Attorney General shall provide legal advice and representation to the commission.

26015. Powers. The commission shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(a) To employ, consistent with applicable civil service laws, any administrative, technical, legal, or other personnel that may be necessary for the performance of its powers and duties; to appoint advisers or advisory committees from time to time when the commission determines that the experience or expertise of those advisers or advisory committees is needed for projects of the commission; to contract for any services which cannot be performed satisfactorily by its employees; and to contract for legal counsel. Any such contract shall

not be subject to otherwise applicable provisions of the Government Code and the Public Contract Code, and for those purposes, the commission shall not be considered a state agency or other public entity.

(b) To sue or be sued; to hold hearings, make and sign any agreement, and do or perform any act, including the collection of relevant information, that may be necessary, desirable, or proper to carry out the purposes of this Act; to accept any gift, donation, grant, or bequest for any purpose of this Act; and to cooperate with, and secure the cooperation of, any department, division, board, bureau, commission, or other agency of the State to facilitate the proper execution of the commission's powers and duties under this division.

26016. Open Meetings. The principal office of the commission shall be in Sacramento. The commission shall be subject 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).

26017. Rulemaking. The commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this division, and to govern procedures of the commission. These rules and regulations shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections 11371 et seq.) and shall be consistent with this division and other applicable law.

Article 5. Cannabis Safety Fund

26018. Cannabis Safety Fund. The Cannabis Safety Fund is hereby created as a special fund in the State Treasury. All monies collected by the office or by the Board of Equalization pursuant to this Act, including, but not limited to, taxes, fees, interest, and penalties, shall be deposited in the Cannabis Safety Fund.

26019. Allocation Responsibility. The commission shall, in cooperation with the Department of Finance, allocate such funds from the Cannabis Safety Fund as are necessary to implement, administer, and enforce this Act to any state agency identified by the commission to further the purposes of this Act.

26020. Evidence-Based Studies; Evaluation of the Act. The commission shall provide funding for evidence-based studies that address: (a) the development of valid impairment standards for use by law enforcement personnel; (b) effective methods for implementing education campaigns designed to prevent and discourage the abuse of cannabis, particularly by persons under 21 years old; (c) effective methods for implementing education campaigns designed to develop the safe, controlled, and environmentally sustainable cultivation of cannabis; and (d) other research that furthers the purposes of this Act. Not less than once every two years, there shall be an evaluation of the impact of this Act, including recommendations to develop future policy for its implementation and the efficacy of standards for testing and labeling of cannabis and cannabis products.

26021. Allocation of Excess Funds.

(a) On at least an annual basis, the commission shall determine the funding reasonably necessary for the office's operations for the forthcoming year. The commission shall also identify the amount of monies in the Cannabis Safety Fund that are projected to be in excess of the office's operating requirements. After paying back the start-up loan of thirty million dollars (\$30,000,000) provided in Section 26023 to the General Fund, the commission shall apportion all excess funds generated by this Act to ensure that community-based nonprofit organizations receive a portion of these funds, in grants, to advance community restoration programs, health services, and environmental protection and restoration, according to the following:

(1) Not less than fifty percent (50%) and no more than sixty percent (60%) of all other excess funds generated, if any, shall be set aside for the following, with a priority to disadvantaged communities: (i) for preschool reimbursement vouchers for children between the ages of three (3) and five (5) years old, and to provide funding for expanded infant and toddler care with a priority for California families at or below one hundred thirty percent (130%) of the federal poverty level (FPL); (ii) for youth counseling and health care services for pre-K and K-12, allocated based on annual enrollment; (iii) for harm reduction-based drug education, and rehabilitation programs; and (iv) for programs related to gang diversion, youth programs and services.

(2) Not less than two percent (2%) and no more than twenty percent (20%) of all other excess funds generated, if any, to each of the following: (i) to research the health and medicinal effects of cannabis and cannabis products by the University of California's Center for Medicinal Cannabis Research; (ii) to sponsor performance-based assessments to identify, reduce, and prevent driving under the influence and other adverse public health consequences; to educate consumers on safe and responsible use; and to assess and develop methods for minimizing adverse environmental impacts from cultivation; (iii) for substance abuse and mental health services, including services for incarcerated and formerly incarcerated individuals and their families; for senior programs and services; and for disease care and prevention, such as programs for screening, care, prevention, and treatment for HIV/AIDS, viral hepatitis, sexually transmitted diseases, and for the Maddy Emergency Medical Services (EMS) Fund; and (iv) to provide funding for projects related to the use and conservation of water.

(b) Subject to the limitations specified in this section, the commission may appropriate excess funds generated by the Act for any other purpose or program it deems necessary to carry out the intents and purposes of this Act.

26022. Environmental Restoration and Protection Account.

(a) An Environmental Restoration and Protection Account is hereby created as a special account in the Cannabis Safety Fund. All monies collected by the Board of Equalization as provided in Revenue and Tax Code Section 31003(a) and Section 31003(b), and penalties assessed for the unlawful cultivation of cannabis pursuant to Section 26008 and Section 26042(a)(3), shall be deposited into the Environmental Restoration and Protection Account.

(b) The funds in the Environmental Restoration and Protection Account shall be allocated by the commission for (i) cleanup, remediation, and restoration of environmental damage caused by cannabis cultivation and related activities, including, but not limited to, damage that occurred prior to enactment of this Act; (ii) natural resource protection, including acquisition of lands, interests in land, and conservation easements to offset the adverse environmental impacts of cannabis cultivation; and (iii) stewardship, operations, maintenance, and restoration of state-owned wildlife habitat and units of the state park system.

(c) The State Water Resources Control Board, the Department of Fish and Wildlife, the Wildlife Conservation Board, and the Department of Parks and Recreation may distribute a portion of the funds they receive from the commission through grants to local public agencies and nonprofit organizations, provided such funds are used for the purposes specified in this subdivision.

(d) Funds allocated pursuant to this section shall not replace other funding used to increase the protection, management, and restoration of park, wildlife, water, and other natural resources.

26023. Start-Up Loan.

(a) It is the intent of the People of the State of California to provide a start-up loan of thirty million dollars (\$30,000,000) from the General Fund, to be repaid with tax revenues generated under this Act, to facilitate the initial implementation of this Act.

(b) There is hereby appropriated thirty million dollars (\$30,000,000) from the General Fund to the Cannabis Safety Fund as a temporary loan to the office for the start-up costs of regulation, tax collection and administration, public education, public health, enforcement, drug abuse prevention, environmental protection, and outreach concerning this Act.

(c) For purposes of repaying the loan, the Controller shall transfer all excess funding identified in Section 26021 above up to the amount of the loan provided by this section, including interest at the pooled money investment account rate, to the General Fund until the loan is repaid. The loan shall be repaid no later than June 1, 2020.

Article 6. Licensing and Registration

26024. Eligibility.

(a) Notwithstanding other provisions of law, all legal California residents age 21 or older, having lawfully resided in the state full-time for two years, or less if prescribed by the office, shall have the right to apply for a cannabis license. Prima facie evidence of legal residency shall be the same as provided in Vehicle Code Section 12505(a).

(b) Partnerships, corporations, and limited liability companies operating for profit or not for profit as defined under the Corporations Code shall have the right to apply for a cannabis license, provided such entities designate a responsible party of record who is eligible for a license under this Act. To qualify for a license, even after licensure, all licensed business entities must submit an annual disclosure statement to the office that (1) identifies any person with at least a ten percent (10%) direct or indirect ownership in the licensed entity, (2) identifies any affiliated person owning ten percent (10%) or more of stock in the aggregate in the licensed entity, or (3) states that there is no such person. For purposes of this article, the term “person” shall have the same meaning as defined in Civil Code Section 3426.1(c). The office shall:

- (1) Establish the standards to confirm whether an individual qualifies as a responsible party of record.
- (2) Promulgate regulations governing the replacement of a responsible party of record upon removal, incapacity, violation of Section 26025(a), or death.
- (3) Establish protocols to track the individuals or businesses holding a direct or indirect ownership interest in a partnership, corporation, or limited liability company holding a cannabis license to ensure that the owners remain identified and in compliance with Section 26025 of this Act.

26025. Restrictions on Eligibility; Amnesty for Cannabis-Specific Offenses.

(a) No licensee, responsible party, or person holding at least a ten percent (10%) direct or indirect interest in a licensed partnership, corporation, or limited liability company may be convicted of a violent felony as specified in Penal Code 1192.7(c), a felony involving fraud or deceit, or any felony that in the office’s determination would impair the applicant’s ability to appropriately operate as a licensee.

(b) Subject to the discretion of the commission, the commission may issue licenses to an applicant seeking licensure under this Act, or existing laws governing medical cannabis and cannabis products, who would otherwise be ineligible for a license pursuant to this section, if that applicant has obtained a certificate of rehabilitation pursuant to Penal Code 4852.13 or expungement pursuant to the Penal Code.

(c) Three years from the date of the conviction, persons convicted of cannabis-specific offenses under Sections 11357, 11358, 11359, 11360, 11361, and 11485 of the Health and Safety Code, and Section 23222(b) of the Vehicle Code, shall be eligible to apply for a cannabis license under this Act.

26026. Denial, Modification, Suspension, Revocation; Right to Appeal. The office shall have the exclusive power, in its reasonable discretion, to deny, modify, suspend, or revoke any specific cannabis license for good cause. The office shall establish the qualifications and procedures for the application, issuance, renewal, modification, suspension, and revocation of cannabis licenses provided under this Act. These procedures shall include the right to protest and appeal decisions made by the office, and permit individuals to seek relief in a superior court for the jurisdiction where the individual resides.

26027. Noninfringement. Any regulations created and enforced by the office for licensing shall not infringe on the rights and protections set forth in this Act, including, but not limited to, the possession, use, and cultivation of homegrown cannabis individually or collectively.

26028. Licenses.

(a) Not later than July 1, 2017, the commission shall institute a rulemaking proceeding to establish the standards and requirements for the licenses necessary to carry out the intents and purposes of this Act, provided such rules are commercially feasible and do not make compliance unreasonably impracticable.

(b) The office shall, at a minimum, ensure that the following types of cannabis licenses are issued:

(1) Cultivation licenses to cultivate, propagate, purchase, grow, harvest, process, transport, and deliver cannabis to other licensees for commercial purposes; however, the licensee may transport and deliver only the cannabis it cultivated or propagated pursuant to its cultivation license, and the office shall establish different tiers of cultivation licenses based on the area, in square feet, of cannabis canopy.

(2) Nursery licenses to produce and transport seeds, seedlings, tissue culture, and other propagation materials; however, the licensee may transport and deliver only the seeds, seedlings, tissue culture, and other propagation materials it produced pursuant to its nursery license.

(3) Manufacturing licenses to purchase, process, manufacture, prepare, produce, package, transport, and deliver cannabis and cannabis products for commercial purposes to distribution, retail, or other manufacturing licensees; however, the licensee may transport and deliver only the cannabis and cannabis products it manufactured pursuant to its manufacturing license, and the office shall establish different tiers of manufacturing licenses based on the annual gross revenue of the cannabis manufacturing licensee.

(4) Distribution licenses to acquire, store, transport, and deliver cannabis and cannabis products to other licensees; however, the licensee may transport and deliver only the cannabis and cannabis products it acquired or stored pursuant to its distribution license, and the office shall establish different tiers of distribution licenses based on the annual gross revenue of the cannabis distribution licensee.

(5) Retail licenses to package, deliver, trade, and sell cannabis and cannabis products.

(6) Microbusiness licenses to cultivate cannabis in an area not greater than 10,000 square feet of cannabis canopy area, and manufacture, distribute, transport, sell and deliver cannabis and cannabis products pursuant to this license. The commission shall also allow microbusinesses to engage in the manufacture, distribution, transportation, sale and delivery for cannabis and cannabis products acquired from other licensees, provided that the commission establishes reasonable limitations on the amount of cannabis and cannabis products that can be acquired pursuant to a microbusiness license.

(7) Transporter licenses to transport cannabis and cannabis products for commercial purposes. This license shall be necessary for (i) carriers not engaged in the cultivation, propagation, manufacture, or distribution of cannabis, or (ii) licensees transporting cannabis, cannabis products, seeds, seedlings, tissue culture, and other propagation materials cultivated, propagated, manufactured, or distributed by a third party.

(8) Testing licenses to (i) analyze and certify the safety and potency of cannabis or cannabis products; or (ii) identify ingredients, nutritional content, and/or potentially harmful contaminants in cannabis or cannabis products; however, the office shall establish rules and regulations preventing entities with any common ownership, management, or control from certifying the safety, potency, or content of cannabis or cannabis products produced by an affiliated licensee.

(9) Research and educational licenses to cultivate, process, or display, but not test, cannabis and cannabis products for scientific, educational, or informational purposes but not for commercial production, manufacture, or sale.

(10) Provisional licenses for applicants who, for at least one year prior to the passage of this Act, have regularly cultivated, processed, manufactured, distributed, transported, sold, or tested medical cannabis in compliance with the Compassionate Use Act of 1996 (Health and Safety Code Section 11362.5), the Medical Marijuana Program Act (Health and Safety Code Sections 11326.7-11362.8), and paragraphs A and B of Section IV of the Guidelines for Security and Non-Diversion of Marijuana Grown for Medical Use, issued by the California Department of Justice in August 2008, and any applicable local ordinance, provided the applicant (i) is licensed, permitted, or certified by a local jurisdiction allowing the operation of a cannabis business, and (ii) submits an application for a provisional license no later than May 1, 2017. Provisional licenses shall be valid until the commission enacts a procedure granting permanent status to provisional licensees.

(c) The commission may establish other license categories as appropriate.

(d) With the exception of persons or entities holding a testing license, the holder of any license granted under existing laws governing medical cannabis or medical cannabis products may also hold any other cannabis license available under this Act.

(e) Persons or entities holding any license granted under existing laws governing medical cannabis or medical cannabis products shall be automatically entitled to a reasonably equivalent cannabis license available under this Act, provided said licensees register with the office in a manner prescribed by the commission.

(f) All licenses created under this Act shall apply exclusively to cannabis and cannabis products cultivated, manufactured, distributed, and sold in the State of California.

26029. Scope of Licenses.

(a) Notwithstanding any other provisions of law, the office may place reasonable conditions upon any cannabis license necessary, to enforce the provisions of this Act. These shall include, but are not limited to, the following:

- (1) Restrictions as to the number and types of licenses conferred upon an individual or business entity so as to promote fair competition and discourage monopolization;
- (2) Restrictions on commercial cannabis cultivation, to minimize environmental harm, and if necessary, limitations on cannabis cultivation so as to prevent diversion and overproduction;
- (3) Reasonable conditions on the time, manner, and place of the retail sale of cannabis and cannabis products, including controls governing on-site consumption of cannabis and cannabis products by adults, 21 years of age and older, at licensed retail facilities;
- (4) Safety restrictions for retail cannabis and cannabis products including requirements for testing and labeling, safe preparation, storage, and childproof packaging of cannabis edibles and other products;
- (5) Limits on the dosage strengths of edible cannabis products available for nonmedical use to prevent overconsumption; and
- (6) Reasonable controls on the advertisement and packaging of cannabis and cannabis products, including restrictions to ensure informed consumption and prevent promotions aimed at or attractive to minors.

(b) A violation of a condition placed upon a license shall be grounds for the suspension or revocation of such license, and the office may assess a reasonable fine to be established based on standards promulgated by the commission.

26030. Application for Licensure.

(a) The office shall issue provisional licenses no later than July 1, 2017. No later than January 1, 2018, the office shall make non-provisional cannabis licenses available to eligible applicants.

(b) An application for a license, including provisional licenses, and any subsequent renewal shall be made to the office upon a form prescribed by the office and shall be accompanied by such other information as the office may require to assist in determining whether an applicant qualifies for a license. At a minimum, an applicant shall do all of the following:

- (1) Provide his or her name, address, date of birth, and proof of his or her legal California residency.
- (2) Provide a signed statement, under penalty of perjury, that the applicant has not been convicted of a violent felony as specified in Penal Code 1192.7(c), a felony involving fraud or deceit, or any felony that in the licensing authority's determination would impair the applicant's ability to appropriately operate as a licensee; or that the applicant has obtained a certificate of rehabilitation pursuant to Penal Code 4852.13 or expungement pursuant to the Penal Code.

(3) For individuals seeking to cultivate, manufacture, distribute, or sell cannabis on real property owned by a third party, notarized consent from the owner or the owner's agent that cannabis may be cultivated, manufactured, distributed, or sold by the tenant applicant on said property.

(c) The office shall devise and implement protocols to confirm the accuracy of information in an application for a license. The office may require fingerprinting and background checks of all applicants. At the request of the office, the California Attorney General or any local agency shall provide summary criminal history information to the office as provided in Sections 11105 and 13300 of the Penal Code.

(d) The office may require an applicant to provide detailed operating procedures, in writing, for operational security, prevention of diversion, employee screening, storage of cannabis and cannabis products, personnel policies, and recordkeeping.

(e) The office shall devise and implement protocols to ensure compliance with laws and regulations applicable to cannabis cultivation as a prerequisite to obtaining and retaining a valid cannabis license, including, but not limited to, environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use, in accordance with regulations, with the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.), the California Endangered Species Act (Fish and Game Code, Section 2800 et seq.), lake or streambed alteration agreements (Fish & Game Code, Section 1600 et seq.), the Clean Water Act, the Porter-Cologne Water Quality Control Act, timber production zones, wastewater discharge permits, and any permit or right necessary to divert water. In accordance with this section, the office may require an applicant to provide any information the office deems necessary to demonstrate that, if a license is granted, the licensee will operate in compliance with all applicable federal, state, and local environmental protection laws if the office reasonably believes that the licensee is at risk of operating in violation of those laws.

(f) If a partnership, corporation, or limited liability company holds a cannabis licensee, the licensee shall report any direct or indirect change in the ownership, management, or control of more than ten percent (10%) in that partnership, corporation, or limited liability company within sixty (60) calendar days following such change in a manner prescribed by the office.

(g) In issuing licenses, the office shall first prioritize any applicant holding a provisional license. The office shall secondarily prioritize any applicant who can satisfactorily demonstrate to the office that the applicant was in operation and in good standing with respect to the cultivation, propagation, manufacture, distribution, sale, testing, or research of cannabis and cannabis products as of July 1, 2016. The commission shall promulgate standards for the office to utilize in determining whether an applicant was in operation and in good standing as of July 1, 2016. These standards shall include, but are not limited to, demonstration that the applicant incorporated as a business entity with the California Secretary of State prior to July 1, 2016, that the applicant is registered and in good standing with the Board of Equalization, and that the applicant can demonstrate through documentation such as contracts, invoices, receipts, and/or manifests that the applicant seeking priority has been transacting with a licensed or permitted medical operator prior to the passage of this Act. The commission may amend and adopt additional criteria for the priority determination under this subsection.

26031. License Fees.

(a) The office shall adopt application and renewal application fees in an amount reasonably sufficient to recoup the costs incurred by the office to process applications. Any applicant for a license shall, at the time of filing an application, submit the required application fee.

(b) The commission shall adopt license fees in an amount reasonably sufficient to recoup the cost of the administration, regulation, oversight, application processing, enactment of standards governing licensee and employee education, training, and certification, and any other costs the office deems necessary and proper to administer the licensing provisions of the Act. Upon approval of a license application, the applicant shall submit the license fee prior to being granted the license(s).

(c) Notwithstanding the foregoing, the fees established under this section shall be based upon the projected or actual annual revenues of the applicant or licensee, and it is the intent of the People in enacting this Act that said fees encourage small and midsize businesses to have access to the cannabis industry and that the cannabis industry is not dominated by large corporate interests.

(d) The office shall require payment of the license fee on an annual basis. Upon reasonable notice, the office may increase or decrease the licensing fees.

26032. Operation of Cannabis Businesses.

(a) In accordance with, and subject to the exemptions in, Health and Safety Code Section 11362.768, no licensee shall operate a business for the cultivation, distribution, manufacture, sale, or testing of cannabis within six hundred (600) feet of a school.

(b) The office shall develop and implement procedures to ensure that every resident and owner of real property within five hundred (500) feet of any proposed premises or location where a cannabis licensee plans to conduct business pursuant to a cannabis license is provided reasonable notice. No license shall be issued, and no manufacture, distribution, cultivation, sale, or testing of cannabis or cannabis products may proceed, until notice has been provided for at least thirty (30) consecutive days; however, public notice shall not be required for provisional licenses or any applicant seeking to manufacture, distribute, cultivate, or test cannabis or cannabis products if the applicant can satisfactorily demonstrate to the office that it was in operation and in good standing for two consecutive years in the same location as of January 1, 2016. The commission shall promulgate standards for the office to consider in determining whether an applicant was in operation and in good standing for two consecutive years in the same location as of January 1, 2016.

26033. Public Safety; Market Protection.

(a) It is the intent of the People in enacting this Act that, to the extent feasible, cannabis sales be regulated in a manner consistent with the regulation of alcohol sales and public use as established in Chapter 16 (commencing with Section 25600) of Division 9 of the Business and Professions Code.

(b) As soon as practicable, the office shall develop and implement measures to reasonably protect against the unauthorized access or diversion of cannabis from a licensed cultivator, manufacturer, distributor, transporter, tester, or seller. These measures shall include, but are not limited to:

(1) Recordkeeping provisions to ensure transparency of finances and to prevent the diversion of licensee profits to criminal enterprises.

(2) Mandatory and regular inspections and audits of licensees, and maintenance of licensee tracking systems to ensure that cannabis and cannabis products cultivated, distributed, produced, propagated, manufactured, transported, tested, or sold by a licensee are identified, tracked, traced, and thereafter assessed, in accordance with the provisions of this Act and Revenue and Taxation Code Section 31020.

(3) Reasonable restrictions on licensee operations, including, but not limited to, the time and place of sale, time and manner of deliveries, and signage.

(4) Penalties for violations of the Act by licensees, including penalties for the sale of cannabis and cannabis products to persons under 21 years of age and for marketing, labeling, packaging, or selling cannabis and cannabis products as grown in a California county when the cannabis was not grown in that county.

(5) The development of an organic designation and organic certification program for cannabis and cannabis products in a manner consistent with Business and Professions Code Section 19332.5.

(6) Standards for recognition of a particular appellation of origin applicable to cannabis or cannabis products produced in a certain geographical area in California.

(c) Except as otherwise provided by law, all information provided to the office by licensees shall be subject to disclosure in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). Notwithstanding the foregoing, the office is not required to disclose any licensee information deemed proprietary or confidential business information.

(d) The office shall create and maintain a list of cannabis licensees. As soon as practicable, but no later than January 1, 2018, the office shall implement an Internet-based system to enable the public and state and local law enforcement offices to have immediate access to information necessary to verify the validity of a license issued by the office.

26034. Interagency Coordination. To the extent practicable, the office shall work with relevant state agencies, departments, political subdivisions, public authorities, districts, public corporations, cities, and counties to implement the intents and purposes of this Act.

Article 7. Local Control

26035. (a) Cities and counties may restrict or prohibit the commercial cultivation, manufacture, distribution, and sale of cannabis and cannabis products; however, any prohibitions on the cultivation, manufacture, distribution, and sale of medical cannabis and medical cannabis products must be approved by a majority of voters residing in such cities or counties. No city or county may ban the delivery by licensed providers of medical cannabis to qualified patients for their personal medical use.

(b) Notwithstanding the foregoing, cities and counties shall not prohibit a person from cultivation of homegrown cannabis or from possessing, transporting, or using any cannabis or cannabis products where such activity is in compliance with this Act.

(c) Cities and counties may restrict or prohibit the use of cannabis or cannabis products in any public area. This includes the right to restrict or prohibit on-site consumption at licensed facilities open to the public.

(d) Cities and counties may adopt reasonable regulations on the location and operating hours of licensed adult-use retail outlets.

Article 8. Enforcement

26036. Enforcement. The office is primarily responsible for enforcement of civil penalties and remedies of this division. The Attorney General and the district attorney of any county in which a violation occurs have concurrent powers and responsibilities for enforcing the criminal provisions of this Act, including the prosecution of violators engaged in the unlicensed sale, distribution, cultivation, and manufacturing of cannabis and cannabis products.

26037. Complaints; Investigations. Upon the sworn complaint of any person, or on its own initiative, the office shall investigate possible violations of this Act. Within thirty (30) days after receipt of a complaint under this section, the office shall notify in writing the person who made the complaint of the action, if any, that the office has taken or plans to take on the complaint, together with the reasons for such action or nonaction. If no decision has been made within thirty (30) days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

26038. Notice of Probable Cause; Right to Cure. No finding of probable cause to believe this Act has been violated shall be made by the office unless, at least thirty (30) days prior to the office's consideration of the alleged violation, the office provides notice to the person or entity alleged to have violated this Act, by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of the right to be present in person and represented by counsel at any proceeding held for the purpose of considering whether probable cause exists for believing the person violated this division. Notice to the alleged violator shall be deemed made on the date of service or on the date the registered mail receipt is signed. If the alleged violator, upon notice of probable cause that this Act has been violated, agrees to immediately correct the alleged violation, possible sanctions shall be reduced or waived pursuant to any rules or procedures promulgated by the office.

26039. Hearings of Violations; Notice of Hearings. When the office determines there is probable cause for believing this Act has been violated, it may hold a hearing to determine whether a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The office shall have all the powers granted by that chapter.

26040. Commencement of action. No administrative action brought pursuant to this Article alleging a violation of any of the provisions of this Act shall be commenced more than two (2) years after the violation occurred or after the date of reasonable discovery if the occurrence could not reasonably have been discovered upon its occurrence. The service of the probable cause hearing notice, as required by Section 26038, upon the person alleged to have violated this division shall constitute the commencement of the administrative action.

26041. Subpoenas. The office may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items material to the performance of the office's duties or exercise of its powers.

26042. Administrative violations.

(a) When the office determines on the basis of the hearing that a violation of this Act has occurred, it shall issue an order that may require the violator to do any or all of the following:

- (1) Cease and desist violation of this division.

(2) File any reports, statements, or other documents or information required by this division.

(3) For cultivation-related violations, a monetary penalty of fifty dollars (\$50) per ounce of unlawful cannabis or cannabis products, and up to ten dollars (\$10) per square foot of unlawful canopy area cultivated to the Environmental Restoration and Protection Account. For all other violations, a monetary penalty of up to two thousand dollars (\$2,000) per day per violation payable to the Cannabis Safety Fund.

(4) Pay the reasonable costs incurred by the office for its investigation and prosecution of the hearing.

(5) Relinquish or suspend his or her license(s).

(b) When the office determines that no violation has occurred, it shall publish a notice so stating.

26043. Rejection of Administrative Decision. Whenever the office rejects the decision of an administrative law judge made pursuant to Government Code Section 11517, the office shall state the reasons in writing for rejecting the decision.

26044. Judicial Review.

(a) Judicial review of a final decision made pursuant to this division may be had by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure. The petition shall be filed within thirty (30) calendar days of personal delivery or within sixty (60) calendar days of the mailing of the office's decision.

(b) In an action resulting in the issuance of a writ of mandate pursuant to this section, the court may order the office to pay the petitioner's reasonable attorneys' fees or one thousand dollars (\$1,000), whichever is less.

26045. Civil Actions.

(a) In addition to any other available remedies, the office may bring a civil action and obtain a judgment in superior court for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to this division. The action may be filed as a small claims, limited civil, or unlimited civil case, depending on the jurisdictional amount. The venue for this action shall be in the county where the monetary penalties, fees, or civil penalties were imposed by the commission.

(b) A civil action brought pursuant to subdivision (a) shall be commenced within two (2) years after the date on which the monetary penalty, fee, or civil penalty was imposed.

SECTION 4: Taxation

Add Part 13.5 (commencing with Section 31001) to Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 1. General Provisions and Definitions

31001. This part is known and may be cited as the "Cannabis and Cannabis Products Tax Law."

31002. Definitions. Unless the context otherwise requires, the definitions set forth in this chapter and those in Chapter 1 (commencing with Section 26000) of Division 10 of the Business and Professions Code govern the construction of this part.

(a) "Person" includes any individual; firm; partnership; joint venture; limited liability company; association; social club; fraternal organization; corporation; estate; trust; business trust; receiver; assignee for the benefit of creditors; trustee; trustee in bankruptcy; syndicate; the United States; this state; any county, city and county, municipality, district, or other political subdivision of the state; or any other group or combination acting as a unit.

(b) "Registrant" means a person liable for the collection and transmission of a tax payment pursuant to this part.

(c) "Retail sale" means "sale at retail" as defined in Section 6007.

(d) "Sale," as used in Sections 32151 and 32201 of this code, includes the transaction whereby cannabis or cannabis products are transferred with consideration:

(1) By a registrant to another registrant; or

(2) By a registrant holding one type of license to herself or himself, whether for use under a different license or for personal use; or

(3) By a registrant to an adult aged 21 years or older purchasing one ounce, or such other greater amount established by the commission, for personal consumption pursuant to the provisions of the Act.

(e) "Tax," as used in this part, except in Chapters 4 (commencing with Section 32151) and 5 (commencing with Section 32201), means the various taxes imposed by this part on the sale or transfer of cannabis or cannabis products.

CHAPTER 2. Imposition of Tax

31003. Except as otherwise provided in this part, taxes are imposed on cannabis cultivation and retail sale in this state as follows:

(a) Cultivation Tax. There is hereby imposed an annual cultivation tax of two dollars (\$2) for each square foot of cannabis canopy licensed. One dollar (\$1) per square foot of such tax shall be collected by the board in connection with licensing the production of cannabis and shall be remitted to the city or county (in instances in which cannabis is grown in an unincorporated area) in which the cannabis is grown. One dollar (\$1) per square foot of such tax shall be collected by the board in connection with licensing the production of cannabis and shall be remitted by the board to the Environmental Restoration and Protection Account in the Cannabis Safety Fund as provided in Business and Professions Code Section 26022.

(b) Production Tax. There is hereby imposed a production tax on all harvested cannabis that enters the commercial market. The tax shall be paid by the first purchaser after cannabis is harvested and processed (such as a manufacturer, distributor, or retailer, or in the case of farm-direct sales, by the retailing farm). This tax shall be collected by the board. Seventy percent (70%) of the production tax shall be remitted by the board to the Cannabis Safety Fund, twenty percent (20%) shall be remitted by the board to the Environmental Restoration and Protection Account in the Cannabis Safety Fund, and ten percent (10%) shall be remitted by the board to the city or county (in instances in which cannabis is grown in an unincorporated area) where the cannabis is grown.

(1) The basic production tax shall be fifteen dollars (\$15) per dry-weight ounce of cannabis flowers sold. This basic rate is reduced to five dollars (\$5) per ounce for the first five hundred (500) pounds of cannabis flowers sold in a given year by a cultivation licensee.

(2) The tax rate for other cannabis shall initially be set at one-fifth (1/5) the rate for flowers, or one dollar (\$1) per ounce for the first five hundred (500) pounds of other cannabis sold in a given year by a cultivation licensee, and three dollars (\$3) per ounce for all additional cannabis. The office may adjust the tax rate annually to reflect fluctuations in the relative price of flowers to other cannabis, such that the tax rate for other cannabis shall equal the basic rate for flowers multiplied by the ratio of the average market price of flowers to other cannabis.

(3) The office may from time to time establish other categories of harvested cannabis, which shall be taxed at their relative value compared with flowers. The tax rate for each category shall equal the basic rate for flowers multiplied by the ratio of the average market price of that category to flowers.

(c) The cultivation and production tax shall be adjusted for inflation, according to the Consumer Price Index, as determined by the office.

(d) Retail Tax on Sales. Except as provided in subsection (f) below, there is hereby imposed an ad valorem five percent (5%) tax on all retail sales of cannabis and cannabis products except edible cannabis products for oral ingestion and concentrated extracts and an ad valorem ten percent (10%) tax is imposed on retail sales of edible cannabis products for oral ingestion and concentrated extracts. This tax shall be collected by the board. All revenues from this tax shall be remitted by the board to the Cannabis Safety Fund.

(e) Retail Tax for Local Government. There is hereby imposed an additional five percent (5%) tax on the retail sales price of all cannabis and cannabis products. All revenue from this tax shall be collected by the board and remitted by the board to the city or county (in instances in which cannabis and cannabis products are sold in an unincorporated area) where sold.

(f) The taxes imposed under subsection (d) above shall not apply to retail sales of medical cannabis or cannabis products when the purchaser furnishes evidence to the retailer that the purchaser is a qualified patient (or primary caregiver for a qualified patient), and neither the taxes imposed under subdivision (d) or subdivision (e) nor the state sales tax shall apply to retail sales of medical cannabis or medical cannabis products upon furnishing to the retailer by the purchaser evidence that the purchaser is a qualified patient (or primary caregiver for a qualified patient) who is eligible for Medi-Cal.

(g) Preemption of Other Local Taxes. It is the intent of this section to address taxation directed at cannabis and cannabis products and to prohibit any additional local taxes solely on cannabis and cannabis products. Once the board begins collecting the taxes imposed under subdivisions (a), (b), (d), and (e), no city or county may collect taxes directed at cannabis and cannabis products, and all such taxes are preempted.

31004. A rebuttable presumption shall be presumed, for the purposes of this part, that all cannabis and cannabis products removed from the premises of a registrant have been sold in this state by the registrant.

31005. Any claim for exemption from taxes under this article shall be made to the board in such manner as the board shall prescribe.

31006. Notwithstanding Government Code Section 13340, and except for payments of any refunds made pursuant to the board's regulations, reimbursement of the board for expenses incurred in the administration and collection of the taxes imposed by this chapter, and the cost of the track and trace program implemented pursuant to Section 31200, all monies raised pursuant to the taxes imposed by this chapter shall be deposited in the Cannabis Safety Fund and are continuously appropriated for the exclusive purpose of the California Cannabis Commission established by Division 10 (commencing with Section 26000) of the Health and Safety Code.

CHAPTER 3. Administration

31007. Upon the issuance of any license under Division 10 (commencing with Section 26000) of the Business and Professions Code, the office shall furnish a copy thereof to the board. Other state agencies issuing cannabis licenses shall also furnish a copy to the board. Every cannabis licensee shall register with the board. Every application for registration shall be in addition to any application for licensure, shall be made upon a form as prescribed by the board, and shall set forth the name under which the applicant transacts or intends to transact business, the location of its place or places of business, and such other information as the board may require. An application for registration shall be filed using electronic media as prescribed by the board. An application for registration shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

31008. (a) The tax is due and payable to the board quarterly on or before the last day of the month following each calendar quarter, unless otherwise provided by the board.

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

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

31009. To the extent feasible or practicable, the provisions of Chapter 5 (commencing with Section 6451), Chapter 6 (commencing with Section 6701), Chapter 7 (commencing with Section 6901), and Chapter 8 (commencing with Section 7051) of Part 1 of the Taxation and Revenue Code shall govern returns and payments, security payments, determinations, collections of fees, overpayments and refunds, and administration under this part.

31010. The board may adopt any regulations necessary for the implementation of this part, including but not limited to procedures for refunds, redeterminations, collection, reports, and enforcement.

SECTION 5. Section 11018.1 of the Health & Safety Code is amended, to read:

11018. "Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds *of that plant* ~~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 *industrial hemp, as defined in Section 11018.5 or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product* ~~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.~~

SECTION 6. Section 11018.5 of the Health & Safety Code is amended, to read:

11018.5. “Industrial hemp” means a fiber or oilseed crop, or both, that is limited to nonpsychoactive types of the plant *Cannabis sativa L.*—~~and the seed produced therefrom~~, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, *and the seed whether growing or not; the seeds of the plant; the resin from any part of the plant; and every* ~~that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom—mature stalks, except the resin or flowering tops extracted therefrom, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination.~~

SECTION 7. Section 11361.52 is added to the Health and Safety Code, to read:

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 Sections 11357, 11358, 11359, 11360, 11361 of the Health and Safety Code, as well as cannabis-specific violations of Sections 11365, 11366, 11366.5, 11379.6 of the Health and Safety Code, and Section 23222(b) of the Vehicle Code, may be reviewed by the superior court of the State of California for relief pursuant to Health and Safety Code Section 11361.5. Upon granting of an application filed under this section, all courts and public agencies and offices having custody of the records subject to this relief shall commence the timely destruction of the records in a manner provided by Health and Safety Code Section 11361.5.

SECTION 8. Section 11594.1 is added to the Health & Safety Code, to read:

Notwithstanding Section 11590, any person who has been required to register for a violation of Sections 11357, 11358, 11359, 11360, 11361 of the Health and Safety Code, or a cannabis-specific violation of Sections 11366, 11366.5, 11379.6 of the Health and Safety Code, or a violation of any other state’s law that would have been punishable in California under these provisions, shall have all registration requirements terminate upon the discharge from prison, release from jail, or termination of probation or parole of the person convicted.

SECTION 9. Section 19302 of the Business and Professions Code is amended, to read:

19302. (a) There is in the Department of Consumer Affairs the Bureau of Medical Marijuana Regulation, under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter. *Commencing July 1, 2017, the bureau shall be under the supervision and control of the California Cannabis Commission, and the commission shall administer and enforce the provisions of this chapter.*

(b) Commencing July 1, 2017, whenever the term “director” is used in this chapter, it shall mean the executive director of the Office of Cannabis Regulation.

SECTION 10. Section 19302.1 of the Business and Professions Code is amended, to read:

(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 with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor *until June 30, 2017. Commencing July 1, 2017, the commission shall appoint a chief of the bureau at a salary to be fixed and determined by the commission. Commencing July 1, 2017, the chief shall serve under the direction and supervision of the director and at the pleasure of the commission.*

(b) Every power granted to or duty imposed upon the director under this chapter 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 with this chapter, the director shall have all other powers and duties generally applicable in relation to bureaus that are part of the Department of Consumer Affairs.

(c) The director may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service laws and regulations.

(d) The Department of Consumer Affairs shall have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of medical marijuana within the state and to collect fees in connection with activities the bureau regulates. The bureau may create licenses in addition to those identified in this chapter that the bureau deems necessary to effectuate its duties under this chapter.

(e) The Department of Food and Agriculture shall administer the provisions of this chapter related to and associated with the cultivation of medical cannabis. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this chapter. The State Department of Public Health shall administer the provisions of this chapter related to and associated with the manufacturing and testing of medical cannabis.

SECTION 11. Section 1204.4b is added to the Penal Code, to read:

Any person on probation for a violation of Sections 11357, 11358, 11359, 11360, 11361 of the Health and Safety Code, or a cannabis-specific violation of Sections 11365, 11366, 11366.5, 11379.6 of the Health and Safety Code, and Section 23222(b) of the Vehicle Code, at the time this section is enacted, shall have the right to petition the court for early termination of probation and for the relief granted in Section 1203.4(a). The court shall treat such petitions as if the originally imposed term of probation had been completed.

SECTION 12. Section 23221 of the Vehicle Code is amended, to read:

(a) No driver shall drink any alcoholic beverage *or consume cannabis or cannabis products* while in a motor vehicle upon a highway.

(b) No passenger shall drink any alcoholic beverage *or smoke cannabis or cannabis products* while in a motor vehicle upon a highway.

SECTION 13. Section 81006(a) of the Food and Agricultural Code is repealed.

SECTION 14. Section 81006.1 is added to the Food and Agricultural Code, to read:

(a) Except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than four thousand (4,000) square feet at the same time.

(b) Registered seed breeders, for purposes of seed production, shall only grow industrial hemp as a densely planted crop in acreages of not less than four thousand (4,000) square feet at the same time, and no portion of the acreage of industrial hemp shall include plots of less than one contiguous acre.

(c) Registered seed breeders, for purposes of developing a new California seed cultivar, shall grow industrial hemp as densely as possible in dedicated acreage of not less than four thousand (4,000) square feet and in accordance with the seed development plan. The entire area of the dedicated acreage is not required to be used for the cultivation of the particular seed cultivar.

SECTION 15. Section 81007 of the Food and Agricultural Code is repealed.

SECTION 16. 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 as a result of this Act creating a new crime or infraction, eliminating a crime or infraction, or changing the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changing the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SECTION 17. 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.

SECTION 18. (a) In the event this measure and another measure or measures relating to the decriminalization of cannabis are approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and the other measure or measures shall be rendered void and without any legal effect. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than the other measure or measures, this measure shall take effect to the extent permitted by law.

(b) If this measure is approved by voters but is superseded in whole or in part by the provisions of any other conflicting measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting measure or any superseding provisions thereof are subsequently held to be invalid, the formerly superseded provisions of this measure shall be self-executing and given full force of law.

SECTION 19. The provisions of this Act may be amended to carry out its purpose and intent by statutes approved by a sixty percent (60%) vote of each house of the Legislature and signed by the Governor.

SECTION 20. The provisions of this Act shall become effective immediately upon passage.