

Amendments Mock-up for 2013-2014 SB-1262 (Correa (S))

Amendments are in
RED and GREEN
and BLUE

Mock-up based on Version Number 95 - Amended Assembly 6/15/14
Submitted by: Tom Ammiano, to be added as principal co-author

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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

(b) The Compassionate Use Act of 1996 called on state government to implement a plan for the safe and affordable distribution of marijuana to all patients in medical need of marijuana. While assuring that nothing in this Act shall be construed to condone the diversion of marijuana for nonmedical purposes.

(c) In 2003, the Legislature enacted the Medical Marijuana Program Act (MMPA), codified in Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.

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

(e) Despite the passage of the Compassionate Use Act of 1996 and the MMPA, because of the lack of an effective statewide system for regulating and controlling medical marijuana, cities, counties and local law enforcement officials have been confronted with uncertainty about the legality of some medical marijuana cultivation and distribution activities. The current ~~system of collectives and cooperatives~~ state of affairs makes law enforcement difficult and endangers

patient safety because of an inability to monitor the supply of medical marijuana in the state and the lack of quality control, testing, and labeling requirements.

~~(a)~~

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

~~(b)~~

(g) If, pursuant to this authority, a city or county determines that a dispensary or other facility that makes medical marijuana available may operate within its borders, then there is a need for the state to license these dispensaries and other facilities for the purpose of adopting and enforcing protocols for training and certification of physicians who recommend the use of medical marijuana and for agricultural cultivation practices. This licensing requirement is not intended in any way nor shall it be construed to preempt local ordinances, *regulations or enforcement actions* regarding the sale and use of medical marijuana, including, but not limited to, security, signage, lighting, and inspections.

~~(c)~~

(h) All of the following elements are necessary to uphold important state goals:

- (1) Strict provisions to prevent the potential diversion of marijuana for recreational use.
- (2) Audits to accurately track the volume of both product movement and sales.
- (3) An effective means of restricting *nonmedical* access to medical marijuana by ~~persons under 21 years of age~~ *minors*.

~~(d)~~

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

SEC. 2. *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 shall prioritize its investigative and prosecutorial resources to

ensure that physicians and surgeons 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:

(1) 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 represents a danger to the public.

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

(3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances, *or recommending marijuana to patients for medical purposes*, 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.

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

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

(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).

(c) 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. 2.~~ SEC. 3. Article 25 (commencing with Section 2525) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 25. Recommending Medical Marijuana

2525. (a) It is unlawful for a physician and surgeon who recommends marijuana to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility licensed pursuant to ~~Article 7 (commencing with Section 111657) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code~~ Part 5 (commencing with Section 18100) of Division 7, if the physician and surgeon or his or her immediate family have a financial interest in that facility.

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

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

2525.1. The board shall consult with 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, on developing and adopting medical guidelines for the appropriate administration and use of marijuana.

2525.2. *No ~~person~~ physician or surgeon shall recommend medical marijuana 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. 3.~~ SEC. 4. Part 5 (commencing with Section 18100) is added to Division 7 of the Business and Professions Code, to read:

PART 5. Medical Marijuana

18100. For purposes of this ~~article~~ *part*, the following definitions shall apply:

~~(a) “Department” means the Department of Consumer Affairs.~~

~~(b) “Licensed cultivation site” means a facility that grows or grows and processes marijuana for medical use and that is licensed pursuant to Section 18101.~~

~~(c) “Licensed dispensing facility” means a dispensary, mobile dispenser, marijuana processing facility, or other facility that provides marijuana for medical use that is licensed pursuant to Section 18101.~~

(a) *“Certified testing laboratory” means a laboratory that is certified by the ~~department~~ bureau to perform random sample testing of marijuana pursuant to the certification standards for these facilities promulgated by the ~~department~~ bureau.*

(b) *“~~Department~~” means the ~~Department of Consumer Affairs~~. “Bureau” means the Bureau of Medical Marijuana Regulation in the Department of Consumer Affairs.*

(c) *“Dispensary” means a distribution operation that provides marijuana or marijuana derived products to patients.*

(d) *“Licensed cultivation site” means a facility that grows marijuana for medical use and that is licensed pursuant to Section 18101.*

(e) “Licensed dispensing facility” means a dispensary or other facility that provides marijuana for medical use that is licensed pursuant to Section 18101.

(f) “Licensed processing facility” means a facility where marijuana or marijuana products are inspected, packaged, labeled, or otherwise prepared, **warehoused or stored** prior to being provided to another facility licensed pursuant to this section, to a patient with a medical marijuana recommendation, or otherwise distributed, and that is licensed pursuant to Section 18101.

(g) “Licensed transporter” means an individual or entity licensed by the department to transport marijuana to and from facilities licensed pursuant to this part.

(h) “Marijuana” means all parts of the plant ~~Cannabis-sativa-L-~~ *sativa, 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. It 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. “Marijuana” also means marijuana, as defined by Section 11018 of the Health and Safety Code.

(i) “Fund” means the **Medical Marijuana Regulation Fund** established pursuant to Section 18101.4.

18101. (a) There is hereby created in the Department of Consumer Affairs the Bureau of Medical Marijuana Regulation. The bureau shall be administered by ~~a civil~~ **an executive officer**, who shall be a civil servant appointed pursuant to civil service rules by, ~~and serve at the pleasure of,~~ the Governor, and who shall be known as the Executive Officer of the Bureau of Medical Marijuana Regulation. Funds for the establishment and support of the bureau shall be advanced as a loan by the Department of Consumer Affairs and shall be repaid by the initial proceeds from fees collected pursuant to subdivision (b) of Section 18101.1, paragraph (9) of subdivision (f) of Section 18101.2, and subdivision (c) of Section 18101.3.

(b) The bureau shall have the power, consistent with **section 1(f) of the findings and declarations of this chapter** and with the provisions of this chapter, to license persons for the cultivation, manufacture, transportation, storage, distribution, and sale of medical marijuana within the state and to collect licensing fees in connection with these actions.

18101.1. The ~~department~~ **bureau** shall have the authority, subject to local ordinances, to license persons for the cultivation, manufacture, ~~testing,~~ transportation, storage, and sale of medical marijuana within the state, and to levy appropriate related licensing fees not to exceed the reasonable costs of enforcement and administration of this part. The ~~department~~ **bureau** shall not issue a license if the applicant has not met all requirements pursuant to Section 18100 et. seq. A license, once issued, shall be suspended within ~~five~~ **ten** days of notification to the bureau by a local agency that a licensee is no longer in compliance

~~with local ordinances or regulation. cultivation, manufacture, testing, transportation, storage, and sale of medical marijuana within the state, and to levy appropriate related licensing fees not to exceed the reasonable costs of enforcement and administration department by a local agency that a licensee is no longer in compliance with local ordinances or regulation. The bureau shall have all the power necessary for administration of this chapter, including, but not limited to, the following:~~

~~(a) Establishing statewide minimum standards for the cultivation, manufacturing, transportation, storage, distribution, provision, donation, and sale of medical marijuana and medical marijuana products and procedures for the issuance, renewal, suspension, and revocation of licenses.~~

~~(b) Establishing a scale of application, license, and renewal fees, to be imposed by the state, for licenses for the cultivation, manufacturing, transportation, distribution, and sale of medical marijuana and medical marijuana products. The bureau may charge separate fees for each license application for cultivation, manufacturing, transportation, distribution, and sale. The total fees imposed pursuant to this chapter shall be based on the actual costs of administering and enforcing this chapter.~~

~~(c) The bureau shall make and prescribe those rules as may be necessary or proper to carry out the purposes and intent of this chapter and to enable it to exercise the powers and perform the duties conferred upon it by this chapter and in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the performance of its duties, the bureau has the powers as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(d) Approving or denying applications, subject to local ordinances, for cultivation, manufacturing, and labeling, transportation, distribution, provision, donation, and sale of medical marijuana pursuant to this chapter.~~

~~(e) The bureau shall have the power, with local input from local agencies, and in its discretion, to deny, suspend, revoke, or fine any license issued pursuant to this chapter if the bureau determines that the granting or continuance of the license would be contrary to public welfare or morals or that a person holding or seeking a license has violated any law prohibiting conduct involving moral turpitude or an applicable local ordinance.~~

~~(f) Imposing any penalty authorized by this chapter or any rule or regulation adopted pursuant to this chapter.~~

~~(g) Taking any action with respect to a license application in accordance with procedures established pursuant to this chapter.~~

~~(h) The department shall make recommendations to the Legislature pertaining to the establishment of an appeals and judicial review process for persons aggrieved by a final decision of the department. Upon the denial of any application for a license, the bureau shall notify the applicant in writing. After service of the notice and within the time prescribed by the bureau, the applicant may present his or her written petition for a license to the bureau. Upon receipt by the bureau of a petition for a license in proper form, the petition shall be set for~~

hearing.

~~(i) (1) For any hearing held pursuant to this chapter, the bureau may delegate the power to hear and decide to an administrative law judge appointed by the director. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(2) Prior to suspending, revoking, or fining any license, the bureau shall file an accusation as provided for in Section 11503 of the Government Code, and the licensee may request a hearing. If the bureau determines that the public interest requires that a license be summarily suspended pending hearing on charges of misconduct that include any of the causes for suspension or revocation specified in this chapter, or if the bureau has information that leads it to believe that a licensee has violated any law prohibiting conduct involving moral turpitude or any applicable local ordinance, the bureau may, without hearing, temporarily suspend the license for a period not exceeding 60 days pending a hearing and decision on the charges.~~

(j) Developing any forms, identification certificates, and applications that are necessary or convenient in the discretion of the bureau for the administration of this chapter or any of the rules or regulations adopted pursuant to this chapter.

(k) Overseeing the operation of the Medical Marijuana Regulation Fund established pursuant to Section 18101.4.

(l) Establishing fees for processing all applications, licenses, notices, or reports required to be submitted to the bureau. The amount of the fees shall reflect, but shall not exceed, the direct and indirect costs of the bureau for the administration of this chapter and the rules or regulations adopted pursuant to this chapter.

(m) The bureau may consult with other state agencies, departments, or public or private entities for the purposes of establishing statewide standards and regulations.

18101.2. (a) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code, a person shall not sell or provide marijuana other than at a licensed dispensing facility.

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

(c) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code, a person shall not process marijuana other than at a licensed processing facility.

(d) A person shall not transport marijuana from one facility licensed pursuant to this part to another, other than a licensed transporter.

(e) To meet the requirement of Sections 111658 to 111663, inclusive, of the Health and Safety Code, marijuana and marijuana products shall be tested by a certified testing laboratory.

~~(e)~~

(f) The ~~department~~ bureau shall require, prior to issuing a license ~~to a dispensing facility or a cultivation site~~ pursuant to this part, all of the following:

(1) The name of the owner or owners of the proposed facility, *including all persons or entities having an ownership interest other than a security interest, lien, or encumbrance on any property that will be used by the applicant.*

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

~~(2)~~ (3) The address and telephone number of the proposed facility.

~~(3)~~ (4) A description of the scope of business of the proposed facility.

~~(4)~~ (5) A certified copy of the local jurisdiction's approval to operate within its borders.

(6) Operating and inventory control procedures to ensure security and prevent diversion.

(7) Detailed operating procedures for the proposed facility, which shall include, but not be limited to, provisions for facility and operational security, prevention of diversion, employee screening, storage of medical marijuana, personnel policies, and recordkeeping procedures.

~~(5)~~ (8) A completed application, as required by the ~~department~~ bureau.

~~(6)~~ (9) Payment of a fee, in an amount to be determined by the ~~department~~ bureau not to exceed the amount necessary, but that is sufficient to cover, the actual costs of the administration of this part.

~~(7)~~ (8) (A) An applicant's 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 and federal convictions and arrests, and information as to the existence and content of a record of state and 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.

~~(B) The Department of Justice shall forward the fingerprint images and related information received pursuant to subparagraph (A) to the Federal Bureau of Investigation and request a federal summary of criminal information. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.~~

~~(C)~~ (B) The Department of Justice shall charge a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

~~(D) The department may deny a license based on a past criminal conviction if the crime is substantially related to the qualifications, functions, or duties of the business for which the license will be issued.~~

~~(8)(9) In the case of a cultivation site, the GPS coordinates of the site.~~

~~(8)~~

~~(9)(10) Any other information as required by the ~~department~~ bureau.~~

(11) The bureau shall deny a license based on a past felony criminal conviction for drug trafficking, a felony conviction for embezzlement, a felony conviction involving fraud or deceit, and any violent or serious felony conviction pursuant to subdivision (c) of Section 667.5, or subdivision (c) of Section 1192.7 of the ~~penal code~~. Penal Code. The bureau may also deny a license based on a past criminal conviction if the crime was substantially related to the qualifications, functions, or duties of the business for which the license will be issued.

(g) The ~~department~~ bureau shall deny a license if the application fails to state with sufficient specificity the jurisdiction in which the applicant proposes to establish operations.

(h) Each application for a license approved by the ~~department~~ bureau pursuant to this part is separate and distinct, and the bureau may charge a separate fee for each. A licensee shall not hold a license in more than one class of specified medical marijuana activities, except that a licensee may have a transportation license in addition to a license to cultivate, process, or dispense medical marijuana. A licensee shall not be an officer, director, member, owner, or shareholder in another entity licensed pursuant to this part. The officers, directors, owners, members, or shareholders of a licensee in one class may not hold a license in another class, and may not be an officer, director, member, owner, or shareholder of an entity licensed pursuant to this part.

18101.3. *Beginning January 1, 2015, the bureau shall provide for provisional licenses pursuant to subdivisions (a) or (b) as follows:*

(a) The bureau shall request that every city or county provide the bureau with a list of approved entities providing medical marijuana to qualified patients and caregivers within the city or county's jurisdiction, if any, the location at which the entity is operating, and the names of the persons who operate the entity.

(1) If the jurisdiction represents that the entity has been operating in compliance with local laws and regulations, or has limited immunity under local laws, including, but not limited to, Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election, the bureau shall issue a provisional license to the entity until the time that the entity's application for a license has been approved or denied under this chapter, but no later than 90 days after the bureau begins accepting applications for licenses.

~~*(b) (2) The bureau shall consult with relevant local agencies in making a determination on whether a provisional license*~~

applicant is in compliance with any applicable ordinance. The bureau shall issue a provisional license to individuals and entities ~~that~~ once the bureau has obtained confirmation from the relevant local agency ~~determines were~~, during that the six months prior to January 1, 2015, the applicant was regularly cultivating or distributing medical marijuana collectively or cooperatively in full compliance with ~~paragraphs A and B of Section IV of the Guidelines for Security and Non-Diversion of Marijuana Grown for Medical Use, issued by the Department of Justice in August 2008,~~ and any applicable local ordinance. ~~;~~ ~~to~~ The bureau shall continue to issue provisional licenses ~~do so~~ until such time as the licensee's application for a standard license has been approved or denied under this chapter, but no later than 90 days after the bureau begins accepting applications. To qualify, provisional licensees shall be required to disclose to the bureau the following information in writing on or before January 20, 2015, in order to obtain provisional licensure:

(1) The names, addresses, and dates of birth of each principal officer, owner, or board member.

(2) The common street address and assessor's parcel number of the property at which the licensee conducts any activity under the authority of the license.

(3) The common street address and assessor's parcel number of the property at which any cultivation activity was or is to be conducted.

(4) For the six months prior to January 1, 2015, the quantity of medical marijuana cultivated at a location and the quantity expected to be cultivated from January 1, 2015, to June 30, 2015, inclusive. The licensee shall make its records of current activity and activity for the six months prior to January 1, 2015, available to the bureau upon request.

(c) The bureau shall charge an application fee of ~~five~~ eight thousand dollars (~~\$5,000~~ 8,000) for each provisional license, and for each standard license once the period for provisional licenses has expired.

(d) Notwithstanding any other provision of this section, the bureau shall not issue a provisional license to any individual or entity, or for any premises, against whom there are pending ~~federal~~, state or local administrative or judicial proceedings or actions initiated by a city or county under any applicable local ordinance or who has been determined through those proceedings to have violated any applicable local ordinance.

(e) The granting of a provisional license in no way confers on the recipient a right to a standard license once the period for issuance of a provisional license has expired. All applicants, including recipients of provisional licenses must demonstrate compliance with the requirements enumerated in Section 18101.2 at each stage.

18101.4. *(a) The Medical Marijuana Regulation Fund is hereby established within the State Treasury. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the money in the fund.*

(b) All fees collected pursuant to this chapter shall be deposited into the Medical Marijuana Regulation Fund. Notwithstanding Section 13340 of the Government Code, all moneys within the

fund are hereby continuously appropriated, without regard to fiscal year, to the department solely for the purposes of fully funding and administering this chapter, including, but not limited to, the costs incurred by the department for its administrative expenses.

(c) All moneys collected pursuant to this chapter as a result of penalties imposed under this bureau shall be deposited directly into the General Fund, to be available upon appropriation.

(d) The bureau may establish and administer a grant program to allocate moneys from the Medical Marijuana Regulation Fund to state and local entities for the purpose of assisting with medical marijuana regulation and the enforcement of this chapter and other state and local laws applicable to licensees.

18102. (a) ~~A licensed dispensing facility licensed pursuant to this part shall not acquire, possess, cultivate, process, possess, store, manufacture, test, distribute, sell, deliver, transfer, transport, or dispense marijuana for any purpose other than those authorized by Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.~~

(b) A licensed dispensing facility shall not acquire, cultivate, process, possess, store, manufacture, ~~test~~, distribute, sell, deliver, transfer, transport, or dispense marijuana plants or marijuana products except through the cultivation of marijuana by that facility, if the facility is a licensed cultivation site, or another licensed cultivation site processing facility.

18103. (a) *A licensed transporter shall ship only to facilities licensed pursuant to this part and only in response to a request for a specific quantity and variety from those facilities.*

(b) Prior to transporting any medical marijuana product, a licensed transporter shall do the following:

(1) Complete a shipping manifest using a form prescribed by the ~~department~~ bureau.

(2) Securely transmit a copy of the manifest to the licensee that will receive the medical marijuana product, and to the ~~department~~ bureau, prior to transport.

(c) The licensed transporter making the shipment and the licensee receiving the shipment shall maintain each shipping manifest and make it available to local code enforcement officers, any other locally designated enforcement entity, and the ~~department~~ bureau upon request.

18104. (a) *Transported medical marijuana products shall:*

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

(2) Not be visible from outside the vehicle.

(b) Any vehicle transporting medical marijuana products shall travel directly from one licensed facility to another licensed facility authorized to receive the shipment.

~~18105. (a) For any shipment where products exceed seven thousand dollars (\$7,000) in value, All~~ All transport vehicles shall be staffed with a minimum of two employees. At least one transport team member shall remain with the vehicle at all times that the vehicle contains medical marijuana.

~~18105.1 (b)(a)~~ (b) Each transport team member shall have access to a secure form of communication by which each member can communicate with personnel at the licensed facility at all times that the vehicle contains medical marijuana.

~~(c)(b)~~ (c) Each transport team member shall possess documentation of licensing and a government- issued identification card at all times when transporting or delivering medical marijuana and shall produce it to any representative of the department or law enforcement official upon request.

~~(d)(c)~~ (d) This part shall not be construed to authorize or permit any licensee to transport, or cause to be transported, marijuana or marijuana products outside the state.

18105.2 Local jurisdictions shall not prevent transportation through or to a licensed entity by a licensed transporter who acts in compliance with this act.

~~18106. (a) [MOVED TO 18101.1] The department shall have the authority, subject to local ordinances, to license persons for the of this part. The department shall not issue a license if the applicant has not met all requirements pursuant to Section 18101. A license, once issued, shall be suspended within five days of notification to the cultivation, manufacture, testing, transportation, storage, and sale of medical marijuana within the state, and to levy appropriate related licensing fees not to exceed the reasonable costs of enforcement and administration department by a local agency that a licensee is no longer in compliance with local ordinances or regulation.~~

~~(b)~~ The ~~department~~ bureau shall promulgate, by July 1, 2016, regulations for implementation and enforcement of this part, including all of the following:

(1) Procedures for the issuance, renewal, suspension, and revocation of licenses.

(2) Application, licensing, and renewal forms and fees.

(3) A time period in which the ~~department~~ bureau shall approve or deny an application for a license to operate a facility or dispensary.

(4) Qualifications for licensees.

(5) Standards for certification of testing laboratories to perform random sample testing of all marijuana products intended for sale, to identify and eliminate chemical residue, microbiological contaminants, and mold.

(6) Requirements to ensure conformance with standards analogous to state statutory environmental, agricultural, consumer protection, and food and product safety requirements. At a minimum, these standards shall:

(A) Prescribe sanitation standards analogous to the California Retail Food Code for food preparation, storage, and handling and sale of edible marijuana products.

(B) Require that edible marijuana products produced, distributed, provided, donated, or sold by licensees shall be limited to nonpotentially hazardous food as established by the State Department of Public Health pursuant to Section 114365.5 of Health and Safety Code.

(C) Provide standards for labeling edible marijuana products to ensure that the products cannot be mistaken as food not containing marijuana.

(D) Require that facilities in which edible marijuana products are prepared shall be constructed in accordance with applicable building standards, health and safety standards, and other state laws.

~~*(E) Ensure that edible products distributed or sold by dispensaries are not produced or stored in private homes.*~~

~~*(F) Provide that any weighing or measuring devices used in connection with the sale or distribution of marijuana are required to meet standards analogous to Division 5 (commencing with Section 12001) of the Business and Professions Code.*~~

~~*(G) (F) Require that any application of pesticides or other pest control in connection with the indoor or outdoor cultivation of marijuana shall meet standards analogous to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.*~~

~~*(G) Protect the state's clean water and environment, including, but not limited to, protections related to land conversion, grading, water diversion and pond development, and agricultural discharges.*~~

~~*(e) (b) The ~~department~~ bureau shall promulgate, by July 1, 2016, regulations for minimum statewide health and safety standards and quality assurance standards pursuant to Section 111658 of the Health and Safety Code associated with the cultivation, transport, storage, and sale of all medical marijuana produced in this state. Local agencies shall have primary responsibility for enforcement of these standards in accordance with ~~department~~ bureau regulations.*~~

~~*(d) (c) An application for or renewal of a license shall not be approved if the ~~department~~ bureau determines any of the following:*~~

~~*(1) The applicant fails to meet the requirements of this part or any regulation adopted pursuant to this part or any applicable city or county ordinance or regulation.*~~

(2) *The applicant, or any of its officers, directors, owners, members, or shareholders is a minor.*

(3) *The applicant has knowingly answered a question or request for information falsely on the application form, or failed to provide information requested.*

(4) *The applicant, or any of its officers, directors, owners, members, or shareholders has been sanctioned by the ~~department~~ bureau, a city, county, or city and county, for marijuana activities conducted in violation of this part or any applicable local ordinance or has had a license revoked in the previous five years.*

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

~~(6) The applicant, or any of its officers, directors, owners, members, or shareholders has been convicted in the previous five years of a violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code, a serious felony as specified in subdivision (e) of Section 1192.7 of the Penal Code, a felony offense involving fraud or deceit, or any other felony that, in the department's estimation, would impair the applicant's ability to appropriately operate as a mandatory commercial registrant.~~

~~(7) A sufficient number of mandatory commercial registrants already exists in the state, a city, or a county to provide a sufficient amount of medical cannabis to satisfy patients' medical use in that jurisdiction.~~

(7) The bureau shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses. Undue concentration means:

(1a) The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c)(3), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

(2b) The ratio of licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licenses to population in the county in which the applicant premises are located.

(3c) For purposes of this section, the following definition shall apply:

(A1) "Reporting districts" means geographical areas within the boundaries of a single governmental entity (city or the unincorporated area of a county) that are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.

(B2) "Reported crimes" means the most recent yearly compilation by the local law enforcement agency of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations.

(C3) "Population within the census tract or census division" means the population as determined by the most recent United States decennial or special census. The population determination shall not operate to prevent an applicant from establishing that an increase of resident population has occurred within the census tract or census division.

~~(e)~~ (d) The ~~department~~ bureau may consult with other state agencies, state departments, public entities, or private entities for the purposes of establishing statewide standards and regulations.

~~(f)~~ (e) The ~~department~~ bureau may assist state taxation authorities in the development of uniform policies for the state taxation of licensees.

~~(g)~~ (f) The ~~department~~ bureau may assist the Division of Occupational Safety and Health in the Department of Industrial Relations in the development of industry-specific regulations related to the activities of licensees.

18103.18107. (a) A person shall not distribute any form of advertising for physician recommendations for medical marijuana in California unless the advertisement bears the following notice to consumers:

NOTICE TO CONSUMERS: The Compassionate Use Act of 1996 ensures that seriously ill Californians have the right to obtain and use marijuana for medical purposes where medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana. Physicians are licensed and regulated by the Medical Board of California and arrive at the decision to make this recommendation in accordance with accepted standards of medical responsibility.

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

18104.18108. (a) A facility licensed pursuant to this part shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing marijuana and theft of marijuana at those facilities. These security measures shall include, but not be limited to, all of the following:

(1) Allow only qualifying patients, the patient's primary caregiver, and facility agents access to the facility.

(2) Prevent individuals from remaining on the premises of the facility if they are not engaging in activity expressly related to the operations of the facility.

(3) Establish limited access areas accessible only to authorized facility personnel.

(4) Store all finished marijuana in a secured *and locked room*, locked safe or vault and in a manner as to prevent diversion, theft, and loss.

(b) A facility licensed pursuant to this part shall notify appropriate law enforcement authorities within 24 hours after discovering any of the following:

(1) Discrepancies identified during inventory.

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

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

(4) Any other breach of security.

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

18108.5. (a) The *department bureau* shall require an annual audit of all licensees licensed pursuant to this part or otherwise licensed by the *department bureau* to cultivate, manufacture, process, ~~test~~, transport, store, or sell marijuana to be paid for by each licensed vendor and dispensary.

(b) Completed audit reports shall also be submitted by the licensee to local code enforcement offices, or the appropriate locally designated enforcement entity, within 30 days of the completion of the audit.

(c) It is the responsibility of each licensee licensed pursuant to this part or otherwise licensed by the *department bureau* to cultivate, manufacture, process, ~~test~~, transport, store, or sell marijuana to develop a robust quality assurance protocol that includes all of the provisions of this part.

18108.6 (a) *A laboratory certified by the bureau to perform random sample testing of marijuana products pursuant to Section 18101.6(a)(5) shall not acquire, cultivate, process, possess, store, manufacture, distribute, sell, deliver, transfer, transport, or dispense marijuana for any purpose other than those authorized by Article 2.5 (commencing with Section 11362.7)*

of Chapter 6 of Division 10 of the Health and Safety Code.

(b) A laboratory certified by the bureau to perform random sample testing of marijuana products pursuant to Section 18101.6(a)(5) shall not acquire, cultivate, process, possess, store, manufacture, distribute, sell, deliver, transfer, transport, or dispense marijuana plants or marijuana products except through a licensed cultivation site, or processing facility.

18105.18109. In addition to the provisions of this part, a license granted pursuant to this part shall be subject to the restrictions of the local jurisdiction in which the facility operates or proposes to operate. Even if a license has been granted pursuant to this part, a facility shall not operate in a local jurisdiction that prohibits the establishment of that type of business.

~~**18106.18110.** Violation of this part shall be punishable by a civil fine of up to thirty-five thousand dollars (\$35,000) ten thousand dollars (\$10,000) for each individual violation.~~

- (a) Willful violations of Section 18101.2, including any attempt to falsify information on an application as required by that section, or to otherwise defraud or mislead a state or local agency in the course of the application process, shall be punishable by a civil fine of up to thirty-five thousand dollars (\$35,000) for each individual violation. This provision shall apply to both the provisional and permanent licensing application processes.*
- (b) Technical violations other than the circumstances outlined in (a), above, shall at the bureau's discretion, be punishable by a civil fine of up to ten thousand dollars (\$10,000) for each individual violation. This provision shall apply to both the provisional and permanent licensing application processes.*

***18110.1.** The director or any district attorney, county counsel, city attorney, or city prosecutor may bring an action ~~in the name of the people of the State of California~~ to enjoin a violation or the threatened violation of any provision of this chapter, including, but not limited to, a licensee's failure to correct objectionable conditions following notice or as a result of any rule promulgated pursuant to this chapter. The action shall be brought in the county in which the violation occurred or is threatened to occur. Any proceeding brought pursuant to this chapter shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. Nothing in this section shall diminish the authority of local government to take requisite enforcement actions pertaining to its own ordinances or regulations.*

~~**18107.18111.** Nothing in this part shall prevent a city or other local governing body from taking action as specified in Section 11362.83 of the Health and Safety Code.~~

***18112.** This part shall in no way supersede the provisions of Measure D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, which granted marijuana businesses and dispensaries qualified immunity consistent with the terms of the measure and local ordinances. Notwithstanding the provisions of this part, marijuana businesses and dispensaries subject to the provisions of Measure D and its qualified immunity shall continue to be subject to the ordinances and regulations of the City of Los Angeles.*

~~**18113.** (a) This part shall not apply to, and shall have no diminishing effect on, the rights and~~

~~protections granted to a patient or a primary caregiver pursuant to the Compassionate Use Act of 1996.~~

~~(b)(1)~~ A patient who cultivates, possesses, stores, manufactures, or transports marijuana exclusively for his or her personal medical use and who does not sell, distribute, donate, or provide marijuana to any other person is not considered a licensee under this part and is exempt from licensure under this part.

~~(2)~~ (b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, or provides marijuana exclusively for the personal medical purposes of ~~a 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 and 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 not considered a licensee under this part and is exempt from licensure under this part.

18114. (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 department for the purposes of administering this chapter are confidential and exempt from the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and are not subject to disclosure to any individual or private entity, except as necessary for authorized employees of the State of California to perform official duties pursuant to this chapter:

(b) (1) Nothing in this section precludes the following:

(A) Bureau employees notifying state or local agencies about information submitted to the division that the employee suspects is falsified or fraudulent.

(B) Notifications from the bureau to state or local agencies about apparent violations of this chapter or any applicable local ordinance.

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

(D) 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.

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

18115. (a) The actions of a licensee or provisional licensee, its employees, and its agents, permitted pursuant to a license or provisional license issued by the bureau or otherwise permitted by this chapter, that are conducted in accordance to the requirements of this chapter and regulations adopted pursuant to the authority granted by this chapter, 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.~~

~~(b) The actions of a person who, in good faith and upon investigation, allows his or her property to be used by a licensee or provisional licensee, its employees, and its agents, as permitted pursuant to a license or provisional license issued by the bureau or otherwise permitted by this chapter, are not unlawful under state law and shall not be an offense subject to arrest, or 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.~~

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

18116. (a) A licensee shall not cultivate, process, store, manufacture, test, transport, or sell medical marijuana in the state unless accurate records are kept at the licensed premises of the growing, processing, storing, manufacturing, transporting, or selling by the licensee in the state. These records shall include the name and address of the supplier of any marijuana received or possessed by the licensee, the location at which the marijuana was cultivated, the amount of marijuana received, the form in which it is received, the name of the employee receiving it, and the date of receipt. These records shall further include receipts for all expenditures incurred by the licensee and banking records, if any, for all funds obtained or expended in the performance of any activity under the authority of the license, provided that a licensee licensed to act at more than one premises may keep all records at one of the licensed premises. Required records shall be kept for a period of seven years from the date of the transaction.

(b) The bureau and any state or local agency may make any examination of the books and records of any licensee and may visit and inspect the premises of any licensee that the bureau may deem necessary to perform its duties under this chapter.

(c) Any books or records requested by the bureau or any state or local agency shall be provided by the licensee no later than at the end of the next business day after the request is made.

(d) The bureau or any state or local agency may enter and inspect the premises of any facility operated by a licensee between the hours of 8 a.m. and 8 p.m. on any day that the facility is open, or at any reasonable time, to ensure compliance and enforcement of the provisions of this chapter or any local ordinance.

(e) In the event that the licensee or any employee of the licensee refuses, impedes, obstructs, or interferes with an inspection pursuant to this chapter or local ordinance, or if the licensee fails to maintain or provide the books and records required by this section, the licensee may be summarily suspended pursuant to paragraph (2) of subdivision (i) of Section 26022 and the bureau shall directly commence proceedings for the revocation of the registration in accordance with this chapter.

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

Article 8. Medical Marijuana

111658. For purpose of this article, the following definitions shall apply:

(a) “Certified testing laboratories” means a laboratory that is certified by the department to perform random sample testing of marijuana pursuant to the certification standards for those facilities promulgated by the department.

(b) ~~“Department” means the Department of Consumer Affairs.~~ “Bureau” means the Bureau of Medical Marijuana Regulations in the Department of Consumer Affairs.

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

(d) “Marijuana” *means all parts of the plant Cannabis ~~sativa~~ sativa, 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. It 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.* “Marijuana” also means marijuana, as defined by Section 11018.

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

111659. The ~~department~~ bureau, by July 1, 2016, shall accomplish the following:

(a) Establish quality assurance protocols to ensure uniform testing standards for all marijuana sold via dispensaries or other facilities, or cultivated by any facilities, that are licensed pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code.

(b) In consultation with outside entities at its discretion, develop a list of certified testing laboratories that can perform uniform testing in compliance with this article, and post that list on its Internet Web site.

111660. (a) Licensees licensed pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code shall bear the responsibility for contracting with certified testing laboratories for regular, systematic testing of representative samples of all marijuana cultivated or intended for sale or distribution, and shall bear the cost of that testing.

(b) Licensees licensed pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code shall provide results of test reports to local code enforcement officers, any other locally designated enforcement entity, and the ~~department~~ bureau both on a

quarterly basis and upon request.

111661. Quality assurance protocols shall be required between all licensed cultivation sites or licensed processing facilities and licensed dispensing facilities to guarantee safe and reliable medicinal marijuana delivery to all patients. These quality assurance protocols shall include:

(a) Providing of supplier information to dispensaries in order for recall procedures to be implemented, if and when necessary.

(b) Safety testing of all marijuana prior to packaging for sale and patient exposure to identify and eliminate microbiological contaminants and chemical residue.

(c) Labeling of all marijuana and marijuana products that shall, at a minimum, include the following:

(1) Clear dosage in total milligrams delivered for all products.

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

(3) Tetrahydrocannabinol (THC) and cannabidiol (CBD) content.

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

(a) Baked edible marijuana products (such as brownies, bars, cookies, and cakes), tinctures, and other edible marijuana products that do not require refrigeration or hot-holding may be manufactured, sold, or otherwise distributed at facilities licensed pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code.

(b) Licensed marijuana facilities shall have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in Sections 113947.1, 113947.2, and 113947.3 of the Health and Safety Code prior to selling, manufacturing, or distributing edible marijuana products requiring refrigeration or hot-holding.

(c) Individuals' manufacturing or selling edible marijuana products shall thoroughly wash their hands before commencing production and before handling finished edible marijuana products.

(d) All edible marijuana products shall be individually wrapped at the original point of preparation. All edible marijuana products shall be packaged in a fashion that does not exceed a single individual serving size.

(e) Products containing tetrahydrocannabinol (THC) shall be prepared in compliance with maximum potency standards for THC and THC concentrates set forth in the department's regulations.

(f) Prior to sale or distribution at a licensed dispensing facility, edible marijuana products shall

be labeled and in an opaque and tamper evident package. Labels and packages of edible marijuana products shall meet the following requirements:

- (1) Edible marijuana packages and labels shall not be made to be attractive to children.
- (2) All edible marijuana product labels shall include the following information, prominently displayed and in a clear and legible font:
 - (A) Manufacture date.
 - (B) The statement “KEEP OUT OF REACH OF CHILDREN.”
 - (C) The statement “FOR MEDICAL USE ONLY.”
 - (D) Net weight of marijuana in package.
 - (E) A warning, if nuts or other known allergens are used, and shall include the total weight, in ounces or grams, of marijuana in the package.
 - (F) Tetrahydrocannabinol (THC) and cannabidiol (CBD) content.
 - (g) Photos or images of food are not allowed on edible marijuana product packages or labels.
 - (h) Only generic food names may be used to describe edible marijuana products. For example, “snickerdoodle” may not be used to describe a cinnamon cookie.

SEC. 6. Chapter 3.8 (commencing with Section 7295) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

~~CHAPTER 3.8. Medical Marijuana~~

~~7295. (a) In addition to any authority otherwise provided by law, the legislative body of any county may levy a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, or distributing marijuana or products containing marijuana.~~

~~(b) The tax may be levied for general governmental purposes or for specific purposes specified by the legislative body.~~

~~(c) The legislative body shall specify the activities subject to the tax, the applicable rate or rates, the method of apportionment, and manner of collection of the tax. A tax imposed pursuant to this section is a tax and not a fee or special assessment, and there is no requirement that the tax be apportioned on the basis of benefit to any property or be applied uniformly to all taxpayers or all real property. The tax imposed pursuant to this section may be based on any reasonable basis as determined by the legislative body.~~

~~(d) In addition to any other method of collection authorized by law, the legislative body may provide for 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.~~

~~(e) The tax may be imposed upon any or all of the activities set forth in subdivision (a), regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is undertaken for compensation or without compensation or profit, as determined by the legislative body.~~

~~(f) Any tax levied pursuant to this section shall be subject to any applicable voter approval requirement imposed by any other provision of law.~~

~~(g) The tax, when levied by the legislative body of a county, shall apply throughout the entire county or within the unincorporated area of the county, as specified by the legislative body.~~

~~(h) For purposes of this section, "marijuana" means marijuana, as defined by Section 11018 of the Health and Safety Code.~~

~~(i) This section is declaratory of existing law, and does not limit or prohibit the levy or collection or any other fee, charge, or tax, or any license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as provided by other provisions of law.~~

SEC. xx. Section 23028 is added to the Government Code, to read:

23028. (a) (1) In addition to any authority otherwise provided by law, the board of supervisors of any county may impose, by ordinance, a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana by a licensee operating pursuant to Chapter 18 (commencing with Section 26000) of Division 9 of the Business and Professions Code. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

(2) 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, and the manner of collection of the tax. A tax imposed pursuant to this section is a tax and not a fee or special assessment, and the tax is not required to be apportioned on the basis of benefit to any person or property or be applied uniformly to all taxpayers or all real property.

(3) A tax imposed by a county pursuant to this section by a county may include a transactions and use tax imposed solely for marijuana or marijuana products, which shall otherwise conform to Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Notwithstanding Section 7251.1 of the Revenue and Taxation Code, the tax may be imposed at any rate specified by the board of supervisors, and the tax rate authorized by this section shall not be considered for purposes of the combined tax rate limitation established by that section.

(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitously, as determined by the board of supervisors.

(5) The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.

(b) In addition to any other method of collection authorized by law, the board of supervisors may provide for 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.

(c) Any tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by any other law.

(d) For purposes of this section, "Marijuana" shall have the meanings set forth in Section 18100 of the Business and Professions Code.

(e) This section does not limit or prohibit the levy or collection or any other fee, charge, or tax, or any 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 any county as provided by other law.

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

~~**11362.775.** (a) Qualified patients, persons with valid identification cards, and the designated primary caregivers of up to five (5) qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana 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.~~

SEC. xx. 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. 4.**~~**SEC. 7 xx.** 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.