
In the
Court of Appeal
of the
State of California
FOURTH APPELLATE DISTRICT
DIVISION ONE

D075028

SALAM RAZUKI,
Plaintiff-Respondent,

v.

NINUS MALAN, SAN DIEGO UNITED HOLDINGS GROUP, LLC,
FLIP MANAGEMENT, LLC, BALBOA AVE COOPERATIVE,
CALIFORNIA CANNABIS GROUP, DEVILISH DELIGHTS, INC.,
CHRIS HAKIM, MIRA ESTE PROPERTIES, LLC and ROSELLE PROPERTIES, LLC,
Defendants-Appellants.

APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY
HONORABLE EDDIE C. STURGEON · CASE NO. 37-2018-000034229-CU-BC-CTL

APPELLANTS' APPENDIX
Volume 7 of 19 – Pages 1821 to 2353 of 6477

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*Attorney for Appellants,
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*DANIEL T. WATTS, ESQ. (277861)
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*Attorneys for Appellants,
Ninus Malan, San Diego United Holdings Group, LLC,
Flip Management, LLC, Balboa Ave Cooperative,
California Cannabis Group and Devilish Delights, Inc.*



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2 Tamara M. Leetham (SBN 234419)
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6 Attorneys for Defendants
Ninus Malan

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**

10
11 SALAM RAZUKI, an individual,

12 Plaintiff,

13 vs.

14 NINUS MALAN, an individual; CHRIS
15 HAKIM, an individual; MONARCH
MANAGEMENT CONSULTING, INC., a
16 California corporation; SAN DIEGO
UNITED HOLDINGS GROUP, LLC, a
17 California limited liability company; FLIP
MANAGEMENT, LLC, a California
18 limited liability company; ROSELLE
PROPERTIES, LLC, a California limited
19 liability company; BALBOA AVE
COOPERATIVE, a California nonprofit
20 mutual benefit corporation; CALIFORNIA
CANNABIS GROUP, a California
21 nonprofit mutual benefit corporation;
DEVILISH DELIGHTS, INC. a California
22 nonprofit mutual benefit corporation; and
DOES 1-100, inclusive;

23 Defendants.
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CASE NO. 37-2018-00034229-CU-BC-CTL

**SUPPLEMENTAL DECLARATION OF
GINA M. AUSTIN**

[Imaged File]

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I, Gina M. Austin, declare:

1. I am attorney admitted to practice before this Court and all California courts and, along with Tamara M. Leetham, represent defendant Ninus Malan (“Malan”) in this matter. I make this supplemental declaration in support of Malan’s ex parte application to vacate order appointing receiver. Unless otherwise stated, all facts testified to are within my personal knowledge and, if called as a witness, I would and could competently testify to them.

2. I am an expert in cannabis licensing and entitlement at the state and local levels and regularly speak on the topic across the nation.

3. I have represented Ninus Malan, San Diego United Holdings Group, Balboa Ave Cooperative, and California Cannabis Group in multiple matters in San Diego County Superior Court.

4. My firm also performs additional legal services for these defendants to include corporate transactions and structuring, land use entitlements and regulations related to cannabis, and state compliance related to cannabis.

5. The purpose of this declaration is to address the inaccuracies in the various pleadings and declarations provided by Plaintiff-In-Intervention SoCal. All of the facts previously testified to in my declaration of June 30, 2018 remain true and accurate.

6. On or about August 2, 2017, Judge Styn granted a temporary restraining order prohibiting any interior or exterior alterations or improvements to the property located at 8861 Balboa Ave., Unit B, and 8863 Balboa Ave., Unit E, San Diego, CA 92127 (the “Property”) in Superior Court case number 37-2017-00019384-CU-CO-CTL (“HOA Litigation”). A true and correct copy of the order is attached hereto as Exhibit A. This order shut down all operations of the dispensary because the additional improvements were required by the City of San Diego in order to operate the dispensary.

7. On or about September 8, 2017, Judge Styn ordered a preliminary injunction enjoining the operation of a medical marijuana consumer cooperative on the Property. A true and correct copy of the minute order is attached hereto as Exhibit B.

8. On or about November 8, 2018, Judge Styn modified the preliminary injunction

1 allowing the dispensary to re-open on the Property so long as there were no armed guards on the
2 Property. A true and correct copy of the order is attached hereto as Exhibit C.

3 9. On or about February 12, 2018, the parties entered into a Stipulation and
4 Settlement for dismissal of the HOA Litigation. The Stipulation and Settlement provided for
5 retention of jurisdiction by the Superior Court pursuant to Code of Civil Procedure section 664.6.
6 A true and correct copy of the Stipulation and Settlement is attached hereto as Exhibit D.

7 10. As a result of the HOA Litigation the Balboa dispensary was not operational from
8 approximately August 2, 2017 until approximately December 11, 2017 which is 103 days. When
9 this number of days is used to calculate the daily average there is less than a \$100 per day
10 difference between the sales during SoCal's operation of the dispensary and the prior operation of
11 the dispensary.

12 11. The City of San Diego notice of violation against the Balboa dispensary is related
13 to more than just sign violations. See exhibit C to the Declaration of Gina M. Austin dated June
14 30, 2018. It is has never been the practice of the City to close a dispensary for sign violations. It
15 is the violations related to lack of proper security guards that pose the risk of shutting down the
16 dispensary.

17 12. The City of San Diego through its contractor MGO is in the middle of a tax and
18 compliance audit of the Balboa dispensary. I have been working with MGO to determine what
19 information is required to be provided and have agreed on what is to be produced. However, all
20 of the information was in the exclusive control of SoCal or Mr. Essary.

21 13. I am informed and believe that during the time of Mr. Essary's control of the
22 Balboa dispensary he did not comply with all of the requirements of the Readopted Emergency
23 Regulations of the Bureau of Cannabis Control because he did not apply for a new license.
24 Section 5024 (c) of Title 16 Division 42 of the California Code of Regulations provides in
25 relevant part that:

26 The Bureau may give the successor in interest written approval
27 to continue operations on the licensed business premises for a
28 period of time specified by the Bureau:

- 1 (1) If the successor in interest or another person has
 - 2 applied for a license from the Bureau for the licensed
 - 3 premises and that application is under review;
 - 4 (2) If the successor in interest needs additional time to
 - 5 destroy or sell cannabis goods; or
 - 6 (3) At the discretion of the Bureau.
 - 7 (d) The owner's successor in interest is held subject to
 - 8 all terms and conditions under which a state cannabis
 - 9 license is held pursuant to the Act.
- 10 14. I am informed and believe that Mr. Essary did not follow proper procedures with
- 11 regard to the requirements by the City of San Diego because he did not apply for a Marijuana
- 12 Operating Permit within the City of San Diego.
- 13 15. When I spoke to Mr. Essary on the phone on July 17, 2018, I informed him that I
- 14 could not allow him to enter the Balboa property until defendants had been served with the order.
- 15 I also told him that I needed copies of the bonds because the Order was not effective until the
- 16 bonds were posted. To date, neither Mr. Essary nor his attorney have provided copies of the
- 17 bonds despite numerous requests.
- 18 16. A Conditional Use Permit for a marijuana production facility located on the Mira
- 19 Este property is set for public hearing in September 2018. Ninus Malan and the various entities
- 20 that he is a member of will be irreparably harmed if this hearing is delayed or they are not
- 21 adequately represented. It is my opinion, based on Mr. Essary's prior actions, he is unable to
- 22 adequately represent these interests at the public hearing.
- 23 17. An application for a Conditional Use Permit by San Diego United Holdings, LLC
- 24 for a marijuana production facility located on the same parcel as the Balboa dispensary was
- 25 approved by the Hearing Officer on August 15, 2018. It is highly likely that the permit will be
- 26 appealed to the Planning Commission. It is my opinion, based on Mr. Essary's prior actions, that
- 27 he is unable to adequately represent the interests of the applicant in an appeal hearing.
- 28 18. California Cannabis Group currently holds temporary state licenses for cannabis
- distribution and manufacturing. The temporary licenses are renewed in three month increments
- so long as the applicant is making adequate progress in responding to the State's comments and
- questions. I am informed and believe that during the time of Mr. Essary's control of California

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Cannabis Group, no responses were provided to the state agencies. It is my opinion, that Mr. Essary is unable to adequately represent the interests of California Cannabis Group.

I declare under penalty of perjury under California state law that the foregoing is true and correct. Executed in San Diego, California, on August 16, 2018.

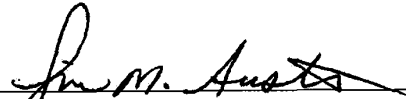

Gina M. Austin

EXHIBIT A

1 Rian W. Jones, Bar No. 118830
Mandy D. Hexom, Bar No. 216390
2 EPSTEN GRINNELL & HOWELL APC
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3 San Diego, California 92131
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5

FILED
Clerk of the Superior Court

AUG 02 2017

By: K. Muligan, Deputy

6 Attorneys for Plaintiff,
MONTGOMERY FIELD BUSINESS
7 CONDOMINIUM OWNERS ASSOCIATION
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN DIEGO, CENTRAL DIVISION

11 MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
12 California Nonprofit Mutual Benefit
Corporation,
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Plaintiff,
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v.
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16 BALBOA AVE COOPERATIVE, a
California corporation; SAN DIEGO
UNITED HOLDINGS GROUP, LLC, a
17 California limited liability company; NINUS
MALAN, an individual; RAZUKI
18 INVESTMENTS, LLC, a California limited
liability company; SALAM RAZUKI, an
19 individual; and DOES 1 through 25,
inclusive,
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Defendants.
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CASE NO. 37-2017-00019384 - ~~CM~~-CO-CTL
Case Assignment: Honorable Ronald L. Styn
**[PROPOSED] ORDER GRANTING
PLAINTIFF'S TEMPORARY
RESTRAINING ORDER**
Date: August 2, 2017
Time: 9:30 a.m.
Dept.: C-62
Judge: Hon. Ronald L. Styn
Trial Date: Not Scheduled.
Complaint Filed: May 26, 2017
[IMAGED FILE]

22
23 TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEY'S OF RECORD:

24 On August 2, 2017, Plaintiff, MONTGOMERY FIELD BUSINESS
25 CONDOMINIUMS ASSOCIATION'S ("Association") Ex Parte Application for Temporary
26 Restraining Order ("Application") came on for hearing before the above-entitled Court with
27 the Honorable Ronald L. Styn presiding in Department C62, on the Court's 9:30 a.m. calendar.
28 Mandy D. Hexom and Rian W. Jones of Epsten Grinnell & Howell, APC appeared on behalf

1 of Plaintiff Association. Other appearances are as follows: Douglas Jaffee, attorney for
2 Defendants RAZUKI INVESTMENTS, LLC and SALAM RAZUKI;

3 ~~attorney for Defendants, BALBOA AVE COOPERATIVE, SAN DIEGO~~
4 ~~UNITED HOLDINGS GROUP, LLC, and NINUS MILAN.~~

5 Having read the Application papers filed by Plaintiff or any other party, including any
6 declarations, and having heard argument of counsel, and satisfactory evidence being presented
7 to the Court, the Court finds that Plaintiff is entitled to a temporary restraining order as
8 follows:

9 **TEMPORARY RESTRAINING ORDER**

10 IT IS ORDERED THAT Plaintiff's Application is granted. Defendants, BALBOA
11 AVE COOPERATIVE and UNITED HOLDINGS GROUP, LLP, NINUS MILAN, ~~RAZUKI~~
12 ~~INVESTMENTS, LLC, SALAM RAZUKI,~~ and their agents, servants, employees, partners,
13 associates, officers, representatives, tenants, occupants, invitees, and guests are prohibited and
14 enjoined from the following: making any further interior and exterior alterations,
15 improvements or modifications to the property located at 8861 Balboa Avenue, Unit B, San
16 Diego, California 92127 without prior written Board approval from the Board of Directors of
17 Plaintiff, MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION.

18 IT IS FURTHER ORDERED THAT the Court will retain jurisdiction for the purpose
19 of enabling any of the parties to this order to apply to this Court at any time for such order or
20 directions that may be necessary or appropriate for the construction, operation or modification
21 of the Order, or for the enforcement or compliance with this Order.

22 The Court reserves jurisdiction to modify or dissolve the temporary restraining order
23 prior to a hearing on a preliminary injunction as may be required by the interests of justice.

24 */// The Plaintiff must file a bond for the*
25 */// temporary restraining order in the amount*
26 */// of \$10,000 which must be filed by ^{noon on} 8/3/2017.*
27 */// Notwithstanding the bond requirement, the*
28 */// temporary restraining order is effective immediately*

DSC

HEARING ON PRELIMINARY INJUNCTION

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This shall be the order of this Court pending a hearing on the ^{motion for} ~~preliminary injunction~~ ^{Order to Show Cause} ~~motion~~, which shall be heard on 8/11, 2017 at 8:30 a.m./p.m. in Department C62

of this Court. Plaintiff is to provide notice of the hearing to Defendants. ~~Defendants to file papers by 8/8/2017 with the Court~~

IT IS SO ORDERED:

DATED: Aug 2, 2017



JUDGE OF THE SUPERIOR COURT

AUG 02 2017

* Plaintiffs to file and serve supplemental brief by August 4, 2017, with a courtesy copy delivered to Dpt. 62.

Defendants to file opposition by August 8, 2017, with a courtesy copy delivered to Dpt. 62.

Any Reply to be filed by 10:30 a.m. on Aug 10, 2017 with a courtesy copy delivered to Dpt. 62.

All parties shall serve all pleadings in this matter by email.

EXHIBIT B

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 09/08/2017

TIME: 02:43:00 PM

DEPT: C-62

JUDICIAL OFFICER PRESIDING: Ronald L. Styn

CLERK: Kim Mulligan

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: 37-2017-00019384-CU-CO-CTL CASE INIT.DATE: 05/26/2017

CASE TITLE: **Montgomery Field Business Condominiums Association vs. Balboa Ave
Cooperative [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Contract - Other

EVENT TYPE: Motion Hearing (Civil)

APPEARANCES

The Court, having taken the above-entitled matter under submission on 09/08/17 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

After taking this matter under submission the court rules as follows.

Plaintiff Montgomery Field Business Condominium Owners Association's motion for preliminary injunction is granted.

After review of the papers and supplemental papers, and consideration of the arguments raised by the parties, and after taking testimony on September 1, 2017 and September 8, 2017, the court finds that Defendants San Diego United Holdings Group, LLC, Nunus Malan and Balboa Ave Cooperative caused the cancellation of Plaintiff's insurance in violation of the Declaration of Covenants, Conditions and Restrictions for Montgomery Field Business Condominiums Association. Based on the evidence before the court, there is no obvious replacement insurance available to Plaintiff Association. Considering the evidence now before the court, the court grants Plaintiff's motion for preliminary injunction. The court enjoins Defendants San Diego United Holdings Group, LLC, Nunus Malan and Balboa Ave Cooperative from operation of a Medical Marijuana Consumer Cooperative on property located within the Montgomery Field Business Condominium Association as described in Conditional Use Permit No. 1296130. This injunction shall be effective upon Plaintiff posting a bond in the amount of \$50,000.00.

IT IS SO ORDERED.



Judge Ronald L. Styn

DATE: 09/08/2017

MINUTE ORDER

Page 1

DEPT: C-62

Calendar No.

1832

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

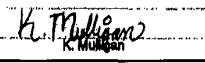
Central
330 West Broadway
San Diego, CA 92101

SHORT TITLE: Montgomery Field Business Condominiums Association vs. Balboa Ave Cooperative [IMAGED]

CLERK'S CERTIFICATE OF SERVICE BY MAIL

CASE NUMBER:
37-2017-00019384-CU-CO-CTL

I certify that I am not a party to this cause. I certify that a true copy of the attached minute order was mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as indicated below. The mailing and this certification occurred at San Diego, California, on 09/08/2017.

Clerk of the Court, by: , Deputy

GINA M AUSTIN
AUSTIN LEGAL GROUP APC
3990 OLD TOWN AVENUE # A-112
SAN DIEGO, CA 92110

MANDY HEXOM
10200 WILLOW CREEK ROAD # 100
SAN DIEGO, CA 92131

Additional names and address attached.

CLERK'S CERTIFICATE OF SERVICE BY MAIL

Page: 1

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EXHIBIT C

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Rian W. Jones, Bar No. 118830
Mandy D. Hexom, Bar No. 216390
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Attorneys for Plaintiff,
MONTGOMERY FIELD BUSINESS
CONDOMINIUM OWNERS ASSOCIATION

FILED
Clerk of the Superior Court

NOV 08 2017

By: K. Mulligan, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Nonprofit Mutual Benefit
Corporation,

Plaintiff,

v.

BALBOA AVE COOPERATIVE, a
California corporation; SAN DIEGO
UNITED HOLDINGS GROUP, LLC, a
California limited liability company; NINUS
MALAN, an individual; RAZUKI
INVESTMENTS, LLC, a California limited
liability company; SALAM RAZUKI, an
individual; and DOES 1 through 25,
inclusive,

Defendants.

CASE NO. 37-2017-00019384-CU-CO-CTL

Case Assignment: Hon. Ronald L. Styn

~~PROPOSED~~ ORDER RE
MODIFICATION OF PRELIMINARY
INJUNCTION

Date: November 3, 2017
Time: 2:00 p.m.
Dept.: C-62
Judge: Hon. Ronald L. Styn

Trial Date: Not Scheduled.
Complaint Filed: May 26, 2017

[IMAGED FILE]

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEY'S OF RECORD:

On October 10, 2017, October 12, 2017, October 27, 2017, and on November 3, 2017,
Plaintiff, MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION'S
("Association") Ex Parte Application for Clarification or Modification of Preliminary
Injunction or, Alternatively, for a Temporary Restraining Order ("Application") came on for
hearings before the above-entitled court with the Honorable Ronald L. Styn presiding in
Department C-62. Mandy D. Hexom and Rian W. Jones of Epsten Grinnell & Howell, APC

- 1 -
~~PROPOSED~~ ORDER

17 NOV 5 AM 10:41

1 appeared on behalf of Plaintiff Association. Other appearances are as follows: Douglas Jaffe,
2 attorney for Defendants RAZUKI INVESTMENTS, LLC and SALAM RAZUKI; Gina Austin
3 and Tamara Leetham of Austin Legal Group, attorneys for Defendants BALBOA AVE
4 COOPERATIVE, SAN DIEGO UNITED HOLDINGS GROUP, LLC and NINUS MALAN.

5 Having read the ex parte Application papers filed by Plaintiff, including any
6 declarations, and supplemental pleadings and supplemental declarations, and having reviewed
7 opposition papers filed by Defendants, having heard argument of counsel and testimony from
8 witnesses at the multiple hearings for this matter, the court modifies the preliminary injunction
9 as follows:

10 **MODIFIED PRELIMINARY INJUNCTION**

11 The court enjoins Defendants San Diego United Holdings Group, LLC, Ninus Malan
12 and Balboa Ave Cooperative from having any armed guards or armed security that have any
13 weapon on property located within the Montgomery Field Business Condominiums
14 Association. This injunction shall be effective immediately upon execution of this order by the
15 court and upon delivery of a signed declaration from Ninus Malan stating that no armed guards
16 with any weapon shall be present on property located within the Association.

17 **IT IS SO ORDERED:**

18 DATED: NOV 08 2017

19 **RONALD L. STYN**
20 _____
21 JUDGE OF THE SUPERIOR COURT
22 **RONALD L. STYN**

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17 NOV 8 AM 10:41

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN DIEGO, CENTRAL DIVISION		FOR COURT USE ONLY
TITLE OF CASE (ABBREVIATED): Montgomery Field Business Condominiums Assoc. v. Balboa Ave Cooperative, et al.		FILED Clerk of the Superior Court
ATTORNEY(S) NAME AND ADDRESS: Rian W. Jones, Esq. (SBN: 118830) Mandy D. Hexom, Esq. (SBN 216390) Epsten Grinnell & Howell, APC 10200 Willow Creek Rd., Suite 100 San Diego, California 92131	TELEPHONE (858) 527-0111	NOV 08 2017
	FACSIMILE (858) 527-1531	By: K. Mulligan, Deputy
ATTORNEYS FOR: Montgomery Field Business Condominium Assoc.	HEARING: DATE-TIME-DEPT November 3, 2017; 11am; Dept. 62	CASE NUMBER 37-2017-00019384-CU-CO-CTL

DECLARATION OF SERVICE

I, Mandy D. Hexom., declare: that I am, and was at the time of service of the papers herein referred to, over the age of 18 years, and not a party to the action; and I am employed in the County of San Diego, California, within which county the subject service occurred. My business address is 10200 Willow Creek Rd., Suite 100, San Diego, California 92131. On November 6, 2017, I served the following document(s):

PROPOSED ORDER RE MODIFICATION OF PRELIMINARY INJUNCTION

of which the original document(s), or a true and correct copy, is attached, by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such addressee respectively as follows:

- (BY E-MAIL OR ELECTRONIC TRANSMISSION) Based on CCP §1010.6 authorizing service by email or electronic transmission, I caused the documents to be sent to the person at the e-mail address listed in the above Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Gina M. Austin, Esq. / Tamara M. Leetham, Esq. Austin Legal Group, APC 3990 Old Town Avenue, Ste., A-112 San Diego, CA 92110 (619) 924-9600/ Fax: (619) 881-0045 gaustin@austinlegalgroup.com tamara@austinlegalgroup.com	Attorneys for Balboa Ave Cooperative; San Diego Holdings Group, LLC and Ninus Malan
Douglas Jaffe Law Offices of Douglas Jaffe 501 West Broadway, Suite 800 San Diego, California 92101 (619) 400-4945/ Fax: (619) 400-4947 douglasjaffe@aol.com	Attorneys for Razuki Investments, LLC, Salani Razuki

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 6, 2017, at San Diego, California.


Mandy D. Hexom

VIA FAX

VIA FAX

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN DIEGO, CENTRAL DIVISION		FOR COURT USE ONLY
TITLE OF CASE (ABBREVIATED): Montgomery Field Business Condominiums Assoc. v. Balboa Ave Cooperative, et al.		
ATTORNEY(S) NAME AND ADDRESS: Rian W. Jones, Esq. (SBN: 118830) Mandy D. Hexom, Esq. (SBN 216390) Epsten Grinnell & Howell, APC 10200 Willow Creek Rd., Suite 100 San Diego, California 92131		TELEPHONE (858) 527-0111 FACSIMILE (858) 527-1531
ATTORNEYS FOR: Montgomery Field Business Condominium Assoc.	HEARING: DATE-TIME-DEPT November 3, 2017; 11am; Dept. 62	CASE NUMBER 37-2017-00019384-CU-CO-CTL

DECLARATION OF SERVICE

I, Shelly J. Gray., declare: that I am, and was at the time of service of the papers herein referred to, over the age of 18 years, and not a party to the action; and I am employed in the County of San Diego, California, within which county the subject service occurred. My business address is 10200 Willow Creek Rd., Suite 100, San Diego, California 92131. On November 9, 2017, I served the following document(s):

ORDER RE MODIFICATION OF PRELIMINARY INJUNCTION

of which the original document(s), or a true and correct copy, is attached, by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such addressee respectively as follows:

- (BY E-MAIL OR ELECTRONIC TRANSMISSION)** Based on CCP §1010.6 authorizing service by email or electronic transmission, I caused the documents to be sent to the person at the e-mail address listed in the above Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- (BY MAIL)** I caused a true copy of each document, placed in a sealed envelope with postage fully paid, to be placed in the United States mail at San Diego, California. I am "readily familiar" with this firm's business practice for collection and processing of mail, that in the ordinary course of business said document(s) would be deposited with the U.S. Postal Service on that same day. I understand that the service shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing contained on this affidavit.

Gina M. Austin, Esq. / Tamara M. Leetham, Esq. Austin Legal Group, APC 3990 Old Town Avenue, Ste., A-112 San Diego, CA 92110 (619) 924-9600/ Fax: (619) 881-0045 gaustin@austinlegalgroup.com tamara@austinlegalgroup.com	Attorneys for Balboa Ave Cooperative; San Diego Holdings Group, LLC and Ninus Malan
Douglas Jaffe Law Offices of Douglas Jaffe 501 West Broadway, Suite 800 San Diego, California 92101 (619) 400-4945/ Fax: (619) 400-4947 douglasjaffe@aol.com	Attorneys for Razuki Investments, LLC, Salam Razuki

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 9, 2017, at San Diego, California.

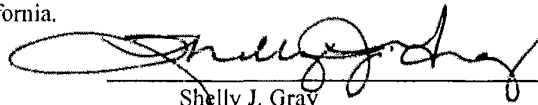

Shelly J. Gray

EXHIBIT D

1 Rian W. Jones, Bar No. 118830
2 Mandy D. Hexom, Bar No. 216390
3 EPSTEN GRINNELL & HOWELL APC
4 10200 Willow Creek Road, Suite 100
5 San Diego, California 92131
6 (858) 527-0111/ Fax (858) 527-1531
7 rjones@epsten.com
8 mhexom@epsten.com

9 Attorneys for Plaintiff,
10 MONTGOMERY FIELD BUSINESS
11 CONDOMINIUMS ASSOCIATION

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SAN DIEGO, CENTRAL DIVISION

14 MONTGOMERY FIELD BUSINESS
15 CONDOMINIUMS ASSOCIATION, a
16 California Nonprofit Mutual Benefit
17 Corporation,

18 Plaintiff,

19 v.

20 BALBOA AVE COOPERATIVE, a
21 California corporation; SAN DIEGO
22 UNITED HOLDINGS GROUP, LLC, a
23 California limited liability company; NINUS
24 MALAN, an individual; RAZUKI
25 INVESTMENTS, LLC, a California limited
26 liability company; SALAM RAZUKI, an
27 individual; and DOES 1 through 25,
28 inclusive,

Defendants.

CASE NO. 37-2017-00019384-CU-CO-CTL

**STIPULATION FOR COURT TO RETAIN
JURISDICTION TO ENFORCE
SETTLEMENT UPON DEFAULT
PURSUANT TO CODE OF CIVIL
PROCEDURE SECTION 664.6 AND
ENTRY OF JUDGMENT UPON
DEFAULT; [PROPOSED] ORDER
THEREON**

Case Assignment: Honorable Ronald L. Styn
Complaint Filed: May 26, 2017
Trial Date: March 9, 2018

[IMAGED FILE]

IT IS HEREBY STIPULATED by and between Plaintiff, MONTGOMERY FIELD
BUSINESS CONDOMINIUMS ASSOCIATION, a California Non-Profit Corporation
("Plaintiff" or "Association") and Defendants, BALBOA AVE COOPERATIVE, SAN
DIEGO UNITED HOLDINGS GROUP, LLC, NINUS MALAN, RAZUKI INVESTMENTS,

1 LLC and SALAM RAZUKI (collectively, the “Defendants”) as follows:¹

2 1. Recitals. On or about May 26, 2017, the Association commenced this action
3 against the Defendants for causes of action related to the enforcement of the Association’s
4 Declaration of Covenants, Conditions and Restriction for Montgomery Field Business
5 Condominiums recorded on July 31, 1981 as Documents No. 1981-242889 in the Official
6 Records of the San Diego County Recorder’s Office (“CC&Rs”) and the Association’s 2015
7 Amendment to Declaration of Covenants, Conditions and Restrictions for Montgomery Field
8 Business Condominiums Association recorded on March 2, 2015 as Document No. 2015-
9 0093872 in the Official Records of the San Diego County Recorder’s Office (“2015
10 Amendment”). The complaint in this action also demanded attorney’s fees and costs incurred
11 by the Association to enforce the CC&Rs and 2015 Amendment.

12 2. Settlement Agreement. The Parties to this action and to this Stipulation have
13 entered into a Settlement Agreement (“Settlement Agreement”) providing, in part, at Section
14 2.2.1, that upon default or breach of the Settlement Agreement, the Association may have the
15 dismissal in this action set aside and Judgment (in an agreed-form attached herewith as Exhibit
16 A unless as otherwise modified by the court) filed and entered on its behalf as hereafter
17 provided by a noticed motion pursuant to Code of Civil Procedure section 1005.

18 3. Payment of Attorney’s Fees and Costs. Pursuant to Section 2.1 of the
19 Settlement Agreement, Defendant, MALAN agrees to pay and agree to be liable for the
20 Association’s attorney’s fees and costs incurred in this action in the total amount set forth in
21 Section 2.1 of the Settlement Agreement. The Parties agree that if the Association enforces
22 Section 2.1 of the Settlement Agreement, such payment is not to be considered a penalty.

23 4. Retention of Jurisdiction. The Parties agree that, pursuant to Section 664.6 of
24 the California Code of Civil Procedure, the San Diego Superior Court shall retain jurisdiction
25 over this case, and the performance of the obligations to be undertaken pursuant to the terms of
26 this Stipulation and the Settlement Agreement for as long as the court agrees to retain

27 ¹ The Association, Balboa Ave Cooperative, San Diego United Holdings Group, LLC, Ninus
28 Malan, Razuki Investments, LLC and Salam Razuki may be referred to as a “Party”
individually or “Parties” collectively in this Stipulation.

1 jurisdiction, and the Parties agree to submit to said jurisdiction. In the event any obligation
2 imposed by the Stipulation or the Settlement Agreement is not fulfilled as prescribed herein,
3 the court may set aside the dismissal entered in this action and, upon reasonable notice and
4 after hearing set forth herein, enforce the terms of this Stipulation and the Settlement
5 Agreement pursuant to Code of Civil Procedure section 664.6, and enter judgment against
6 either Party for violations of any of the terms set forth in this Stipulation and/or the Settlement
7 Agreement. This Stipulation and Settlement Agreement memorializes the settlement terms
8 entered into by the Parties, and is signed by all Parties to this action.

9 5. Default Terms. It is hereby agreed by the Parties that Defendants will be in
10 default under the terms of the Settlement Agreement should they fail to comply with any of the
11 terms set forth in Section 2 of the Settlement Agreement. It is further agreed by the Parties that
12 any Party will be in default under the terms of the Settlement Agreement should they fail to
13 comply with any of the Settlement Agreement's terms that he/she or it is obligated to perform.

14 6. Entry of Judgment Upon Default. Should any Party allege a breach or default of
15 any of the terms of the Settlement Agreement, the non-breaching Party will give the alleged
16 breaching Party written notice, via first class mail, which will be sent pursuant to the Required
17 Notices provision of the Settlement Agreement at Section 3.1. If the deficiencies, breach or
18 default of the Settlement Agreement is not corrected within ten (10) days from the date of said
19 written notice, then the non-breaching Party may apply or move the court on with at least 16
20 court days prior notice to the other Party, for enforcement of the Settlement Agreement and
21 other relief as the court deems just and proper.

22 7. If the breach or default is adjudicated against MALAN as to Section 2.1 of the
23 Settlement Agreement, Judgment will be entered against MALAN as set forth and attached as
24 Exhibit A unless otherwise modified by the court as it deems just and necessary.

25 8. In addition, upon a finding by the court that Defendants are in breach or default
26 of any terms set forth in Section 2 of the Settlement Agreement, the Association will be
27 entitled to and may seek, as part of a Judgment, a permanent injunction order prohibiting
28 Defendants, or any other persons or entities on behalf of Defendants or its successors, from

1 performing Marijuana Activities or having armed guards within the Association. This order
2 will also require Defendants and their agents or successors from immediately and permanently
3 ceasing any and all "Marijuana Activities" as defined in Section 20 of the Association's
4 CC&Rs and/or as defined in the 2015 Amendment and will be prohibited from having any
5 armed guards within the Association.

6 9. The Association is entitled to, and may seek, as part of the Judgment, the
7 Association's reasonable attorney's fees and costs incurred to enforce the terms of this
8 Stipulation and Settlement Agreement including the attorney's fees and costs to prepare and
9 file the default notice, the notice of motion, any related documents or pleadings, and to attend
10 a hearing to file and enter Judgment. The Parties stipulate and agree that the amounts for these
11 attorney's fees and costs may be inserted by the Association or the court in the Judgment upon
12 the filing of this Stipulation in support of an ex parte application or motion to set aside
13 dismissal and enforce the Settlement Agreement. The Parties agree that if a Party enforces
14 Section 2.17 of the Settlement Agreement or this provision of the Stipulation and the court
15 requires payment of such attorney's fees and costs to enforce the Settlement Agreement, such
16 obligation is not to be considered a penalty.

17 10. Dismissal without Prejudice. The Parties agree and state that this action may be
18 dismissed without prejudice and with a reservation of power and jurisdiction of the court to set
19 aside said dismissal and order entry of judgment in the manner provided in this Stipulation and
20 Settlement Agreement and pursuant to Code of Civil Procedure Section 664.6. If any
21 enforcement is necessary or a dispute arises after entry of any dismissal, the court reserved
22 jurisdiction to reinstate this action nuc pro tunc as of the date of this Stipulation and Order so
23 that the court can issue orders as set forth herein.

24 11. Defendants waive findings of fact, conclusions of law, any right to appeal from
25 any Judgment entered pursuant to this Stipulation and Settlement Agreement, the right to
26 move for a new trial, and any notices of hearings except as set forth herein.

27 12. If any provision or term of this Stipulation is determined to be invalid, such
28 invalidity shall not affect other provisions or terms which can be given effect without the

1 invalid provisions or terms; and to this end the provisions and terms of this Stipulation shall be
2 severable.

3 13. The Parties also agree that in the event of any dispute in the case, or as to the
4 language or meaning of the terms of this Stipulation, the court shall have sole and exclusive
5 power to render any decision related to such dispute.

6 14. This Stipulation and Settlement Agreement shall be effective upon its execution
7 by all Parties.

8 15. The Parties represent and warrant that (i) they have read and understand the
9 terms of this Stipulation and the Settlement Agreement, and (ii) have entered into this
10 Stipulation and Settlement Agreement for reasons of their own and not based upon
11 representations of any other Party hereto.

12 16. By executing this Stipulation and Settlement Agreement, each of the Parties
13 represents that it has the right, legal capacity, power and authority to enter into this Stipulation
14 and to perform its obligations hereunder, without the consent, approval or authorization of any
15 person, entity, tribunal or other regulatory or governmental authority.

16 17. At all times material hereto the Parties have had an opportunity to consult with
17 legal counsel of their own choosing concerning their rights with respect to the form and
18 content of this Stipulation and Settlement Agreement and the advisability of executing the
19 same.

20 18. This Stipulation and Settlement Agreement shall be binding on, and inure to the
21 benefit of the Parties hereto, and where applicable, their respective parents, subsidiaries,
22 affiliates, divisions, officers, directors, owners, associates, predecessors, successors, heirs,
23 assigns, agents, partners, employees, insurers, and representatives.

24 19. This Stipulation and Settlement Agreement may be executed in counterparts
25 and all such counterparts when so executed shall together constitute the final Stipulation as if
26 one document had been signed by all of the Parties. This Stipulation and Settlement
27 Agreement may be executed by e-mail or facsimile copy and each signature thereto shall be
28 and constitute an original signature, again as if all Parties had executed a single original

1 document. No modification of any provision of this Stipulation and Settlement Agreement
2 shall be effective unless the same is in writing and signed by all Parties, and then such
3 modification shall be effective only in the specific instance or for the purpose for which given.

4 20. Each of the Parties to this Stipulation and Settlement Agreement agree to
5 execute and deliver to the other Parties such other documents, instruments, and writings
6 reasonably necessary to effectuate this Stipulation and shall undertake such other actions to
7 cause the consummation of the transactions contemplated by this Stipulation and Settlement
8 Agreement.

9
10 Dated: February 12th, 2018

BALBOA AVE COOPERATIVE


11 
12 _____
By: Ninus Malan, Its President

13
14 Dated: February 12th, 2018

15 
16 _____
NINUS MALAN

17
18 Dated: February 12th, 2018

SAN DIEGO UNITED HOLDINGS GROUP,
LLC

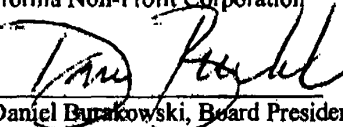
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20 _____
Ninus Malan, Its Managing Member

21
22 Dated: February _____, 2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Non-Profit Corporation

23
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25 By: _____
Daniel Burakowski, Board President

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1 document. No modification of any provision of this Stipulation and Settlement Agreement
2 shall be effective unless the same is in writing and signed by all Parties, and then such
3 modification shall be effective only in the specific instance or for the purpose for which given.
4 20. Each of the Parties to this Stipulation and Settlement Agreement agree to
5 execute and deliver to the other Parties such other documents, instruments, and writings
6 reasonably necessary to effectuate this Stipulation and shall undertake such other actions to
7 cause the consummation of the transactions contemplated by this Stipulation and Settlement
8 Agreement.
9
10 Dated: February ____, 2018 BALBOA AVE COOPERATIVE
11
12 By: Ninus Malan, Its President
13
14 Dated: February ____, 2018
15
16 NINUS MALAN
17
18 Dated: February ____, 2018 SAN DIEGO UNITED HOLDINGS GROUP,
19 LLC
20
21 Ninus Malan, Its Managing Member
22 Dated: February 14, 2018 MONTGOMERY FIELD BUSINESS
23 CONDOMINIUMS ASSOCIATION, a
24 California Non-Profit Corporation
25 By: 
26 Daniel Burakowski, Board President
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Dated: February 14, 2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Non-Profit Corporation

By: X X X X X X X

By: Glen Strand
Glen Strand, Vice-President

Dated: February 14, 2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Non-Profit Corporation

By: Chris Williams
Chris Williams, Secretary

Dated: _____

RAZUKI INVESTMENTS, LLC

By: _____
Title: _____

Dated: _____

SALAM RAZUKI

APPROVED AS TO FORM AND CONTENT:

Dated: February ____, 2018

EPSTEN, GRINNELL & HOWELL, APC

Mandy D. Hexom
Attorneys for Plaintiff,
MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

Dated: February ____, 2018

AUSTIN LEGAL GROUP, APC

Gina Austin
Tamara Leetham
Attorneys for Defendants,
BALBOA AVE COOPERATIVE, NINUS
MALAN, and SAN DIEGO UNITED
HOLDINGS GROUP, LLC

7
STIPULATION FOR ENTRY OF JUDGMENT UPON DEFAULT

1 Dated: February _____, 2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Non-Profit Corporation

2
3 By: _____

By: _____
Glen Strand, Vice-President

4
5 Dated: February _____, 2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Non-Profit Corporation

6
7 By: _____
Chris Williams, Secretary

8
9 Dated: 02/13/18

RAZUKI INVESTMENTS, LLC

10 By: _____
11 Title: President

12 Dated: 02/13/18

[Signature]
SALAM RAZUKI

13
14 APPROVED AS TO FORM AND CONTENT:

15
16 Dated: February 14, 2018

EPSTEN, GRINNELL & HOWELL, APC

[Signature]
Mandy D. Hexom
Attorneys for Plaintiff,
MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

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20 Dated: February 12, 2018

AUSTIN LEGAL GROUP, APC

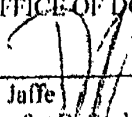
[Signature]
Gina Austin
Tamara Leatham
Attorneys for Defendants,
BALBOA AVE COOPERATIVE, NINUS
MALAN, and SAN DIEGO UNITED
HOLDINGS GROUP, LLC

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7
STIPULATION FOR ENTRY OF JUDGMENT UPON DEFAULT

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Dated: February 15, 2018

LAW OFFICE OF DOUGLAS JAFFE



Douglas Jaffe
Attorneys for Defendants,
RAZUKI INVESTMENTS, LLC, and SALAM
RAZUKI

IT IS SO ORDERED:

Dated:

JUDGE OF THE SUPERIOR COURT

⁸
STIPULATION FOR ENTRY OF JUDGMENT UPON DEFAULT

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN DIEGO, CENTRAL DIVISION		FOR COURT USE ONLY
TITLE OF CASE (ABBREVIATED): Montgomery Field Business Condominiums Assoc. v. Balboa Ave Cooperative, et al.		
ATTORNEY(S) NAME AND ADDRESS: Rian W. Jones, Esq. (SBN: 118830) Mandy D. Hexom, Esq. (SBN 216390) Epsten Grinnell & Howell, APC 10200 Willow Creek Rd., Suite 100 San Diego, California 92131	TELEPHONE (858) 527-0111 FACSIMILE (858) 527-1531	
ATTORNEYS FOR: Montgomery Field Business Condominium Assoc.	HEARING: DATE-TIME-DEPT	CASE NUMBER 37-2017-00019384-CU-CO-CTL

DECLARATION OF SERVICE

I, Stephanie Hart, declare: that I am, and was at the time of service of the papers herein referred to, over the age of 18 years, and not a party to the action; and I am employed in the County of San Diego, California, within which county the subject service occurred. My business address is 10200 Willow Creek Rd., Suite 100, San Diego, California 92131. On February 28, 2018, I served the following document(s):

STIPULATION FOR COURT TO RETAIN JURISDICTION TO ENFORCE SETTLEMENT UPON DEFAULT PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 664.6 AND ENTRY OF JUDGMENT UPON DEFAULT; [PROPOSED] ORDER THEREON

of which the original document(s), or a true and correct copy, is attached, by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such addressee respectively as follows:

(BY MAIL) I caused a true copy of each document, placed in a sealed envelope with postage fully paid, to be placed in the United States mail at San Diego, California. I am "readily familiar" with this firm's business practice for collection and processing of mail, that in the ordinary course of business said document(s) would be deposited with the U.S. Postal Service on that same day. I understand that the service shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing contained on this affidavit.

Gina M. Austin, Esq. / Tamara M. Leetham, Esq. Austin Legal Group, APC 3990 Old Town Avenue, Ste., A-112 San Diego, CA 92110 (619) 924-9600/ Fax: (619) 881-0045 gaustin@austinlegallgroup.com tamara@austinlegallgroup.com	Attorneys for Balboa Ave Cooperative; San Diego Holdings Group, LLC and Ninus Malan
Douglas Jaffe, Esq. Law Offices of Douglas Jaffe 501 West Broadway, Suite 800 San Diego, California 92101 (619) 400-4945/ Fax: (619) 400-4947 douglasjaffe@aol.com	Attorneys for Razuki Investments, LLC, Salam Razuki

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 28, 2018, at San Diego, California.


Stephanie Hart

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

1 Gina M. Austin (SBN 246833)
E-mail: *gaustin@austinlegalgroup.com*
2 Tamara M. Leetham (SBN 234419)
E-mail: *tamara@austinlegalgroup.com*
3 AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
4 San Diego, CA 92110
Phone: (619) 924-9600
5 Facsimile: (619) 881-0045

6 Attorneys for Defendants
Ninus Malan, San Diego United Holdings Group
7 Balboa Ave Cooperative, California Cannabis Group

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**

11
12 SALAM RAZUKI, an individual,

13 Plaintiff,

14 vs.

15 NINUS MALAN, an individual; CHRIS
16 HAKIM, an individual; MONARCH
MANAGEMENT CONSULTING, INC., a
17 California corporation; SAN DIEGO
UNITED HOLDINGS GROUP, LLC, a
18 California limited liability company; FLIP
MANAGEMENT, LLC, a California
19 limited liability company; ROSELLE
PROPERTIES, LLC, a California limited
20 liability company; BALBOA AVE
COOPERATIVE, a California nonprofit
21 mutual benefit corporation; CALIFORNIA
CANNABIS GROUP, a California
22 nonprofit mutual benefit corporation;
DEVILISH DELIGHTS, INC. a California
23 nonprofit mutual benefit corporation; and
DOES 1-100, inclusive;

24 Defendants.

CASE NO. 37-2018-00034229-CU-BC-CTL

**DECLARATION OF JUSTUS HENKES IN
SUPPORT OF NINUS MALAN'S
SUPPLEMENTAL BRIEFING TO VACATE
RECEIVERSHIP**

[IMAGED FILE]

Judge: Hon. Eddie C. Sturgeon
Date: August 20, 2018
Dept.: C-67
Time: 2:00 p.m.

Trial Date: Not Set

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1 I, Justus Henkes, declare as follows:

2 1. I am a resident of California and over the age of 18. I have personal knowledge of
3 the facts stated in this declaration, except as to those facts stated upon information and belief,
4 which facts I believe to be true. If called as a witness, I would testify competently thereto. I
5 make this declaration in support of defendants Ninus Malan, San Diego United Holdings Group,
6 Balboa Ave Cooperative, California Cannabis Group, and Flip Management's Supplemental
7 Memorandum of Points and Authorities In Support of Judge Strauss' Order Vacating
8 Receivership.

9 2. I am a certified public accountant and offer accounting services, as well as
10 financial consulting services to businesses, including but not limited to cannabis businesses.

11 3. I am the accountant for a licensed dispensary operating in the City of San Diego
12 under the trade name "Golden State Greens." Golden State Greens opened in or about August
13 2015 and I have been the accountant since the dispensary opened.

14 4. I am also the manager and accountant for a company named Far West Operating,
15 LLC ("FWO") and have authorization from FWO to sign documents on its behalf.

16 5. As FWO's accountant and manager, I am familiar with FWO's corporate structure
17 which includes a wholly owned subsidiary named Far West Management, LLC. Far West
18 Management, LLC was formed to handle management services.

19 6. In my experience as Golden State Green's accountant and also working for FWO,
20 I have become proficient in cannabis accounting and I take a detailed approach to abide by local
21 and state laws.

22 7. On or about July 10, 2018, FWO agreed to manage a legal marijuana dispensary
23 operating at 8863 Balboa Ave, Suite E. FWO managed the dispensary from about July 10, 2018
24 to July 17, 2018. FWO resumed management responsibility on or about August 4, 2018 and has
25 been managing the Balboa Ave dispensary since that date.

26 8. I was never contacted by a court-appointed receiver named Michael Essary to
27 discuss FWO's management of Balboa.

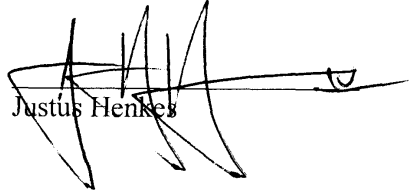
28 9. On August 15, 2018, I was retained to provide accounting services related to the

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

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Balboa Ave dispensary and to recreate financials for the period of January 2018 through July 11, 2018 because as I understand no accounting has been prepared or maintained for that time period.

I declare under penalty of perjury the foregoing is true and correct. Executed in San Diego, California, on August 16, 2018.


Justus Henkes

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

1 Gina M. Austin (SBN 246833)
E-mail: *gaustin@austinlegalgroup.com*
2 Tamara M. Leetham (SBN 234419)
E-mail: *tamara@austinlegalgroup.com*
3 AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
4 San Diego, CA 92110
Phone: (619) 924-9600
5 Facsimile: (619) 881-0045

6 Attorneys for Defendants
San Diego United Holdings Group, LLC, Ninus Malan
7 And Balboa Ave Cooperative, Flip Management, LLC,
Devilish Delights and California Cannabis Group
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**

11
12 SALAM RAZUKI, an individual,
13 Plaintiff,
14 vs.

CASE NO. 37-2018-00034229-CU-BC-CTL

DECLARATION OF JOHN LLOYD

[Imaged File]

15 NINUS MALAN, an individual; CHRIS
16 HAKIM, an individual; MONARCH
MANAGEMENT CONSULTING, INC., a
17 California corporation; SAN DIEGO
UNITED HOLDINGS GROUP, LLC, a
18 California limited liability company; FLIP
MANAGEMENT, LLC, a California
19 limited liability company; ROSELLE
PROPERTIES, LLC, a California limited
20 liability company; BALBOA AVE
COOPERATIVE, a California nonprofit
21 mutual benefit corporation; CALIFORNIA
CANNABIS GROUP, a California
22 nonprofit mutual benefit corporation;
DEVILISH DELIGHTS, INC. a California
23 nonprofit mutual benefit corporation; and
DOES 1-100, inclusive;

24 Defendants.
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I, John Lloyd, declare:

1. I am over the age of 18 and am not a party to this action. I have personal knowledge of the facts stated in this declaration. If called as a witness, I would testify competently thereto.

2. I am the President and a general partner of the Loan Company. I have been with the Loan Company since 2007 when I started working as an underwriter. I became the President in 2008 and have remained in the position since.

3. Prior to my work with the Loan Company, I spent 12 years in commercial real estate lending at two regional banks, served as CFO for a real estate developer as well as CEO of a private money lender, and I have owned and operated a commercial real estate mortgage company.

4. CA DRE Broker License # 01376920; NMLS ID #345838; CA DBO CFL License #60DBO 73986

5. I was conferred a Bachelors degree in accounting from the University of Montana, a Masters in Business Administration in finance, and graduated from Pacific Coast Banking School at the University of Washington.

6. The Loan Company is a direct lender providing short and long-term loans for an array of commercial and residential investment real estate needs. The Loan Company funds all types of income-producing commercial and residential investment real estate with loans from the low six figures to the millions.

7. In or around early 2014, I was introduced to Ninus Malan and Salam Razuki by a man named Namir Mattia. I met with them to discuss finance options to acquire and sell commercial and residential real property.

8. As I understood it, Ninus Malan and Salam Razuki were real estate investment partners and wanted to acquire and then either sell or rent commercial and residential real property. I do not know the specific terms of their business arrangement.

9. Between 2014 and the date of this declaration, The Loan Company has originated millions of dollars of loans which included a line of credit to entities involving Ninus Malan and

1 Salam Razuki with the understanding that the loans would be used to conduct real estate
2 investments with the intention to profit either by selling or renting. I do not know the specific
3 terms of their business arrangement, but I understood the two of them to be doing it as partners
4 that would share in any profit.

5 10. As the Razuki and Malan entities purchased property, it was my expectation that
6 some, if not all, would be sold and the loan would be repaid. I became concerned when Salam
7 Razuki did not sell any of the acquired properties because the loans were short term and not
8 intended as a long-term obligation.

9 11. I had a discussion with Ninus Malan and Salam Razuki about paying off the loans
10 and explained to them that if this did not occur, the lines of credit would be converted to a
11 conventional loan and any further funds available as a line of credit would become unavailable.

12 12. In December 2017, I originated a loan for a company named RM Property
13 Holdings, LLC. The loan was intended to consolidate all remaining loans related to entities
14 involving Ninus Malan and Salam Razuki into one loan.

15 13. During in person discussions with Ninus Malan and Salam Razuki, I was informed
16 that it was their intention to consolidate the loan and transfer all properties purchased using The
17 Loan Company loans into RM Property Holdings.

18 14. Thereafter, The Loan Company made RM Property Holdings a 3-year loan in the
19 principal amount of \$1,805,000, but no properties have been transferred to RM Property Holdings
20 as promised. At the time the loan originated, Ninus Malan and Salam Razuki signed personal
21 guarantees.

22 15. The RM Property Holdings loan is secured by the following properties:

- 23 a. 1415 Eckman Avenue, Chula Vista, California, 91911;
- 24 b. 1869 Avocado Avenue, Vista, California 92083;
- 25 c. 110-130 South Mollison, El Cajon, California 92020;
- 26 d. 9749 Camp Road, Spring Valley, California 91977.

27 ///

28 ///

1 Gina M. Austin (SBN 246833)
E-mail: *gaustin@austinlegalgroup.com*
2 Tamara M. Leetham (SBN 234419)
E-mail: *tamara@austinlegalgroup.com*
3 AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
4 San Diego, CA 92110
Phone: (619) 924-9600
5 Facsimile: (619) 881-0045

6 Attorneys for Defendants
Ninus Malan, San Diego United Holdings Group
7 Balboa Ave Cooperative, California Cannabis Group
And Devilish Delights
8
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**

12
13 SALAM RAZUKI, an individual,

14 Plaintiff,

15 vs.

16 NINUS MALAN, an individual; CHRIS
HAKIM, an individual; MONARCH
17 MANAGEMENT CONSULTING, INC., a
California corporation; SAN DIEGO
18 UNITED HOLDINGS GROUP, LLC, a
California limited liability company; FLIP
19 MANAGEMENT, LLC, a California
limited liability company; ROSELLE
20 PROPERTIES, LLC, a California limited
liability company; BALBOA AVE
21 COOPERATIVE, a California nonprofit
mutual benefit corporation; CALIFORNIA
22 CANNABIS GROUP, a California
nonprofit mutual benefit corporation;
23 DEVILISH DELIGHTS, INC. a California
nonprofit mutual benefit corporation; and
24 DOES 1-100, inclusive;

25 Defendants.
26
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28

CASE NO. 37-2018-00034229-CU-BC-CTL

**SUPPLEMENTAL DECLARATION OF
DANIEL BURAKOWSKI**

[Imaged File]

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

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I, Daniel Burakowski, declare:

1. I am the former Board President of Montgomery Field Business Condominiums Association ("Association") and am a member of the Board of Directors and have been since 2012. I am over the age of 18 and am not a party to this action. I have personal knowledge of the facts stated in this declaration. If called as a witness, I would testify competently thereto.

2. I previously submitted a declaration connected with this litigation which discusses my role with the Association. This declaration supplements my original declaration.

3. I am still a member of the Association's Board of Directors and I understand the Association's business including matters related to the marijuana dispensary operating from within 8863 Balboa Avenue, Suite E, San Diego, California 92123 ("8863 Balboa").

4. On August 15, 2018, the Association, through its attorney Mandy D. Hexom of Epsten Grinnell & Howell, sent a notice to Ninus Malan for breach of the settlement agreement in case number 37-2017-00019384-CU-CO-CTL, *Montgomery Field Business Condominiums Association v. Balboa Ave Cooperative, et al* for failing to pay settlement monies in the amount of \$9,692.12. The settlement agreement is attached to my first declaration. A true and correct copy of the August 15, 2018 giving notice of the breach letter is attached as Exhibit A and incorporated by reference.

5. Recently, parking issues related to the dispensary have been better. There has been no to minimal trash and litter and I have not noticed marijuana smoke.

I declare under penalty of perjury under California state law that the foregoing is true and correct. Executed in San Diego, California, on August 16, 2018.

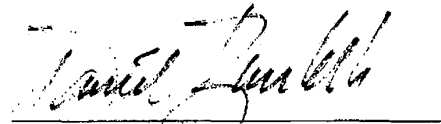

Daniel Burakowski

EXHIBIT A

August 15, 2018

VIA E-MAIL AND U.S. MAIL

Ninus Malan
8863 Balboa Ave, Suite E
San Diego, California 92123

Re: Montgomery Field Business Condominiums Association v. Balboa Ave
Cooperative, et al., Case No. 37-2017-00019384-CU-CO-CTL
Our File No. 6070.01
Late Payments and Breach of Settlement Agreement

**Notice to Ninus Malan re Breach of Settlement Agreement
PAST DUE PAYMENTS**

Dear Mr. Malan:

This letter shall serve as written notice that you are in breach of Sections 2.1.2 and 2.3.3 of the Settlement Agreement between you and Montgomery Field Business Condominiums Association (“Association”). As you know, this firm represents the Association. Neither the August 2018 monthly payment of \$6,171.47 (pursuant to section 2.1.2 of the Settlement Agreement) nor the July 2018 monthly payment of \$3,520.65 have been received. Therefore, should payment not be immediately received, the Association has the right to enforce the Settlement Agreement pursuant to Section 2.17.1 of the Settlement Agreement by the following action: (i) filing an ex parte application with the court for enforcement of the Settlement Agreement; (ii) recovering all attorney’s fees and costs in enforcing the Settlement Agreement as the prevailing party; and (iii) immediately revoking the Use Variance to conduct marijuana activities within the Association. As you know, Section 2.2.2 provides that the Use Variance, allowing you or your affiliates as noted in the Settlement Agreement to conduct marijuana activities within the Association, “shall be in effect as long as Defendants are in compliance with this Agreement.” The monthly settlement payment of \$6,171.47 was to be paid by the first of every month – no later than August 1, 2018. No payment has been received for August 2018. The monthly insurance premiums of \$3,520.65 must be paid as well as. However, no payments were received by the Association or its management company (APS) by the end of July 2018. Therefore, the total amount outstanding and past due is **\$9,692.12**.

San Diego
10200 Willow Creek Rd., Suite 100
San Diego, CA 92131
1.858.527.0111 • fax 1.858.527.1531

Coachella Valley
74830 Highway 111, Suite 100
Indian Wells, CA 92210
1.760.836.1036 • fax 1.760.836.1040

Inland Empire
43460 Ridge Park Dr., Suite 200
Temecula, CA 92590
1.951.461.1181 • fax 1.858.527.1531

This is a very serious matter that requires your immediate attention. The first of the month is approaching and more monthly payments will be due.

Sincerely,

EPSTEN GRINNELL & HOWELL, APC



Mandy D. Hexom

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

1 Gina M. Austin (SBN 246833)
E-mail: *gaustin@austinlegalgroup.com*
2 Tamara M. Leetham (SBN 234419)
E-mail: *tamara@austinlegalgroup.com*
3 AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
4 San Diego, CA 92110
Phone: (619) 924-9600
5 Facsimile: (619) 881-0045
6 Attorneys for Defendants
Ninus Malan, San Diego United Holdings Group
7 Balboa Ave Cooperative, California Cannabis Group

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**
11

12 SALAM RAZUKI, an individual,

13 Plaintiff,

14 vs.

15 NINUS MALAN, an individual; CHRIS
16 HAKIM, an individual; MONARCH
MANAGEMENT CONSULTING, INC., a
California corporation; SAN DIEGO
17 UNITED HOLDINGS GROUP, LLC, a
California limited liability company; FLIP
18 MANAGEMENT, LLC, a California
limited liability company; ROSELLE
19 PROPERTIES, LLC, a California limited
liability company; BALBOA AVE
20 COOPERATIVE, a California nonprofit
mutual benefit corporation; CALIFORNIA
21 CANNABIS GROUP, a California
nonprofit mutual benefit corporation;
22 DEVILISH DELIGHTS, INC. a California
nonprofit mutual benefit corporation; and
23 DOES 1-100, inclusive;

24 Defendants.
25
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27
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CASE NO. 37-2018-00034229-CU-BC-CTL

**SUPPLEMENTAL DECLARATION OF
TAMARA M. LEETHAM IN SUPPORT OF
NINUS MALAN'S SUPPLEMENTAL
BRIEFING IN SUPPORT OF ORDER
VACATING RECEIVERSHIP**

[IMAGED FILE]

Judge: Hon. Eddie C. Sturgeon

Date: August 20, 2018

Dept.: C-67

Time: 2:00 p.m.

Trial Date: Not Set

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I, Tamara M. Leetham, declare:

1. I am an attorney admitted to practice before this Court and all California courts and, along with Gina M. Austin, and Daniel Watts of Galuppo and Blake, represent defendants Ninus Malan (“Malan”), San Diego United Holdings Group, Balboa Ave Cooperative, California Cannabis Group, Flip Management, and Devilish Delights in this matter. I make this declaration for the August 20, 2018 hearing and in support of Judge Strauss’ July 31, 2018 Minute Order vacating a temporary receivership order entered by Judge Medel on July 17, 2018. Unless otherwise stated, all facts testified to are within my personal knowledge and, if called as a witness, I would and could competently testify to them.

2. On August 14, 2018, my office received a copy of Receiver Michael Essary’s Interim Receiver’s Report (“Receiver Report”). Exhibit 1 of the Receiver’s Report is a “Cash Ledger” of the receivership. I have reviewed Exhibit 1 and would note the following payments to SoCal insiders and the Receiver:

- a. SoCal Insider: Line 25 notes Check #116 in the amount of \$10,000 was written to MMLG, LLC as a retainer for cannabis consulting for Balboa and Mira Este. I performed a “google” search of MMLG, LLC. I learned that Aaron Lachant serves as MMLG’s chairman of the Board. Aaron Lachant is a NelsonHardiman partner. Nelson Hardiman represents SoCal and San Diego Building Ventures in this litigation. A true and correct copy of the “About” page from MMLG’s website is attached as Exhibit A and incorporated by reference.
- b. Receiver: Line 26 notes a payment to receiver Michael Essary in the amount of \$17,028.00 for receiver fees and expenses and progress payment.
- c. SoCal Insider: Lines 27, 28, and 32 note check numbers #117 (\$6,511.00), 118 (\$7,375.00), and 132 (\$15,629.00) for a total of \$29,515.00 to JHY Partners. JHY Partners is the accounting firm who was paid to prepare Balboa, Mira Este, and Roselle financials. JHY’s principal handling these matters was John Yaeger. John Yaeger was asked to cease work as he had failed adequately

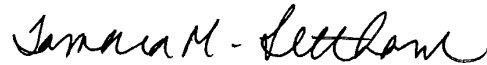
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prepare or document any accounting and after multiple requests, had failed to produce any usable work.

- d. Receiver: Line 30 notes check #120 was written to Griswold Law in the amount of \$7,165.00 for receiver's attorney progress billing.
- e. SoCal Insider: Line 31 notes check #121 was written to Dan Spillane in the amount of \$12,000.00 for Mira Este consultants management fees. Dan Spillane submitted a declaration for the August 14, 2018 hearing and made clear that he is aligned with SoCal.
- f. SoCal Insider: Line 33 notes check #123A was written to ABP Consulting for contractual fees for consultants and expenses. ABP Consulting is owned by Akash Patel, who goes by Chris Patel. True and correct copies of ABP Consulting's documents filed with the California Secretary of State are attached as Exhibit B and incorporated by reference.

3. Except for one \$10,000 check written to MMLG on July 27, the remaining checks referenced in paragraph 2 above were written on July 30, 2018, the day Plaintiff and the Intervenors were given ex parte notice of defendant Ninus Malan's application to have the temporary receivership order vacated.

I declare under penalty of perjury under California state law that the foregoing is true and correct. Executed in San Diego, California, on August 17, 2018.



Tamara M. Leetham

EXHIBIT A

MMLG
([HTTP://MMLG.COM/](http://mmlg.com/))

HOME PAGE ([HTTP://MMLG.COM/](http://mmlg.com/))

ABOUT MMLG ([HTTP://MMLG.COM/ABOUT-MMLG/](http://mmlg.com/about-mmlg/))

MMLG SERVICES ([HTTP://MMLG.COM/MMLG-SERVICES/](http://mmlg.com/mmlg-services/))

MMLG BLOG ([HTTP://MMLG.COM/MMLG-BLOG/](http://mmlg.com/mmlg-blog/))

ABOUT MMLG

Aaron Lachant, Board Chair Aaron Lachant, a Nelson Hardiman partner, serves as the chair of MMLG's board. MMLG developed under the leadership of the Nelson Hardiman law firm, which in 2009 became one of if not the first group of serious business and regulatory attorneys to advise on medical marijuana issues. The firm's Regulated Substances practice emerged out of discussions with the leadership of the Drug Policy Alliance and academics about the need for serious compliance expertise that went beyond what criminal defense attorneys and industry activists were providing. Under Aaron Lachant's leadership, the firm became an integral partner to cultivators, dispensers, manufacturers, investors, and even government in developing a framework for compliance and safety. Aaron has become a trusted and respected authority on the complexities of marijuana laws, advising investors, dispensers, cultivators, product manufacturers, and others. His work with local and state government has played a singular role in shaping the path of California marijuana laws.

Teddy Blum, Executive Director Teddy Blum runs the day-to-day operations of MMLG. Prior to joining MMLG, Teddy served as Vice President at Liberty SBF, a real estate financing company. Teddy is a 2008 graduate of the University of Colorado and completed a MBA at the UCLA Anderson School of Management in 2016. His leadership of the MMLG team draws on his hyper-focused attention to detail in providing the most reliable support services to clients.

MMLG LLC All Rights Reserved. Website Design By ATAK Interactive
(<https://www.atakinteractive.com>)

EXHIBIT B

ARTS-GS	Articles of Incorporation of a General Stock Corporation
<p>To form a general stock corporation in California, you can fill out this form or prepare your own document, and submit for filing along with:</p> <ul style="list-style-type: none"> - A \$100 filing fee. - A separate, non-refundable \$15 service fee also must be included, if you drop off the completed form or document. <p>Important! Corporations in California may have to pay a minimum \$800 yearly tax to the California Franchise Tax Board. For more information, go to https://www.ftb.ca.gov.</p> <p>Note: <i>Before submitting the completed form</i>, you should consult with a private attorney for advice about your specific business needs.</p>	

FILED
 Secretary of State
 State of California
 MAY 29 2014

BJP
PRR

1 CC This Space For Office Use Only

For questions about this form, go to www.sos.ca.gov/business/be/filing-tips.htm.

Corporate Name (List the proposed corporate name. Go to www.sos.ca.gov/business/be/name-availability.htm for general corporate name requirements and restrictions.)

① The name of the corporation is ABP BUSINESS CONSULTING, INC.

Corporate Purpose

② The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

Service of Process (List a California resident or a California registered corporate agent that agrees to be your initial agent to accept service of process in case your corporation is sued. You may list any adult who lives in California. You may not list your own corporation as the agent. Do not list an address if the agent is a California registered corporate agent as the address for service of process is already on file.)

③ a. AKASH PATEL
 Agent's Name

b. 7210 JORDAN AVE. #D25 CANOGA PARK CA 91304
 Agent's Street Address (if agent is not a corporation) - Do not list a P.O. Box City (no abbreviations) State Zip

Corporate Addresses

④ a. 7210 JORDAN AVE. #D25 CANOGA PARK CA 91304
 Initial Street Address of Corporation - Do not list a P.O. Box City (no abbreviations) State Zip

b. _____
 Initial Mailing Address of Corporation, if different from 4a City (no abbreviations) State Zip

Shares (List the number of shares the corporation is authorized to issue. Note: Before shares of stock are sold or issued, the corporation must comply with the Corporate Securities Law of 1968 administered by the California Department of Business Oversight. For more information, go to www.dbo.ca.gov or call the California Department of Business Oversight at (866) 275-2677.)

⑤ This corporation is authorized to issue only one class of shares of stock.
 The total number of shares which this corporation is authorized to issue is 10000

This form must be signed by each incorporator. If you need more space, attach extra pages that are 1-sided and on standard letter-sized paper (8 1/2" x 11"). All attachments are made part of these articles of incorporation.

Lisa Selan
 Incorporator - Sign here

LISA SELAN, ATTORNEY/AGENT
 Print your name here

Make check/money order payable to: **Secretary of State**
 Upon filing, we will return one (1) uncertified copy of your filed document for free, and will certify the copy upon request and payment of a \$5 certification fee.

By Mail
 Secretary of State
 Business Entities, P.O. Box 944260
 Sacramento, CA 94244-2600

Drop-Off
 Secretary of State
 1500 11th Street, 3rd Floor
 Sacramento, CA 95814



**State of California
Secretary of State**

S

Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations)

FEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

FM52051

FILED

In the office of the Secretary of State
of the State of California

MAY-05 2017

1. CORPORATE NAME

ABP BUSINESS CONSULTING, INC.

2. CALIFORNIA CORPORATE NUMBER

C3679317

This Space for Filing Use Only

No Change Statement (Not applicable if agent address of record is a P.O. Box address. See instructions.)

3. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.

If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to Item 17.

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE CITY STATE ZIP CODE
7210 JORDAN AVENUE #D25, CANOGA PARK, CA 91304

5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY CITY STATE ZIP CODE
7210 JORDAN AVENUE #D25, CANOGA PARK, CA 91304

6. MAILING ADDRESS OF CORPORATION, IF DIFFERENT THAN ITEM 4 CITY STATE ZIP CODE

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

7. CHIEF EXECUTIVE OFFICER/ ADDRESS CITY STATE ZIP CODE
AKASH PATEL 7210 JORDAN AVENUE #D25, CANOGA PARK, CA 91304

8. SECRETARY ADDRESS CITY STATE ZIP CODE
AKASH PATEL 7210 JORDAN AVENUE #D25, CANOGA PARK, CA 91304

9. CHIEF FINANCIAL OFFICER/ ADDRESS CITY STATE ZIP CODE
AKASH PATEL 7210 JORDAN AVENUE #D25, CANOGA PARK, CA 91304

Names and Complete Addresses of All Directors, Including Directors Who are Also Officers (The corporation must have at least one director. Attach additional pages, if necessary.)

10. NAME ADDRESS CITY STATE ZIP CODE
AKASH PATEL 7210 JORDAN AVENUE #D25, CANOGA PARK, CA 91304

11. NAME ADDRESS CITY STATE ZIP CODE

12. NAME ADDRESS CITY STATE ZIP CODE

13. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 15 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 15 must be left blank.

14. NAME OF AGENT FOR SERVICE OF PROCESS

AKASH PATEL

15. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL CITY STATE ZIP CODE
7210 JORDAN AVENUE #D25, CANOGA PARK, CA 91304

Type of Business

16. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION
BUSINESS CONSULTING

17. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

05/05/2017 AKASH PATEL CEO
DATE TYPE/PRINT NAME OF PERSON COMPLETING FORM TITLE SIGNATURE

1871



**State of California
Secretary of State**

S

Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations)

FEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

FV66128

FILED

In the office of the Secretary of State
of the State of California

APR-01 2018

1. CORPORATE NAME

ABP BUSINESS CONSULTING, INC.

2. CALIFORNIA CORPORATE NUMBER

C3679317

This Space for Filing Use Only

No Change Statement (Not applicable if agent address of record is a P.O. Box address. See instructions.)

3. **If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.**

If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to **Item 17**.

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE CITY STATE ZIP CODE

5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY CITY STATE ZIP CODE

6. MAILING ADDRESS OF CORPORATION, IF DIFFERENT THAN ITEM 4 CITY STATE ZIP CODE

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

7. CHIEF EXECUTIVE OFFICER/ ADDRESS CITY STATE ZIP CODE

8. SECRETARY ADDRESS CITY STATE ZIP CODE

9. CHIEF FINANCIAL OFFICER/ ADDRESS CITY STATE ZIP CODE

Names and Complete Addresses of All Directors, Including Directors Who are Also Officers (The corporation must have at least one director. Attach additional pages, if necessary.)

10. NAME ADDRESS CITY STATE ZIP CODE

11. NAME ADDRESS CITY STATE ZIP CODE

12. NAME ADDRESS CITY STATE ZIP CODE

13. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 15 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 15 must be left blank.

14. NAME OF AGENT FOR SERVICE OF PROCESS

15. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL CITY STATE ZIP CODE

Type of Business

16. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION

17. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

04/01/2018 AKASH PATEL CEO
DATE TYPE/PRINT NAME OF PERSON COMPLETING FORM TITLE SIGNATURE

SI-200 (REV 01/2013)

APPROVED BY SECRETARY OF STATE

1 Gina M. Austin (SBN 246833)
E-mail: *gaustin@austinlegalgroup.com*
2 Tamara M. Leetham (SBN 234419)
E-mail: *tamara@austinlegalgroup.com*
3 AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
4 San Diego, CA 92110
Phone: (619) 924-9600
5 Facsimile: (619) 881-0045

6 Attorneys for Defendant
Ninus Malan
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**

11 SALAM RAZUKI, an individual,

12 Plaintiff,

13 vs.

14 NINUS MALAN, an individual; CHRIS
15 HAKIM, an individual; MONARCH
MANAGEMENT CONSULTING, INC., a
16 California corporation; SAN DIEGO
UNITED HOLDINGS GROUP, LLC, a
17 California limited liability company; FLIP
MANAGEMENT, LLC, a California
18 limited liability company; ROSELLE
PROPERTIES, LLC, a California limited
19 liability company; BALBOA AVE
COOPERATIVE, a California nonprofit
20 mutual benefit corporation; CALIFORNIA
CANNABIS GROUP, a California
21 nonprofit mutual benefit corporation;
DEVILISH DELIGHTS, INC. a California
22 nonprofit mutual benefit corporation; and
DOES 1-100, inclusive;

23 Defendants.
24

CASE NO. 37-2018-00034229-CU-BC-CTL

**SUPPLEMENTAL DECLARATION OF
HEIDI REISING**

[Imaged File]

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

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I, Heidi Rising, declare:

1. I am over the age of 18 and am not a party to this action. I have personal knowledge of the facts stated in this declaration. If called as a witness, I would testify competently thereto.

2. I am the general manager for a permitted marijuana dispensary in San Diego County that operates under the trade name "Golden State Greens." I have worked for Golden State Greens since it opened in August 2015. The purpose of this declaration is to supplement my prior declaration in this case.

3. On July 11, 2018 Ninus Malan brought a large amount of cash into the dispensary so that we could begin operations. This was captured on the security recording system. The total amount of the money was not verified so I did a money count of cash on hand. I triple counted the cash. My initial count, not including cash in the ATM and \$100 in the cash box was \$67,984.57. I had printed out The ATM machine receipt the day before, which indicated cash in the ATM of \$2,940. There was \$100 cash in a drawer, and there was some loose change in the small safe in the small back manager's room. My final count of cash, which included the ATM receipt and the cash in the dispensary was \$71,084.57. In going through a stack of loose papers in the manager's office, I found \$1,000 in an envelope.

4. When the events of July 17, 2018 occurred (described in my prior declaration) the inventory on hand was valued at \$58,727.84.

5. On July 31, 2018 I was informed by my manager that the court vacated the order appointing a receiver and Golden State Greens was re-instated as the operator.

6. On August 2, 2018 I re-entered the dispensary and met other Golden State Green employees Jorge, Yvonne, Kim, Tasha, and Ruben to get an inventory count of items in the shop so when we received "Treehouse's" menu we could upload the menu onto our 420soft software program and adjust the numbers accordingly. I left Jorge in charge of finishing up as many counts as possible before the employees were scheduled to leave.

7. Jorge also counted what little cash was left from the previous management crew which totaled out to be \$ 2,384.62 in cash. There was no documentation available for us to

1 determine what had been sold during the two weeks that Golden State Greens was not in charge
2 of operations. There was \$1,728.86 less inventory in the store than was in the store on July 17,
3 2018 when we left the dispensary due to the receiver taking control. There was also additional
4 inventory that was not accounted for on any ledger system.

5 8. On August 3, 2018 Jorge and his morning crew finished any counts they did not
6 get through the night before. We were given a spreadsheet of what "Treehouse's" Treez live
7 inventory for August 2, 2018.

8 9. We compared the August 2, 2018 inventory list received from Treez and to the
9 actual inventory in the store and there was \$57,122.96 worth of inventory missing from the
10 dispensary that was supposed to be in the store according to the Treez database. There was also
11 \$23, 413.40 worth of inventory in the store that was not listed in the Treez database.

12 10. Failure to account for all inventory that comes into and out of a dispensary is a
13 violation of the rules and regulations that govern a dispensary and could cause Balboa to lose its
14 license. The Bureau of Cannabis Control ("BCC") requires a reconciliation of physical inventory
15 with track-and-trace at least every 14 days. (Cal. Code Regs. §5049.) The fines for violations
16 range from \$1,000 to \$144,000 and may include a revocation of the permit or a suspension of
17 activity for up to 45 days. (Cal. Code Reg. §5814.)

18 11. We reopened the dispensary to the public on August 3, 2018 mid afternoon around
19 4pm.

20 12. Since we reopened the dispensary to the public, the dispensary has averaged
21 \$6,100 per day in sales despite the several months of intermittent operations.

22
23 I declare under penalty of perjury under California state law that the foregoing is true and
24 correct. Executed in San Diego, California, on August 17, 2018.

25
26
27 *Signature next page*

28 Heidi Rising

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

1 which totaled out to be \$ 2,384.62 in cash. There was no documentation available for us to
2 determine what had been sold during the two weeks that Golden State Greens was not in charge
3 of operations. There was \$1,728.86 less inventory in the store than was in the store on July 17,
4 2018 when we left the dispensary due to the receiver taking control. There was also additional
5 inventory that was not accounted for on any ledger system.

6 8. On August 3, 2018 Jorge and his morning crew finished any counts they did not
7 get through the night before. We were given a spreadsheet of what "Treehouse's" Treez live
8 inventory for August 2, 2018.

9 9. We compared the August 2, 2018 inventory list received from Treez and to the
10 actual inventory in the store and there was \$57,122.96 worth of inventory missing from the
11 dispensary that was supposed to be in the store according to the Treez database. There was also
12 \$23,413.40 worth of inventory in the store that was not listed in the Treez database.

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14 violation of the rules and regulations that govern a dispensary and could cause Balboa to lose its
15 license. The Bureau of Cannabis Control ("BCC") requires a reconciliation of physical inventory
16 with track-and-trace at least every 14 days. (Cal. Code Regs. §5049.) The fines for violations
17 range from \$1,000 to \$144,000 and may include a revocation of the permit or a suspension of
18 activity for up to 45 days. (Cal. Code Reg. §5814.)

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20 4pm.

21 12. Since we reopened the dispensary to the public, the dispensary has averaged
22 \$6,100 per day in sales despite the several months of intermittent operations.

23
24 I declare under penalty of perjury under California state law that the foregoing is true and
25 correct. Executed in San Diego, California, on August 17, 2018.

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DECLARATION OF HEIDI RISING

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
CENTRAL DIVISION

SALAM RAZUKI, an individual,
Plaintiff,
vs.

NINUS MALAN, an individual; MONARCH
MANAGEMENT CONSULTING, INC., a
California corporation; SAN DIEGO UNITED
HOLDING GROUP, LLC, a California limited
liability company; MIRA ESTE
PROPERTIES, LLC, a California limited
liability company; ROSELLE PROPERTIES,
LLC, a California limited liability company;
and DOES 1-100, inclusive,

Defendants.

Case No.: 37-2018-00034229-CU-BC-CTL

Assigned: Hon. Judge Sturgeon
Dept.: C-67

**ORDER After Hearing on Ex Parte
Application to Vacate Receivership Order**

Date of hearing: August 20, 2018
Time of hearing: 2:00 p.m.

Based on review of the *ex parte* application of Defendant Ninus Malan, supporting and
opposing documents and declarations filed by other parties, and after evidence and argument
presented at the August 20, 2018 hearing, the Court hereby **ORDERS**:

ORDER

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1. The order appointing Michael Essary as receiver, which was issued July 17, 2018 in this action (“Receiver Order”) and which had been vacated by minute order of Judge Strauss on July 31, 2018, is and remains vacated;

2. Michael W. Essary (“Receiver”) is dismissed from his position as Receiver;

3. The July 31, 2018 minute order of Judge Strauss, which vacated the Receiver Order, is reaffirmed;

4. All of the companies mentioned in the Receiver Order are released from the receivership, which includes the following (collectively the “Companies”): RM Properties Holdings, LLC; San Diego United Holding Group, LLC¹; San Diego United Property Holdings, LLC; Flip Management, LLC; Mira Este Properties, LLC; Roselle Properties, LLC; Balboa Ave Cooperative; and California Cannabis Group; and Devilish Delights, Inc;

5. The Receiver must immediately relinquish possession and control of the Companies and return all books, records and personal property, including cash and other funds, which the Receiver obtained from any of the Companies based on acting as the Receiver;

6. The Receiver shall promptly file a Report which provides a complete accounting of all funds received and paid by the Receiver, including the date and amount of all funds received from SoCal and any other party other than customers or patients of the Balboa Ave Cooperative;

7. By the 20th day following each calendar month, commencing September 20, 2018 for the month of August, and continuing thereafter, until further order of this Court, the Companies shall provide an accounting to Plaintiff of all funds received from the Companies’ operations and how those funds were expended and distributed;

¹ The name of San Diego United Holding Group, LLC was erroneously spelled as “San Diego United Property Holdings, LLC” in the Receiver Order. Both companies are released from receivership.

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8. Other: _____

DATED: _____

JUDGE OF THE SUPERIOR COURT

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

1 Gina M. Austin (SBN 246833)
E-mail: gaustin@austinlegalgroup.com
2 Tamara M. Leetham (SBN 234419)
E-mail: tamara@austinlegalgroup.com
3 AUSTIN LEGAL GROUP, APC
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Phone: (619) 924-9600
5 Facsimile: (619) 881-0045

6 Attorneys for Defendant
7 Ninus Malan

8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10 SALAM RAZUKI, an individual,

CASE NO. 37-2018-00034229-CU-BC-CTL

11 Plaintiff,

PROOF OF SERVICE

12 v.
13 NINUS MALAN, an individual; CHRIS
HAKIM, an individual; MONARCH
14 MANAGEMENT CONSULTING, INC. a
California corporation; SAN DIEGO
15 UNITED HOLDING GROUP, LLC, a
California limited liability company; FLIP
16 MANAGEMENT, LLC, a California
limited liability company; MIRA ESTE
17 PROPERTIES, LLC, a California limited
liability company; ROSELLE
18 PROPERTIES, LLC, a California limited
liability company; BALBOA AVE
19 COOPERATIVE, a California nonprofit
mutual benefit corporation; CALIFORNIA
20 CANNABIS GROUP, a California
nonprofit mutual benefit corporation;
21 DEVILISH DELIGHTS, INC., a California
nonprofit mutual benefit corporation; and
22 DOES 1-100, inclusive,

23 Defendants.

24
25 ///

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AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

1 ***Salam Razuki v. Ninus Malan***
2 **Case No. 37-2018-00034229-CU0BC-CTL**
3 **PROOF OF SERVICE**
4 **(Code Civ. Proc., §§ 1013a, 2015)**
5 **SERVICE LIST**

6 I, Djuana Woods, declare that I am over the age of 18 years and am not a party to the case;
7 I am employed in San Diego County, California, where the service occurs; and my business address
8 is Austin Legal Group, APC, 3990 Old Town Ave, Ste A-112, San Diego, California, 92110.

9 On August 17, 2018, I served the following on the interested parties in this action as stated
10 below:

11 **DEFENDANTS NINUS MALAN, SAN DIEGO UNITED HOLDINGS GROUP,
12 BALBOA AVE COOPERATIVE, CALIFORNIA CANNABIS GROUP, AND FLIP
13 MANagements SUPPLEMENTAL MEMORANDUM OF POINTS AND
14 AUTHORITIES IN SUPPORT OF ORDER VACATING RECEIVERSHIP**

15 **SECOND SUPPLEMENTAL DECLARATION OF NINUS MALAN IN SUPPORT
16 OF DEFENDANTS NINUS MALAN, SAN DIEGO UNITED HOLDINGS GROUP,
17 BALBOA AVE COOPERATIVE, CALIFORNIA CANNABIS GROUP, AND FLIP
18 MANagements SUPPLEMENTAL MEMORANDUM OF POINTS AND
19 AUTHORITIES IN SUPPORT OF ORDER VACATING RECEIVERSHIP**

20 **ORDER AFTER HEARING ON EX PARTE APPLICATION TO VACATE
21 RECEIVERSHIP ORDER**

22 **SUPPLEMENTAL DECLARATION OF TAMARA M. LEETHAM IN SUPPORT
23 OF NINUS MALAN'S SUPPLEMENTAL BRIEFING IN SUPPORT OF ORDER
24 VACATING RECEIVERSHIP**

25 **SUPPLEMENTAL DECLARATION OF GINA M. AUSTIN**

26 **DECLARATION OF JUSTUS HENKES IN SUPPORT OF NINUS MALAN'S
27 SUPPLEMENTAL BRIEFING TO VACATE RECEIVERSHIP**

28 **DECLARATION OF ABHAY SCWEITZER IN SUPPORT OF NINUS MALAN'S
SUPPLEMENTAL BRIEFING IN SUPPORT OF ORDER VACATING
RECEIVERSHIP**

DECLARATION OF JOHN LLOYD

DECLARATION OF HEIDI RISING

SUPPLEMENTAL DECLARATION OF DANIEL BURAKOWSKI

BY MAIL: as follows: (SEE ATTACHED SERVICE LIST)

By Placing a copy thereof in a sealed envelope addressed as follows:

I am readily familiar with the business' practice for collection and
processing of correspondence for mailing with the United States Postal Service; and that the
correspondence shall be deposited with the United States Postal Service via First Class Mail on
that same day in the ordinary course of business.

AUSTIN LEGAL GROUP, APC
3990 Old Town Ave, Ste A-112
San Diego, CA 92110

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BY PERSONAL SERVICE: as follows:

By personally delivering a copy thereof addressed as follows:

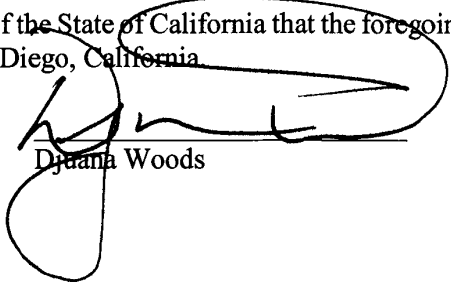
VIA E-SERVICE – ONE LEGAL ATTORNEY SERVICE TO THE FOLLOWING:

I caused such document(s) to be served on the following person via email through One Legal.
See attached service list

BY ELECTRONIC MAIL: pursuant to agreement of the parties

BY FACSIMILE TRANSMISSION: The counsel or authorized party authorized to accept service was also forwarded a copy of the above-referenced document(s) by facsimile transmission at the telefax number corresponding with his/her/its/name. The facsimile machine I used complied with CRC Rule 2003(3) and no error was reported by the machine. Pursuant to CRC Rule 2005(i), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 17, 2018, at San Diego, California


Djuana Woods

Salam Razuki v. Ninus Malan.
Case No. 37-2018-00034229-CU-BC-CTL
PROOF OF SERVICE
(Code Civ. Proc., §§ 1013a, 2015)
SERVICE LIST

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7 Attorneys for Plaintiff
SALAM RAZUKI

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

11 SALAM RAZUKI, an individual,

12 Plaintiff,

13 v.

14 NINUS MALAN, an individual; CHRIS
HAKIM, an individual; MONARCH
15 MANAGEMENT CONSULTING, INC. a
California corporation; SAN DIEGO
16 UNITED HOLDING GROUP, LLC, a
California limited liability company; FLIP
17 MANAGEMENT, LLC, a California limited
liability company; MIRA ESTE
18 PROPERTIES, LLC, a California limited
liability company; ROSELLE PROPERTIES,
19 LLC, a California limited liability company;
BALBOA AVE COOPERATIVE, a
20 California nonprofit mutual benefit
corporation; CALIFORNIA CANNABIS
21 GROUP, a California nonprofit mutual
benefit corporation; DEVILISH DELIGHTS,
22 INC., a California nonprofit mutual benefit
corporation; and DOES 1-100, inclusive,

23 Defendants.
24

CASE NO. 37-2018-00034229-CU-BC-CTL

**PLAINTIFF SALAM RAZUKI'S
SUPPLEMENTAL BRIEFING FOR THE
AUGUST 20, 2018 HEARING;
SUPPLEMENTAL DECLARATION OF
MAURA GRIFFIN, ESQ. DATED
AUGUST 17, 2018; SUPPLEMENTAL
DECLARATION OF SALAM RAZUKI
DATED AUGUST 17, 2018;
DECLARATION OF JOE BANOS;
REQUEST FOR JUDICIAL NOTICE**

Date: August 20, 2018

Time: 2:00 p.m.

Dept: C-67

Judge: Hon. Eddie C. Sturgeon

25
26 Plaintiff SALAM RAZUKI ("Plaintiff" or "Razuki"), by and through his counsel, hereby submits
27 the following supplemental briefing in support of the appointment of receiver and opposition to Ninus
28

1 Malan’s Ex Parte Application to Vacate Receivership Order.

2 **I.**

3 **ADDITIONAL FACTS AND ARGUMENTS IN**
4 **SUPPORT OF APPOINTMENT OF RECEIVER**

5 **A. Hours after Judge Sturgeon Ordered All Bank Accounts Frozen, Defendant Ninus Malan**
6 **Attempted to Trick BBVA Compass Bank Into Unfreezing the Flip Management, LLC**
7 **Account with Approximately \$26,000 By Showing Them Judge Strauss Minute Order.**

8 On August 14, 2018, the parties appeared in front of Judge Sturgeon who had set an ex parte
9 hearing sua sponte regarding the status of the receivership. See the Supplemental Declaration of Maura
10 Griffin dated August 16, 2018 (“Suppl. Griffin Dec.”) at ¶2. **Also present in the Court was Defendant**
11 **Ninus Malan** (“Malan”). *Id.* Judge Sturgeon ultimately ordered that all bank accounts of the entity
12 defendants be frozen pending a full hearing re: determination of appointment of receiver which he set for
13 Monday, August 20, 2018 at 2:00 P.M. (the “August 20th Hearing”). *Id.* The only caveat to that was that,
14 after hearing counsel for Malan and Defendant Chris Hakim (“Hakim”) argue that the Balboa dispensary
15 (the “Balboa Dispensary”) and the Mira Este marijuana manufacturing operation (the “Mira Este
16 Operation”) needed \$80,000 each to replenish inventory pending the August 20th Hearing, Judge Sturgeon
17 ordered that each of the Balboa Dispensary and the Mira Este Operation could use up to \$80,000 to
18 purchase additional product. *Id.* Judge Sturgeon issued a Minute Order which constitutes the final order
19 as no order after hearing was required to be prepared by counsel. *Id.* A true and correct copy of the
20 August 14, 2018 Minute Order (“August 14th Minute Order”) is attached to the Suppl. Griffin Dec. as
21 **Exhibit 1**. The Minute Order, in no uncertain terms, that “As to all parties, no money is to be exchanged
22 [sic] – all accounts are frozen until further order of the Court.” See Griffin Dec. at **Exhibit 1**.

23 In the afternoon of August 14, 2018, **ONLY A FEW HOURS AFTER JUDGE STURGEON**
24 **ISSUED HIS ORDER FREEZING ALL ACCOUNTS**, Malan sent an e-mail to BBVA Compass
25 (“Compass Bank”) attaching the Court’s Minute Order dated July 31, 2018 (“July 31st Minute Order”), as
26 follows: “**Please see attached Minute Order Vacating the Receivership for Flip Management Acc**
27 **XXXXXX7151. Can you please remove the Hold on the Account.**” [Emphasis Added.] Suppl. Griffin
28 Dec. at ¶3. A true and correct copy of Malan’s August 14, 2018 e-mail, as well as subsequent e-mails
related thereto and a copy of the Court’s July 31st Minute Order, are attached to the Suppl. Griffin Dec.
collectively as **Exhibit 2**. **THIS IS IN BLATANT DEFIANCE OF THIS COURT’S ORDER OF AUGUST**

1 14, 2018 THAT ALL ACCOUNTS ARE FROZEN PENDING THE AUGUST 20, 2018 HEARING. This is
2 exactly why a receiver needs to be appointed because this is the **second** instance where Defendant Ninus
3 Malan has violated a court order hours after it was issued. The first instance, as more fully discussed in
4 our supplemental briefing submitted to the Court for the August 14th ex parte, involved Gina Austin, Ms.
5 Malan’s attorney who two hours after arguing before Judge Medel on July 17, 2018, told the receiver she
6 would not abide by Judge Medel’s order, that she would instruct her client not to abide by the order and
7 drove the getaway Range Rover as her clients stole over \$65,000 in cash from the dispensary. This
8 incident was captured on video which will be made available for the Court to view at Monday’s hearing.

9 Although the Court was convinced by Malan’s counsel to allow the Balboa Dispensary and the
10 Mira Este Operations to each use up to \$80,000 to replenish product so that they may successfully conduct
11 business until the August 20th Hearing, neither this Court nor the August 14th Minute Order made any
12 mention of the use of funds in the Flip Management, LLC (“Flip”) account for this purpose. Suppl. Griffin
13 Dec. at ¶3 and **Exhibit 1**. Furthermore, having been at the hearing himself, Malan was well aware that (i)
14 Plaintiffs contend that Judge Strauss’s oral order and/or minute order vacating the receiver was never
15 effectuated because the July 31st Minute Order provides, after stating the Court’s decision to grant the
16 request to vacate the receivership order, provided that counsel was to prepare a proposed order for the
17 Court’s review and approval”; (ii) That this Court indicated it was aware of our arguments regarding the
18 same and that they would be addressed at the August 20th Hearing; and, (iii) That all accounts were frozen
19 but for the monies the Balboa Dispensary and the Mira Este Operations could use to purchase product.

20 Compass Bank forwarded Malan’s e-mail to attorney Richardson Griswold, counsel for Mike
21 Essary, the court-appointed Receiver (the “Receiver”) in this case. Suppl. Griffin Dec. at ¶2 and **Exhibit**
22 **2**. Mr. Griswold then forwarded the e-mail exchange to Malan’s attorneys, with a copy to counsel for
23 Plaintiff, Defendant Chris Hakim and Plaintiff-in-Intervention SoCal Building Ventures, LLC (“SoCal”),
24 reminding them that the Court had ordered that all bank accounts should remain frozen until the August
25 20th hearing and requesting that they contact Malan and reiterate to him this Court’s order regarding bank
26 accounts. *Id.*

27 In response, on August 14, 2018, attorney Daniel Watts, counsel for Malan, e-mailed Mr. Griswold
28 as follows:

1 “The judge told Mira Este and Balboa to spend money only to replenish
2 product and limited the amount they can spend. He told the other businesses
3 not to spend money. He did not order their bank accounts “frozen” or
4 restrict access to their bank accounts, and he certainly did not reinstate the
5 receiver or give the receiver authority to intervene with access to the bank
6 account.” *Id.* at ¶6.

7 Clearly, this is a case of selective hearing on the part of Malan’s counsel as the Court did, in fact,
8 order the bank accounts of all defendants including, but not limited to, Flip, to “frozen until further order
9 of the Court” as reflected in the Court’s August 14th Minute Order. *Id.* at ¶7 and **Exhibit 1**.

10 On August 15, 2018, Mr. Griswold responded to Mr. Watt’s August 14, 2018 e-mail by forwarding
11 a copy of the August 14th Minute Order and reiterated that “[t]he Court ordered ‘all accounts are frozen.’”
12 *Id.* at **Exhibit 2**.

13 After receiving a copy of Mr. Griswold’s e-mail response to Mr. Watts, Plaintiff’s counsel called
14 and left a message for Patrice Perkins-McShan, the Compass Bank representative that Malan had sent his
15 initial e-mail to, stating that the Court had ordered the bank accounts of all defendants to be frozen
16 including, but not limited to, Flip’s Compass Bank account. *Id.* at ¶9. Plaintiff’s counsel followed that
17 up on August 16, 2018, with an e-mail to Ms. Perkins-McShan which attached a copy of the Court’s
18 August 14th order that all bank accounts were frozen and requesting that the approximately \$26,000 in
19 funds in Flip’s Compass Bank account not be released to Malan pending the August 20th hearing. *Id.* A
20 true and correct copy of the August 16, 2018 e-mail from Plaintiff’s counsel to Ms. Perkins-McShan, as
21 well as additional related e-mails that followed, is attached to the Suppl. Griffin Dec. as **Exhibit 3**. Ms.
22 Austin, one of the attorneys for Malan, immediately e-mailed Plaintiff’s counsel in response trying to
23 convince counsel, and apparently Ms. Perkins-McShan, that Malan simply “needed information about the
24 contents of the account that neither So[C]al nor Mr. Essary were willing to provide.” *Id.* This is a
25 ridiculous contention considering Receiver Michael Essary’s Interim Receiver’s Report (the “Interim
26 Report”), which was served on all parties on August 10, 2018, clearly states that Flip’s Compass Bank
27 account “was frozen and there is approximately \$26,457.09 in the account.” *See* the Interim Report at
28 3:21-23; *see also* the Declaration of Court Appointed Receiver Michael Essary In Support of His Interim
 Receiver’s Report at ¶5. Moreover, in a subsequent e-mail from Ms. Austin, she admits that Malan was
 trying to “unfreeze” the bank account. Suppl. Griffin Dec. at **Exhibit 3**.

 On August 16, 2018, Ms. Perkins-McShan confirmed by e-mail that Flip’s Compass Bank account

1 remained frozen and no funds had been released. *Id.* at ¶10 and **Exhibit 4**.

2 This is just another example of Malan and his counsel’s attempt to circumvent and/or outright defy
3 the Court’s orders and this type of blatant disregard for the Court’s orders should not continue to be
4 tolerated.

5 **B. Plaintiff’s Counsel Did Not Mislead Judge Medel During the July 17, 2018 Ex Parte Hearing**
6 **Regarding the Appointment of Receiver.**

7 Malan has repeatedly, both in oral argument and in their papers, accused Plaintiff’s counsel of
8 having misled the Court at the ex parte hearing on July 17, 2018. *See* Defendant Malan’s Ex Parte
9 Application to Vacate Receivership (“Malan’s Ex Parte Application”) at 3:7-9. This is also an unabashed
falsehood, as the record reflects.

10 At the July 17th hearing, Plaintiff’s counsel states, as follows:

11 “Now, we’re asking for a receiver because these are extraordinary
12 circumstances and conduct by the defendants. All we’re asking for is to
13 preserve the status quo that we’ve had the last ten months with the
14 defendants. We’re just asking for the appointment of a receiver that would
15 take over the marijuana operations, temporary restraining order so they
16 don’t commit waste.” [Emphasis Added.] *See* a true and correct copy of
the transcript from the July 17th Hearing, which is attached to the Suppl.
Griffin Dec. at **Exhibit 5**, 3:27-4:5.

16 Plaintiff’s counsel later states:

17 “We’re not asking for harm to anybody. We just want a receiver to take
18 over so that we can stop the wasting. We need some internal controls so
19 that [Ms. Austin’s] clients don’t continue to steal and put in a new operator
20 that is eventually going to end up joining this complaint, and then we have
a multiplicity of lawsuits... [The injunction is to] [m]aintain the status quo,
to not waste.” *Id.* at 4:22-27.

21 While the [*Proposed*] Order submitted to the Court contains provisions for sale, counsel for
22 defendants act as though it authorizes the Receiver to sell the receivership assets out from under them.
23 This is not true. The original [*Proposed*] Order submitted the Court specifically requires court approval
24 before any sale takes place. Suppl. Griffin Dec. at ¶12. Meanwhile, the First Amended Complaint
25 includes a cause of action for dissolution which may ultimately require a sale of receivership assets by the
26 receiver, so the sale provisions in the original [*Proposed*] Order are reasonable. *Id.* However, along with
27 their supplemental briefing, Plaintiffs have submitted a [*Proposed*] Amended Order which excludes
28

1 provisions related to the sale of the receivership assets and the Receiver can simply request to be
2 authorized with the power to sell in the event it becomes necessary in the future in order to avoid further
3 concern regarding this issue. *Id.*

4 **C. Plaintiff Has More Than an “Imaginary” Interest in the Partnership Assets as He**
5 **Contributed All of the Financial Backing While Malan Put In No Money.**

6 **1. The Oral Agreement Gives Razuki a Current Interest in the Partnership Assets.**

7 Malan dedicates a substantial part of his papers arguing that the Agreement of Compromise,
8 Settlement, and Mutual General Release (the “Settlement Agreement”) does not give Razuki an
9 ownership interest in the marijuana operations at the Balboa Dispensary, Mira Este and Roselle
10 (collectively, the “Marijuana Operations”). He argues that RM Holdings is the only entity that can
11 enforce these rights. However, Malan repeatedly ignores the oral agreement that continues to exist
12 between Razuki and Malan. This oral agreement governed their business relationship from its inception.
13 As discussed at length in Plaintiff’s Ex Parte Application and supplemental briefing filed with the Court
14 on August 13, 2018, Razuki would finance the business and, once Razuki recuperated his entire initial
15 investment, Razuki and Malan would split the profits from the businesses 75%/25% respectively. This
16 oral agreement *was memorialized in writing* in Section 1.2 of the Settlement Agreement, as follows:

17 “RAZUKI and MALAN have an understanding such that *regardless*
18 *of which Party or entity holds title and ownership to the*
19 *Partnership Assets*, RAZUKI is entitled to a seventy five percent
20 (75%) interest in the capital, profits, and losses of each Partnership
21 Asset and MALAN is entitled to a twenty five percent (25%)
22 interest, and no Party is entitled to receive any profits whatsoever
23 until, and unless the Parties have first been repaid their investment
24 in full (hereinafter referred to as the "Partnership Agreement").”
25 See the Settlement Agreement, which is attached to the Suppl.
26 Griffin Dec. as **Exhibit 6**, at ¶1.2.

27 This recital confirms the existence of Razuki’s *current* ownership in the marijuana operations.
28 Specifically, Razuki *currently* owns a 75% interest in SD United Holding Group, LLC (“SD United”)
and Flip and he owns a 37.5% (equivalent to 75% of Malan’s 50% interest) interest in Mira Este
Properties, LLC (“Mira Este”) and Roselle Properties, LLC (“Roselle”). Unlike the Settlement
Agreement, which required the parties to transfer the ownership into RM Holdings, the oral agreement
governs the current ownership of the entities. Therefore, Razuki has standing to protect these interests.

1 **2. The Money Invested By Razuki Demonstrates his Equitable Interest In the**
2 **Partnership Assets and the Marijuana Operations.**

3 As set forth in the Supplemental Declaration of Salam Razuki dated August 13, 2018 (“Razuki
4 August 13th Supplemental Dec.”), which is supported by the attachments thereto, Razuki invested
5 approximately **FIVE MILLION DOLLARS** into the Marijuana Operations through cash down payments
6 and providing collateral for financing for the business.

7 **3. Razuki Was Intimately Involved in the Marijuana Businesses Further Supporting His**
8 **Equitable Interest in Them.**

9 Prior to approximately June of 2018, Razuki was intimately involved in every business decision
10 related to the legal Marijuana Operations. His involvement is confirmed by a sampling of texts and e-
11 mails which are attached to the Supplemental Declaration of Salam Razuki dated August 17, 2018
12 (“Razuki August 17th Dec.”) as **Exhibit 1** and **2**. These are but a fraction of the communications
13 demonstrating his involvement in all decisions related to the businesses over the course of the last few
14 years. *Id.* at ¶ 3.

15 **D. The Marijuana Operations Generate Enough Capital to Support the Receivership.**

16 At the August 14th Hearing, after the Court indicated that it would freeze all of Defendants’ assets
17 pending the August 20th Hearing, counsel for Malan and Hakim argued that the Balboa Dispensary and
18 the Mira Este marijuana manufacturing operation (the “Mira Este Operation”) each needed a substantial
19 amount of funds to resupply product in order to continue conducting business pending the August 20th
20 Hearing, which was only six (6) days away. Suppl. Griffin Dec. at ¶13. Counsel for Hakim represented
21 that the Mira Este Operation had generated approximately \$200,000 in the one week since it had been in
22 operation.¹ *Id.*; *see also* the Declaration of Chris Hakim Re Ex Parte Hearing on Order Vacating
23 Appointment of Receiver (“Hakim Dec.”), a copy of which is attached to the Suppl. Griffin Dec. as
24 **Exhibit 7** for the convenience of the Court, at ¶10. Counsel for Malan and SD United represented that
25 the Balboa Dispensary could sell \$100,000 in product over one weekend. *Id.* Therefore, it is clear that
26 the Marijuana Operations generate more than sufficient funds to pay for the cost of the Receiver.

27 _____
28 ¹ Unfortunately, Plaintiff’s counsel was unable to obtain a copy of the Court Reporter’s transcript from the August 4, 2018
hearing prior to the filing deadline for submitting supplemental briefing and is therefore unable to provide said copy to the
Court confirming the representations of counsel for Malan and Hakim regarding sales and/or revenue generated at the
Balboa Dispensary and the Mira Este Operation. Suppl. Griffin Dec. at ¶14.

1 **E. The Court Should Not Void the Settlement Agreement for Being Contrary to Public Policy.**

2 **1. Recent Changes in California Law Explicitly Demonstrate the Settlement**
3 **Agreement and the Oral Agreement Between the Parties Are Legal and Protected.**

4 In Defendant Ninus Malan’s Supplemental Briefing ISO Ex Parte Application to Dissolve
5 Receivership (“Malan’s Suppl. Brief”), Malan cites to *Bovard v. American Horse Enterprises, Inc.*
6 (1988) 201 Cal.App.3d 832, 838 in support of his argument that the Settlement Agreement is illegal.
7 *See* Malan’s Suppl. Brief at Section II(b). However, the Court in *Bovard* also stated that “[t]he question
8 whether a contract violates public policy necessarily involves a degree of subjectivity. Therefore, ‘...
9 courts have been cautious in blithely applying public policy reasons to nullify otherwise enforceable
10 contracts.’” *Bovard, supra*, at 838 quoting *Moran v. Harris* (1982) 131 Cal.App.3d 913, 919-920. “The
11 power of the courts to declare a contract void for being in contravention of sound public policy is a very
12 delicate and undefined power, and. . . should be exercised only in cases free from doubt.” *Moran,*
13 *supra*, at 919–920. Whether a contract is illegal or contrary to public policy is a question of law to be
14 determined from the circumstances of each particular case. *Jackson v. Rogers & Wells* (1989) 210
15 Cal.App.3d 336, 349–350. Before labeling a contract as being contrary to public policy, courts must
16 carefully inquire into the nature of the conduct, the extent of public harm which may be involved, and
17 the moral quality of the conduct of the parties in light of the prevailing standards of the community.
18 *Dunkin v. Boskey* (2000) 82 Cal.App.4th 171, 183.

19 Confusion regarding California’s movement to legalize marijuana use and sale has existed for
20 decades as it has navigated through conflict with federal laws. California adopted Proposition 215,
21 the Compassionate Use Act of 1996 (CUA), which provided the right to obtain and use marijuana for
22 medical purposes. *See* Plaintiff’s Request for Judicial Notice (“RJN”), filed herewith, at **Exhibit A** and
23 **Exhibit B**. California’s medical marijuana law was expanded by SB 420, the Medical Marijuana
24 Protection Act, on January 1, 2004. *See* RJN at **Exhibit C**. In 2008, the California Attorney General’s
25 office issued additional guidelines for medical marijuana enforcement and explaining explained its
26 interpretation of SB 420 and Prop 215. *See* RJN at **Exhibit D**. The guidelines noted that storefront
27 “dispensaries” were not explicitly recognized by state law, but that a “properly organized collective or
28 cooperative” may legally dispense medical marijuana through a storefront provided it complied with
certain conditions. *Id.* In 2015, California’s legislature enacted the Medical Cannabis Regulation and

1 Safety Act (“MCRSA”), which provided a licensing and regulatory system for medical marijuana
2 businesses and established permitting for marijuana cultivation and dispensaries. *See* RJN at **Exhibit**
3 **E**. The Adult Use of Marijuana Act (“AUMA” or “Prop 64”) was passed in 2016 and, among other
4 things, provided that retail recreational marijuana would become legal beginning on January 1, 2018.
5 *See* RJN at **Exhibit F**. On June 17, 2017, SB 94, entitled the Medical and Adult-Use Cannabis
6 Regulation and Safety Act (“MAUCRSA”), was approved providing additional regulations regarding
7 the cultivation, distribution, transport, storage, manufacturing, processing and sale of non-medical
8 marijuana and marijuana products for adults over the age of 21. *See* RJN at **Exhibit G**. California Civil
9 Code §1550.5 became effective on January 1, 2018. *See* RJN at **Exhibit H** and **Exhibit I**.

10 With the progression of legislation ultimately leading to the legalization of recreational cannabis
11 in California, the legislation must have intended that parties could engage in enforceable contractual
12 relations regarding marijuana, otherwise the above legislation would be rendered meaningless. For
13 example, how would medical marijuana and/or recreational marijuana businesses including, but not
14 limited to, cooperatives, be able to enforce contracts with legal vendors for the purchase of product to
15 sell to the public if the contracts were unenforceable. Unfortunately, the legislation did not adapt its
16 contract laws at the same pace as it enacted the cannabis laws.

17 While the lack of legal clarity at the federal level causes some confusion to the issue, Civil Code
18 §1550.5(b) expressly states that “[n]otwithstanding any law, including, . . . federal law, commercial
19 activity relating to medicinal cannabis or adult-use cannabis . . . shall be deemed to be all of the
20 following: (1) A lawful object of a contract. (2) Not contrary to, an express provision of law, any policy
21 of express law, or good morals. (3) Not against public policy.” This is an explicit endorsement by the
22 Legislature that ownership and transfer of that ownership is permitted and encouraged in the state,
23 regardless of federal law. There can be no clearer sign that the Settlement Agreement should not be
24 voided.

25 Malan’s only counter is that Civil Code §1550.5(b) was only effective January 1, 2018, before
26 the Settlement Agreement was signed. However, the law that created Civil Code §1550.5(b) was passed
27 by the Legislature in A.B. 1159 (2017-2018) and was chaptered by the Secretary of State on October 6,
28 2017. *See* RJN at **Exhibit H**. Even if the law may only been effective on January 1, 2018, the law
confirming the legislative intent to specifically provide that contracts related to legal cannabis

1 operations are not deemed illegal in California was fundamentally changed one month *before* the
2 signing of the Settlement Agreement. Attempting to negate this contract because it was two months too
3 early ignores the changing circumstances in California and the direct intent of the Legislature to catch
4 contract law up with the continued legalization of cannabis. This also distinguishes the instant case
5 from *Bovard, supra*, which was decided in 1988, before California permitted even medical marijuana
6 use. Here, Razuki and Malan entered into this agreement as soon as the Legislature declared its intent
7 confirming that cannabis related contracts are legal and enforceable. Voiding the contract now would
8 be contrary to the legislative intent. Of note, there is not a single case yet decided interpreting Civil
9 Code §1550.5(b).

10 Malan also contends that the agreement is illegal because it allows the parties to collect profits
11 from the entities. First, none of the Partnership Assets listed in the Settlement Agreement are non-profit
12 entities. Rather, the entities are management companies and property owners, all of which are legally
13 permitted or licensed to make profits from the sale of cannabis. Second, this language does not make
14 the businesses illegal. The agreement just uses “catch-all” language that clarifies how any potential
15 profits would be distributed. Merely stating that the parties will split profits does not magically
transform a non-profit company into a for-profit company.

16 **2. Even If the Court Finds the Contract Is Contrary to Public Policy, the Court**
17 **Should Still Enforce It.**

18 The rule that illegal contracts must be voided is the general rule with multiple exceptions. The
19 exceptions to the general rule “are intended to prevent the guilty party from reaping the benefit of his
20 wrongful conduct, or to protect the public from the future consequences of an illegal contract.” *Tri-Q,*
21 *Inc. v. Sta-Hi Corp.* (1965) 63 Cal.2d 199, 218. The Court should look to (1) whether the public would
22 be protected if the contract is terminated, (2) whether there is serious moral turpitude, (3) whether the
23 defendant is more at fault, and (4) where the defendant would be unjustly enriched if the contract is
24 voided. *Id.*; see also *Asdourian v. Araj* (1985) 38 Cal.3d 276, 292 and *Southfield v. Barrett* (1970) 13
Cal.App.3d 290, 294.

25 First, the public will not be “protected” if the contract is voided. This case presents the unique
26 situation where the contract became expressly legal just two months after signing. Any legal issues that
27 may have existed with the marijuana business no longer exist.

1 Second, there is no serious moral turpitude involved. The entities involved in the Settlement
2 Agreement have not been accused of any crimes or morally questionable behavior. The Legislature has
3 actually declared that this activity is “not contrary to, an express provision of law, any policy of express
4 law, or good morals.” Civil Code §1550.5(b). Furthermore, the Settlement Agreement is just a
5 reorganization of partnership assets. If anything, the Settlement Agreement promoted more
6 transparency by formalizing Razuki and Malan’s oral agreement.

7 Third, Malan is the party more at fault. Both parties acquired their interests in the assets over
8 the years of their partnership. The Settlement Agreement merely attempted to put structure to the
9 multiple partnership assets of the parties. However, Malan intentionally delayed performance to stop
10 any entities from being in Razuki or RM Holdings’ name. Malan is also the party ignoring the oral
11 agreement in order to steal these assets from Razuki.

12 Finally, Malan will undoubtedly be unjustly enriched if the agreement is voided. As Razuki has
13 explained, he has invested roughly \$5 million into this business. *See* Suppl. Razuki Decl. dated August
14 12, 2018 at ¶¶ 27-73. Voiding this agreement would be essentially gifting Malan these assets and not
15 in the interests of justice and equity.

16 **3. Alternatively, the Court Can Simply Sever Out Portions of the Contract it Deems**
17 **To Be Illegal.**

18 If the court deems that a portion of the contract is illegal, then the court can elect to sever only
19 the illegal portions of the contract. *Armendariz v. Foundation Health Psychcare Services, Inc.* (2000)
20 24 Cal.4th 83, 123–124. The California Supreme Court has stated there are two reason for severing out
21 the illegal portions of a contract instead of deciding to void the entire contract. The first “is to prevent
22 parties from gaining undeserved benefit or suffering undeserved detriment as a result of voiding the
23 entire agreement.” *Id.* citing *Birbrower, Montalbano, Condon & Frank v. Superior Court* (1998) 17
24 Cal.4th 119, 137, as modified (Feb. 25, 1998). Second, the Court should always attempt to conserve a
25 contractual relationship when possible. *Id.* citing *Werner v. Knoll* (1948) 89 Cal.App.2d 474, 476–477.
26 Moreover, courts have the capacity to cure the unlawful contract through severance or restriction of the
27 offending clause. *Id.* Whether a contract is entire or separable depends upon its language and subject
28 matter, and this question is one of construction to be determined by the court according to the intention
of the parties. If the contract is divisible, the first part may stand, although the latter is illegal. *Id.* citing

1 *Keene v. Harling* (1964) 61 Cal.2d 318, 320–321, 38 Cal.Rptr. 513, 392 P.2d 273

2 Here, the Settlement Agreement requires the parties to transfer ownership in four LLCs holding
3 title to real property (SD United, Mira Este, Roselle, and Sunrise Property Investments, LLC
4 (“Sunrise”)), one management company (Flip) and one operator of a medical marijuana dispensary
5 (Super 5 Consulting Group, LLC (“Super 5”)). The assets and their functions are clearly defined in the
6 recitals of the Settlement Agreement. If the Court finds that transferring ownership of a marijuana
7 dispensary in November 2017 is illegal, the most appropriate action would be to strike any mention of
8 Super 5 from the Settlement Agreement. There is nothing illegal/wrong with owning or transferring an
9 interest in an LLC that owns real property or provides management services.

10 Furthermore, just severing a portion of the contract would serve the interests of justice by
11 prevent Malan from receiving an undeserved benefit. As explained in the Suppl. Razuki Decl. dated
12 August 12, 2018 at ¶¶ 27-73, Razuki provided all the money for all of the Partnership Assets. He was
13 the one who either provided the cash down payments or had the credit/assets to secure additional loans.
14 The Declaration of Joseph Salas, which was filed with Razuki’s supplemental briefing on August 13,
15 2018, confirm that Razuki was the reason they were willing to lend money to these entities. Voiding
16 the entire contract would allow Malan to essentially steal roughly \$5 million from Razuki.

16 **F. Neither Plaintiff Nor SoCal Has Any “Illegal Arrangement” With Receiver Mike Essary.**

17 Malan accuses Plaintiff of having an “illegal arrangement” with the Receiver. *See* Malan’s Ex
18 Parte Application at 10:7-10. This is a red-herring and an attempt to deflect the Court from Defendants’
19 bad acts. In fact, nothing could be farther from the truth and Malan presents not a single shred of evidence
20 to support this. At the July 17th Ex Parte and in their supporting papers, Plaintiff’s counsel made it clear
21 to the Court, as stated above, that it wanted the receiver, in part, so that that he could return the businesses
22 to the pre-July 10th status quo by reinstating SoCal as the operator of the Marijuana Operations pursuant
23 to the three management service and option agreements that SoCal had entered into for each of the Balboa
24 Dispensary, the Mira Este Operations and the Roselle Operation (collectively, the “Management
25 Agreements”). Suppl. Griffin Dec. at ¶15. **The Receiver was not entering into an illegal arrangement**
26 **with Plaintiff but simply honoring the pre-Receivership Management Agreements that had been**
27 **entered into between Defendants Malan and Chris Hakim and SoCal.** *Id.* Moreover, the Receiver has
28

1 every right to terminate SoCal as operator in the future so long as SoCal is truly in default of the
2 Management Agreements and he conforms to the termination requirements of each of the Management
3 Agreements which Plaintiff is informed and believes Defendants never did despite their assertions
4 otherwise. *Id.*

5 **G. Defendants Continue to Enter Into Additional Management Agreements Related to the**
6 **Marijuana Operations Despite Prior Management Agreements with SoCal.**

7 One of the main issues in this case is whether Defendants were authorized and/or properly
8 terminated the Management Agreements with SoCal. Despite this, on July 31, 2018, **THE VERY SAME**
9 **DAY** that Defendants argue the receivership was vacate, Hakim negotiated an agreement with another
10 manager, Synergy Management Partners, LLC (“Synergy”), which began managing the Mira Este
11 Operation on August 3, 2018. *See* Suppl. Griffin Dec. at **Exhibit 7** (the Hakim Dec.), ¶10. The
12 management agreement was reduced to writing on August 10, 2018. *Id.*; *see also* Hakim Dec. at Exhibit
13 2. What Hakim’s Dec. fails to mention is that the Synergy management agreement also includes the intent
14 of Defendants to “negotiate a definitive” long-term agreement within the management agreement’s term
15 of ninety (90) days. *See* Griffin Dec. at **Exhibit 7** (Hakim Dec.), Exhibit 2, Sections 1.7 and 2.1. The
16 existence of two conflicting contracts for the same purpose and during the same time period, one of which
17 is already at issue in this lawsuit by way of SoCal’s Complaint-In-Intervention, obviously exposes Plaintiff
18 and Defendants to liability and a risk of additional lawsuits.

18 **II.**
19 **CONCLUSION**

20 Based on the foregoing and its previously submitted papers, Plaintiff respectfully requests that
21 the Court (i) confirm Mr. Essary as the Receiver over the defendant entities, (ii) grant a preliminary
22 injunction in furtherance of the receivership or, alternatively, maintain the TRO and set an OSC as to
23 why a preliminary injunction should not be granted; and, (iii) deny Malan’s Ex Parte Application to
24 Vacate the Receivership.

25 Dated: August 17, 2018

LAW OFFICES OF STEVEN A. ELIA,
APC

26 By:



Maura Griffin, Attorneys for Plaintiff
Salam Razuki

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SALAM RAZUKI

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

11 SALAM RAZUKI, an individual,

12 Plaintiff,

13 v.

14 NINUS MALAN, an individual; CHRIS
HAKIM, an individual; MONARCH
15 MANAGEMENT CONSULTING, INC. a
California corporation; SAN DIEGO
16 UNITED HOLDING GROUP, LLC, a
California limited liability company; FLIP
17 MANAGEMENT, LLC, a California limited
liability company; MIRA ESTE
18 PROPERTIES, LLC, a California limited
liability company; ROSELLE PROPERTIES,
19 LLC, a California limited liability company;
BALBOA AVE COOPERATIVE, a
20 California nonprofit mutual benefit
corporation; CALIFORNIA CANNABIS
21 GROUP, a California nonprofit mutual
benefit corporation; DEVILISH DELIGHTS,
22 INC., a California nonprofit mutual benefit
corporation; and DOES 1-100, inclusive,

23 Defendants.
24

CASE NO. 37-2018-00034229-CU-BC-CTL

**SUPPLEMENTAL DECLARATION OF
MAURA GRIFFIN, ESQ. IN SUPPORT OF
PLAINTIFF SALAM RAZUKI'S
SUPPLEMENTAL BRIEFING FOR THE
AUGUST 20, 2018 HEARING**

Date: August 20, 2018
Time: 2:00 a.m.
Dept: C-67
Judge: Hon. Eddie C. Sturgeon

25 I, Maura Griffin, declare:

26 1. I am an attorney duly licensed to practice law in the State of California. I am of counsel
27
28

1 for the Law Offices of Steven A. Elia, APC which represents Plaintiff Salam Razuki (“Plaintiff”) in the
2 above-entitled matter. All facts stated within the Declaration are within my personal knowledge or
3 based upon information and belief if so stated and, if called as a witness, I would and could competently
4 testify to them.

5 **MALAN’S ATTEMPT TO UNFREEZE THE FLIP MANAGEMENT, LLC**
6 **BANK ACCOUNT HOURS AFTER THE AUGUST 14, 2018 HEARING**

7 2. On August 14, 2018, the parties appeared in front of Judge Sturgeon who had set an ex
8 parte hearing sua sponte regarding the status of the receivership. **Also present was Defendant Ninus**
9 **Malan** (“Malan”). Judge Sturgeon ultimately ordered that all bank accounts of the entity defendants be
10 frozen pending a full hearing re: determination of appointment of receiver which he set for Monday,
11 August 20, 2018 at 2:00 P.M. (the “August 20th Hearing”). The only caveat to that was that, after hearing
12 counsel for Malan and Defendant Chris Hakim (“Hakim”) argue that the Balboa dispensary (the “Balboa
13 Dispensary”) and the Mira Este marijuana manufacturing operation (the “Mira Este Operation”) needed
14 \$80,000 each to replenish inventory pending the August 20th Hearing, Judge Sturgeon ordered that each
15 of the Balboa Dispensary and the Mira Este Operation could use up to \$80,000 to purchase additional
16 product. Judge Sturgeon issued a Minute Order which constitutes the final order as no order after
17 hearing was required to be prepared by counsel. A true and correct copy of the August 14, 2018 Minute
18 Order (“August 14th Minute Order”) is attached hereto as **Exhibit 1**. The Minute Order states, in no
19 uncertain terms, that “As to all parties, no money is to be exchanged [*sic*] – all accounts are frozen until
20 further order of the Court.” *See Exhibit 1*.

21 3. In the afternoon of August 14, 2018, **THE VERY SAME DAY JUDGE STURGEON**
22 **ISSUED HIS ORDER THAT ALL ACCOUNTS WERE FROZEN**, Malan sent an e-mail to BBVA
23 Compass (“Compass Bank”) attaching the Court’s Minute Order dated July 31, 2018 (“July 31st Minute
24 Order”), as follows: “**Please see attached Minute Order Vacating the Receivership for Flip**
25 **Management Acc XXXXXX7151. Can you please remove the Hold on the Account.**” [Emphasis
26 Added.] A true and correct copy of Malan’s August 14, 2018 e-mail, as well as subsequent e-mails
27 related thereto and a copy of the Court’s July 31st Minute Order, are attached hereto collectively as
28 **Exhibit 2. THIS IS IN BLATANT DEFIANCE OF THIS COURT’S ORDER OF AUGUST 14, 2018**
THAT ALL ACCOUNTS ARE FROZEN PENDING THE AUGUST 20, 2018 HEARING. And, although

1 the Court was convinced by Malan’s counsel to allow the Balboa Dispensary and the Mira Este
2 Operations to each use up to \$80,000 to replenish product so that they may successfully conduct
3 business until the August 20th Hearing, neither this Court nor the August 14th Minute Order made any
4 mention of the use of funds in the Flip Management, LLC (“Flip”) account for this purpose.
5 Furthermore, having been at the hearing himself, Malan was well aware that (i) Plaintiff contends that
6 Judge Strauss’s oral order and/or minute order vacating the receiver was never effectuated because the
7 July 31st Minute Order provides, after stating the Court’s decision to grant the request to vacate the
8 receivership order, that counsel was to prepare a proposed order for the Court’s review and approval”;
9 (ii) That this Court indicated it was aware of Plaintiff’s arguments regarding the same and that they
10 would be addressed at the August 20th Hearing; and, (iii) That all accounts were frozen but for the
11 monies the Balboa Dispensary and the Mira Este Operations could use to purchase product.

12 4. This is the second time Mr. Malan has intentionally violated the Court’s order as he,
13 along with his counsel, participated in the defiance of the Court’s Order Appointing Receiver within
14 hours after that order was granted, as more fully discussed in Plaintiff’s supplemental briefing submitted
15 to the Court for the August 14th Ex Parte.

16 5. Compass Bank forwarded Malan’s e-mail to attorney Richardson Griswold, counsel for
17 Mike Essary, the court-appointed Receiver (the “Receiver”) in this case. *See Exhibit 2.* Mr. Griswold
18 then forwarded the e-mail exchange to Malan’s attorneys, with a copy to counsel for Plaintiff, Hakim
19 and Plaintiff-in-Intervention SoCal Building Ventures, LLC (“SoCal”), reminding them that the Court
20 had ordered that all bank accounts should remain frozen until the August 20th Hearing and requesting
21 that they contact Malan and reiterate to him this Court’s order regarding bank accounts.

22 6. In response, on August 14, 2018, attorney Daniel Watts, counsel for Malan, e-mailed
23 Mr. Griswold as follows:

24 “The judge told Mira Este and Balboa to spend money only to replenish
25 product and limited the amount they can spend. He told the other businesses
26 not to spend money. He did not order their bank accounts “frozen” or
27 restrict access to their bank accounts, and he certainly did not reinstate the
28 receiver or give the receiver authority to intervene with access to the bank
account.” *See Exhibit 2.*

1 7. Clearly, this is a case of selective hearing on the part of Malan’s counsel as the Court
2 did, in fact, order the bank accounts of all defendants including, but not limited to, Flip, to be “frozen
3 until further order of the Court” as reflected in the Court’s August 14th Minute Order. *See Exhibit 1.*

4 8. On August 15, 2018, Mr. Griswold responded to Mr. Watt’s August 14, 2018 e-mail by
5 forwarding a copy of the August 14th Minute Order and reiterated that “[t]he Court ordered ‘all accounts
6 are frozen.’” *See Exhibit 2.*

7 9. After receiving a copy of Mr. Griswold’s e-mail response to Mr. Watts, I called and left
8 a message for Patrice Perkins-McShan, the Compass Bank representative that Malan had sent his initial
9 e-mail to, stating that the Court had ordered the bank accounts of all defendants to be frozen including,
10 but not limited to, Flip’s Compass Bank account. I followed that up on August 16, 2018, with an e-mail
11 to Ms. Perkins-McShan which attached a copy of the Court’s August 14th order that all bank accounts
12 were frozen and requesting that the approximately \$26,000 in funds in Flip’s Compass Bank account
13 not be released to Malan pending the August 20th Hearing. A true and correct copy of my August 16,
14 2018 e-mail to Ms. Perkins-McShan, as well as additional related e-mails that followed, are attached
15 hereto collectively as **Exhibit 3**. Ms. Austin, one of the attorneys for Malan, immediately e-mailed
16 Plaintiff’s counsel in response trying to convince counsel, and apparently Ms. Perkins-McShan, that
17 Malan simply “needed information about the contents of the account that neither So[C]al nor Mr. Essary
18 were willing to provide.” This is a ridiculous contention considering Receiver Michael Essary’s Interim
19 Receiver’s Report (the “Interim Report”), which was served on all parties on August 10, 2018, clearly
20 states that Flip’s Compass Bank account “was frozen and there is approximately \$26,457.09 in the
21 account.” *See* the Interim Report at 3:21-23; *see also* the Declaration of Court Appointed Receiver
22 Michael Essary In Support of His Interim Receiver’s Report at ¶5. Moreover, in a subsequent e-mail
23 from Ms. Austin, she admits that Malan was trying to “unfreeze” the bank account. *See Exhibit 3.*

24 10. On August 16, 2018, Ms. Perkins-McShan confirmed by e-mail that Flip’s Compass
25 Bank account remained frozen and no funds had been released. A true and correct copy of Ms. Perkins-
26 McShan’s August 16, 2018 email is attached hereto as **Exhibit 4**.

27 ///

28

1 and the Mira Este marijuana manufacturing operation (the “Mira Este Operation”) each needed a
2 substantial amount of funds to resupply product in order to continue conducting business pending the
3 August 20th Hearing, which was only six (6) days away. Counsel for Hakim represented that the Mira
4 Este Operation had generated approximately \$200,000 in the one week since it had been in operation. *See*
5 *also* the Declaration of Chris Hakim Re Ex Parte Hearing on Order Vacating Appointment of Receiver
6 (“Hakim Dec.”), a copy of which is attached hereto as **Exhibit 7** for the convenience of the Court, at ¶10.
7 Counsel for Malan and SD United represented that the Balboa Dispensary could sell \$100,000 in product
8 over one weekend. Therefore, it is clear that the Marijuana Operations generate more than sufficient funds
9 to pay for the cost of the Receiver.

10 14. Unfortunately, Plaintiff’s counsel was unable to obtain a copy of the Court Reporter’s
11 transcript from the August 4, 2018 hearing prior to the filing deadline for submitting supplemental briefing
12 and is therefore unable to provide said copy to the Court confirming the representations of counsel for
13 Malan and Hakim regarding sales and/or revenue generated at the Balboa Dispensary and the Mira Este
14 Operation.

15 **NEITHER PLAINTIFF NOR SOCAL HAS ANY**
16 **“ILLEGAL ARRANGEMENT” WITH RECEIVER MIKE ESSARY**

17 15. Malan accuses Plaintiff of having an “illegal arrangement” with the Receiver. *See* Malan’s
18 Ex Parte Application at 10:7-10. This is not true. At the July 17th Ex Parte and in their supporting papers,
19 Plaintiff’s counsel made it clear to the Court, as stated above, that it wanted the receiver, in part, so that
20 that he could return the businesses to the pre-July 10th status quo by reinstating SoCal as the operator of
21 the Marijuana Operations pursuant to the three management service and option agreements that SoCal had
22 entered into for each of the Balboa Dispensary, the Mira Este Operations and the Roselle Operation
23 (collectively, the “Management Agreements”). ***The Receiver was not entering into an illegal***
24 ***arrangement with Plaintiff but simply honoring the pre-Receivership Management Agreements that***
25 ***had been entered into between Defendants Malan and Chris Hakim and SoCal.*** Moreover, the Receiver
26 has every right to terminate SoCal as operator in the future so long as SoCal is truly in default of the
27 Management Agreements and he conforms to the termination requirements of each of the Management
28 Agreements which Plaintiff is informed and believes Defendants never did despite their assertions
otherwise.

EXHIBIT 1

EXHIBIT 2

From: [Richardson Griswold](#)
To: [Daniel T. Watts](#)
Cc: [Austin, Gina](#); [Leetham, Tamara](#); [Steven W. Blake](#); [Steven Elia](#); [Maura Griffin](#); [Salvatore J. Zimmitti](#); [charles goria](#); [Mike](#); [Jamie Eberhardt](#)
Subject: Re: Minute Court Order showing Reciever Vacated - Flip Management Acc XXXXXX7151
Date: Wednesday, August 15, 2018 12:18:13 PM
Attachments: [08.14.18 Minute Order Sturgeon.pdf](#)

Hi Daniel,

Just wanted to close the loop on this one. See attached Minute Order from Judge Sturgeon regarding yesterday's hearing. The Court ordered "all accounts are frozen."

Thanks,

Richardson C. Griswold, Esq.
Griswold Law, APC
444 S. Cedros Ave., Suite 250
Solana Beach, CA 92075
Tel: 858.481.1300
Fax: 888.624.9177
rgriswold@griswoldlawsandiego.com
www.griswoldlawsandiego.com

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On Wed, Aug 15, 2018 at 6:22 AM, Richardson Griswold
<rgriswold@griswoldlawsandiego.com> wrote:

Daniel,

The Receiver is not attempting to assert any authority or interfere with bank accounts. Far from it. The Receiver, in compliance with Judge Sturgeon's sentiments, wants to steer clear of any banking/financial activity until Monday's hearing.

Thanks,

Richardson C. Griswold, Esq.
Griswold Law, APC
444 S. Cedros Ave., Suite 250
Solana Beach, CA 92075
Tel: 858.481.1300
Fax: 888.624.9177
rgriswold@griswoldlawsandiego.com
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On Tue, Aug 14, 2018 at 5:04 PM, Daniel T. Watts <dwatts@galuppowlaw.com> wrote:

Mr. Griswold,

The judge told Mira Este and Balboa to spend money only to replenish product, and limited the amount they can spend. He told the other businesses not to spend money. He did not order their bank accounts "frozen" or restrict access to their bank accounts, and he certainly did not reinstate the receiver or give the receiver authority to interfere with access to the bank accounts.

-Daniel

From: Richardson Griswold [mailto:rgriswold@griswoldlawsandiego.com]
Sent: Tuesday, August 14, 2018 4:19 PM
To: Austin, Gina; Leetham, Tamara; Steven W. Blake; Daniel T. Watts
Cc: Mike; Steven Elia; Maura Griffin; Salvatore J. Zimmitti; charles gorla; Jamie Eberhardt
Subject: Fwd: Minute Court Order showing Reciever Vacated - Flip Management Acc XXXXXX7151

Counsel,

Please see below. BBVA Compass forwarded this email to Mr. Essary this afternoon. Judge Sturgeon was very clear this morning that all bank accounts should remain frozen until our hearing on Monday, August 20th.

It appears Mr. Malan sent an email to BBVA Compass this afternoon in an attempt to gain access/control to the BBVA account. I believe Mr. Malan was present in the courtroom this morning. Please contact Mr. Malan and reiterate Judge Sturgeon's orders regarding bank accounts.

Thanks,

Richardson C. Griswold, Esq.
Griswold Law, APC
[444 S. Cedros Ave., Suite 250](mailto:444.S.Cedros.Ave.,Suite.250)
Solana Beach, CA 92075
Tel: 858.481.1300
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On Aug 14, 2018, at 15:23, PATRICE PERKINS-MCSHAN
<patrice.perkins@bbva.com> wrote:

Good evening we received this from the customer today i was wondering what we need to do with the customer acct

----- Forwarded message -----

From: **Ninus Malan** <ninusmalan@yahoo.com>

Date: Tue, Aug 14, 2018 at 4:18 PM

Subject: Minute Court Order showing Reciever Vacated - Flip Management Acc XXXXXX7151

To: "patrice.perkins@BBVA.com" <patrice.perkins@bbva.com>

Patrice,

Please see attached Minute Order Vacating the Receivership for Flip Management Acc XXXXXX7151. Can you please remove the Hold on the Account.

Feel free to contact me to with any questions.

Best regards,

Ninus Malan

619-750-2024

--

BBVA

Patrice Perkins-McShan

B&C Deposit Operations-Specialist I

Tel. 205 297-3983- Fax 205-297-6301 patrice.perkins-mcshan@bbva.com

Brock Service Center-PO Box 10566, Birmingham, Al 35296

AI-BI-SC_DPS

<2018-07-31 Minute ORDER vacating receiver.pdf>

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 07/31/2018

TIME: 09:00:00 AM

DEPT: C-75

JUDICIAL OFFICER PRESIDING: Richard E. L. Strauss

CLERK: Blanca Delgado

REPORTER/ERM: Paula Rahn CSR# 11510

BAILIFF/COURT ATTENDANT: Paul Darvin

CASE NO: **37-2018-00034229-CU-BC-CTL** CASE INIT.DATE: 07/10/2018

CASE TITLE: **Razuki vs Malan [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

EVENT TYPE: Ex Parte

EVENT TYPE: Ex Parte

APPEARANCES

Steven A Elia, counsel, present for Plaintiff(s).

James Joseph, counsel, present for Plaintiff(s).

Gina M Austin, counsel, present for Defendant(s).

Daniel Watts, specially appearing for Ninus Malan, Defendant.

Tamara M. Leetham, specially appearing for Monarch Management Consulting Inc, Defendant.

Tamara M. Leetham, specially appearing for Mira Este Properties LLC, Defendant.

Tamara M. Leetham, specially appearing for Roselle Properties LLC, Defendant.

Richardson Griswold, counsel, specially appearing for Receiver.

Michael Essary, Receiver, present.

Salvatore J. Zimmitti, counsel, specially appearing for Zachary E. Rothenberg, present for Plaintiff

Miles D. Grant, counsel, present for Plaintiff(s)

THIS BEING THE TIME SET FOR HEARING ON 1.A. DEFENDANT'S EX PARTE APPLICATION TO VACATE RECEIVERSHIP ORDER; 1.B. EX PARTE APPLICATION OF MICHAEL ESSARY, IN HIS CAPACITY AS COURT APPOINTED RECEIVER, FOR ORDER AUTHORIZING RECEIVER TO EMPLOY COUNSEL; 2. PLAINTIFF SALAM RAZUKI'S EX PARTE APPLICATION FOR AN ORDER RESETTING OSC RE CONFIRMATION OF APPOINTMENT OF RECEIVER AND PRELIMINARY INJUNCTION AND ORDER TO RUSH FILE PLAINTIFF'S FAC,

The Court, having read the moving papers filed, now hears argument from counsel.

DATE: 07/31/2018

MINUTE ORDER

Page 1

DEPT: C-75

Calendar No. 2

1912

Following lengthy discussions, as more fully set forth in the court reporter's notes, the Court GRANTS the request to vacate the receivership order (Re: 1.A.).

Counsel to prepare a proposed order for the Court's review and approval.

The Court GRANTS Michael Essary's ex parte request authorizing Receiver to employ counsel; counsel is entitled to be compensated for his services.(Re: 1.B.).

As to all other matters; the Court instructs counsel to proceed via a noticed motion for remedies being sought.



Judge Richard E. L. Strauss

EXHIBIT 3

From: [Maura Griffin](#)
To: [Austin, Gina](#)
Cc: [Steven Elia](#); [James Joseph](#); [Maria](#); calsur@aol.com; rgriswold@griswoldlawsandiego.com; [Leetham, Tamara](#); sblake@galuppolaw.com; [Salvatore J. Zimmitti](#); chasgoria@gmail.com; jeberhardt@griswoldlawsandiego.com; [Robert Fuller](#); patrice.perkins@bbva.com
Subject: RE: Flip Management, LLC Account No. Ending 7151-Court's August 16, 2018 Minute Order Freezing Accounts
Date: Thursday, August 16, 2018 3:19:00 PM
Attachments: [image001.jpg](#)

Ms. Austin:

You have just admitted that Mr. Malan attempted to “unfreeze” the account. The Court ordered all bank accounts to be “frozen” pursuant to the August 14th Minute Order. Therefore, Mr. Malan’s actions, ***BY YOUR OWN ADMISSION***, was in direct contravention to the Court’s order. To be frank, I don’t know what Mr. Malan’s intentions were in attempting to “unfreeze” the Flip account although I have my suspicions, however, your assertion that he was merely attempting to gather “needed information about the contents of the account that neither So[C]al nor Mr. Essary were willing to provide” is dubious given the Receiver’s Interim Report, which was served on all parties on August 10, 2018, includes the amount remaining in said account. To be specific, refer to the Interim Receiver’s Report at 3:21-23.

Please rest assured, I will not make any false or inaccurate representations to the Court as it is not my style, although I think there are other attorneys with somewhat looser ethical boundaries. I will simply state the facts as they are and the e-mails speak for themselves.

Sincerely,

Maura Griffin
Attorney At Law



2221 Camino Del Rio South, Suite 207 | San Diego, CA 92108
Telephone (619) 444-2244 | Fax (619) 440-2233
Website www.elialaw.com | Email maura@elialaw.com
[Click Here to Add Me to Your Contacts](#)

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From: Austin, Gina <gaustin@austinlegalgroup.com>

Sent: Thursday, August 16, 2018 3:05 PM

To: Maura Griffin <MG@MauraGriffinLaw.com>

Cc: Steven Elia <Steve@EliaLaw.com>; James Joseph <james@elialaw.com>; Maria <maria@elialaw.com>; calsur@aol.com; rgriswold@griswoldlawsandiego.com; Leetham, Tamara <tamara@austinlegalgroup.com>; sblake@galuppolaw.com; Salvatore J. Zimmitti <szimmitti@nelsonhardiman.com>; chasgoria@gmail.com; jeberhardt@griswoldlawsandiego.com; Robert Fuller <rfuller@nelsonhardiman.com>; patrice.perkins@bbva.com

Subject: RE: Flip Management, LLC Account No. Ending 7151-Court's August 16, 2018 Minute Order Freezing Accounts

Ms. Griffin,

Please avoid the ad hominem and focus on the matter at hand. The only way to get information is to "unfreeze" the account. I expect that you will avoid improper representations in your papers that Mr. Malan attempted to extract money from the account as that would clearly be a false and inaccurate representation to the court.

Gina

Gina M. Austin

AUSTIN LEGAL GROUP, APC | 3990 Old Town Ave., Ste A112, San Diego, CA 92110 |

Ofc: 619-924-9600 | Cell 619-368-4800 | Fax 619-881-0045

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From: Maura Griffin [<mailto:MG@MauraGriffinLaw.com>]
Sent: Thursday, August 16, 2018 3:01 PM
To: Austin, Gina
Cc: Steven Elia; James Joseph; Maria; calsur@aol.com; rgriswold@griswoldlawsandiego.com; Leetham, Tamara; sblake@galuppolaw.com; Salvatore J. Zimmitti; chasgoria@gmail.com; jeberhardt@griswoldlawsandiego.com; Robert Fuller; patrice.perkins@bbva.com
Subject: RE: Flip Management, LLC Account No. Ending 7151-Court's August 16, 2018 Minute Order Freezing Accounts

Ms. Austin:

It is clear at this point that Mr. Malan and his counsel not only have selective hearing, but also interpret written words entirely different than their plain meaning. Mr. Malan's email stated as follows: "Please see attached Minute Order Vacating the Receivership for Flip Management Acc XXXXXX7151. **Can you please remove the Hold on the Account.**" [emphasis added.] With all due respect, this is clearly more than in information request from Mr. Malan and, in actuality, is a request to UNFREEZE the Flip account.

Sincerely,

Maura Griffin
Attorney At Law



2221 Camino Del Rio South, Suite 207 | San Diego, CA 92108
Telephone (619) 444-2244 | Fax (619) 440-2233
Website www.elialaw.com | Email maura@elialaw.com
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Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: Austin, Gina <gaustin@austinlegalgroup.com>
Sent: Thursday, August 16, 2018 2:49 PM
To: Maura Griffin <MG@MauraGriffinLaw.com>; patrice.perkins@bbva.com
Cc: Steven Elia <Steve@EliaLaw.com>; James Joseph <james@elialaw.com>; Maria <maria@elialaw.com>; calsur@aol.com; rgriswold@griswoldlawsandiego.com; Leetham, Tamara <tamara@austinlegalgroup.com>; sblake@galuppolaw.com; Salvatore J. Zimmitti <szimmitti@nelsonhardiman.com>; chasgoria@gmail.com; jeberhardt@griswoldlawsandiego.com; Robert Fuller <rfuller@nelsonhardiman.com>
Subject: RE: Flip Management, LLC Account No. Ending 7151-Court's August 16, 2018 Minute Order Freezing Accounts

All,

To be clear there has been NO attempt by anyone to withdraw any funds from the FLIP account. Mr. Malan needed information about the contents of the account that neither Social nor Mr. Essary were willing to provide. There was NO order from the court that Mr. Essary is to have control.

This request for information was NOT precluded by the court.

-

Gina

Gina M. Austin

AUSTIN LEGAL GROUP, APC | 3990 Old Town Ave., Ste A112, San Diego, CA 92110 |
Ofc: 619-924-9600 | Cell 619-368-4800 | Fax 619-881-0045

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From: Maura Griffin [<mailto:MG@MauraGriffinLaw.com>]
Sent: Thursday, August 16, 2018 2:28 PM
To: patrice.perkins@bbva.com
Cc: Steven Elia; James Joseph; Maria; calsur@aol.com; rgriswold@griswoldlawsandiego.com; Austin, Gina; Leetham, Tamara; sblake@galuppolaw.com; Salvatore J. Zimmitti; chasgoria@gmail.com; jeberhardt@griswoldlawsandiego.com; Robert Fuller
Subject: Flip Management, LLC Account No. Ending 7151-Court's August 16, 2018 Minute Order

Freezing Accounts

Ms. Perkins-McShan:

I am one of the attorneys representing Plaintiff Salam Razuki in the case entitled *Razuki v. Malan, et al.* which is also known as SDSC Case No. 37-2018-00034229-CU-BC-CTL (the "Action"). On July 17, 2018, a San Diego Superior Court Judge issued an order authorizing Mike Essary, the court appointed receiver to take possession and control of all receivership assets including, but not limited to, the bank account(s) of Flip Management, LLC ("Flip"), who is a party to the Action. It is my understanding that the BBVA Compass account was eventually transferred to the Receiver's control. The Receiver's counsel forwarded Mr. Malan's e-mail to you which included a copy of the July 14, 2018 order and requesting that you remove the hold on the Flip account.

However, all parties and the Receiver appeared ex parte on August 14, 2018 to discuss the status of the receivership. Ultimately, the Judge scheduled a full hearing for Monday, August 20, 2018 and ordered that, in the meantime, that "As to all parties, no money is to be exchanged [sic] – all accounts are frozen until further order of the Court." A true and correct copy of the Court's August 14th Minute Order is attached hereto. Although the Court made mention of certain monies that two entities could use to purchase product, **THERE IS NO MENTION THAT SAID FUNDS COULD COME FROM FLIP.** Therefore, we contend and believe that the Flip account is subject to the Court's August 14th freeze order pending the August 20th hearing.

It is imperative that you continue to deny anyone access to and/or use of the funds held in the Flip account which we understand to be approximately \$26,000. Any release of said funds may expose BBVA Compass to contempt of court. We expect that the Court will determine whether the Flip account is still under the Receivership at Monday's hearing.

Please confirm that no funds have been released to Mr. Malan and that the Flip account is still subject to the Receiver's hold.

If you have any questions or wish to discuss this matter, feel free to call me at the number below.

Thank you for your prompt attention to this matter.

Sincerely,

Maura Griffin
Attorney At Law



2221 Camino Del Rio South, Suite 207 | San Diego, CA 92108
Telephone (619) 444-2244 | Fax (619) 440-2233
Website www.elialaw.com | Email maura@elialaw.com

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EXHIBIT 4

From: [PATRICE PERKINS-MCSHAN](#)
To: [Maura Griffin](#)
Subject: Re: Flip Management, LLC Account No. Ending 7151-Court's August 16, 2018 Minute Order Freezing Accounts
Date: Thursday, August 16, 2018 4:17:35 PM
Attachments: [image001.jpg](#)

Sorry Yes we still have the acct frozen and the money remains in the customer's acct

On Thu, Aug 16, 2018 at 6:16 PM, PATRICE PERKINS-MCSHAN

<patrice.perkins@bbva.com> wrote:

Yes We still have the acct frozen in the customer's acct

On Thu, Aug 16, 2018 at 4:27 PM, Maura Griffin <MG@mauragriffinlaw.com> wrote:

Ms. Perkins-McShan:

I am one of the attorneys representing Plaintiff Salam Razuki in the case entitled *Razuki v. Malan, et al.* which is also known as SDSC Case No. 37-2018-00034229-CU-BC-CTL (the "Action"). On July 17, 2018, a San Diego Superior Court Judge issued an order authorizing Mike Essary, the court appointed receiver to take possession and control of all receivership assets including, but not limited to, the bank account(s) of Flip Management, LLC ("Flip"), who is a party to the Action. It is my understanding that the BBVA Compass account was eventually transferred to the Receiver's control. The Receiver's counsel forwarded Mr. Malan's e-mail to you which included a copy of the July 14, 2018 order and requesting that you remove the hold on the Flip account.

However, all parties and the Receiver appeared ex parte on August 14, 2018 to discuss the status of the receivership. Ultimately, the Judge scheduled a full hearing for Monday, August 20, 2018 and ordered that, in the meantime, that "As to all parties, no money is to be exchanged [sic] – all accounts are frozen until further order of the Court." A true and correct copy of the Court's August 14th Minute Order is attached hereto. Although the Court made mention of certain monies that two entities could use to purchase product, *THERE IS NO MENTION THAT SAID FUNDS COULD COME FROM FLIP.* Therefore, we contend and believe that the Flip account is subject to the Court's August 14th freeze order pending the August 20th hearing.

It is imperative that you continue to deny anyone access to and/or use of the funds held in the Flip account which we understand to be approximately \$26,000. Any release of said funds may expose BBVA Compass to contempt of court. We expect that the Court will determine whether the Flip account is still under the Receivership at Monday's hearing.

Please confirm that no funds have been released to Mr. Malan and that the Flip account is still subject to the Receiver's hold.

If you have any questions or wish to discuss this matter, feel free to call me at the number below.

Thank you for your prompt attention to this matter.

Sincerely,

Maura Griffin
Attorney At Law



2221 Camino Del Rio South, Suite 207 | San Diego, CA 92108
Telephone (619) 444-2244 | Fax (619) 440-2233
Website www.elialaw.com | Email maura@elialaw.com

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--

BBVA
Patrice Perkins-McShan
B&C Deposit Operations-Specialist I
Tel. 205 297-3983- Fax 205-297-6301 patrice.perkins-mcshan @bbva.com
Brock Service Center-PO Box 10566, Birmingham, Al 35296
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--

BBVA
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EXHIBIT 5

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In The Superior Court Of The State Of California
In And For The County Of San Diego
Department 66; Hon. KENNETH MEDEL, Judge

SALAM RAZUKI,)
)
) Plaintiff,)
)
) vs.) Case No. 37-18-00034229
)
)
) NINUS MALAN)
)
) Defendants.)
 _____)

Reporter's Transcript
JULY 17, 2018

Appearances:

For the Plaintiff: STEVEN ELIA, ESQ.
2221 CAMINO DEL RIO S. #207
SAN DIEGO, CALIFORNIA 92108

For the Defendant: GINA AUSTIN, ESQ.
3990 OLD TOWN AVENUE, A-112
SAN DIEGO, CALIFORNIA 92110

Darla Kmety, RPR, CSR 12956
Official Court Reporter
San Diego Superior Court
San Diego, California 92101

1 JULY 17, 2018; San Diego, California; 1:30 P.M.

2 -- 00o --

3 THE COURT: Item 4. Razuki versus Malan.

4 MR. ELIA: Good morning. Steven Elia on behalf
5 of Mr. Razuki.

6 MS. GRIFFIN: Maura Griffin on behalf of
7 plaintiff.

8 THE COURT: Mr. Elia.

9 MS. AUSTIN: Your Honor? Gina Austin specially
10 appearing on behalf of all defendants.

11 THE COURT: When you say "specially," what does
12 that mean?

13 MS. AUSTIN: It means we're here only to oppose
14 this and protect their interests. They have been served.
15 We are not retained as counsel yet for this matter.

16 THE COURT: All right. Counsel, tell me --
17 flush this out for me. I need a little more history. I
18 only had a peripheral chance to read your papers.

19 MR. ELIA: Yes, your Honor. It's a lengthy set
20 of facts. I'll do my best to summarize.

21 This case is about three properties that operate
22 three legal dispensaries: There's a retail location at
23 Balboa. There's a manufacturing, cultivation at the
24 Murriesta. And there is a third location which hasn't
25 engage in operations at this moment. We're really dealing
26 with the two operations.

27 My client invested millions of dollars. Her
28 client invested nothing. If he did, it's a nominal

1 amount.

2 THE COURT: What was the role of her client?

3 MR. ELIA: To be the operator. But the deal was
4 that my client would be 75 percent owner; her client would
5 be 25 percent owner after my client recouped his
6 investment, which hasn't happened.

7 THE COURT: Okay.

8 MR. ELIA: This oral agreement was memorialized
9 into a settlement agreement where both sides were
10 represented by an attorney. They met several times as
11 Exhibit D. It's very clear as to what the ownership of
12 the assets are. There's no ambiguity.

13 At this point, Mr. Malan, who is the defendant,
14 and Mr. Hakim want to cut my client out of the deal
15 completely. Essentially, they want to steal these
16 operations. So in October of 2017, they brought in a
17 management company, a professional management company,
18 that would operate these operations. Counsel is here on
19 behalf of SoCal. And they entered into three agreements
20 for the three locations.

21 SoCal has paid about \$2.6 million so far. That
22 money -- some of that money was supposed -- probably about
23 a million dollars of it -- was supposed to go to an entity
24 called Flip. My client was a 50 percent -- I'm sorry --
25 75 percent owner, and her client would be a 25 percent
26 owner, as I previously stated.

27 What Mr. Malan did, what Mr. Hakim did is they
28 set up another entity called Monarch. Didn't tell my

1 client about it and funneled over a million dollars of
2 that amount.

3 Now, under these three management agreements,
4 SoCal was supposed to pay a hundred thousand dollars a
5 month. So 50,000 per location. It's a substantial amount
6 of money we're talking about. This was since October of
7 2017.

8 Now, when SoCal eventually found out about a
9 month ago that Mr. Razuki, my client, had a substantial
10 interest in these operations, they sent a letter over to
11 her client saying, what is this all about? Tell us why
12 you didn't tell us Mr. Razuki had this ownership interest.
13 Then they withhold payments.

14 So what her client does is he locks them out.
15 Resorts to self-help, locks them out. Although they've
16 got a million dollars worth of machinery at the
17 cultivation location. Locks him out. Locks him out of
18 the retail establishment. Brings in a new operator.

19 SoCal has already paid million of dollars, and
20 her client has granted options under this agreement.
21 They've paid \$225,000 for these options to purchase half
22 of these operations, and they just locked him out and
23 brought in a new operator.

24 They did this to conceal the fact and to cut my
25 client out of the transaction. The new operator has no
26 idea that my client owns 75 percent of these operations.

27 Now, we're asking for a receiver because these
28 are extraordinary circumstances and conduct by the

1 defendants. All we're asking for is to preserve the
2 status quo that we've had the last ten months with the
3 defendants. We're just asking for the appointment of a
4 receiver that would take over the marijuana operations,
5 temporary restraining order so they don't commit waste.
6 The problem, your Honor --

7 THE COURT: What underlying suit do you have?

8 MR. ELIA: The complaint?

9 THE COURT: Yeah.

10 MR. ELIA: It's basically to enforce the
11 settlement agreement that's attached as Exhibit D.

12 THE COURT: There was a settlement in this case?

13 MR. ELIA: There was a settlement.

14 THE COURT: It's not agree -- they agreed to.

15 MR. ELIA: Yes. Exhibit D to our moving papers.
16 That and for damages of the millions of dollars their
17 clients have taken not told us about. They told us, Look.
18 They're not really paying. In fact, they did pay.
19 They're paying a hundred thousand dollars a month. They
20 paid 225,000 for options we never knew about. All this
21 money needs to be accounted for.

22 We're not asking for any harm to anybody. We
23 just want a receiver to take over so that we can stop the
24 wasting. We need some internal controls so that her
25 clients don't continue to steal and put in a new operator
26 that is eventually going to end up joining this complaint,
27 and then we have a multiplicity of lawsuits.

28 THE COURT: You want an injunction.

1 MR. EILA: Yes, your Honor.

2 THE COURT: The injunction it to maintain the
3 status quo.

4 MR. ELIA: Maintain the status quo, to not
5 waste. And one of things, your Honor, her client is the
6 record owner on the LLCs; however, the settlement
7 agreement says no matter who owns it, the deal is 75/25.
8 He's free to sell the properties.

9 In fact, when we look at the management
10 agreements, he's sold furniture, fixtures, and equipment
11 that belonged to my client. He can't sell something that
12 he doesn't own. There's irreparable harm. He's free to
13 sell -- transfer the properties tomorrow. My client is
14 guarantor on millions of dollar of real estate loans on
15 this.

16 THE COURT: Another party wanted to intervene
17 today.

18 MR. ELIA: Yes, your Honor. Rob Fuller. We
19 filed our motion today ex parte.

20 THE COURT: You did that today without a --

21 MR. ELIA: We filed ex parte before
22 10:00 yesterday. Gave notice. Should have been with the
23 court.

24 THE COURT: I don't have it, but isn't that
25 supposed to be a full-blown motion? Can I do that on an
26 ex parte basis?

27 MR. ELIA: I believe it's appropriate for ex
28 parte under the rules. We cite that in our brief.

1 THE COURT: Counsel?

2 MS. AUSTIN: Good morning, your Honor. As I
3 mentioned, I am specially appearing on behalf of all the
4 defendants. None of the defendants have been served with
5 either the motion or the complaint intervention, nor the
6 underlying complaints for this ex parte. We're here to
7 protect their rights.

8 THE COURT: You have not served them?

9 MR. ELIA: Your Honor, we haven't located them,
10 but I did speak to their counsel on Friday. He told me at
11 10:00 a.m. on Friday he downloaded the complaint. He
12 represented he represents both sides and that I asked
13 him -- I had a 15-minute conversation with him, fully
14 explained everything. I told him -- asked him to please
15 let your clients know, and he assured me that he would.

16 MS. AUSTIN: Your Honor, the person he spoke to
17 is not a litigation counsel. He does, as I understand it,
18 he does represent some of the defendants in some business
19 transactional work but does not represent them in this. I
20 don't know the nature of that nor do I --

21 THE COURT: Did you not know them beforehand?

22 MS. AUSTIN: Did I not know who?

23 THE COURT: Did you have no relationship with
24 the moving parties beforehand?

25 MS. AUSTIN: No. I only have relationship with
26 -- no. I have relationship with Ninus Malan in other
27 matters, so we may end up representing them, but we
28 haven't done conflicts checks.

1 We have another attorney we're talking to,
2 George Fleming, who is looking at but hasn't done
3 conflicts checks. We're not even sure the nature of the
4 complaint. The notice we received for their ex parte
5 which was in email on Friday, didn't even tell us the
6 nature of the ex parte.

7 THE COURT: All right.

8 MS. GRIFFIN: That's the Number 1 thing is we
9 haven't been served. The second thing is there's no
10 urgency here. I briefly read the papers as we were
11 sitting out there -- or sitting here waiting, listening
12 and there's no urgency. What is going on today has been
13 going on for -- Ninus Malan having control of the
14 entities, which he's entitled to, has been going on a very
15 long time. There's no evidence of any urgency in this
16 particular matter.

17 And I think most importantly here is that as
18 I skimmed through the declaration, which is Mr. Razuki,
19 which is all hearsay, none of it shows just why there is a
20 need to change anything today.

21 If we were able to get into the factual matter
22 of this, we -- you would get evidence presented to you
23 that would show that, in fact, SoCal Builders was -- the
24 reason that they had to be terminated was because of
25 mismanagement, was because the HOA was looking at revoking
26 the permit, because they weren't doing proper permits
27 under the state licensing.

28 I don't want to get into all the merits. We

1 don't represent them yet. We don't know that we will.

2 THE COURT: Okay. Thank you. Anything further,
3 counsel?

4 MR. FULLER: Yes, your Honor. I found the
5 citation. Code of Civil Procedure 387(c) that says it can
6 be brought ex parte.

7 THE COURT: I'm going to grant your motion to
8 intervene.

9 MR. FULLER: Thank you, your Honor.

10 THE COURT: On yours, the only thing is the
11 receivership?

12 MR. FULLER: May I address that briefly?

13 THE COURT: Yes.

14 MR. FULLER: We believe that we have a very
15 long, detailed authored dispute resolution clause in our
16 contracts.

17 THE COURT: Detailed --

18 MR. FULLER: This seller undercut. We're in the
19 position we've got until next Tuesday, July 24, to make
20 \$170,000 of payments. Right now, we have the unavailable
21 task to decide whether to give to Mr. Malan and
22 Mr. Hakim, or whether Mr. Razuki should get a hundred
23 percent or 75 percent of that. We don't know where to put
24 that money. We feel more comfortable giving it to the
25 receiver.

26 MR. ELIA: Your Honor, I brought the receiver in
27 court, Mr. Essary. I've had Judge Sturgeon appoint sua
28 sponte without anyone asking for it. He's trusted by

1 other judges here. I know some judges have reservations
2 with receiver, but Mr. Essary would be appropriate for
3 this case.

4 MS. AUSTIN: Your Honor, we haven't seen
5 briefing on this. We don't know anything about what is
6 going on. If they don't know where to put the money, we
7 suggest they interplead with the court.

8 THE COURT: All right. I'm going to grant the
9 relief requested. The injunction is granted.
10 Receivership is appointed. Hope you all can sort this
11 out. I would have some really good communication with
12 people. See if you can work out --

13 MS. AUSTIN: Your Honor, you're granting the
14 receivership? We're not even served. How are we going --
15 we don't even know if this is the case.

16 THE COURT: Well, the order is granted at this
17 point.

18 MR. ELIA: Thank you, your Honor. Appreciate
19 it.

20

21 [Whereupon the proceeding concluded.]

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1 STATE OF CALIFORNIA
2 COUNTY OF SAN DIEGO

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I, Darla Kmety, Court-Approved Official Pro Tem Reporter for the Superior Court of the State of California, in and for the County of San Diego, do hereby certify:

That as such reporter, I reported in machine shorthand the proceedings held in the foregoing case;

That my notes were transcribed into typewriting under my direction and the proceedings held on July 17, 2018, contained within pages 1 through 10, are a true and correct transcription.

This Day 20th of July 2018



Darla Kmety, CSR 12956

EXHIBIT 6

**AGREEMENT OF COMPROMISE, SETTLEMENT,
AND MUTUAL GENERAL RELEASE**

This AGREEMENT OF COMPROMISE, SETTLEMENT, AND MUTUAL GENERAL RELEASE (“Agreement”) is entered into by and between SALAM RAZUKI (hereinafter collectively “RAZUKI”), on the one hand, and and NINUS MALAN (hereinafter “MALAN”), on the other. The persons to this Agreement may sometimes be referred to collectively as the “Parties” or separately as “Party”. This Agreement is entered into with reference to the recitals set forth in the Article titled “Recitals” below and constitutes (i) a settlement agreement between the Parties and (ii) a mutual release of all liabilities of the Parties arising out of the matters described below and except as expressly otherwise noted herein.

**ARTICLE I.
RECITALS**

This Agreement is entered into with reference to the following facts:

1.1 RAZUKI and MALAN have engaged in several business transactions, dealings, agreements (oral and written), promises, loans, payments, related to the acquisition of real property and interests in various medical marijuana businesses. Specifically, RAZUKI and MALAN have each invested certain sums of capital for the acquisition of the following assets (collectively hereinafter referred to as the “Partnership Assets”):

(a) MALAN’S one hundred percent (100%) membership interest in SAN DIEGO UNITED HOLDING GROUP LLC, a California Limited Liability Company, and record owner of the following properties:

- i. The real property commonly known as 8859 BALBOA AVE., STE.. A, SAN DIEGO, CA 92123.
- ii. The real property commonly known as 8859 BALBOA AVE., STE.. B, SAN DIEGO, CA 92123.
- iii. The real property commonly known as 8859 BALBOA AVE., STE.. C, SAN DIEGO, CA 92123.
- iv. The real property commonly known as 8859 BALBOA AVE., STE.. D, SAN DIEGO, CA 92123.
- v. The real property commonly known as 8859 BALBOA AVE., STE.. E, SAN DIEGO, CA 92123.
- vi. The real property commonly known as 8861 BALBOA, STE. B, SAN DIEGO, CA 92123.
- vii. The real property commonly known as 8863 BALBOA, STE. E,

SAN DIEGO, CA 92123.

(b) One hundred percent (100%) membership interest in FLIP MANAGEMENT LLC, a California Limited Liability Company.

(c) MALAN'S fifty percent (50%) membership interest in MIRA ESTE PROPERTIES LLC, a California Limited Liability Company, and record owner of the real property commonly known as 9212 MIRA ESTE CT., SAN DIEGO, CA 92126.

(d) MALAN'S Fifty percent (50%) membership interest in ROSELLE PROPERTIES, LLC, a California Limited Liability Company, and record owner of the real property commonly known as 10685 ROSELLE ST., SAN DIEGO, CA 92121.

(e) RAZUKI'S twenty percent (20%) membership interest in SUNRISE PROPERTY INVESTMENTS, LLC, a California Limited Liability Company, the record owner of the real property located 3385 SUNRISE STREET, SAN DIEGO, CA 92012.

(f) RAZUKI'S twenty seven percent (27%) membership interest in SUPER 5 CONSULTING GROUP, LLC, a California Limited Liability Company, which is the operator of a medical marijuana dispensary located at 3385 SUNRISE STREET, SAN DIEGO, CA 92012.

1.2 RAZUKI and MALAN have an understanding such that regardless of which Party or entity holds title and ownership to the Partnership Assets, RAZUKI is entitled to a seventy-five percent (75%) interest in the capital, profits, and losses of each Partnership Asset and MALAN is entitled to a twenty five percent (25%) interest, and no Party is entitled to receive any profits whatsoever until, and unless the Parties have first been repaid their investment in full (hereinafter referred to as the "Partnership Agreement").

1.3 RAZUKI and MALAN have now formed RM PROPERTY HOLDINGS, LLC, a California Limited Liability Company (the "Company"), whereby RAZUKI and MALAN have agreed to transfer title to the Partnership Assets to the Company, and forever resolve any and all matters, claims or controversies that each Party may have against each other related to the Partnership Agreement as stated in this Agreement.

1.4 RAZUKI and MALAN have not recouped their financial investments in the Partnership Assets.

1.5 The Parties consider it to be in their best interests, in light of the cost of litigation, and to their best advantage, to forever dismiss, settle, adjust and compromise all claims and defenses which have been, or could have been asserted relative to their Partnership Agreement.

1.6 All claims are denied and contested, and nothing contained herein should be construed as an admission by any Party hereto of any liability of any kind to any other Party hereto or to any other person.

1.7 The Parties now wish to settle the dispute between them and forever release,

discharge, and terminate any and all liabilities arising out of, or existing or emanating from their Partnership Agreement, including all demands and causes of action, whether state, federal, or administrative, and whether actually raised or could have been raised by way of complaint, supplemental complaint, or cross-complaint except as expressly otherwise set forth within this Agreement. In order to effectuate this release, the Parties hereto enter into this Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants, and upon the conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE II TERMS OF SETTLEMENT

2.1 Transfer of Partnership Assets to the Company. The Parties shall use their best efforts to effectuate the transfer of the Partnership Assets to the Company within thirty (30) days, and shall execute any and all further documents as may be necessary to carry out the same.

2.2 Financial Accounting. The Parties agree to work in good faith to calculate each of their respective cash investment amounts in the Partnership Assets within thirty (30) days and shall execute an amendment or exhibit to this Agreement to memorialize the same. Once executed, the exhibit or amendment shall be incorporated and become a part of this Agreement as though set forth originally (the "Accounting"). For avoidance of doubt, the amount agreed to in the Accounting shall be the amount of cash capital investment that must be first repaid to the Parties by the Company before either Party receives any profits therein (each referred to as the "Partners' Cash Investment").

2.3 The Company's Operating Agreement. The Parties hereby reaffirm and acknowledge the terms of the Operating Agreement provide for repayment of the Partners' Cash Investment prior to any distribution of profits and losses. The Parties further reaffirm that once the Partners' Cash Contribution has been repaid by the Company, then RAZUKI shall receive seventy five percent (75%) of the profits and losses of the Company and MALAN shall receive twenty five percent (25%), all as set forth under the terms of the Operating Agreement. It is the Parties' intention that once the Partnership Assets have been transferred to the Company and the Accounting has been agreed upon, then all other business matters shall be governed and controlled by the terms of the Operating Agreement and the Parties shall thereafter be released from all further liability to each other arising under their Partnership Agreement as set forth below.

ARTICLE III MUTUAL GENERAL RELEASE OF ALL CLAIMS

3.1 General Release. In consideration of the terms and provisions of this Agreement, the Parties hereto, on behalf of themselves, successors, and assigns, hereby forever relieve, release, and discharge each other, and their respective successors and assigns, and all of their respective present and former attorneys, accountants, agents, employees, representatives,

administrators, insurers, partners, directors, officers, shareholders, and heirs of and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses, including but not limited to attorney's fees, damages, actions, and causes of action of whatsoever kind or nature, specifically including those related to in any way, directly or indirectly, to any alleged past, present, or future claims for violations of any state, federal, or administrative code or statute, or any type of tort or conversion, or indemnification, contribution, or declaratory relief based on any type of allocation of fault, whether now known or unknown, suspected or unsuspected, based on, arising out of, or in connection with anything whatsoever done, omitted, or suffered to be done at any time, relating to, or in any matter connected with, directly or indirectly, the matters, facts or claims related to their Partnership Agreement as set forth in the Article of this Agreement titled "Recitals". This Agreement shall not be interpreted to bar any claims for the enforcement of the provisions of this Agreement or any provision of the Company's Operating Agreement. Furthermore, this release and settlement shall only be effective upon (i) the transfer to the Company of the Partnership Assets pursuant to section 2.1 above, and (ii) execution of an amendment or exhibit related to the Accounting. Thereafter, the Parties shall forever be barred from bringing any claims related to the Partnership Agreement as set forth herein, and all claims or controversies shall be governed by the terms of the Company's Operating Agreement.

3.2 Waiver under Section 1542 of the California Civil Code. The Parties hereto expressly waive any and all rights under Section 1542 of the Civil Code of the State of California, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

In connection with such waiver and relinquishment, the Parties acknowledge that it may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those which it now knows or believes to be true. Nevertheless, it is the intention of the Parties, through this Agreement, and with the advice of counsel, if any, to fully, finally, and forever settle this dispute. Pursuant to that intention, the Parties expressly consent that this release shall have the same full force and effect as to unknown and unsuspected claims, demands, and causes of action, if any, as to those terms and provisions relating to claims, demands, and causes of action hereinabove specified.

3.3 Representations and Warranties. The Parties hereby represent and warrant to, and agree with each other as follows:

(a) The Parties hereto, and each of them, represent and declare that in executing this Agreement they have relied solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel, if any, concerning the nature, extent, and duration of their rights and claims, and that they have not been influenced to any extent whatsoever in executing the same by any representations or statements covering any matters made by the other party hereto or by any person representing him or it.

(b) Except as expressly stated in this Agreement, neither of the Parties have made any statements or representations regarding any fact relied upon in entering into this Agreement, and the Parties specifically do not rely on any statements, representations, or promises in executing this Agreement, or in making the settlement provided for herein, except as expressly stated in this Agreement;

(c) The Parties, and their attorneys, if desired, have made such investigation of the facts pertaining to this Agreement and all of the matters pertaining thereto, as they deem necessary;

(d) The terms of this Agreement are contractual, not a mere recital, and are the result of negotiations between the Parties;

(e) The Recitals to this Agreement are expressly made a part hereof;

(f) This Agreement has been carefully read by the Parties hereto, and if they choose, by their attorneys; it is signed freely by each person executing this Agreement and each person executing this Agreement is empowered to do so.

(g) In entering into this Agreement, the Parties recognize that no facts or representations are absolutely certain. The Parties acknowledge that they are aware that they may, after execution of this Agreement, discover facts different from or in addition to those they now know or believe to be true with respect to the liabilities, actions or causes of action to be released. Accordingly, the Parties each assume their own risk of any incomplete disclosure or mistake. If the Parties, or each of them, should subsequently discover that any fact it relied upon in entering into this Agreement was untrue, or that any understanding of the facts or of the law was incorrect, such party shall not be entitled to set aside this Agreement by reason thereof. This Agreement is intended to be final and binding between the Parties hereto, and is further intended to be effective as a final accord and satisfaction between the Parties. The Parties are relying on the finality of this Agreement as a material factor inducing the Parties' execution of this Agreement.

(h) The consideration specified herein is given for the purpose of (i) settling and compromising all claims and disputes which have arisen between the Parties, and (ii) releasing the Parties by operation of this Agreement from any and all claims and liabilities, past, present, and future, that have or may arise out of the matters described in the Article titled "Recitals". Neither the payment nor tender of consideration, nor anything herein, shall be construed as an admission by any of the Parties, their agents, servants or employees, of any liability of any kind to the other.

(i) The Parties represent and warrant that they have not heretofore transferred or assigned or purported to transfer or assign to any person, firm, or corporation any claim, demand, damage, debt, liability, account, action or cause of action herein to be released.

(j) The Parties acknowledge the adequacy of the consideration given for the release

of all Parties in this Agreement and understands that irrespective of whether the consideration is expressly described herein, adequate consideration exists for the release of all Parties under this Agreement.

3.4 Non-Disparagement. The Parties further agrees not to make any statement or take any action, directly or indirectly, that harms, or could harm, the other Party's business interests, reputation or good will, including any statements that may be made to any past, current, or prospective employees, vendors, or any other third parties whatsoever. Accordingly, the Parties shall not make any statements, written or oral, which disparage the other; however, this provision shall not prevent the any Party from truthfully responding to any inquiry required by law or pursuant to a court order.

ARTICLE IV GENERAL PROVISIONS

4.1 Integration. This Agreement constitutes a single, integrated, written contract expressing the entire Agreement of the Parties hereto relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as specifically set forth in this Agreement. All prior discussions and negotiations, if any, are superseded by this Agreement.

4.2 No Construction Against Drafter. Each party to this Agreement and its legal counsel have reviewed and revised this Agreement. The rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or of any amendments or exhibits to this Agreement. This Agreement shall not be deemed prepared or drafted by one party or another, or its attorneys, and will be construed accordingly.

4.3 Modification. No modification, waiver, amendment, discharge, or any change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

4.4 Heirs, Successors, and Assigns. This Agreement shall inure to the benefit of, and shall be binding upon, the heirs, successors, and assigns of the Parties hereto, and each of them.

4.5 Severability. In the event that any term, covenant, condition, or provision of this Agreement should be held to be void, voidable, or unenforceable, the remaining portions hereof shall remain in full force and effect.

4.6 Governing Law. This Agreement shall be construed in accordance with, and be governed by the laws of California.

4.7 Venue and Jurisdiction. In the event that any action, suit, or other proceeding arising from this Agreement is instituted, the parties agree that venue for such action shall be in San Diego County, and that personal jurisdiction and subject matter jurisdiction shall be

exercised by the Superior Court of the State of California, in and for the County of San Diego, Central Division.

4.8 Execution in Counterparts. This Agreement may be executed and delivered in two or more counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement. This Agreement shall be deemed to be executed on the last date any such counterpart is executed.

4.9 Facsimile Signatures. This Agreement may be executed and a copy of such executed Agreement transmitted by facsimile, which when received can be used as an original of the Agreement for all purposes.

4.10 Costs and Attorney's Fees. The Parties hereto agree to bear his or its own costs and attorney's fees, and each party hereby waives any statute, rule of court, or other law, awarding costs, fees, or expenses relating to any litigation. Said waiver shall be effective with respect to the statutes, rules of court, or other laws or provisions of the United States and/or of each state, including, without limitation, the State of California. However, in the event that any action, suit, or other proceeding is instituted to interpret and/or enforce this Agreement, or arising out of a breach of this Agreement, the prevailing party shall recover all of such party's reasonable attorney's fees and costs incurred in each and every action, suit, or other proceeding, including any and all appeals or petitions therefrom.

4.11 Waiver. Any waiver of a default under this Agreement must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement. No delay or omission in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver. Consent to or approval of any act shall not be deemed to waive or render unnecessary consent to or approval of any other or a subsequent act.

4.12 Confidentiality. The terms of this Agreement are confidential. The Parties expressly understand and agree that it shall constitute a breach of this Agreement to disclose or communicate the terms of this settlement or to disseminate this Agreement to any third party (unless required by Court order or operation of law or to the Parties' respective attorneys, accountants or tax advisers).

4.13 Time of Essence. The Parties hereto agree and confirm that time is of the essence for execution, completion, and full performance of the terms and conditions of this agreement.

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IN WITNESS WHEREOF, the Parties hereto have each approved and executed this Agreement on the dates set forth opposite their respective signatures.

Dated: 11/9/17

RAZUKI

By: 
SALAM RAZUKI

Dated: 11/9/17

MALAN

By: 
NINUS MALAN

EXHIBIT 7

1 Charles F. Gorla, Esq. (SBN68944)
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3 Tel.: (619) 692-3555
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4

Attorneys for Defendant CHRIS HAKIM
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6
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10 SALAM RAZUKI, an individual)
11 Plaintiff)

12 vs)

13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)

NINUS MALAN, an individual; CHRIS
HAKIM, an individual; MONARCH
MANAGEMENT CONSULTING, INC.,
California corporation; SAN DIEGO
UNITED HOLDINGS GROUP, LLC, a
California limited liability company; FLIP
MANAGEMENT, LLC, a California limited
liability company; MIRA ESTE
PROPERTIES LLC, a California limited
liability company; ROSELLE PROPERTIES,
LLC, a California limited liability company;
BALBOA AVE COOPERATIVE, a
California nonprofit mutual benefit
corporation; CALIFORNIA CANNABIS
GROUP, a California nonprofit mutual
benefit corporation; DEVILISH DELIGHTS,
INC. a California nonprofit mutual benefit
corporation; and DOES 1-100, inclusive;

24 Defendants.)
25)
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27)

Case No.: 37-2018-00034229-CU-BC-CTL

(Unlimited Civil Action)

**DECLARATION OF CHRIS HAKIM
RE EX PARTE HEARING ON ORDER
VACATING APPOINTMENT OF
RECEIVER**

Hearing Date: August 14, 2018

Time: 8:30 AM

Dept.: C-67

I/C Judge: Hon. Eddie C. Sturgeon

Complaint Filed: July 10, 2018

Trial Date: Not Set

IMAGED FILE

1 I, Chris Hakim, declare:

2 1. I am one of the defendants in the above – referenced matter, and I am over the
3 age of 18.

4 2. At all times herein mentioned, I have been and still am one of the owners of
5 Mira Esta Properties LLC (MEP). At all times since MEP was formed, I have been and still
6 am the managing member of MEP. The assets of MEP consist of certain real estate located
7 at 9212 Mira Este Court, San Diego, California 92126. The real estate is improved by a
8 structure in the nature of a warehouse. MEP acquired the real estate in August 2016.
9

10 3. The other member of MEP is Ninus Malan. At the time that MEP acquired
11 the real property, a purchase money loan was obtained. I paid from my own funds
12 significantly more than one half of the down payment. While plaintiff Salam Razuki
13 contends that he paid a portion of the down payment, he was insistent on not wanting to
14 appear of record or on title in connection with MEP's acquisition or operation of the
15 business.
16

17 4. Beginning on or about August 3, 2018, MEP began operating a business
18 consisting of the production of various byproducts of cannabis for distribution to retail
19 dispensaries and other such establishments. MEP is operating under a temporary state
20 license for manufacturing and distribution of cannabis products and a business tax certificate
21 from the City of San Diego that is due to expire next year. MEP is in the process of
22 applying for a Conditional Use Permit that will allow MEP to continue its operations after
23 the expiration of the current license.
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1 5. At all times herein mentioned, I have been and still am one of the owners of
2 Roselle Properties LLC ("Roselle"). At all times since Roselle was formed, I have been and
3 still am the managing member of Roselle. The assets of Roselle consist of certain real
4 estate located at 10685 Roselle Street, San Diego, California 92121, and improved by a
5 structure in the nature of a warehouse. The other member of Roselle is Ninus Malan. At the
6 time that Roselle acquired the real property, a purchase money loan was obtained. I paid
7 from my own funds more than one half of the down payment. As with Mira Este, plaintiff
8 Salam Razuki contends that he paid a portion of the down payment, and he was at all times
9 was insistent on not wanting to appear of record or on title in connection with Roselle's
10 acquisition or operation of the business.

11
12 6. Roselle intends to operate a business consisting of the production of various
13 byproducts of cannabis for distribution to retail dispensaries and other such establishments.
14 At this time, Roselle has not begun operations. The real property improvements located at
15 Roselle are currently being leased to a third party who does not engage in any cannabis-
16 related business.

17
18 7. There are currently two loans encumbered by MEP's property and one loan
19 encumbered by Roselle's property. Loan payments on all three loans are due on the 5th of
20 each month. Prior to the due date on the August 5, 2018 payments, I am informed and
21 believe and thereon declare that the receiver who had been appointed on July 17, 2018 by
22 Judge Medel had received substantial monies from the previous manager, SoCal Building
23 Ventures, LLC ("SoCal") in connection with SoCal's management of MEP and Roselle. In
24 particular, in his interim report and declaration filed in connection with this ex parte
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1 proceeding, the receiver listed at item number 3 the receipt of \$170,600.00. All of these
2 funds were paid by SoCal pursuant to its management agreement with MEP. None of
3 the funds were paid on account of either the Balboa management agreement or the
4 Roselle management agreement. Prior to August 5, 2018, I requested, through counsel,
5 that the receiver make the loan payments on the loans on MEP and Roselle from the funds
6 that it was holding. On the morning of August 5, 2018, the receiver, through counsel,
7 declined to make any of the loan payments. The receiver's refusal was based on his claim
8 that there were insufficient funds for MEP. However, I have reviewed each and every
9 expenditure listed on the receiver's report. Of those expenditures, only items 15, 17, 18, 25,
10 26, and 31 had any possible relationship to MEP. The total of those items was only
11 approximately \$54,869.00, leaving a balance of some \$115,000.00 of net proceeds to cover
12 MEP's loan payments. Because of the receiver's insupportable commingling of funds
13 among the three facilities and as a result of the receiver's refusal to make the loan payments
14 on Mira Este or Roselle pursuant to my request, I have had to make certain of the payments
15 myself from my own funds.
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18 8. Since being appointed as receiver for not only the Balboa property, but also
19 for Mira Esta and Roselle, I am informed and believe and thereon declare that the receiver
20 has done absolutely nothing to further the business of MEP or Roselle. There is no benefit
21 to having a receiver for Roselle because there are no active operations at this time at
22 Roselle. To the extent that there is income from the single third party tenant, I am fully
23 capable of handling the minimum recordkeeping relative to income, expenses. Such
24 recordkeeping will protect all parties. Further, I am willing to abide by any other orders that
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1 the court might make in that regard. In short, there is no need for a receiver to be appointed
2 over the operations of Roselle, and it would be a tremendous waste of resources to pay a
3 receiver for oversight over Roselle.

4 9. In regards to MEP, SoCal was the manager of the Mira Este facility from
5 approximately October 1, 2017 to July 10, 2018. On July 10, 2018, SoCal was terminated
6 for a number of material breaches of the management agreement. Those breaches included
7 but are not limited to the failure to make payments to MEP in connection with SoCal's
8 obligations under the management agreement. On or about June 1, 2018, I caused my
9 attorney, Gorla, Weber & Jarvis by David C. Jarvis, to make demand on SoCal's counsel for
10 the outstanding and unpaid obligations of SoCal. A true and correct copy of said June 1,
11 2018 correspondence outlining the unpaid and delinquent obligations is attached hereto as
12 Exhibit 1 and, by this reference, made a part hereof. In addition, SoCal failed and refused to
13 move forward the application process for a CUP on Roselle, which constituted a particularly
14 significant breach of the Roselle management agreement. Given that there are only a very
15 limited number of permits available for cannabis production and distribution businesses,
16 SoCal's failure on this obligation was significant and material. SoCal failed to cure the
17 defaults listed in said June 1, 2018 letter, and failed to even address much less move forward
18 the CUP process on Roselle. On or about July 10, 2018, SoCal was terminated as manager.
19 At the time that SoCal was terminated, SoCal had failed to even begin operations at Mira
20 Este and, as noted, had failed to move forward the CUP process on Roselle.

24 10. Several weeks after SoCal was terminated and after the order appointing
25 receiver was vacated by Judge Strauss on or about July 31, 2018, I negotiated an agreement
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1 with another manager, Synergy Management Partners. LLC ("Synergy"). Synergy began
2 management activity at Mira Este on or about August 3, 2018. On or about August 10,
3 2018, the agreement with Synergy was reduced to writing. A true and correct copy of this
4 new management agreement for Mira Este is attached hereto as Exhibit 2 and, by this
5 reference, made a part hereof. Almost immediately and in sharp contrast to SoCal, Synergy
6 was able to begin operations at Mira Este. During the first week of management under the
7 new agreement with Synergy, more than \$200,000 in revenues has been generated.
8

9 11. The Synergy management agreement requires that Synergy maintain
10 extensive accounting, recordkeeping, and reporting requirements as follows:

11 A. (at Section 1.1 of Exhibit 2)-maintain proper accounts and ledgers of the
12 facility, including accounts payable and receivable; keep all records required by and in
13 accordance with applicable law on behalf of Mira Este and his manager of the facility;
14 generate customary reports for Mira Este which will be provided weekly; collect, report and
15 remit all taxes required of the facility on behalf of Mira Este; maintain proper insurance for
16 Mira Este; ensure compliance with all conditions and requirements for the state license;
17 create an operational budget for the facility; and,
18

19 B. (at Section 3.4 of Exhibit 2) the company shall establish a dedicated bank
20 account in its name and each party shall designate one person to act as signatory on such
21 account. All revenues generated from this facility shall be deposited into the dedicated
22 account and all expenses relating to the facility shall be paid from the dedicated account.
23

24 12. Based on the effectiveness of Synergy compared to So Cal, and because of the
25 stringent recordkeeping, banking, and accounting obligations under the Synergy
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1 management agreement, there does not appear to be any need for a receiver. The rights of
2 all parties will be preserved by the recordkeeping and other accounting obligations under
3 which Synergy must operate.

4 I declare under penalty of perjury that the foregoing is true and correct except as to
5 those matters stated on information and belief and as to those matters I believe it to be true.
6 This declaration was executed this 13th day of August, 2018, at San Diego County,
7 California.
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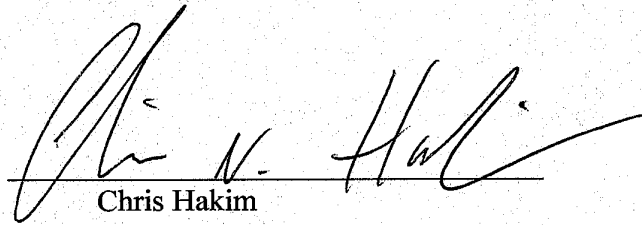
9
10 
11 Chris Hakim

EXHIBIT 1

LAW OFFICES OF
GORIA, WEBER & JARVIS
ATTORNEYS AT LAW

DANIEL S. WEBER
CHARLES F. GORIA
DAVID C. JARVIS
MEGHAN K. DeSPAIN

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SAN DIEGO, CALIFORNIA 92108
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FAX: (619) 296-5508

Sent via email and first class mail to lgill@nelsonhardiman.com on June 1, 2018

June 1, 2018

Lawrence B. Gill
Nelson Hardiman, LLP.
11835 W. Olympic Blvd, 9th Floor
Los Angeles, CA 90064

Re: **SoCal Building Ventures, LLC/San Diego Building Ventures ("Manager")**

Dear Mr. Gill:

I am in receipt of your May 24, 2018 letter requesting various due diligence items as part of the Manager's exercise of the options contained in the various Management Services and Option Agreements. My clients will start gathering the requested documentation referenced in your May 24, 2018 letter.

There are a few outstanding items. The following is a list of the pending past due payments owed by Manager and actions to be taken by Manager:

- 1) \$125,000.00 – Tenant Improvements for Mira Este/Certificate of Occupancy Obtained February 2, 2018 – Due March 2, 2018 – currently past due;
- 2) \$50,125.00 – Bounced Check dated May 23, 2018 to Mira Este, plus \$125 service fee for the returned check;
- 3) \$75,125.00 – Bounced Check dated in March 2018 to Mira Este, plus \$125 service fee for the returned check; and
- 4) \$12,500 in amounts owed for the Manager's share of the CUP costs for the Roselle project.

The outstanding balance totals \$262,750.00. Please let me know when Manager will deliver these funds to my clients. To the extent necessary or appropriate, this letter serves as notice of delinquency of these outstanding balances.

A further condition of the Manager's exercise of the Option is Manager not being in default of a Management Services and Option Agreement. My clients anticipate the Manager will be up-to-date on all payments owed by June 8, 2018, and is acting in accordance with that

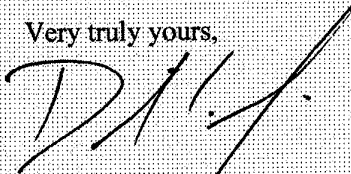
expectation. This is not the first time my clients have contacted the Manager regarding outstanding amounts. As the parties are entering into a long-term business relationship, I urge the Manager's prompt and timely payment of amount owed under the Management Services and Option Agreements, as these continued late payments (and bounced checks) can at the least sour this business relationship, and at worst can create legal issues between the parties.

It is further my understanding that the Mira Este project is significantly behind schedule. Please provide my clients with an update regarding the anticipated commencement of operations at the Mira Este Facility. Please further be advised that my clients will be utilizing the 1,800 square feet space at the Mira Este Facility. My clients do not anticipate conducting any operations in this retained space, but reserve the right to do so if the Manager's delays continue to mitigate lost business opportunity in utilizing the Mira Este Facility.

My clients further stand ready to perform their duties and obligations, and please feel free to contact me with any needed action to facilitate such performance.

Please contact me with any questions or comments regarding this matter.

Very truly yours,



David C. Jarvis

DCJ:

cc: Rob Fuller via email to rfuller@nelsonhardiman.com

EXHIBIT 2

MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT (the "Agreement") is entered into as of August 3, 2018 (the "Effective Date") in San Diego, California by and between Mira Este Properties, LLC, a California limited liability company (herein the "Company") on the one hand and Synergy Management Partners LLC on (herein "Manager") on the other hand. Each may be referred to herein individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, the Company has been issued licenses from the state of California ("State") to manufacture and distribute cannabis ("State License") at the real property located at 9212 Mira Este Court, San Diego, CA 92126 (the "Facility");

WHEREAS, Manager has expertise managing cannabis manufacturing and distribution operations; and

WHEREAS, the Company desires to engage Manager to provide the Services as more fully defined herein, and Manager desires to provide such Services to the Company based upon the terms as set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and conditions set forth below, the Parties hereto enter this Agreement as follows:

ARTICLE 1.

DUTIES AND RESPONSIBILITIES

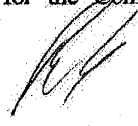
Section 1.1: Services. The Company hereby engages Manager to provide the following services (collectively, the "Services"), and Manager hereby accepts such appointment Synergy Management Partners LLC will jointly act as Manager with all Manager decisions to be made jointly by them):

- a. Manage the day-to-day operations of the Facility.
- b. Provide all staff necessary to operate the Facility on behalf of the Company pursuant to the terms hereof.
- c. Maintain proper accounts and ledgers of the Facility, including accounts payable and receivable.
- d. Keep all records required by and in accordance with applicable law on the Company's behalf and as the manager of the Facility.
- e. Generate customary reports for the Company, which will be provided no less

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- d. Keep all records required by and in accordance with applicable law on the Company's behalf and as the manager of the Facility.
- e. Generate customary reports for the Company, which will be provided no less frequently than weekly.
- f. Procure all inventory and equipment needed for the Facility on the Company's behalf.
- g. Collect, report and remit all taxes required of the Facility on the Company's behalf.
- h. Pay all expenses of the Facility on the Company's behalf, subject to the restrictions contained herein.
- i. Maintain proper insurance for the Facility on the Company's behalf.
- j. Ensure compliance with all conditions and requirements for the State License.
- k. Procure for the Company all vehicles necessary for it to operate its distribution division, whether by lease or purchase arrangement; provided that, the Company agrees in writing to all such arrangements prior to purchase, lease or rental.
- l. Create an operational budget for the Facility.
- m. Assist design and maintain a website for the Facility.
- n. Promote and market the Facility and its services to customers, vendors and other potential sources of revenue.
- o. Solicit licensing partners and customers to use the Facility's services and products.
- p. Assist create and implement standard operating procedures for the Facility on behalf of the Company.
- q. Provide such additional Services as reasonably requested by the Company.

Section 1.2: Inherent Services. The Parties acknowledge and agree that there are functions, responsibilities, activities and tasks not specifically described in this Agreement which are required for the proper performance and provision of the Services and are a necessary, customary or inherent part of, or a necessary sub-part included within, the Services. Manager is empowered to perform such inherent

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functions, responsibilities, activities and tasks to the same extent and in the same manner as if specifically described in this Agreement.

Section 1.3: Scope of Services. Manager will provide the Services in substantially the same manner it provides services to its other clients and in accordance with Industry standards. Manager will not be required to devote full time to the Services; however, it shall devote such time to the Services as is necessary to faithfully perform the Services in accordance with this Agreement. The Parties recognize that Manager may now or later render services to, with and on behalf of third parties.

Section 1.4: Compliance with Laws. Manager shall, in performing the Services, faithfully observe and comply with all State, and local laws, ordinances and regulations, applicable to the Services to be rendered under this Agreement and shall obtain any permits or licenses required. The Company agrees to faithfully observe and comply with all federal, State, and local laws, ordinances and regulations, applicable to its operation of the Facility and business and shall obtain any permits or licenses required. The Company agrees to faithfully observe and comply with all State, and local laws, ordinances and regulations, applicable to the Services to be rendered under this Agreement and shall obtain any permits or licenses required.

The Parties shall comply with all federal laws applicable to them as a result of this Agreement or operation of the Facility; provided, the Parties expressly acknowledge and agree that (i) the use, possession, cultivation, manufacture, transportation, purchase and sale of cannabis is federally illegal, (ii) the federal laws and certain states' laws regarding the use, possession, cultivation, transportation, manufacture and furnishing of cannabis (the "Industry") are in conflict; (iii) engaging in the lawful conduct of business operations in the Industry under state law may risk criminal or civil forfeiture, violation of federal law, and heightened risk of criminal or civil prosecution, crime and violence; and (iv) such inherent risks are assumed by each Party, and each Party has elected to execute and fulfill this Agreement despite such risks and waives any defense to enforcement of this Agreement based on cannabis being federally illegal. In the event either Party receives a cease and desist letter from the U.S. Government concerning the operation of cannabis businesses at the Facility or otherwise, it shall inform the other party and either party may immediately terminate this Agreement by written notice to the other Party.

Section 1.5: Exclusive Provider of Services. The Company shall exclusively utilize Manager for performance and delivery of its Services during the Term of this Agreement.

Section 1.6: Employee Leasing. Manager will be responsible for providing all personnel required to provide the Services. All such personnel may be leased to the Company by Manager in accordance with the provisions of this Section 1.6 or shall be employed directly by the Company, as decided agreed by the Parties. If the Parties cannot agree, all personnel will be engaged directly by the Company or through a third-party staffing company of its choosing.

- a. If the Company elects to lease employees from Manager, Manager will use

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Initials: _____, _____, _____

commercially reasonable efforts to supply to the Company the services of the persons identified on Exhibit A hereto, incorporated herein by reference ("Assigned Personnel"), which may be amended from time-to-time by the written agreement of the Manager and the Company. Manager shall fill out Exhibit A, either in type or print, including the name, address, email, telephone number, workers' compensation classification, job position, and compensation for each Assigned Personnel, which the Company will confirm and approve. Manager shall be fully responsible for notifying all Assigned Personnel of their leased employee status. Each Assigned Personnel shall be identified according to workers' compensation classification by proper code and according to pay status under the Fair Labor Standards Act or any other rule or regulation that may apply. The Company's signature shall be affixed to Exhibit A to indicate proper classification of workers' compensation code and pay status. No other employees shall become leased to the Company unless specifically agreed by Manager and the Company. Manager shall not be considered an employer for any employee who does not complete a Manager employment application and who is not accepted by Manager as a leased employee. Manager agrees to notify the Company immediately upon the release, termination or cessation of employment of any Assigned Personnel. The Company agrees to cooperate with Manager in all employment matters. Manager shall be responsible for tracking the hours of and processing payroll for all Assigned Personnel. Manager shall maintain a personnel file and personnel records for Assigned Personnel. All Assigned Personnel shall be considered employees of Manager. Manager shall assume sole and exclusive responsibility for the payment of wages to Assigned Personnel. Manager shall, with respect to said personnel, be responsible for withholding federal, state and local income taxes, withholding and paying over the employee share, and paying the employer share, of Social Security and Medicare taxes, unemployment insurance contributions, and any other payroll-related taxes required by law. Manager shall be responsible for maintaining workers' compensation insurance coverage for Assigned Personnel in an amount and under such terms as required by state law. Manager shall be responsible for ensuring that all applications and insurance enrollment forms are fully completed and returned to Manager by the Assigned Personnel.

b. The Company shall comply with all applicable federal, state and local laws in dealings with Assigned Personnel. Manager shall incur no liability for any violation or alleged violation of law or regulation by the Company.

c. In compliance with state law and federal guidelines, Manager shall, after consultation with the Company:

- i. Have a right to recruit, hire, direct and control Assigned Personnel,
- ii. Have a right to discipline, replace, and terminate the employment of Assigned Personnel and designate the date of separation from employment,
- iii. Have a right to reward, promote, reassign, evaluate and determine the wages, hours, terms and conditions of employment,
- iv. Have the right to resolve and decide employee grievances and disputes, and

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v. Supervise and direct Assigned Personnel in a reasonable manner consistent with the practices of similar businesses and enterprises.

d. The Company may retain such sufficient direction and control over the Assigned Personnel as is necessary to conduct the Company's business and without which the Company would be unable to conduct its business, discharge any fiduciary responsibility that it may have, or comply with any applicable licensure, regulatory, or statutory requirement of the Company.

e. It shall be Manager's responsibility to implement a safety and training program that meets the standards of regulations issued by the state of California.

f. The Parties each agree that they will comply with all health and safety laws, right-to-know laws, regulations, ordinances, directives and rules imposed by controlling federal, state, and local government, and that they will immediately report all accidents and injuries to the other party.

g. Environmental factors, equipment, machinery and all other matters which affect employee health and safety shall be maintained in compliance with OSHA standards, which shall be the responsibility of Manager.

h. Roberto Sanz and Jerry Baca shall not be entitled to compensation as Assigned Personnel but rather will be compensated by Manager through its compensation due hereunder.

Section 1.7: Long-Term Agreement. The Parties acknowledge and agree that it is the Parties' intent to, during the Term of this Agreement, negotiate a definitive agreement whereby Manager would continue to operate the Facility, if the Parties can come to mutually agreed upon terms. The Parties agree to negotiate such agreement in good faith during the Term of this Agreement. The Parties acknowledge that a long-term agreement would be conditioned upon the results of the Litigation.

Section 1.8: Prior Agreements. The Parties acknowledge that the Company has recently terminated the services of SoCal Building Ventures, LLC as manager of the Facility pursuant to a management services and option to purchase agreement ("SoCal Agreement"), and that such termination has led to litigation regarding the management and ownership rights in the Facility, Case No. 37-2018-00034229-CU-bc-CTL in the Superior Court of San Diego, Central Division (the "Litigation"). Manager acknowledges and understands that the Litigation could affect Manager's ability to perform under this Agreement or ability to receive timely payment for services, should the court or other parties to the Litigation take certain actions. Excepting the right to indemnification as herein detailed, Manager hereby agrees to waive any breach of this Agreement resulting from the Litigation.

Section 1.9: Manager Brands. The Parties acknowledge and agree that the Manager has certain Industry contacts and intends to introduce certain of those contacts to the Company as licensing partners for the Facility to manufacture the contacts' branded cannabis products (the "Manager Brands").

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ARTICLE 2.

TERM OF AGREEMENT; TERMINATION

Section 2.1: Term. This Agreement is entered into on the Effective Date hereof, shall take effect immediately, and shall remain in effect for a period of Ninety (90) days (the "Term"), unless earlier terminated by the Parties.

Section 2.2: Termination. This Agreement may be terminated by either Party with fifteen (15) days' prior written notice to the other Party or immediately upon the material breach of this Agreement by providing the breaching Party written notice of the termination and reason therefor.

Section 2.3: Effect of Termination. Upon termination of this Agreement, Manager shall promptly return all documents and information of the Company or relating to the Facility to the Company. The provisions of this Agreement relating to confidential information and indemnity shall survive termination of this Agreement. In addition, following termination of this Agreement, Manager shall be entitled to continue to receive compensation as detailed in Article 3 of this Agreement.

ARTICLE 3.

COMPENSATION AND EXPENSES

Section 3.1: Compensation. The Company shall pay for the Services provided by Manager as follows:

a. During the term of this Agreement, as compensation for its Services, Manager shall be entitled to receive thirty three percent (33%) of the net profits of the Facility each month ("Management Fee"). For purposes of this Agreement, "net profits" means all revenues generated by the Facility less all costs and expenses of the Facility each month.

b. Following termination of this Agreement, Manager will be entitled to receive two and a half percent (5%) of the net profits of the Facility generated by the Manager Contacts each month.

c. All fees due Manager hereunder will be payable in arrears on the fifth (5th) day of the month, beginning the month following the Effective Date.

Section 3.2: Advances; Reimbursement. Manager agrees to advance all funds, up to

CH NM [Signature] [Signature]

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Initials: _____, _____, _____

\$30,000.00, required by the Facility until the Facility has sufficient revenues to cover its ongoing expenses, which advances will be reimbursed by the Company. In connection with the Services, the Company shall reimburse Manager for any expenses or costs actually and reasonably incurred and paid by Manager on behalf of the Company. Notwithstanding anything to the contrary contained herein, all advances from the Manager for expenses prior to there being sufficient revenues of the Facility shall be reimbursed only sixty seven percent (67%), leaving thirty three percent (33%) of such expenses to be borne directly by the Manager, but only to the extent such reimbursed expenses have not been calculated within the net profits due Manager.

Section 3.3: Expenses. The Company shall be responsible for all costs and expenses of operating its Facility and providing products and services to customers, including but not limited to, payment of taxes, the Manager's direct costs associated with the Assigned Personnel, marketing, compliance, insurance, inventory, and rent, whether or not such costs and expenses are to be paid by directly by the Company or by the Manager on the Company's behalf. Otherwise, Manager shall be responsible for its costs associated with provision of its Services. The Parties specifically acknowledge that an entity affiliated with the principal of the Company is entitled to receive ~~\$8,500~~ ^{\$35,000} per month during the Term of this Agreement for rent, which shall be treated as an expense of the Facility prior to payment of any fee to Manager.

Section 3.4: Dedicated Account. The Company shall establish a dedicated bank account in its name ("Dedicated Account") and each party shall designate one person to act as signatory on such account. All revenues generated from the Facility shall be deposited into the Dedicated Account and all expenses relating to the Facility shall be paid from the Dedicated Account. Manager shall not be permitted to remove or permit an expense from the Dedicated Account in an amount in excess of \$5,000 without the Company's prior written consent. The Manager shall not use the Dedicated Account for its own purposes or for any other client of Manager and shall hold and use all funds in the Dedicated Account in trust for the benefit of the Company. The Company shall have the authority to remove the Manager's signatory from the Dedicated Account upon termination of this Agreement. The Company may not remove the Management Fee from the account without Manager's prior written permission. The Parties may agree to open more than one Dedicated Account; provided, all such accounts are subject to the provisions of this Section.

ARTICLE 4.

INDEPENDENT CONTRACTOR STATUS

Section 4.1: Relationship of Parties. It is understood and agreed that the Manager is an independent contractor in respect to Manager's relationship to Company, and that Manager is not and should not be considered an agent or employee of the Company for any purpose. Manager will have full control and discretion as to the ways and means of performing any and all Services to be provided under this Agreement. It is understood that in the performance of this Agreement, Manager is not in any way

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acting as an employee of Company, and Manager will be responsible for all taxes, social security payments, and other similar payments or contributions due as a result of any payments made pursuant to the terms of this Agreement. As an independent contractor, Manager agrees that Company has no obligation under the state or federal laws regarding employee liability, and that Company's total commitment and liability under this Agreement is the performance of its obligations and the payment of the fees as herein described.

Section 4.2: Contracts. Manager may not enter into any contract or binding agreement on behalf of the Company, written or oral, in an amount of \$2,500.00 or more or in duration to extend past the Term of this Agreement, without the prior written consent of the Company. The Company may enter into contracts without Manager's prior consent; however, the Company will consult with Manager prior to entering into any agreement that could materially impact the Facility or Manager's Services. The Parties agree that they will agree on the form manufacturing and distribution agreements to be used by the Facility and Manager will not enter into any manufacturing or distribution agreement substantially different from the forms agreed to by the Parties.

ARTICLE 5.

INDEMNIFICATION

Section 5.1: Company Indemnification. The Company agrees to indemnify and hold harmless Manager and its subsidiaries, partners, affiliates, principals, directors or agents ("Manager Indemnified Parties") from and against and in respect of any and all liabilities, obligations, assessments, suits, actions, proceedings, claims, or demands asserted against Company and/or Manager or any Manager Indemnified Party or any judgments, damages, losses, including any loss of business or credit costs, expenses and fees, including reasonable attorneys' fees incurred by the Manager Indemnified Parties as a result of the Company's conduct, Litigation or Manager's provision of Services in accordance with this Agreement.

Section 5.2: Willful Misconduct. Company will not relieve or indemnify the Manager Indemnified Parties from liability caused by the willful misconduct, material breach of this Agreement, or negligence of Manager Indemnified Parties, their officers, agents, or servants.

Section 5.3: Manager Indemnification. The Manager agrees to indemnify and hold harmless the Company and its subsidiaries, partners, affiliates, principals, directors or agents ("Company Indemnified Parties") from and against and in respect of any and all liabilities, obligations, assessments, suits, actions, proceedings, claims, or demands asserted against Company and/or Manager or any Company Indemnified Party or any judgments, damages, losses, including any loss of business or credit costs, expenses and fees, including reasonable attorneys' fees incurred by the Company Indemnified Parties as a result of the Manager's willful misconduct, negligence or material breach of this Agreement.

ARTICLE 6.

CH VM. 64 JSM

GENERAL PROVISIONS

Section 6.1: Mediation. The Parties agree that, prior to litigation, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall first be mediated by the Parties. Mediation shall occur at a mutually agreed upon location in the State of California with a mediator mutually agreed by the Parties. If the Parties cannot agree to a date, location or mediator within ten (10) days from the date any Party gives the other Party written notice of the potential claim or controversy, then the controversy may be submitted directly to a court of appropriate jurisdiction.

Section 6.2: Attorneys' Fees. If any legal action is necessary to enforce or interpret the terms of this Agreement, the prevailing Party will be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which that party may be entitled. This provision will be construed as applicable to the entire contract.

Section 6.3: Integration. This instrument contains the entire Agreement of the Parties with respect to the subject matter hereof and there are no other promised representations or warranties affecting it. This Agreement supersedes any and all other agreements, either oral or in writing, between Manager and Company with respect to the engagement of Manager by Company and contains all of the covenants and agreements between the Parties with respect to that engagement in any manner whatsoever. Each Party to this Agreement acknowledges that no representation, inducements, promises, or agreements, orally or otherwise, have been made by any Party, or anyone acting on behalf of any Party that are not embodied in the Agreement, and that no other agreement, statement, or promise not contained in this Agreement will be valid or binding on either Party.

Section 6.4: Modification. Any modification of this Agreement will be effective only if it is in writing and signed by the Party to be charged.

Section 6.5: Waiver. The failure of either Party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other Party will not be deemed a waiver of that term, covenant, or condition, nor will any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

Section 6.6: Severability. If any provision in this Agreement is held by a court of competent jurisdiction or arbitrator to be unreasonable, invalid, void, or unenforceable, then this Agreement will be deemed amended to provide for the modification of the unreasonable, invalid, void, or unenforceable provision to the extent that the court or arbitrator finds reasonable, and the remaining provisions of this Agreement will continue in full force without being impaired or invalidated in any way.

Section 6.7: Governing Law/ No Adverse Construction. This Agreement will be governed by and construed in accordance with the laws of the State of California. The Parties agree that this Agreement was prepared by all signatories hereto and their counsel, and in case of ambiguity shall not be

CH - NM - EG - JSM

Page 9 of 10

Initials: _____, _____, _____

construed more strongly against one than against the others.

Section 6.8: Notices. All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing and deemed duly given, made and received when (a) personally delivered or (b) three (3) business days after said notice, request, demand and other communication is deposited in U.S. Mail, certified mail, return receipt requested or by overnight mail addressed as follows or at such other addresses as either Party may advise the other from time to time in writing in compliance with this section of this Agreement:

Section 6.9: Counterparts. This Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed to be an original, and it shall not be necessary for the same counterpart of this Agreement to be signed by all of the Parties in order for it to be binding upon all of the Parties in accordance with the terms hereof. Electronic or facsimile delivery of this Agreement will be accepted and enforceable.

Section 6.10: Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and to their shareholders, subsidiaries, related and affiliated entities, representatives, successors, assigns, and every person (whether natural or artificial), firm, or entity now or previously affiliated with any of the Parties hereto, or who may become affiliated with any of the Parties hereto in the future. Notwithstanding, neither Party may assign this Agreement without the written consent of the other Party, and any purported assignment without such written consent shall be null and void.

Section 6.11: Representation of Authority. Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Parties and enforceable in accordance with its terms.

Section 6.12: Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to carry out the intent and purposes of this Agreement.

Section 6.13: Confidentiality. The Parties agree that at no time (either during or subsequent to the term of this Agreement) will any Party disclose or use, except as required to fulfil its obligations under this Agreement, any Proprietary and Confidential Information of the other Party, or any subsidiary or affiliate of the other Party, acquired during the term of this Agreement. The term "Proprietary and Confidential Information" shall mean, but is not limited to, all information which is known or intended to be known only to the disclosing Party, its subsidiaries and affiliates, and their employees, including any document, record, financial or other information of the disclosing Party, or others in a confidential relationship with the disclosing Party, and further relates to specific business matters such as the

CH *Wm. H. Gray*

disclosing party's financial information, identity of customers and patients, policies and procedures, fee structures, trade secrets, proprietary know-how, account information, and other information relating to other business of the disclosing Party, its subsidiaries and affiliates, and their employees. Manager agrees not to remove from the Location except with approval of the Company or as necessary to perform services in accordance with the terms of this Agreement, any physical property item, document, record, or other information of the Company or its affiliates.

Each Party agrees to return, immediately upon termination of this agreement hereunder, any and all documentation or physical property and Proprietary and Confidential Information of the other Party that is in the possession of such Party, in whatever format it may be maintained, regardless of who it is, or developed by, and to destroy all said information and documentation if requested by the disclosing Party and provide a certificate of destruction upon request by the disclosing Party.

Notwithstanding the foregoing, the restrictions contained in this section shall not apply to any Proprietary and Confidential Information that is required by law or the order of any court or governmental agency, or in any litigation or similar proceeding to be disclosed; provided that the disclosing party shall, prior to making any such required disclosure, notify the other party with sufficient notice to permit that party to seek an appropriate protective order.

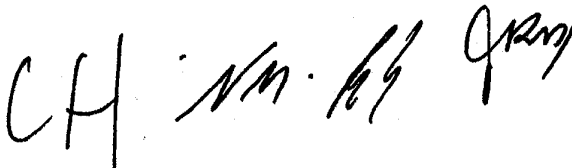
Section 6.14: Acts of God. No Party shall be liable in any respect for failure to comply with the terms of this Agreement due wholly or in part to acts of God, acts of the other party, acts or civil or military authority, fires, floods, epidemics, quarantine restrictions, war, armed hostilities, riots, strikes, lockouts, breakdown, differences with workers, accidents to machinery, delays in transportation, or any other cause beyond the reasonable control of the Party.

Section 6.15: Representation. The Parties acknowledge and agree that they have jointly drafted this Agreement through joint representation by Austin Legal Group, APC and that, if desired, each Party has had the opportunity to seek, and has sought, its own independent counsel to advise it as to the effects and consequences of entering into this Agreement.

Section 6.16: Non-Circumvention. The Parties hereby acknowledge that the Manager will be introducing the Company to certain Assigned Personnel. In consideration of the foregoing, the Company hereby agrees and warrants that it shall not, directly or indirectly, interfere with, circumvent, attempt to circumvent, or obviate or interfere with the relationship of the Manager and its Assigned Personnel for the purpose of gaining any benefit, whether such benefit is monetary or otherwise.

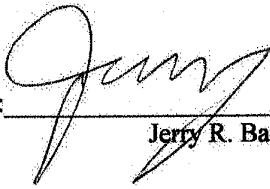
IN WITNESS WHEREOF, the Parties hereto have caused this Assignment to be duly executed by their duly authorized representatives as of the date of this Assignment. The undersigned, by their execution of this Agreement, represent and warrant that they have authority to execute this Agreement on behalf of its respective Party.

[Signature Page Follows]



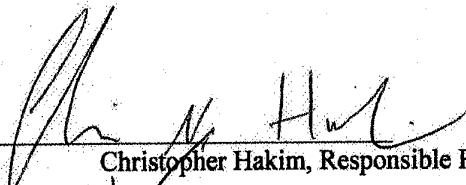
MANAGER:
Synergy Management Partners LLC

Dated: 8-3-18

By: 
Jerry R. Baca, Responsible Party

COMPANY:
Mira Este Properties, LLC

Dated: 8/3/18

By: 
Christopher Hakim, Responsible Party
Chris (CH)

Dated: 8/3/18

By: 
Ninus Malan, Responsible Party

CH

JB

Nm. NY

2 PROOF OF SERVICE

3 I, Charles F. Gorla, declare that: I am, and was at the time of service of the papers herein
4 referred to, over the age of eighteen years, not a party to this action, and am employed in the County
5 of San Diego, California, in which County the within mentioned mailing occurred. My business
address is 1011 Camino del Rio South, Suite 210, San Diego, California 92108.

6 I served the following document(s):

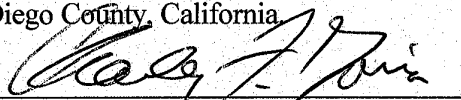
7 Declaration of Chris Hakim re Ex Parte Hearing on Order Vacating Order
8 Appointing Receiver

9 on the following addressees:

10 Steven A. Elia (steve@elialaw.com) 11 Maura Griffin (Maura@elialaw.com) 12 James Joseph (james@elialaw.com) 13 Law Offices of Steven Elia 14 2221 Camino del Rio S., #207 15 San Diego, CA 92108 16 Tel. (619) 444-2244 17 Fax. (619) 440-2233 18 Attorneys for Plaintiff	10 Robert Fuller (rfuller@nelsonhardiman.com) 11 Salvatore J. Zimmitt 12 (szimmmitt@nelsonhardiman.com) 13 Nelson Hardiman LLP 14 11835 West Olympic Blvd., Suite 900 15 Los Angeles, CA 90064 16 Tel. (310) 203-2807 17 Fax. (310) 203-2727 18 Attorneys for Intervenor SoCalBuilding 19 Ventures LLC
16 Gina M. Austin 17 (gaustin@austinlegalgroup.com) 18 Tamara M. Leetham 19 (tamara@austinlegalgroup.com) 20 Austin Legal Group 21 3990 Old Town Avenue, Suite A-112 22 San Diego, CA 92110 23 Tel. (619) 924-9600 24 Fax. (619) 881-0045 25 Attorneys for Defendants Ninus Malan et al.	16 Richardson C. Griswold 17 (rgriswold@griswoldlawsandiego.com) 18 Griswold Law 19 444 S. Cedros Avenue, Suite 250 20 Solana Beach, CA 92075 21 Tel. (858) 481-1300 22 Fax. (888) 624-9177 23 Attorney for Receiver Michael Essary

22 **XX (BY ELECTRONIC MAIL)** by transmitting same electronically by computer
23 transmission to each said addressee, addressed to each such addressee at the above electronic mail
24 address, pursuant to the parties' practice, agreement and/or stipulation that service by electronic
25 mail of the above items would suffice for all purposes, at San Diego County, California, on
26 8/13/2018.

27 I declare under penalty of perjury that the foregoing is true and correct, and that this
28 declaration was executed on August 13, 2018, at San Diego County, California


Charles F. Gorla

1 Steven A. Elia (State Bar No. 217200)
Maura Griffin (State Bar No. 264461)
2 James Joseph (State Bar No. 309883)
LAW OFFICES OF STEVEN A. ELIA, APC
3 2221 Camino Del Rio South, Suite 207
San Diego, California 92108
4 Telephone: (619) 444-2244
Facsimile: (619) 440-2233
5 Email: steve@elialaw.com
maura@elialaw.com
6 james@elialaw.com

7 Attorneys for Plaintiff
SALAM RAZUKI

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
COUNTY OF SAN DIEGO, CENTRAL DIVISION

11 SALAM RAZUKI, an individual,

12 Plaintiff,

13 v.

14 NINUS MALAN, an individual; CHRIS
15 HAKIM, an individual; MONARCH
MANAGEMENT CONSULTING, INC. a
16 California corporation; SAN DIEGO
UNITED HOLDING GROUP, LLC, a
17 California limited liability company; FLIP
MANAGEMENT, LLC, a California limited
18 liability company; MIRA ESTE
PROPERTIES, LLC, a California limited
19 liability company; ROSELLE PROPERTIES,
LLC, a California limited liability company;
20 BALBOA AVE COOPERATIVE, a
California nonprofit mutual benefit
21 corporation; CALIFORNIA CANNABIS
GROUP, a California nonprofit mutual
22 benefit corporation; DEVILISH DELIGHTS,
INC., a California nonprofit mutual benefit
23 corporation; and DOES 1-100, inclusive,

24 Defendants.

CASE NO. 37-2018-00034229-CU-BC-CTL

SECOND SUPPLEMENTAL
DECLARATION OF SALAM RAZUKI
DATED AUGUST 17, 2018 IN SUPPORT
OF PLAINTIFF'S OPPOSITION TO
DEFENDANT'S EX PARTE
APPLICATION TO VACATE THE
APPOINTMENT OF THE RECEIVER
AND TRO.

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I, Salam Razuki, declare as follows:

1. I am the Plaintiff in the above-entitled action. I am over the age of eighteen and otherwise competent to make the statements contained herein based on personal knowledge or information and belief as noted. If called as a witness, I would testify competently thereto.

2. This declaration is made in support of Plaintiff’s Opposition to Defendant Ninus Malan (“Malan”)’s Ex Parte Application to Vacate the Appointment of the Receiver and TRO.

3. Attached as **Exhibit 1** are true and correct copies of email communications involving me, Malan, and Defendant Chris Hakim (“Hakim”). These documents represent just a sampling of the hundreds of email communications that demonstrate my involvement in the marijuana operations.

4. Attached as **Exhibit 2** are true and correct copies of text messages between me and Malan. My messages are on the right, while Malan’s messages are on the left. These documents also represent just a sampling of the communications between me and Malan when we started the marijuana operations.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This Declaration was executed on August 17, 2018, at San Diego, California.

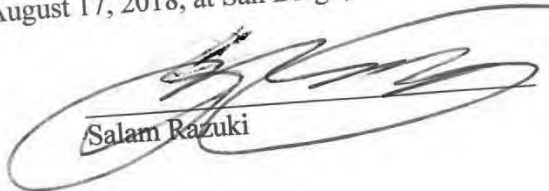

Salam Razuki

Exhibit 1

1974



Begin forwarded message:

From: "Darcy Peters" <dpeters@theloancompany.com>
Date: October 4, 2016 at 2:26:39 PM PDT
To: "Ninus Malan" <ninusmalan@yahoo.com>, "salam razuki" <salamrazuki@yahoo.com>
Cc: "Chris Hakim" <symbolicrealestate@gmail.com>, "Mendoza, Ana" <amendoza@theloancompany.com>
Subject: RE: question for Salam

Ok, I am ready to have you in for a signing. You can come at 3:00 pm today or 10:00 a.m. tomorrow and you all don't have to come together.

Just let me know...

Darcy Peters

The Loan Company of San Diego
2356 Moore Street #201
San Diego, CA 92110
619-293-7770 ex 13



www.theloancompany.com

From: Ninus Malan [<mailto:ninusmalan@yahoo.com>]
Sent: Tuesday, October 4, 2016 1:21 PM
To: Darcy Peters; 'salam razuki'
Cc: 'Chris Hakim'; 'Mendoza, Ana'
Subject: Re: question for Salam

Darcy,

Yes we did purchase this property subject to the current lien. It is supposed to be on there.

Ninus Malan
American Lending and Holdings LLC

Razuki Investments LLC
Lemon Grove Plaza LP
7977 Broadway
Lemon Grove CA, 91945
Main(619)750-2024
Fax (619)869-7717
NinusMalan@Yahoo.com

The information contained in this E-mail message is privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by return e-mail, or by calling the sender at 619-750-2024. Thank You.

From: Darcy Peters <dpeters@theloancompany.com>
To: 'salam razuki' <salamrazuki@yahoo.com>; 'ninusmalan' <ninusmalan@yahoo.com>
Cc: 'Chris Hakim' <symbolicrealestate@gmail.com>; "'Mendoza, Ana'" <amendoza@theloancompany.com>
Sent: Tuesday, October 4, 2016 12:52 PM
Subject: question for Salam

Salam,

I am trying to get this loan ready but now see a lien on Violet of \$156,500.00 to Degallardo.

What is this lien? Did you buy this and assume a loan on this one too or is this something that needs to be off the report?

I know about the assumption on Westwood but wasn't aware of this one.

PELASE ADVISE ASAP.

Darcy Peters

The Loan Company of San Diego
2356 Moore Street #201
San Diego, CA 92110
619-293-7770 ex 13



www.theloancompany.com



Begin forwarded message:

From: Stephanie Eckert <seckert@wrtca.com>
Date: October 12, 2016 at 9:22:24 AM PDT
To: Stephanie Eckert <seckert@wrtca.com>, Darcy Peters <dpeters@theloancompany.com>, Ninus Malan <ninusmalan@yahoo.com>, Chris Hakim <symbolicrealestate@gmail.com>
Cc: salam razuki <salamrazuki@yahoo.com>, Stephanie Eckert <seckert@westernresourcestitle.com>, galtiery@theloancompany.com, Brett Bey <bbey@theloancompany.com>
Subject: RE: update of MiraEste loan funding 125813

Checking in, any update on the corrected insurance for Westwood or signed paperwork from Salam?

Should you need anything further please do not hesitate to contact our office.

Thank you and make it a great day.

Sincerely,



Stephanie Eckert
 Escrow Officer
 Western Resources Title
 Direct (760) 690-3351 | Fax (760) 780-1594
 221 W. Crest Street, Suite 110 | Escondido CA 92025



LENDERS PLEASE NOTE:

All **loan documents** should be emailed to TeamStephanie@wrtca.com

To allow sufficient time download the documents, print and prepare for signing - please deliver the documents prior to 3:30 p.m. for anticipated same day signings.

Please click below for:

[CPL Request](#)

[BLANK Statement of Information](#)

[County Recorder Schedule](#)



Follow me on

[Click here if you have a concern, compliment or complaint](#)

From: Stephanie Eckert [<mailto:seckert@wrtca.com>]
Sent: Tuesday, October 11, 2016 12:56 PM
To: 'Darcy Peters'; 'Ninus Malan'; 'Chris Hakim'
Cc: 'salam razuki'; 'Stephanie Eckert'; 'galtiery@theloancompany.com'; 'Brett Bey'
Subject: RE: update of MiraEste loan funding 125813

Thank you Darcy, I will sit idly waiting ☺

Should you need anything further please do not hesitate to contact our office.

Thank you and make it a great day.

Sincerely,



Stephanie Eckert

Escrow Officer
Western Resources Title
Direct (760) 690-3351 | Fax (760) 780-1594
221 W. Crest Street, Suite 110 | Escondido CA 92025



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From: Darcy Peters [<mailto:dpeters@theloancompany.com>]

Sent: Tuesday, October 11, 2016 12:53 PM

To: 'Stephanie Eckert'; 'Ninus Malan'; 'Chris Hakim'

Cc: 'salam razuki'; 'Stephanie Eckert'; galtiery@theloancompany.com; 'Brett Bey'

Subject: RE: update of MiraEste loan funding 125813

Not on my end, Ninus has submitted the same certificate for Westwood 4 times now, in someone else's name and naming another Lender.

Not sure where the disconnect is.

Salam can you lets us know where we are. I thought we all were hoping to closes asap.

Darcy Peters

The Loan Company of San Diego

2356 Moore Street #201

San Diego, CA 92110

619-293-7770 ex 13



www.theloancompany.com

From: Stephanie Eckert [<mailto:seckert@wrtca.com>]

Sent: Tuesday, October 11, 2016 12:50 PM

To: Darcy Peters; Ninus Malan; Chris Hakim

Cc: salam razuki; Stephanie Eckert; galtiery@theloancompany.com; Brett Bey

Subject: RE: update of MiraEste loan funding 125813

Any update on the corrected insurance for Westwood or escrow items from Salam?

Should you need anything further please do not hesitate to contact our office.

Thank you and make it a great day.

Sincerely,



Stephanie Eckert
Escrow Officer
Western Resources Title
Direct (760) 690-3351 | Fax (760) 780-1594
221 W. Crest Street, Suite 110 | Escondido CA 92025



LENDERS PLEASE NOTE:

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From: Darcy Peters [<mailto:dpeters@theloancompany.com>]

Sent: Tuesday, October 11, 2016 9:21 AM

To: 'Ninus Malan'; 'Stephanie Eckert'; 'Chris Hakim'

Cc: 'salam razuki'; 'Stephanie Eckert'; galtiery@theloancompany.com; 'Brett Bey'

Subject: RE: update of MiraEste loan funding 125813

This is the 3rd time you have submitted the Westwood insurance cert like this.

The name has to be our borrower and we must be an Additional Insured.

Darcy Peters

The Loan Company of San Diego

2356 Moore Street #201

San Diego, CA 92110

619-293-7770 ex 13



www.theloancompany.com

From: Ninus Malan [<mailto:ninusmalan@yahoo.com>]

Sent: Monday, October 10, 2016 5:21 PM

To: Stephanie Eckert; Chris Hakim

Cc: Darcy Peters; salam razuki; Stephanie Eckert

Subject: Re: update of MiraEste loan funding 125813

See attached insurance for violet and westwood

Ninus Malan

American Lending and Holdings LLC
Razuki Investments LLC
Lemon Grove Plaza LP
7977 Broadway
Lemon Grove CA, 91945
Main(619)750-2024
Fax (619)869-7717
NinusMalan@Yahoo.com

The information contained in this E-mail message is privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by return e-mail, or by calling the sender at 619-750-2024. Thank You.

From: Stephanie Eckert <seckert@wrtca.com>
To: Chris Hakim <symbolicrealestate@gmail.com>
Cc: Darcy Peters <dpeters@theloancompany.com>; ninusmalan <ninusmalan@yahoo.com>; salam razuki <salamrazuki@yahoo.com>; Stephanie Eckert <seckert@westernresourcestitle.com>
Sent: Monday, October 10, 2016 9:16 AM
Subject: RE: update of MiraEste loan funding 125813

Wire instructions received

Should you need anything further please do not hesitate to contact our office.

Thank you and make it a great day.

Sincerely,



Stephanie Eckert

Escrow Officer
Western Resources Title
Direct (760) 690-3351 | Fax (760) 780-1594
[221 W. Crest Street, Suite 110 | Escondido CA 92025](http://www.westernresourcestitle.com)



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All **loan documents** should be emailed to TeamStephanie@wrtca.com

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From: Chris Hakim [<mailto:symbolicrealestate@gmail.com>]
Sent: Sunday, October 09, 2016 9:41 AM
To: Stephanie Eckert
Cc: Darcy Peters; ninusmalan; salam razuki; Stephanie Eckert
Subject: Re: update of MiraEste loan funding 125813

Attached are the wiring instructions.

On Sat, Oct 8, 2016 at 12:28 PM, Stephanie Eckert <seckert@wrtca.com> wrote:
Chris – I am in receipt of your escrow items, thank you. I see your disbursement instructions indicate there are wire instructions attached, but I did not find such attachment. Please sent

Salam – I need you to print, sign and return the attached

I am currently waiting for title to tell me what additional items may be required, if any

We are currently in need of evidence of insurance for Violet and Westwood properties

Should you need anything further please do not hesitate to contact our office.

Thank you and make it a great day.

Sincerely,



Stephanie Eckert

Escrow Officer
Western Resources Title
Direct (760) 690-3351 | Fax (760) 780-1594
221 W. Crest Street, Suite 110 | Escondido CA 92025



LENDERS PLEASE NOTE:

All **loan documents** should be emailed to TeamStephanie@wrtca.com

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From: Darcy Peters [<mailto:dpeters@theloancompany.com>]
Sent: Friday, October 07, 2016 9:21 AM
To: 'ninusmalan'; 'salam razuki'
Cc: 'Chris Hakim'; 'Stephanie Eckert'
Subject: update of MiraEste loan funding

Good Morning Gentlemen,

I understand everyone is looking forward to funding this deal but escrow still is needing some items from Salam and Ninus. Please reach out to escrow directly if you are unsure what to send.

Additionally, I am still need the cert. on Westwood.

Darcy Peters

The Loan Company of San Diego
2356 Moore Street #201
San Diego, CA 92110
[619-293-7770](tel:619-293-7770) ex 13



www.theloancompany.com

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To prevent the disclosure of non-public information, this message has been secured by the Western Resources Title eMail encryption service. This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, is confidential and legally privileged. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

--

Chris Hakim

Broker

License #01353790

858-373-8781 DIRECT

619-900-4185 OFFICE



**1545 Hotel Circle South Ste. 145
San Diego, CA 92108**

----- Forwarded Message -----

From: Luke Gaskins <lukegaskins@tgventures.com>
To: "ninusmalan@yahoo.com" <ninusmalan@yahoo.com>
Cc: "salamrazuki@yahoo.com" <salamrazuki@yahoo.com>
Sent: Thursday, September 22, 2016, 5:23:05 PM PDT
Subject: Re: Luke Gaskins - Salam Razuki

I absolutely agree. I was looking at the city records and there were other loans showing up on the property - I'm just making sure so we don't waste any time after the prelim gets here.

I'll revise the prelim order.

-Luke

On 9/22/2016 5:02 PM, ninusmalan wrote:

Luke,

See below for total Liens on properties.

14515 Arroyo Hondo
San Diego CA

1st Lien \$750k
2nd Lien \$160k

Property Value \$1.45 Mil

Equity in Property \$505k

7335 Prairie mound way
san diego ca 92139

1st Lien \$325k

No second

Property Value \$475k

Equity in property \$150k

These properties have sufficient equity to secure this loan. Please feel free to contact me.

Best regards,

Ninus Malan

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Luke Gaskins <lukegaskins@tgpventures.com>

Date: 9/22/16 4:17 PM (GMT-08:00)

To: Ninus Malan <ninusmalan@yahoo.com>

Cc: Salam Razuki <salamrazuki@yahoo.com>

Subject: Re: Luke Gaskins - Salam Razuki

Ninus,

It looks like there are already *large* 2nd liens on all of these. See attach.

Let me know if those are still in place.

Thanks,

-Luke

On 9/22/2016 11:02 AM, Ninus Malan wrote:

Luke,

I hope your doing well. I have a property that you can use. See below. I only have a first on it. Please let me know if this property will work. It sits on 2.5 Acres.

12455 Beatitude
Valley Center CA 92081

Best regards,

Ninus Malan
American Lending and Holdings LLC
Razuki Investments LLC
Lemon Grove Plaza LP
7977 Broadway
Lemon Grove CA, 91945
Main(619)750-2024
Fax (619)869-7717
NinusMalan@Yahoo.com

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From: Luke Gaskins <lukegaskins@tgpventures.com>
To: ninusmalan <ninusmalan@yahoo.com>
Cc: Keith Henderson <reokeith@gmail.com>; Salam Razuki <salamrazuki@yahoo.com>
Sent: Wednesday, September 21, 2016 7:48 PM
Subject: Re: Luke Gaskins - Salam Razuki

Ninus,

I must have misunderstood your prior emails. My apologies.

You are not able to cross the Violet and Westwood properties?

I'm also quite confident in your ability to re-pay the loan. However I need to be at certain LTV metrics for my back end compliance.

-Luke

Sent from my iPhone

On Sep 21, 2016, at 7:44 PM, ninusmalan <ninusmalan@yahoo.com> wrote:

Luke,

Thank you for the LOI. It all looks good, just that there is 2 properties on that list that we have allocated to another project. That is why we added bar bit and loch Lomond. Below you will find the two properties.

2319 Westwood st, San Diego CA

2544 Violet St, San Diego CA

These properties are allocated to another project. I do understand that Loch Lomond is crossed with other property. I should have another one if necessary. We plan to pay this loan back asap.

Please advise,

Ninus Malan

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Luke Gaskins <lukegaskins@tgpventures.com>
Date: 9/21/16 7:37 PM (GMT-08:00)
To: ninusmalan <ninusmalan@yahoo.com>, Keith Henderson
<reokeith@gmail.com>
Cc: Salam Razuki <salamrazuki@yahoo.com>
Subject: Re: Fwd: Luke Gaskins - Salam Razuki

LOI attached.
I bumped the loan amount up from the prior email.
Just waiting on the prelim from Ryan now.

Best Regards,
-Luke

On 9/21/2016 9:41 AM, ninusmalan wrote:
Luke,

Yes that is fine. Let's move forward.

Best regards,

Ninus Malan

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Luke Gaskins <lukegaskins@tgpventures.com>
Date: 9/21/16 9:09 AM (GMT-08:00)
To: Ninus Malan <ninusmalan@yahoo.com>, Keith Henderson
<reokeith@gmail.com>
Cc: Salam Razuki <salamrazuki@yahoo.com>
Subject: Re: Fwd: Luke Gaskins - Salam Razuki

Good Morning Gents,
I see the Cardiff property having a 1.9mm secured against it as part of a large
cross. If that's the case let's throw in Pine Grove as well and we should be good.
I'll take off the Broadway properties.
It will be easiest if you close Balboa in Razuki Investments LLC, so the title is the
same for all of them.
Let me know if this is okay and I'll have Ryan amend the prelim report.
Thanks,
-Luke

On 9/20/2016 6:52 PM, Ninus Malan wrote:

Luke,

You will find a breakdown of the debts for each property below.

We did assume the loan for one of the properties as that is what we normally do. Thanks Brother! It is always nicer to just pick up the existing loan and move on to the project.

I will get you a statement for the Bar Bit Property. The property at Loch Lomond is with a private lender in which we dont receive a statement. I will try to get a Statement of Status from the lender.

We will be setting up a new entity. I will forward over the new LLC name once I receive it. I believe for now we can keep it in the name of "Razuki Investment LLC". Please let me know if there is anything additional you may need.

1341 Loch Lomond Dr.

Cardiff By The Sea, CA 92007

1st Lien - \$300k
Property Value - \$600k

2389 Bar Bit
Spring Valley CA 91978

1st Lien - \$250K Approximatey
Property Value - \$550

Best regards,

Ninus Malan
American Lending and Holdings LLC
Razuki Investments LLC
Lemon Grove Plaza LP
7977 Broadway
Lemon Grove CA, 91945
Main(619)750-2024
Fax (619)869-7717
NinusMalan@Yahoo.com

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From: Luke Gaskins <lukegaskins@tgpventures.com>
To: Ninus Malan <ninusmalan@yahoo.com>; Keith Henderson <reokeith@gmail.com>
Cc: Salam Razuki <salamrazuki@yahoo.com>
Sent: Tuesday, September 20, 2016 2:34 PM
Subject: Re: Fwd: Luke Gaskins - Salam Razuki

Thank you Ninus.
How much debt is on each of these properties, individually?
Could you send me the most recent mortgage statements for each? I'm guessing that you assumed the existing mortgages from the old owners - nicely played.
Also - will you be creating a new entity to hold the Balboa street properties? What name?
-Luke

On 9/20/2016 2:28 PM, Ninus Malan wrote:

Luke,

Thank you for your offer. We would like to make this work by using two other nicer properties as we have the other two allocated already. We can give you a 2nd on each of the properties below along with the other properties you have requested. They both hold great equity and are in nice communities. Again, thank you for your consideration. Please feel free to contact me with any questions.

Best regards

Allocated Properties

--

William 'Luke' Gaskins
TGP Ventures LLC | Principal

Cell: (858)-367-3327
Office: (858)-951-3182
Fax: (866)-887-1022

www.tgpventures.com

--

William 'Luke' Gaskins
TGP Ventures LLC | Principal

Cell: (858)-367-3327
Office: (858)-951-3182
Fax: (866)-887-1022

----- Forwarded Message -----

From: Susana Serrano <susana@thehrc.org>
To: "salamrazuki@yahoo.com" <salamrazuki@yahoo.com>
Cc: gabriela cueto <dcuetog@icloud.com>
Sent: Wednesday, May 10, 2017, 1:12:21 PM PDT
Subject: RE: Fwd: 5 Units Budget

Thank you!

----- Original Message -----

Subject: Fwd: 5 Units Budget
From: salamrazuki@yahoo.com
Date: Wed, May 10, 2017 1:09 pm
To: Susana Serrano <susana@thehrc.org>

Begin forwarded message:

> **From:** Ninus Malan <ninusmalan@yahoo.com>
> **Date:** May 10, 2017 at 11:17:06 AM PDT
> **To:** Salam Razuki <salamrazuki@yahoo.com>
> **Subject:** 5 Units Budget
> **Reply-To:** Ninus Malan <ninusmalan@yahoo.com>

>
> See attached

>
> Ninus Malan
> American Lending and Holdings LLC
> Razuki Investments LLC
> Lemon Grove Plaza LP
> 7977 Broadway
> Lemon Grove CA, 91945
> Main(619)750-2024
> Fax (619)869-7717
> NinusMalan@Yahoo.com

>
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Begin forwarded message:

From: Chris Hakim <symbolicrealestate@gmail.com>
Date: September 8, 2016 at 9:55:56 AM PDT
To: John Lloyd <jlloyd@theloancompany.com>
Cc: salam razuki <salamrazuki@yahoo.com>, Ninus Malan <ninusmalan@yahoo.com>
Subject: Mire Este TI's

Hi John,

We have began our TI's on Mire Este and are requesting a loan for \$600,000 for Phase I. We would like to structure an interest only loan for the first 12 months and work out an aggressive principal pay down in months 13-36.

Once Phase I is complete and producing income, we can discuss future TI's in the building.

Let me know your thoughts?

Sincerely,

--

Chris Hakim
Broker
License #01353790
858-373-8781 DIRECT
619-900-4185 OFFICE



1545 Hotel Circle South Ste. 145
San Diego, CA 92108

Begin forwarded message:

From: Richard Alvarez <alvarez.bookkeeping@gmail.com>
Date: March 13, 2018 at 3:35:27 PM PDT
To: salamrazuki@yahoo.com
Cc: Ninus Malan <ninusmalan@yahoo.com>
Subject: CORPORATION EXTENSION 2017

HI SALAM THIS ARE NINUS EXTENSION FOR HIS CORPORATIONS
NEED TO BE PAY NO LATER OF MARCH 15TH
THANKS
ALMA
Best regards,

Alvarez Bookkeeping Services
247 E Street
Chula Vista, California 91910
Telephone: (619) 421-7051
Facsimile: (619) 420-1337

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----- Forwarded Message -----

From: Chris Hakim <symbolicrealestate@gmail.com>

To: Ninus Malan <ninusmalan@yahoo.com>; salam razuki <salamrazuki@yahoo.com>

Sent: Saturday, May 20, 2017, 6:48:52 AM PDT

Subject: Final Documents - Mira Este

Dave has the original copies and will send us the executed version. These are the FINAL documents.

--

Chris Hakim

Broker

License #01353790

858-373-8781 DIRECT

619-900-4185 OFFICE

1545 Hotel Circle South Ste. 145

San Diego, CA 92108

Begin forwarded message:

From: Mitchell Brodie <mitch@developerscapitalinc.com>
Date: August 24, 2016 at 7:14:03 AM PDT
To: Ninus Malan <ninusmalan@yahoo.com>
Cc: Marcus Carter <marcus@gntfs.com>, Salam Razuki <salamrazuki@yahoo.com>
Subject: RE: Balboa Location Purchase Agreements

Hi Ninus,

Would you kindly send us some information about the licensing? We will look to the City website for information. We will need the lease between the tenant and Razuki Investments. The PSA shows Razuki Investments as a Corporation. If so, please send over your corporate organizational documents. We show Razuki Investments as an LLC on the last loan. We are ordering Preliminary Title Reports this morning.

Mitch

Mitchell J. Brodie, President



O 858-695-3701

C 858-231-3313

Email: mitch@developerscapitalinc.com

Web: www.developerscapitalinc.com

From: Ninus Malan [<mailto:ninusmalan@yahoo.com>]
Sent: Tuesday, August 23, 2016 6:09 PM
To: Mitchell Brodie <mitch@developerscapitalinc.com>
Cc: Marcus Carter <marcus@gntfs.com>; Salam Razuki <salamrazuki@yahoo.com>
Subject: Fw: Balboa Location Purchase Agreements

Here are the attachments.

Best regards,

Ninus Malan
American Lending and Holdings LLC
Razuki Investments LLC
Lemon Grove Plaza LP
7977 Broadway
Lemon Grove CA, 91945
Main(619)750-2024
Fax (619)869-7717
NinusMalan@Yahoo.com

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----- Forwarded Message -----

From: Ninus Malan <ninusmalan@yahoo.com>
To: Mitchell Brodie <mitch@developerscapitalinc.com>
Cc: Salam Razuki <salamrazuki@yahoo.com>; "Marcus@gntfs.com" <Marcus@gntfs.com>
Sent: Tuesday, August 23, 2016 6:06 PM
Subject: Balboa Location Purchase Agreements

Mitch,

It was a pleasure meeting with you and Marcus today. Salam was very impressed at some of the things you can do for us. Attached you will find 2 purchase agreements for 2 units on Balboa Ave. This is a very time sensitive deal and we would like to close asap. Again please keep this deal confidential between us. We already have \$25,000.00 hard deposit on each unit. Please let me know what additional information you may need to get started.

Thank you again for all your help.

Best regards,

Ninus Malan
American Lending and Holdings LLC
Razuki Investments LLC
Lemon Grove Plaza LP
7977 Broadway
Lemon Grove CA, 91945
Main(619)750-2024
Fax (619)869-7717
NinusMalan@Yahoo.com

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Begin forwarded message:

From: "Ana Mendoza" <amendoza@theloancompany.com>
Date: December 13, 2017 at 2:36:11 PM PST
To: "Ninusmalan" <ninusmalan@yahoo.com>
Cc: <salamrazuki@yahoo.com>
Subject: Financials / Insurance

Good Afternoon

I am processing your new loan, and I need the following documents to move forward
-Salam Razuki (2016 Tax Returns, Personal Financial Statements, Updated Credit Report)
-Ninus Malan (2015-2016 Tax Returns, Personal Financial Statement, Updated Credit Report)
-Property Insurance with loan #1521 and our name and address list as Mortgagee/ Loss Payee.

Thank you

Ana Mendoza
The Loan Company of San Diego
2356 Moore Street Ste 203
San Diego, CA 92110
619-293-7770 ext 16
amendoza@theloancompany.com
www.theloancompany.com



Begin forwarded message:

From: Luke Gaskins <lukegaskins@tgpventures.com>
Date: May 11, 2017 at 9:29:10 PM PDT
To: ninusmalan <ninusmalan@yahoo.com>
Cc: Ryan Lipsey Title <Ryan.Lipsey@title365.com>, Keith Remax <reokeith@gmail.com>, SR Razuki 1 <salamrazuki@yahoo.com>
Subject: Re: Paid Off

Sounds good Ninus - I'll get you an updated payoff tomorrow.

I've been traveling this week and mostly out of pocket.

Good luck with all the endeavors - don't forget about me when you guys are rich and famous.

Best Regards,
Luke

On May 11, 2017, at 8:57 PM, ninusmalan <ninusmalan@yahoo.com> wrote:

Luke,

It has been a while since I've heard from you. No worries brother hope your doing well. Great news! Just wanted to update you that we will be paying you completely off manana. There are no more issues and we will be free and clear with you! ;)

If you can brother and hopefully we can work this out on both of our own times, you can get me an updated payoff since we paid our May payment to you. We need the new payoff to reflect the May payment we've made. It will be refreshing to get past this road block and move on to new horizons with Sun shining bright for us.

Let me know if you need any help calling FCI or consulting with any outside parties for assistance. I am more then available to assist you. Again I hope your doing well and wish success in your constant traveling.

Best regards,

Ninus Malan

Sent from my Verizon, Samsung Galaxy smartphone

----- Forwarded Message -----

From: Chris Hakim <symbolicrealestate@gmail.com>

To: Clint Pyatt <clintonpyatt@msn.com>; Jeff Goh <jeffgohkjg@gmail.com>

Cc: PrimaCan Tablets <primacantablets@gmail.com>; Ninus Malan <ninusmalan@yahoo.com>; salam razuki <salamrazuki@yahoo.com>; Clint Pyatt <cpyatt@notisglobal.com>

Sent: Monday, December 12, 2016, 7:14:41 AM PST

Subject: Mira Este Update

Clint/Jeff,

The partners and I had a meeting over the weekend and we are concerned you will NOT meet the February 1st deadline. There is approximately 45 days remaining and the TI plan is still pending and there has been no progress at the property.

I pulled up the timeline of events we received from your group on October 31st outlining the schedule of events. Nothing on the timeline has been accomplished.

We are here to help in any way, please provide a detail update on your status.

Sincerely,

--

Chris Hakim

Broker

License #01353790

858-373-8781 DIRECT

619-900-4185 OFFICE



1545 Hotel Circle South Ste. 145

San Diego, CA 92108



Begin forwarded message:

From: Irma Perez <iperez@strongtieinsurance.com>
Date: September 13, 2017 at 4:16:18 PM PDT
To: "'salamrazuki@yahoo.com'" <salamrazuki@yahoo.com>
Cc: 'Ninus Malan' <ninusmalan@yahoo.com>
Subject: **BINDER FOR MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION**

Please attached binder per your records

Thanks

Irma Leticia Perez
Personal Lines General Manager
Strong Tie Insurance Services Inc.
4249 E Florence Ave
Bell, CA 90201
iperez@strongtieinsurance.com
Tel (800) 924-7070
Fax & Text (323) 771-5111

Begin forwarded message:

From: "Claudia Garcia" <Claudia@amecsd.com>
Date: March 10, 2017 at 3:20:59 PM PST
To: "Ninus Malan" <ninusmalan@yahoo.com>, "Salam Razuki" <salamrazuki@yahoo.com>
Subject: RE: 146333P/ Balboa Ave Cooperative

Ninus,

Only one change: Per Mr. Razuki, I changed the paragraph to read as follows:

"PAYMENT CONTINGENCY: PAYMENT OF THIS NOTE IS CONTINGENT ON BUYER BEING ABLE TO OPERATE THE BUSINESS WITHIN 90 DAYS OF DATE OF POSSESSION. IN THE EVENT THE BUYER IS UNABLE TO OPERATE THE BUSINESS WITHIN THE 90 DAYS DUE TO HOMEOWNER'S ASSOCIATION OR CITY RESTRICTIONS AND REGULATIONS, THEN THE NOTE SHALL BE NULL AND VOID."

Let me know if that's approved by you. I tried calling you but got voice mail.

Claudia Garcia, Escrow Officer
Allison McCloskey Escrow Company ~ Since 1946 ~ 4820 El Cajon Blvd., San Diego, CA 92115 Ph. (619)583-5110 x15 Fax (619)583-7190
claudia@amecsd.com

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-----Original Message-----

From: Claudia Garcia
Sent: Friday, March 10, 2017 1:29 PM
To: 'Ninus Malan'; 'Salam Razuki'
Subject: 146333P/ Balboa Ave Cooperative

Hello,

I have made the changes requested by Ninus:

Buyer's name corrected
DBA of buyer clarified
Liabilities paragraph included on page 2 Payment contingency provided by buyer- page 3
Inventory- please confirm if applicable.

Let me know if these are approved as shown. I strongly advise you to speak to your attorney regarding the Payment contingency as I do not know how endorsable that is. We will order the note and other documents be prepared by Dave Jarvis, let me know if you would like to reach out to him to ask.

Claudia Garcia, Escrow Officer
Allison McCloskey Escrow Company ~ Since 1946 ~ 4820 El Cajon Blvd., San Diego, CA 92115 Ph. (619)583-5110 x15 Fax (619)583-7190
claudia@amecsd.com

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Further, the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately by e-mail and delete the original.



Begin forwarded message:

From: "Claudia Garcia" <Claudia@amecsd.com>
Date: October 10, 2016 at 10:50:01 AM PDT
To: "Ninus Malan" <ninusmalan@yahoo.com>
Cc: "Salam Razuki" <salamrazuki@yahoo.com>
Subject: Deeds and Note

Hi Ninus,

Attached are the deeds required. Ninus please confirm you are the managing member for Gateway before signing them, as I do not have your LLC docs. Reminder to provide the Gateway LLC documents so I can forward them to title.

I am also sending the blank Note. I thought I better have an original completely signed by both just in case it's not approved by the lender, then I'll already have the Note signed by both. DO NOT DATE THE NOTE, I'll do that for you.

Please deliver all originals to me.

Claudia Garcia, Escrow Officer
Allison McCloskey Escrow Company ~ Since 1946 ~
4820 El Cajon Blvd., San Diego, CA 92115
claudia@amecsd.com Ph. (619)583-5110 x15 Fax (619)583-7190

****Be aware! Online banking fraud is on the rise. If you receive an email containing WIRE TRANSFER INSTRUCTIONS call your escrow officer immediately to verify the information prior to sending funds.****

Begin forwarded message:

From: Crystal Mendez <Crystal.Mendez@title365.com>
Date: September 8, 2016 at 9:53:15 AM PDT
To: Ninus Malan <ninusmalan@yahoo.com>, Alan Angeles <Alan.Angeles@aecommercial.com>
Cc: John Carroll <John.Carroll@title365.com>, Phil Emery <Phil.Emery@aecommercial.com>, teamrestine <teamrestine@title365.com>, "Salam Razuki" <salamrazuki@yahoo.com>, Chris Hakim <symbolicrealestate@gmail.com>
Subject: RE: 10685 Roselle St Prelim

Good Morning
Attached please find the escrow amendment to review

Have a wonderful day!

Crystal Mendez
Escrow Officer assisting Nicole Restine
Direct : 619.564.5636 Fax : 844-251-3713
Please Use Team Email : teamrestine@title365.com
Title365 : 8880 Rio San Diego, Suite 1100 | San Diego | CA 92108 | <http://www.title365.com>

From: Ninus Malan [<mailto:ninusmalan@yahoo.com>]
Sent: Wednesday, September 7, 2016 4:53 PM
To: Crystal Mendez <Crystal.Mendez@title365.com>; Alan Angeles <Alan.Angeles@aecommercial.com>
Cc: John Carroll <John.Carroll@title365.com>; Phil Emery <Phil.Emery@aecommercial.com>; teamrestine <teamrestine@title365.com>; Salam Razuki <salamrazuki@yahoo.com>; Chris Hakim <symbolicrealestate@gmail.com>
Subject: Re: 10685 Roselle St Prelim

Crystal,

Any update on this amendment yet? Also, can you please send me wire instructions?

Ninus Malan

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From: Ninus Malan <ninusmalan@yahoo.com>
To: Crystal Mendez <Crystal.Mendez@title365.com>; Alan Angeles <Alan.Angeles@aecommercial.com>
Cc: John Carroll <John.Carroll@title365.com>; Phil Emery <Phil.Emery@aecommercial.com>; teamrestine <teamrestine@title365.com>; Salam Razuki <salamrazuki@yahoo.com>; Chris Hakim <symbolicrealestate@gmail.com>
Sent: Tuesday, September 6, 2016 10:49 AM
Subject: Re: 10685 Roselle St Prelim

Crystal,

The buyer is assigning it to entity name below. Also can we incorporate the seller carry back in the new amendment as well so we can wrap everything up in one document.

Please advise.

Entity name

Roselle Properties LLC

Ninus Malan

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From: Crystal Mendez <Crystal.Mendez@title365.com>
To: Ninus Malan <ninusmalan@yahoo.com>; Alan Angeles <Alan.Angeles@aecommercial.com>
Cc: John Carroll <John.Carroll@title365.com>; Phil Emery <Phil.Emery@aecommercial.com>; teamrestine <teamrestine@title365.com>
Sent: Tuesday, September 6, 2016 8:26 AM
Subject: RE: 10685 Roselle St Prelim

Good Morning

I can draft a new amendment for the assignment. Please advise who the buyer is assigning to?

Have a wonderful day!

Crystal Mendez

Escrow Officer assisting Nicole Restine

Direct : 619.564.5636 Fax : 844-251-3713

Please Use Team Email : teamrestine@title365.com

Title365 : 8880 Rio San Diego, Suite 1100 | San Diego | CA

92108 | <http://www.title365.com>

From: Ninus Malan [<mailto:ninusmalan@yahoo.com>]

Sent: Sunday, September 4, 2016 5:00 PM

To: Alan Angeles <Alan.Angeles@aecommercial.com>; Crystal Mendez <Crystal.Mendez@title365.com>

Cc: John Carroll <John.Carroll@title365.com>; Phil Emery <Phil.Emery@aecommercial.com>

Subject: Re: 10685 Roselle St Prelim

Alan,

Thank you for the amendment. If its possible the buyer would like to add to the amendment the assignment to the New Entity. Can we add the assignment to the amendment or we can draft a new assignment. Please advise how we can proceed? Thank you for all your help.

Best regards,

Ninus Malan

American Lending and Holdings LLC

Razuki Investments LLC

Lemon Grove Plaza LP

7977 Broadway

Lemon Grove CA, 91945

Main(619)750-2024

Fax (619)869-7717

NinusMalan@Yahoo.com

The information contained in this E-mail message is privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by return e-mail, or by calling the sender at 619-750-2024. Thank You.

From: Alan Angeles <Alan.Angeles@aecommercial.com>

To: Crystal Mendez <Crystal.Mendez@title365.com>

Cc: Ninus Malan <ninusmalan@yahoo.com>; John Carroll <John.Carroll@title365.com>; Phil Emery <Phil.Emery@aecommercial.com>

Sent: Friday, September 2, 2016 1:45 PM
Subject: RE: 10685 Roselle St Prelim

Here is the seller executed amendment.
Thanks and have a great weekend!
Alan Angeles
Alan.Angeles@AECommercial.com
619.800.6070

On Sep 2, 2016 11:21 AM, "Crystal Mendez" <Crystal.Mendez@title365.com> wrote:

Attached please find requested amendment
Thank you
Have a wonderful day.

CRYSTAL MENDEZ | Escrow Officer

Direct : [619-564-5625](tel:619-564-5625) | **Fax :** [855-888-0136](tel:855-888-0136)

Email : Crystal.Mendez@title365.com

Title365 : 8880 Rio San Diego Drive, Suite 1100 | San Diego | CA 92108 | <http://www.title365.com>

Begin forwarded message:

From: "Darcy Peters" <dpeters@theloancompany.com>
Date: January 22, 2018 at 9:54:56 AM PST
To: "'Ninus Malan'" <ninusmalan@yahoo.com>, "'salam razuki'" <salamrazuki@yahoo.com>
Subject: copy of check still needed

Good morning Salam & Ninus,

Please remember to send in a copy of the check you would like me to use for the ACH payments to begin in March 2018.

Thank you kindly~

Darcy Peters

The Loan Company of San Diego
2356 Moore Street #203
San Diego, CA 92110
619-293-7770 ex 13



www.theloancompany.com

Begin forwarded message:

From: "John Lloyd" <jlloyd@theloancompany.com>
Date: July 11, 2018 at 9:07:40 AM PDT
To: "Chris Hakim" <symbolicrealestate@gmail.com>
Cc: "Ninus Malan" <ninusmalan@yahoo.com>, "salam razuki" <salamrazuki@yahoo.com>, "Darcy Peters" <dpeters@theloancompany.com>, "Allan Paranada" <aparanada@theloancompany.com>
Subject: Miraeste Properties LLC #1272 - Past Due Paydowns

Guys,

As always thank you for keeping the two Miraeste Properties loans current.

I know I have already mentioned this before, and you said you are working on it, but the scheduled loan pay downs (loan #1272) need to be current to keep the loan from going into default. (see attached note modification- with schedule)

Please get back to me regarding getting the April and July pay downs

John P. Lloyd
President
The Loan Company of San Diego
2356 Moore Street, Suite 203
San Diego, CA 92110
(619) 293-7770 ex. 20 office
702-379-3468 cell
CA DRE Broker License # 01376920
NMLS ID#345838
www.theloancompany.com

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Exhibit 2

To: ninusmalan



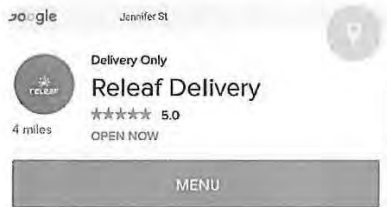
So he open already

No still closed

But look how he copy us!

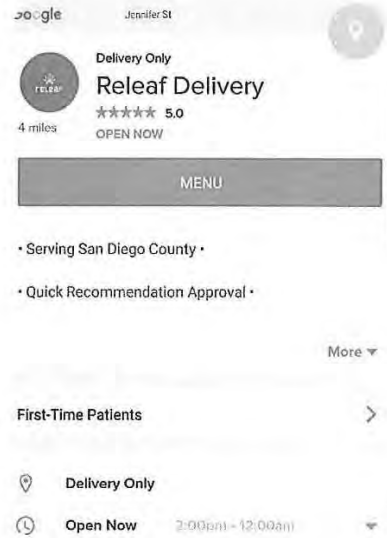
He's a fucking loser

May 12, 2017, 5:36 PM



To: ninusmalan

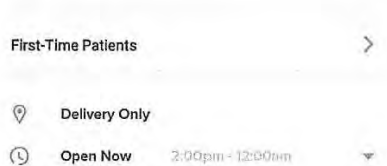
May 12, 2017, 5:36 PM



Who is this

May 12, 2017, 8:55 PM

To: ninusmalan



Who is this

May 12, 2017, 8:55 PM

101 patients today sir

I know
Good job

Thank you sir

May 14, 2017, 7:12 PM

Thank you and yes. Her name is Sequia

To: ninusmalan

May 17, 2017, 5:05 PM

Fwd. Salam please call or text me at [858-349-0223](tel:858-349-0223) as soon as you know if the appraiser will have access tomorrow so I can let him know right away. Thanks, Donna

We are good to go between 11-2

Can you call her please

May 18, 2017, 7:10 PM

I will call you shortly.

To: ninusmalan

We are good to go between 11-2

Can you call her please

May 18, 2017, 7:10 PM

I will call you shortly.

Check your e Mail

I did

Django?

Yes he have investor

May 19, 2017, 8:43 AM

To: ninusmalan

Yes he have investor

May 19, 2017, 8:43 AM

Security company wants a continuance for the trial

Is that ok?

It's up to you

May 21, 2017, 11:05 AM

Are you working today

Yes
Call me

I did

To: ninusmalan

Check your e Mail

I did

Django?

Yes he have investor

May 19, 2017, 8:43 AM

Security company wants a continuance for the trial

Is that ok?

It's up to you

May 21, 2017, 11:05 AM

To: ninusmalan

5k today sir

Ok good hobo

Job

May 23, 2017, 1:09 PM



To: ninusmalan


need to meet with you today
I don't want to discuss over
the phone let me know
what's a good time today to
meet and where

Delivered

Today 1:59 PM

Call me urgently received
paper from escrow comp

He's talking about the
amendment paper

google.com 

May 26, 2017, 2:28 PM

On my way

May 26, 2017, 6:31 PM

Fwd::My investor received

To: ninusmalan

especially right now when
we are in better position
with the five units

I agree

How long will you be there
for

I wait for you if you want We
have to show the partner
that we know what we doing

Did you bring the new girl or
did Sam bring her?

Yes wait for me.

I did bring her

To: ninusmalan

We had a good day
yesterday

I talked to them yesterday
about the scheduling.

Was a mess in the morning I
stay there 3 hours we had
to hire a girl that right the
way
There's a a big mess there
we have to to focus on it
especially right now when
we are in better position
with the five units

I agree

How long will you be there

To: ninusmalan

How long will you be there
for

I wait for you if you want We
have to show the partner
that we know what we doing

Did you bring the new girl or
did Sam bring her?

Yes wait for me.

I did bring her

Ok good job

Ok good job

Where do you want to
meet?

To: ninusmalan

Yes wait for me.

I did bring her

Ok good job

Ok good job

Where do you want to meet?

I'm almost there

Ok see you there

May 29, 2017, 2:15 PM



To: ninusmalan

Thanks brother that's why am working very hard and sometime I'm mean on you because I want you to be better than me

That mean a lot to me

I swear to god that how I think about you

Your going to make me cry

In my heart I really want to be like you

You are very smart and you always find a way for us

I'm very honored and proud to follow you sir

To: ninusmalan

Yes I really like it that's me I want you to listen to it all the time

It is you... it made me think of you

Thanks brother that's why am working very hard and sometime I'm mean on you because I want you to be better than me

That mean a lot to me

I swear to god that how I think about you

To: ninusmalan

I swear to god that how I think about you

Your going to make me cry

In my heart I really want to be like you

You are very smart and you always find a way for us

I'm very honored and proud to follow you sir



Don't say that your my brother that's why I want

To: ninusmalan



Don't say that your my brother that's why I want you to be better than me

I will push myself harder

Please

May 30, 2017, 8:06 AM

Good morning sir

Good morning I'm five minutes away from you

5/26/2017	Beginning Balance		
Deposit 5/25	6,092.00		
Rent	- 7,339.00		
Conto	- 20.00		Safe Count 5336
Party City	- 204.00		
Payroll - Jenua			
Ending Balance	1,991.00		

To: ninusmalan

minutes away from you

5/26/2017	Beginning Balance		
Deposit 5/25	6,092.00		
Rent	- 7,339.00		
Conto	- 20.00		Safe Count 5336
Party City	- 204.00		
Payroll - Jenua			
Ending Balance	1,991.00		
5/27/2017	Beginning Balance		
Deposit 5/26	8,499.00		
Payment - Raup	- 2,184.00		
Payment - Tishah	- 184.00		
ITP PH Power	- 800.00		
Ending Balance	5,728.00		
5/28/2017	Beginning Balance		
Payment - Pramio Gila	- 400.00		
Deposit 5/27	6,589.00		
Payment - ATMA	- 2,000.00		
Ending Balance	9,907.00		
5/29/2017	Beginning Balance		
Deposit 5/28	8,118.00		
Payment - CEO Mendo	- 433.00		
Payment - Dan	- 5,443.00		
Payment - ATMA	- 2,000.00		
Ending Balance	10,155.00		
5/30/2017	Beginning Balance		
Deposit 5/29	4,306.00		
Payment - ATMA	- 2,000.00		
Ending Balance	12,461.00		Safe Total 12,573
5/31/2017	Beginning Balance		

May 30, 2017, 5:22 PM



To: ninusmalan

May 30, 2017, 8:06 AM

Good morning sir

Good morning I'm five minutes away from you

5/26/2017	Beginning Balance		
Deposit 5/25	6,092.00		
Rent	- 7,339.00		
Conto	- 20.00		Safe Count 5336
Party City	- 204.00		
Payroll - Jenua			
Ending Balance	1,991.00		
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Ending Balance	10,155.00		
5/30/2017	Beginning Balance		
Deposit 5/29	4,306.00		
Payment - ATMA	- 2,000.00		
Ending Balance	12,461.00		Safe Total 12,573
5/31/2017	Beginning Balance		

To: ninusmalan

May 30, 2017, 5:22 PM



To: ninusmalan

Be right there

May 31, 2017, 8:23 PM

I have you heard from him, normally he would call me. Want to make sure he is ok

Hi
Yes he say he's on his way to the store

Good, Dave Jarvis will send us a letter to send to clint very soon today

Ok good I like that
Delivered

Saturday 8:50 AM

Call me when you have time

Today 8:20 PM

Can you

I'm talking to him

To: ninusmalan

Ok

Jun 2, 2017, 3:18 PM

Item Description	Quantity	Unit	Est. Amount
Event Staff Charge Admin Fee	1.00	Each	\$200.00
General Fund Maintenance	1.00	Each	\$170.00
Meeting	1.00	Each	\$80.00
Approved Total:			\$1,171.00
Job Total:			\$1,171.00

Jun 3, 2017, 2:02 PM

To: ninusmalan

Saturday 8:50 AM

Call me when you have time

Today 8:20 PM

Can you

I'm talking to him

Jun 1, 2017, 8:22 AM

Where are you ???

California

Jun 1, 2017, 7:33 PM

Fwd: Don't worry about it. You did fine.

Don't believe these people

To: ninusmalan



Jun 3, 2017, 2:02 PM

Fwd:



One down

Is that Mira esta

Yes sir

To: ninusmalan



One down

Is that Mira esta

Yes sir

Jun 5, 2017, 8:54 AM



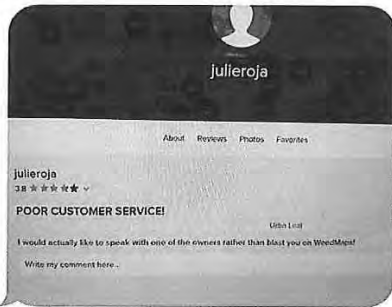
To: ninusmalan



Jun 5, 2017, 12:16 PM



To: ninusmalan



Jun 5, 2017, 1:24 PM

Competitive Metal
135 Cypress Ln
El Cajon, CA 92020
United States

Asphalt guy can meet
tomorrow at 11am

Ok

To: ninusmalan

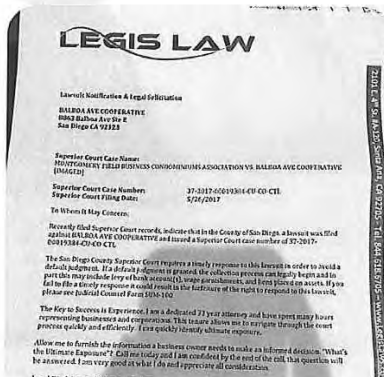
Ok

He will be there in minutes

Ok

Jun 5, 2017, 5:40 PM

Fwd:



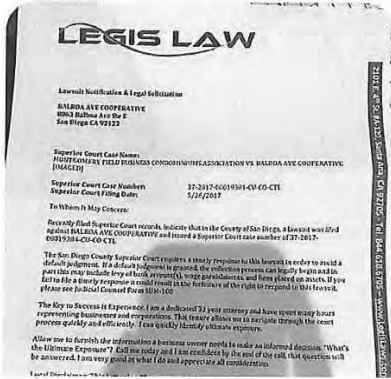
To: ninusmalan

Ok

He will be there in minutes

Jun 5, 2017, 5:40 PM

Fwd:



To: ninusmalan

Jun 6, 2017, 2:02 PM

Asphalt guy says he can start tomorrow sir

Ok

Still in meeting

How it's lock

Getting there

No signing at 3pm

I'm proud of you by the way this is the first time you doing something without me

To: ninusmalan

He's on his way

Cancel the locksmith

Jun 6, 2017, 12:54 PM

Fwd: Please send me the recorded 22 property trustdeed from the lender who has the first and the prelim so I can forward both to title

I need this sent to Darcy please

Jun 6, 2017, 2:02 PM

Asphalt guy says he can

To: ninusmalan

Stop it your going to make me cry

I have alot more to go sir

Jun 6, 2017, 7:49 PM

Loan signing with Darcy at 12pm

Ok

Jun 6, 2017, 10:14 PM

Tap to Load Preview

presstelegram.com

To: ninusmalan

Fwd: There is a truck in the way. Need a tow truck right away to move the truck 30 feet out of the way

Jun 7, 2017, 8:22 AM

Gm So he didn't start the work

Yes he did

Tap to Load Preview

loopnet.com

We should talk to jaffy to request a dismissal

To: ninusmalan

At 3pm

Thats where Peter wants to meet

Yes

Can you make it?

I will call you shortly.

Jun 7, 2017, 6:12 PM

Temporary Restraining Order
 (This is not a legal document. You will need to file this with the court.)
 I, the undersigned, being a judge of the Superior Court of the State of California, County of San Diego, do hereby certify that the following information was filed with me on the date indicated below.

A. Your Full Name
 ANTHONY JAFFA
 Your Lawyer (if you have one for this case)
 Name: _____ State Bar No.: _____
 Firm Name: _____

B. Your Address (if you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.)
 Address: 3631 BALBOA AVE. #777 E.
 City: SAN DIEGO State: CA Zip: 92121
 Telephone: _____ Fax: _____
 E-Mail Address: _____

C. Person From Whom Protection is Sought
 Full Name: DANIEL FRANCIS BURASZAKI
 The court will complete the rest of this form.

3. Notice of Hearing
 A court hearing is scheduled on this request for restraining orders against the person in (B).
 JUN 10 2017 8:30 a.m. Month and address of court of different levels
 JUN 8 8:00 AM

FILED
 SAN DIEGO SUPERIOR COURT
 JUN 07 2017
 Clerk of the Superior Court
 By: L. Peter Sanchez

File a copy with your local address.
 Superior Court of California, County of San Diego
 130 W. BROADWAY
 SAN DIEGO, CA 92101
 COUNTY CLERK
 Check this in case number when filed in the Case Number.
 @ www.sandiegojudicial.net

To: ninusmalan

Jun 7, 2017, 2:36 PM

Peter wants to meet at 3pm

Ok

Can you meet at the hotel

At 3pm

Thats where Peter wants to meet

Yes

Can you make it?

I will call you shortly.

To: ninusmalan

Can we meet Peter tomorrow at 11am?

Can we meet Peter tomorrow at 11am?

Jun 8, 2017, 12:57 PM

We're here

Balboa Medical
Merriam Co. Co.

To: ninusmalan

Balboa Medical
Marijuana Co-Op
balboammc.com

Jun 8, 2017, 6:57 PM

Answer your phone

??????

Answer your fucking phone
don't be stupid you know I
love you

Jun 9, 2017, 9:07 AM

Good morning
I'm sorry about yesterday
You really make me sad and

To: ninusmalan

I'm sorry about yesterday
You really make me sad and
super mad you don't trust
me you don't know what we
been going through and
how much money we
spending to protect are
investment to benefit all of
us
You don't know what kind
person I'm I treat you like a
brother I was expect. That
from you

Delivered

I appreciate it. I sincerely
tried to help you. I
appreciate everything you
have done. I'm cool, let's
move on. I will always try
and be straight forward with

Jun 9, 2017, 11:15 AM

OK brother thank you

Wow this is the last thing I
was expecting from you

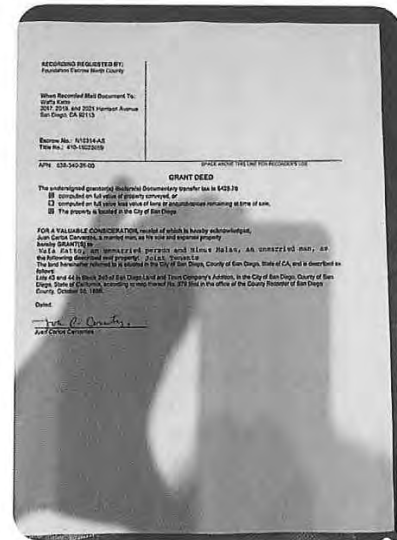
To: ninusmalan

Wow this is the last thing I
was expecting from you
block my number only thing
I will say thank you money is
not everything you really
approve to me that your my
brother

Jun 10, 2017, 1:45 PM

I know you're not gonna
answer me you think that's
I'm whatever anyways I just
want to let you know
tomorrow I have Marvin
graduation and I'm inviting
my brother and my brother-
in-law only of over by my
just because your my

To: ninusmalan



Jun 12, 2017, 6:38 PM

I'm here outside your house
open the door

To: ninusmalan

Jun 13, 2017, 9:37 AM

Fwd: Electrical approved for Roselle

I'm proud of you please take it really seriously

I'm on it

When you have time you have to go to national city and pull the permit for J Ave.

Yes sir

Should I call Rick Aljabi about new LLC?

To: ninusmalan

Should I call Rick Aljabi about new LLC?

Yes

I talked to Heidi see if you can get some credit back of commission back

Yes sir

Heidi said she needs 135k not 127k.

She wants me to wire the difference

Jun 13, 2017, 12:33 PM

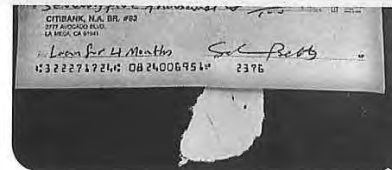
To: ninusmalan

Talk to her see if she can give us credit

Jun 13, 2017, 2:49 PM



To: ninusmalan



We will pay him back right away

Sessions Asks Congress To Undo Medical Marijuana Protections scribd.com



I did hear it is he's f Serious

Let me look into it

What is wafa date of birth

5/17/1966

To: ninusmalan

This guy help people getting abc license

Can I give Fernando 10k?

He asked brother Charles can he do something to stop the appeal for the neighborhood liquor store

Yes please leave a check for him at store

Call peter tell him to do something

Ok

About Dan?

To: ninusmalan

I left him a message

I have a meeting with Gina tomorrow at 2pm

Ok

Do you want to come?

No go ahead by yourself then we will talk to jaffy I told Scott not to accept service because you're out of country

Jun 14, 2017, 10:29 AM

Call me

To: ninusmalan

No about the associations file injunction

Fwd:

Urengo area. I would like to talk with you about issues at the Balboa Ave MMC.

6:38 PM



Dan 619 507 8994

6:39 PM

Tuesday, June 13, 2017



Don, can you send me your full legal name, your present mailing address and the name of the security guard agency or person who hired you to work at the Balboa Ave Coop. My lawyer would like to talk with you further.

2:49 PM

I left him a message

To: ninusmalan

Call me

I will call you shortly.

I talked to Maria already she said she wire the funds

Check your email

Heidi said the lender needs this notarized

Jun 15, 2017, 6:05 AM



To: ninusmalan

Focused! We need to control everything sir

I'm proud of you

Not yet I have alot to do first

Do you need anything

No I'm good just see if you can find me somebody she can help me here because Yancy he's not doing shit

Ok I'm on it

Jun 15, 2017, 12:46 PM

To: ninusmalan

New wave of legal marijuana dispensaries coming to San Diego
google.com

Delivered

Wow... Thanks I will write up and serve her The 60 day notice tomorrow before I Go to Open House. It will be amazing

The open house will!



The San Diego Union-Tribune

New wave of legal marijuana dispensaries



51 likes

urbanleafca http://

Tap to Load Preview

To: ninusmalan

Jun 16, 2017, 5:43 PM

Your son is here he want to cash a check for 650



New wave of legal marijuana dispensaries coming to San Diego
google.com

Delivered

Wow... Thanks I will write up and serve her The 60 day notice tomorrow before I Go to Open House. It will be amazing

To: ninusmalan

Tomorrow will be a big day for Balboa

Why ???

Jun 17, 2017, 12:37 AM



Jun 18, 2017, 8:15 AM

Happy father's day

To: ninusmalan

Jun 17, 2017, 12:37 AM



Jun 18, 2017, 8:15 AM

Happy father's day

Jun 18, 2017, 9:46 AM

Thanks same to you

Jun 19, 2017, 8:50 AM

Good morning sir

To: ninusmalan

Dr machine is here today

That's nice I'm happy to hear that take care yourself

Can you please send me a picture of voided check for john

He waive the late fee as long as I give him copy of voided check

Sir?

Mike is meeting us at 11 o'clock at the Grove

I'll be there

To: ninusmalan

How are you feeling

I'm feeling ok

How are you sir



Dr machine is here today

That's nice I'm happy to hear that take care yourself

Can you please send me a picture of voided check for john

To: ninusmalan

Good morning

I have a meeting at sunrise at 10am

Do you want to come?

With who

For inventory

And operations

I'll pick you up at grove

I will be there because I have to wait for inspector anyways

To: ninusmalan

For inventory

And operations

I'll pick you up at grove

I will be there because I have to wait for inspector anyways

Ok

Jun 23, 2017, 10:27 AM

Are you coming?

On my way I

Jun 23, 2017, 3:04 PM

To: ninusmalan

I know I see it
Good job 👍👍

Thank you

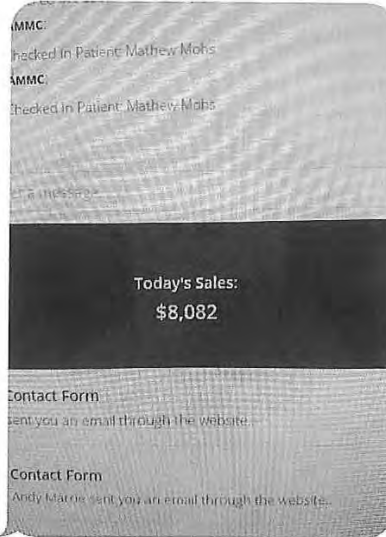
Jun 24, 2017, 10:03 AM



Wow
I'm proud of you

Jun 24, 2017, 1:08 PM

To: ninusmalan



I know I see it
Good job 👍👍

Thank you

1 Steven A. Elia (State Bar No. 217200)
Maura Griffin, *Of Counsel* (State Bar No. 264461)
2 James Joseph (State Bar No. 309883)
LAW OFFICES OF STEVEN A. ELIA, APC
3 2221 Camino Del Rio South, Suite 207
San Diego, California 92108
4 Telephone: (619) 444-2244
Facsimile: (619) 440-2233
5 Email: steve@elialaw.com
maura@elialaw.com
6 james@elialaw.com

7 Attorneys for Plaintiff
SALAM RAZUKI

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

11 SALAM RAZUKI, an individual,

12 Plaintiff,

13 v.

14 NINUS MALAN, an individual; CHRIS
HAKIM, an individual; MONARCH
15 MANAGEMENT CONSULTING, INC. a
California corporation; SAN DIEGO
16 UNITED HOLDING GROUP, LLC, a
California limited liability company; FLIP
17 MANAGEMENT, LLC, a California limited
liability company; MIRA ESTE
18 PROPERTIES, LLC, a California limited
liability company; ROSELLE PROPERTIES,
19 LLC, a California limited liability company;
BALBOA AVE COOPERATIVE, a
20 California nonprofit mutual benefit
corporation; CALIFORNIA CANNABIS
21 GROUP, a California nonprofit mutual
benefit corporation; DEVILISH DELIGHTS,
22 INC., a California nonprofit mutual benefit
corporation; and DOES 1-100, inclusive,

23 Defendants.
24
25

CASE NO. 37-2018-00034229-CU-BC-CTL

**PLAINTIFF SALAM RAZUKI'S
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF SUPPLEMENTAL
BRIEFING FOR THE AUGUST 20, 2018
HEARING**

Date: August 20, 2018
Time: 2:00 p.m.
Dept: C-67
Judge: Hon. Eddie C. Sturgeon

26 Plaintiff SALAM RAZUKI ("Plaintiff" or "Razuki"), by and through his attorney of record,
27 requests that the Court take judicial notice pursuant to Evidence Code Sections 452 and 453 of the
28 following California legislation in support of his supplemental briefing for the August 20, 2018

1 Hearing:

- 2 1) A true and correct copy of Proposition 215, the Compassionate Use Act of 1996
3 (CUA), which is attached hereto as **Exhibit A**; and
4 2) A true and correct copy of Health & Safety Code 11362.5, which is attached hereto as
5 **Exhibit B**; and
6 3) A true and correct copy of Senate Bill No. 420, which is attached hereto as **Exhibit C**;
7 and
8 4) A true and correct copy of the California Department of Justice’s Guidelines for the
9 Security and Non-Diversion of Marijuana Grown for Medical Use, which is attached
10 hereto as **Exhibit D**; and
11 5) A true and correct copy of the Medical Cannabis Regulation and Safety Act
12 (“MCRSA”), which is attached hereto as **Exhibit E**; and
13 6) A true and correct copy of Adult Use of Marijuana Act (“AUMA” or “Prop 64”),
14 which is attached hereto as **Exhibit F**; and
15 7) A true and correct copy of the Medical and Adult-Use Cannabis Regulation and Safety
16 Act (“MAUCRSA”), which is attached hereto as **Exhibit G**; and
17 8) A true and correct copy of the Comprehensive Medical Cannabis Regulation and
18 Safety Act - 2016, which is attached hereto as **Exhibit H**; and
19 9) A true and correct copy of California Assembly Bill No. 1159, which is attached hereto
20 as **Exhibit I**.

21 The items requested to be noticed are relevant to the August 20, 2018 hearing in relation to the
22 Court’s appointment of receiver in that it supports Plaintiff’s claim that the agreements between the
23 parties in relation to the ownership, operation and/or management of marijuana related business are
24 not illegal. The relevance of the items requested to be noticed is further set forth in Plaintiff Salam
Razuki’s Supplemental Briefing for the August 20, 2018 Hearing.

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Dated: August 17, 2018

LAW OFFICES OF STEVEN A. ELIA,
APC

By: *Maura Griffin*
Maura Griffin, Attorneys for Plaintiff
Salam Razuki

EXHIBIT A

1996 Cal. Legis. Serv. Prop. 215 (WEST)

CALIFORNIA 1996 LEGISLATIVE SERVICE

Additions are indicated by <<+ Text +>>; deletions by <<- Text ->>. Changes in tables are made but not highlighted.

PROPOSITION 215
CONTROLLED SUBSTANCES—MEDICAL USE OF MARIJUANA—INITIATIVE MEASURE

[Approved by the electors November 5, 1996]

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

PROPOSED LAW

SECTION 1. Section 11362.5 is added to the Health and Safety Code, to read:

<< CA HLTH & S § 11362.5 >>

11362.5. (a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b)(1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) 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) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

SEC. 2. If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

CA Prop. 215 (1996)

EXHIBIT B



KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Limited on Preemption Grounds by U.S. v. Landa, N.D.Cal., July 31, 2003

West's Annotated California Codes
Health and Safety Code (Refs & Annos)
Division 10. Uniform Controlled Substances Act (Refs & Annos)
Chapter 6. Offenses and Penalties (Refs & Annos)
Article 2. Cannabis (Refs & Annos)

West's Ann.Cal.Health & Safety Code § 11362.5

§ 11362.5. Medical use

Currentness

(a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b)(1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) 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) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

Credits

(Added by Initiative Measure (Prop. 215, § 1, approved Nov. 5, 1996).)

Notes of Decisions (289)

West's Ann. Cal. Health & Safety Code § 11362.5, CA HLTH & S § 11362.5
Current with urgency legislation through Ch. 119 of 2018 Reg.Sess

End of Document

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EXHIBIT C

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**SB-420 Medical marijuana.** (2003-2004)

SHARE THIS:

**Senate Bill No. 420**

CHAPTER 875

An act to add Article 2.5 (commencing with Section 11362.7) to Chapter 6 of Division 10 of the Health and Safety Code, relating to controlled substances.

[Filed with Secretary of State October 12, 2003. Approved by Governor October 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 420, Vasconcellos. Medical marijuana.

Existing law, the Compassionate Use Act of 1996, prohibits any physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes. The act prohibits the provisions of law making unlawful the possession or cultivation of marijuana from applying to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

This bill would require the State Department of Health Services to establish and maintain a voluntary program for the issuance of identification cards to qualified patients and would establish procedures under which a qualified patient with an identification card may use marijuana for medical purposes. The bill would specify the department's duties in this regard, including developing related protocols and forms, and establishing application and renewal fees for the program.

The bill would impose various duties upon county health departments relating to the issuance of identification cards, thus creating a state-mandated local program.

The bill would create various crimes related to the identification card program, thus imposing a state-mandated local program.

This bill would authorize the Attorney General to set forth and clarify details concerning possession and cultivation limits, and other regulations, as specified. The bill would also authorize the Attorney General to recommend modifications to the possession or cultivation limits set forth in the bill. The bill would require the Attorney General to develop and adopt guidelines to ensure the security and nondiversion of marijuana grown for medical use, as specified. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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

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

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

(1) On November 6, 1996, the people of the State of California enacted the Compassionate Use Act of 1996 (hereafter the act), codified in Section 11362.5 of the Health and Safety Code, in order to allow seriously ill residents of the state, who have the oral or written approval or recommendation of a physician, to use marijuana for medical purposes without fear of criminal liability under Sections 11357 and 11358 of the Health and Safety Code.

(2) However, reports from across the state have revealed problems and uncertainties in the act that have impeded the ability of law enforcement officers to enforce its provisions as the voters intended and, therefore, have prevented qualified patients and designated primary caregivers from obtaining the protections afforded by the act.

(3) Furthermore, the enactment of this law, as well as other recent legislation dealing with pain control, demonstrates that more information is needed to assess the number of individuals across the state who are suffering from serious medical conditions that are not being adequately alleviated through the use of conventional medications.

(4) In addition, the act called upon the state and the federal government to develop a plan for the safe and affordable distribution of marijuana to all patients in medical need thereof.

(b) It is the intent of the Legislature, therefore, to do all of the following:

(1) Clarify the scope of the application of the act and facilitate the prompt identification of qualified patients and their designated primary caregivers in order to avoid unnecessary arrest and prosecution of these individuals and provide needed guidance to law enforcement officers.

(2) Promote uniform and consistent application of the act among the counties within the state.

(3) Enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.

(c) It is also the intent of the Legislature to address additional issues that were not included within the act, and that must be resolved in order to promote the fair and orderly implementation of the act.

(d) The Legislature further finds and declares both of the following:

(1) A state identification card program will further the goals outlined in this section.

(2) With respect to individuals, the identification system established pursuant to this act must be wholly voluntary, and a patient entitled to the protections of Section 11362.5 of the Health and Safety Code need not possess an identification card in order to claim the protections afforded by that section.

(e) The Legislature further finds and declares that it enacts this act pursuant to the powers reserved to the State of California and its people under the Tenth Amendment to the United States Constitution.

SEC. 2. Article 2.5 (commencing with Section 11362.7) is added to Chapter 6 of Division 10 of the Health and Safety Code, to read:

Article 2.5. Medical Marijuana Program

11362.7. For purposes of this article, the following definitions shall apply:

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

(b) "Department" means the State Department of Health Services.

(c) "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.

(d) "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

(1) In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

(f) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

(g) "Identification card" means a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

(h) "Serious medical condition" means all of the following medical conditions:

(1) Acquired immune deficiency syndrome (AIDS).

(2) Anorexia.

(3) Arthritis.

(4) Cachexia.

(5) Cancer.

(6) Chronic pain.

(7) Glaucoma.

(8) Migraine.

(9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.

(10) Seizures, including, but not limited to, seizures associated with epilepsy.

(11) Severe nausea.

(12) Any other chronic or persistent medical symptom that either:

(A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).

(B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

(i) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of

subdivision (a) of Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.

11362.71. (a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.

(2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.

(b) Every county health department, or the county's designee, shall do all of the following:

(1) Provide applications upon request to individuals seeking to join the identification card program.

(2) Receive and process completed applications in accordance with Section 11362.72.

(3) Maintain records of identification card programs.

(4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).

(5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.

(c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes marijuana.

(d) The department shall develop all of the following:

(1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.

(2) Application forms that shall be issued to requesting applicants.

(3) An identification card that identifies a person authorized to engage in the medical use of marijuana and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.

(e) No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in an amount established pursuant to this article, unless there is reasonable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.

(f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

11362.715. (a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:

(1) The name of the person, and proof of his or her residency within the county.

(2) Written documentation by the attending physician in the person's medical records stating that the person has been diagnosed with a serious medical condition and that the medical use of marijuana is appropriate.

(3) The name, office address, office telephone number, and California medical license number of the person's attending physician.

(4) The name and the duties of the primary caregiver.

(5) A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient

proof of identity.

(b) If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person's legal representative, including, but not limited to, any of the following:

(1) A conservator with authority to make medical decisions.

(2) An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.

(3) Any other individual authorized by statutory or decisional law to make medical decisions for the person.

(c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.

(d) The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

11362.72. (a) Within 30 days of receipt of an application for an identification card, a county health department or the county's designee shall do all of the following:

(1) For purposes of processing the application, verify that the information contained in the application is accurate. If the person is less than 18 years of age, the county health department or its designee shall also contact the parent with legal authority to make medical decisions, legal guardian, or other person or entity with legal authority to make medical decisions, to verify the information.

(2) Verify with the Medical Board of California or the Osteopathic Medical Board of California that the attending physician has a license in good standing to practice medicine or osteopathy in the state.

(3) Contact the attending physician by facsimile, telephone, or mail to confirm that the medical records submitted by the patient are a true and correct copy of those contained in the physician's office records. When contacted by a county health department or the county's designee, the attending physician shall confirm or deny that the contents of the medical records are accurate.

(4) Take a photograph or otherwise obtain an electronically transmissible image of the applicant and of the designated primary caregiver, if any.

(5) Approve or deny the application. If an applicant who meets the requirements of Section 11362.715 can establish that an identification card is needed on an emergency basis, the county or its designee shall issue a temporary identification card that shall be valid for 30 days from the date of issuance. The county, or its designee, may extend the temporary identification card for no more than 30 days at a time, so long as the applicant continues to meet the requirements of this paragraph.

(b) If the county health department or the county's designee approves the application, it shall, within 24 hours, or by the end of the next working day of approving the application, electronically transmit the following information to the department:

(1) A unique user identification number of the applicant.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

(c) The county health department or the county's designee shall issue an identification card to the applicant and to his or her designated primary caregiver, if any, within five working days of approving the application.

(d) In any case involving an incomplete application, the applicant shall assume responsibility for rectifying the deficiency. The county shall have 14 days from the receipt of information from the applicant pursuant to this subdivision to approve or deny the application.

11362.735. (a) An identification card issued by the county health department shall be serially numbered and shall contain all of the following:

- (1) A unique user identification number of the cardholder.
 - (2) The date of expiration of the identification card.
 - (3) The name and telephone number of the county health department or the county's designee that has approved the application.
 - (4) A 24-hour, toll-free telephone number, to be maintained by the department, that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of the card.
 - (5) Photo identification of the cardholder.
- (b) A separate identification card shall be issued to the person's designated primary caregiver, if any, and shall include a photo identification of the caregiver.

11362.74. (a) The county health department or the county's designee may deny an application only for any of the following reasons:

- (1) The applicant did not provide the information required by Section 11362.715, and upon notice of the deficiency pursuant to subdivision (d) of Section 11362.72, did not provide the information within 30 days.
 - (2) The county health department or the county's designee determines that the information provided was false.
 - (3) The applicant does not meet the criteria set forth in this article.
- (b) Any person whose application has been denied pursuant to subdivision (a) may not reapply for six months from the date of denial unless otherwise authorized by the county health department or the county's designee or by a court of competent jurisdiction.
- (c) Any person whose application has been denied pursuant to subdivision (a) may appeal that decision to the department. The county health department or the county's designee shall make available a telephone number or address to which the denied applicant can direct an appeal.

11362.745. (a) An identification card shall be valid for a period of one year.

- (b) Upon annual renewal of an identification card, the county health department or its designee shall verify all new information and may verify any other information that has not changed.
- (c) The county health department or the county's designee shall transmit its determination of approval or denial of a renewal to the department.

11362.755. (a) The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number. Each county health department or the county's designee may charge an additional fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.

- (b) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.

11362.76. (a) A person who possesses an identification card shall:

- (1) Within seven days, notify the county health department or the county's designee of any change in the person's attending physician or designated primary caregiver, if any.
 - (2) Annually submit to the county health department or the county's designee the following:
 - (A) Updated written documentation of the person's serious medical condition.
 - (B) The name and duties of the person's designated primary caregiver, if any, for the forthcoming year.
- (b) If a person who possesses an identification card fails to comply with this section, the card shall be deemed expired. If an identification card expires, the identification card of any designated primary caregiver of the person shall also expire.

(c) If the designated primary caregiver has been changed, the previous primary caregiver shall return his or her identification card to the department or to the county health department or the county's designee.

(d) If the owner or operator or an employee of the owner or operator of a provider has been designated as a primary caregiver pursuant to paragraph (1) of subdivision (d) of Section 11362.7, of the qualified patient or person with an identification card, the owner or operator shall notify the county health department or the county's designee, pursuant to Section 11362.715, if a change in the designated primary caregiver has occurred.

11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. However, nothing in this section shall authorize the individual to smoke or otherwise consume marijuana unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit.

(b) Subdivision (a) shall apply to all of the following:

(1) A qualified patient or a person with an identification card who transports or processes marijuana for his or her own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away marijuana for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

(3) Any individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section 11359 or 11360.

11362.77. (a) A qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature marijuana plants per qualified patient.

(b) If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs.

(c) Counties and cities may retain or enact medical marijuana guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a).

(d) Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of marijuana under this section.

(e) The Attorney General may recommend modifications to the possession or cultivation limits set forth in this section. These recommendations, if any, shall be made to the Legislature no later than December 1, 2005, and may be made only after public comment and consultation with interested organizations, including, but not limited to, patients, health care professionals, researchers, law enforcement, and local governments. Any recommended modification shall be consistent with the intent of this article and shall be based on currently available scientific research.

(f) A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of marijuana consistent with this article.

11362.775. Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate 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.

11362.78. A state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

11362.785. (a) Nothing in this article shall require any accommodation of any medical use of marijuana on the property or premises of any place of employment or during the hours of employment or on the property or premises of any jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

(b) Notwithstanding subdivision (a), a person shall not be prohibited or prevented from obtaining and submitting the written information and documentation necessary to apply for an identification card on the basis that the person is incarcerated in a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained.

(c) Nothing in this article shall prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has an identification card, to use marijuana for medical purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

(d) Nothing in this article shall require a governmental, private, or any other health insurance provider or health care service plan to be liable for any claim for reimbursement for the medical use of marijuana.

11362.79. Nothing in this article shall authorize a qualified patient or person with an identification card to engage in the smoking of medical marijuana under any of the following circumstances:

(a) In any place where smoking is prohibited by law.

(b) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence.

(c) On a schoolbus.

(d) While in a motor vehicle that is being operated.

(e) While operating a boat.

11362.795. (a) (1) Any criminal defendant who is eligible to use marijuana pursuant to Section 11362.5 may request that the court confirm that he or she is allowed to use medical marijuana while he or she is on probation or released on bail.

(2) The court's decision and the reasons for the decision shall be stated on the record and an entry stating those reasons shall be made in the minutes of the court.

(3) During the period of probation or release on bail, if a physician recommends that the probationer or defendant use medical marijuana, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of medical marijuana.

(4) The court's consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(b) (1) Any person who is to be released on parole from a jail, state prison, school, road camp, or other state or local institution of confinement and who is eligible to use medical marijuana pursuant to Section 11362.5 may request that he or she be allowed to use medical marijuana during the period he or she is released on parole. A parolee's written conditions of parole shall reflect whether or not a request for a modification of the conditions of his or her parole to use medical marijuana was made, and whether the request was granted or denied.

(2) During the period of the parole, where a physician recommends that the parolee use medical marijuana, the parolee may request a modification of the conditions of the parole to authorize the use of medical marijuana.

(3) Any parolee whose request to use medical marijuana while on parole was denied may pursue an administrative appeal of the decision. Any decision on the appeal shall be in writing and shall reflect the reasons for the decision.

(4) The administrative consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

11362.8. No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11362.72. However, this section shall not apply to acts performed by a physician relating to the discussion or recommendation of the medical use of marijuana to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

11362.81. (a) A person specified in subdivision (b) shall be subject to the following penalties:

(1) For the first offense, imprisonment in the county jail for no more than six months or a fine not to exceed one thousand dollars (\$1,000), or both.

(2) For a second or subsequent offense, imprisonment in the county jail for no more than one year, or a fine not to exceed one thousand dollars (\$1,000), or both.

(b) Subdivision (a) applies to any of the following:

(1) A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining an identification card.

(2) A person who steals or fraudulently uses any person's identification card in order to acquire, possess, cultivate, transport, use, produce, or distribute marijuana.

(3) A person who counterfeits, tampers with, or fraudulently produces an identification card.

(4) A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program.

(c) In addition to the penalties prescribed in subdivision (a), any person described in subdivision (b) may be precluded from attempting to obtain, or obtaining or using, an identification card for a period of up to six months at the discretion of the court.

(d) In addition to the requirements of this article, the Attorney General shall develop and adopt appropriate guidelines to ensure the security and nondiversion of marijuana grown for medical use by patients qualified under the Compassionate Use Act of 1996.

11362.82. If any section, subdivision, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion thereof.

11362.83. Nothing in this article shall prevent a city or other local governing body from adopting and enforcing laws consistent with this article.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

In addition, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for other costs mandated by the state because this act includes additional revenue that is specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate, within the meaning of Section 17556 of the Government Code.

EXHIBIT D



**GUIDELINES FOR THE SECURITY AND NON-DIVERSION
OF MARIJUANA GROWN FOR MEDICAL USE**

August 2008

In 1996, California voters approved an initiative that exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana. In 2003, the Legislature enacted additional legislation relating to medical marijuana. One of those statutes requires the Attorney General to adopt “guidelines to ensure the security and nondiversion of marijuana grown for medical use.” (Health & Saf. Code, § 11362.81(d).¹) To fulfill this mandate, this Office is issuing the following guidelines to (1) ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets, (2) help law enforcement agencies perform their duties effectively and in accordance with California law, and (3) help patients and primary caregivers understand how they may cultivate, transport, possess, and use medical marijuana under California law.

I. SUMMARY OF APPLICABLE LAW

A. California Penal Provisions Relating to Marijuana.

The possession, sale, cultivation, or transportation of marijuana is ordinarily a crime under California law. (See, e.g., § 11357 [possession of marijuana is a misdemeanor]; § 11358 [cultivation of marijuana is a felony]; Veh. Code, § 23222 [possession of less than 1 oz. of marijuana while driving is a misdemeanor]; § 11359 [possession with intent to sell any amount of marijuana is a felony]; § 11360 [transporting, selling, or giving away marijuana in California is a felony; under 28.5 grams is a misdemeanor]; § 11361 [selling or distributing marijuana to minors, or using a minor to transport, sell, or give away marijuana, is a felony].)

B. Proposition 215 - The Compassionate Use Act of 1996.

On November 5, 1996, California voters passed Proposition 215, which decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician’s recommendation. (§ 11362.5.) Proposition 215 was enacted 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,” and to “ensure that patients and their primary caregivers who obtain and use marijuana for

¹ Unless otherwise noted, all statutory references are to the Health & Safety Code.

medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.” (§ 11362.5(b)(1)(A)-(B).)

The Act further states that “Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient’s primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or verbal recommendation or approval of a physician.” (§ 11362.5(d).) Courts have found an implied defense to the transportation of medical marijuana when the “quantity transported and the method, timing and distance of the transportation are reasonably related to the patient’s current medical needs.” (*People v. Trippet* (1997) 56 Cal.App.4th 1532, 1551.)

C. Senate Bill 420 - The Medical Marijuana Program Act.

On January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP), became law. (§§ 11362.7-11362.83.) The MMP, among other things, requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system. Medical marijuana identification cards are intended to help law enforcement officers identify and verify that cardholders are able to cultivate, possess, and transport certain amounts of marijuana without being subject to arrest under specific conditions. (§§ 11362.71(e), 11362.78.)

It is mandatory that all counties participate in the identification card program by (a) providing applications upon request to individuals seeking to join the identification card program; (b) processing completed applications; (c) maintaining certain records; (d) following state implementation protocols; and (e) issuing DPH identification cards to approved applicants and designated primary caregivers. (§ 11362.71(b).)

Participation by patients and primary caregivers in the identification card program is voluntary. However, because identification cards offer the holder protection from arrest, are issued only after verification of the cardholder’s status as a qualified patient or primary caregiver, and are immediately verifiable online or via telephone, they represent one of the best ways to ensure the security and non-diversion of marijuana grown for medical use.

In addition to establishing the identification card program, the MMP also defines certain terms, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. (§§ 11362.7, 11362.77, 11362.775.)

D. Taxability of Medical Marijuana Transactions.

In February 2007, the California State Board of Equalization (BOE) issued a Special Notice confirming its policy of taxing medical marijuana transactions, as well as its requirement that businesses engaging in such transactions hold a Seller’s Permit. (<http://www.boe.ca.gov/news/pdf/medseller2007.pdf>.) According to the Notice, having a Seller’s Permit does not allow individuals to make unlawful sales, but instead merely provides a way to remit any sales and use taxes due. BOE further clarified its policy in a

June 2007 Special Notice that addressed several frequently asked questions concerning taxation of medical marijuana transactions. (<http://www.boe.ca.gov/news/pdf/173.pdf>.)

E. Medical Board of California.

The Medical Board of California licenses, investigates, and disciplines California physicians. (Bus. & Prof. Code, § 2000, et seq.) Although state law prohibits punishing a physician simply for recommending marijuana for treatment of a serious medical condition (§ 11362.5(c)), the Medical Board can and does take disciplinary action against physicians who fail to comply with accepted medical standards when recommending marijuana. In a May 13, 2004 press release, the Medical Board clarified that these accepted standards are the same ones that a reasonable and prudent physician would follow when recommending or approving any medication. They include the following:

1. Taking a history and conducting a good faith examination of the patient;
2. Developing a treatment plan with objectives;
3. Providing informed consent, including discussion of side effects;
4. Periodically reviewing the treatment's efficacy;
5. Consultations, as necessary; and
6. Keeping proper records supporting the decision to recommend the use of medical marijuana.

(http://www.mbc.ca.gov/board/media/releases_2004_05-13_marijuana.html.)

Complaints about physicians should be addressed to the Medical Board (1-800-633-2322 or www.mbc.ca.gov), which investigates and prosecutes alleged licensing violations in conjunction with the Attorney General's Office.

F. The Federal Controlled Substances Act.

Adopted in 1970, the Controlled Substances Act (CSA) established a federal regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. (21 U.S.C. § 801, et seq.; *Gonzales v. Oregon* (2006) 546 U.S. 243, 271-273.) The CSA reflects the federal government's view that marijuana is a drug with "no currently accepted medical use." (21 U.S.C. § 812(b)(1).) Accordingly, the manufacture, distribution, or possession of marijuana is a federal criminal offense. (*Id.* at §§ 841(a)(1), 844(a).)

The incongruity between federal and state law has given rise to understandable confusion, but no legal conflict exists merely because state law and federal law treat marijuana differently. Indeed, California's medical marijuana laws have been challenged unsuccessfully in court on the ground that they are preempted by the CSA. (*County of San Diego v. San Diego NORML* (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2930117.) Congress has provided that states are free to regulate in the area of controlled substances, including marijuana, provided that state law does not positively conflict with the CSA. (21 U.S.C. § 903.) Neither Proposition 215, nor the MMP, conflict with the CSA because, in adopting these laws, California did not "legalize" medical marijuana, but instead exercised the state's reserved powers to not punish certain marijuana offenses under state law when a physician has recommended its use to treat a serious medical condition. (See *City of Garden Grove v. Superior Court (Kha)* (2007) 157 Cal.App.4th 355, 371-373, 381-382.)

In light of California’s decision to remove the use and cultivation of physician-recommended marijuana from the scope of the state’s drug laws, this Office recommends that state and local law enforcement officers not arrest individuals or seize marijuana under federal law when the officer determines from the facts available that the cultivation, possession, or transportation is permitted under California’s medical marijuana laws.

II. DEFINITIONS

A. **Physician’s Recommendation:** Physicians may not prescribe marijuana because the federal Food and Drug Administration regulates prescription drugs and, under the CSA, marijuana is a Schedule I drug, meaning that it has no recognized medical use. Physicians may, however, lawfully issue a verbal or written recommendation under California law indicating that marijuana would be a beneficial treatment for a serious medical condition. (§ 11362.5(d); *Conant v. Walters* (9th Cir. 2002) 309 F.3d 629, 632.)

B. **Primary Caregiver:** A primary caregiver is a person who is designated by a qualified patient and “has consistently assumed responsibility for the housing, health, or safety” of the patient. (§ 11362.5(e).) California courts have emphasized the consistency element of the patient-caregiver relationship. Although a “primary caregiver who consistently grows and supplies . . . medicinal marijuana for a section 11362.5 patient is serving a health need of the patient,” someone who merely maintains a source of marijuana does not automatically become the party “who has consistently assumed responsibility for the housing, health, or safety” of that purchaser. (*People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1390, 1400.) A person may serve as primary caregiver to “more than one” patient, provided that the patients and caregiver all reside in the same city or county. (§ 11362.7(d)(2).) Primary caregivers also may receive certain compensation for their services. (§ 11362.765(c) [“A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided . . . to enable [a patient] to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, . . . shall not, on the sole basis of that fact, be subject to prosecution” for possessing or transporting marijuana].)

C. **Qualified Patient:** A qualified patient is a person whose physician has recommended the use of marijuana to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief. (§ 11362.5(b)(1)(A).)

D. **Recommending Physician:** A recommending physician is a person who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has complied with accepted medical standards (as described by the Medical Board of California in its May 13, 2004 press release) that a reasonable and prudent physician would follow when recommending or approving medical marijuana for the treatment of his or her patient.

III. GUIDELINES REGARDING INDIVIDUAL QUALIFIED PATIENTS AND PRIMARY CAREGIVERS

A. State Law Compliance Guidelines.

1. **Physician Recommendation:** Patients must have a written or verbal recommendation for medical marijuana from a licensed physician. (§ 11362.5(d).)

2. **State of California Medical Marijuana Identification Card:** Under the MMP, qualified patients and their primary caregivers may voluntarily apply for a card issued by DPH identifying them as a person who is authorized to use, possess, or transport marijuana grown for medical purposes. To help law enforcement officers verify the cardholder's identity, each card bears a unique identification number, and a verification database is available online (www.calmmp.ca.gov). In addition, the cards contain the name of the county health department that approved the application, a 24-hour verification telephone number, and an expiration date. (§§ 11362.71(a); 11362.735(a)(3)-(4); 11362.745.)

3. **Proof of Qualified Patient Status:** Although verbal recommendations are technically permitted under Proposition 215, patients should obtain and carry written proof of their physician recommendations to help them avoid arrest. A state identification card is the best form of proof, because it is easily verifiable and provides immunity from arrest if certain conditions are met (see section III.B.4, below). The next best forms of proof are a city- or county-issued patient identification card, or a written recommendation from a physician.

4. Possession Guidelines:

a) **MMP:**² Qualified patients and primary caregivers who possess a state-issued identification card may possess 8 oz. of dried marijuana, and may maintain no more than 6 mature or 12 immature plants per qualified patient. (§ 11362.77(a).) But, if “a qualified patient or primary caregiver has a doctor’s recommendation that this quantity does not meet the qualified patient’s medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient’s needs.” (§ 11362.77(b).) Only the dried mature processed flowers or buds of the female cannabis plant should be considered when determining allowable quantities of medical marijuana for purposes of the MMP. (§ 11362.77(d).)

b) **Local Possession Guidelines:** Counties and cities may adopt regulations that allow qualified patients or primary caregivers to possess

² On May 22, 2008, California’s Second District Court of Appeal severed Health & Safety Code § 11362.77 from the MMP on the ground that the statute’s possession guidelines were an unconstitutional amendment of Proposition 215, which does not quantify the marijuana a patient may possess. (See *People v. Kelly* (2008) 163 Cal.App.4th 124, 77 Cal.Rptr.3d 390.) The Third District Court of Appeal recently reached a similar conclusion in *People v. Phomphakdy* (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2931369. The California Supreme Court has granted review in *Kelly* and the Attorney General intends to seek review in *Phomphakdy*.

medical marijuana in amounts that exceed the MMP's possession guidelines. (§ 11362.77(c).)

c) **Proposition 215:** Qualified patients claiming protection under Proposition 215 may possess an amount of marijuana that is “reasonably related to [their] current medical needs.” (*People v. Trippet* (1997) 56 Cal.App.4th 1532, 1549.)

B. Enforcement Guidelines.

1. **Location of Use:** Medical marijuana may not be smoked (a) where smoking is prohibited by law, (b) at or within 1000 feet of a school, recreation center, or youth center (unless the medical use occurs within a residence), (c) on a school bus, or (d) in a moving motor vehicle or boat. (§ 11362.79.)

2. **Use of Medical Marijuana in the Workplace or at Correctional Facilities:** The medical use of marijuana need not be accommodated in the workplace, during work hours, or at any jail, correctional facility, or other penal institution. (§ 11362.785(a); *Ross v. RagingWire Telecomms., Inc.* (2008) 42 Cal.4th 920, 933 [under the Fair Employment and Housing Act, an employer may terminate an employee who tests positive for marijuana use].)

3. **Criminal Defendants, Probationers, and Parolees:** Criminal defendants and probationers may request court approval to use medical marijuana while they are released on bail or probation. The court's decision and reasoning must be stated on the record and in the minutes of the court. Likewise, parolees who are eligible to use medical marijuana may request that they be allowed to continue such use during the period of parole. The written conditions of parole must reflect whether the request was granted or denied. (§ 11362.795.)

4. **State of California Medical Marijuana Identification Cardholders:** When a person invokes the protections of Proposition 215 or the MMP and he or she possesses a state medical marijuana identification card, officers should:

a) Review the identification card and verify its validity either by calling the telephone number printed on the card, or by accessing DPH's card verification website (<http://www.calmmp.ca.gov>); and

b) If the card is valid and not being used fraudulently, there are no other indicia of illegal activity (weapons, illicit drugs, or excessive amounts of cash), and the person is within the state or local possession guidelines, the individual should be released and the marijuana should not be seized. Under the MMP, “no person or designated primary caregiver in possession of a valid state medical marijuana identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana.” (§ 11362.71(e).) Further, a “state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer

has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.” (§ 11362.78.)

5. **Non-Cardholders:** When a person claims protection under Proposition 215 or the MMP and only has a locally-issued (i.e., non-state) patient identification card, or a written (or verbal) recommendation from a licensed physician, officers should use their sound professional judgment to assess the validity of the person’s medical-use claim:

- a) Officers need not abandon their search or investigation. The standard search and seizure rules apply to the enforcement of marijuana-related violations. Reasonable suspicion is required for detention, while probable cause is required for search, seizure, and arrest.
- b) Officers should review any written documentation for validity. It may contain the physician’s name, telephone number, address, and license number.
- c) If the officer reasonably believes that the medical-use claim is valid based upon the totality of the circumstances (including the quantity of marijuana, packaging for sale, the presence of weapons, illicit drugs, or large amounts of cash), and the person is within the state or local possession guidelines or has an amount consistent with their current medical needs, the person should be released and the marijuana should not be seized.
- d) Alternatively, if the officer has probable cause to doubt the validity of a person’s medical marijuana claim based upon the facts and circumstances, the person may be arrested and the marijuana may be seized. It will then be up to the person to establish his or her medical marijuana defense in court.
- e) Officers are not obligated to accept a person’s claim of having a verbal physician’s recommendation that cannot be readily verified with the physician at the time of detention.

6. **Exceeding Possession Guidelines:** If a person has what appears to be valid medical marijuana documentation, but exceeds the applicable possession guidelines identified above, all marijuana may be seized.

7. **Return of Seized Medical Marijuana:** If a person whose marijuana is seized by law enforcement successfully establishes a medical marijuana defense in court, or the case is not prosecuted, he or she may file a motion for return of the marijuana. If a court grants the motion and orders the return of marijuana seized incident to an arrest, the individual or entity subject to the order must return the property. State law enforcement officers who handle controlled substances in the course of their official duties are immune from liability under the CSA. (21 U.S.C. § 885(d).) Once the marijuana is returned, federal authorities are free to exercise jurisdiction over it. (21 U.S.C. §§ 812(c)(10), 844(a); *City of Garden Grove v. Superior Court (Kha)* (2007) 157 Cal.App.4th 355, 369, 386, 391.)

IV. GUIDELINES REGARDING COLLECTIVES AND COOPERATIVES

Under California law, medical marijuana patients and primary caregivers may “associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes.” (§ 11362.775.) The following guidelines are meant to apply to qualified patients and primary caregivers who come together to collectively or cooperatively cultivate physician-recommended marijuana.

A. Business Forms: Any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes should be organized and operated in a manner that ensures the security of the crop and safeguards against diversion for non-medical purposes. The following are guidelines to help cooperatives and collectives operate within the law, and to help law enforcement determine whether they are doing so.

1. **Statutory Cooperatives:** A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. (Corp. Code, § 12201, 12300.) No business may call itself a “cooperative” (or “co-op”) unless it is properly organized and registered as such a corporation under the Corporations or Food and Agricultural Code. (*Id.* at § 12311(b).) Cooperative corporations are “democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons.” (*Id.* at § 12201.) The earnings and savings of the business must be used for the general welfare of its members or equitably distributed to members in the form of cash, property, credits, or services. (*Ibid.*) Cooperatives must follow strict rules on organization, articles, elections, and distribution of earnings, and must report individual transactions from individual members each year. (See *id.* at § 12200, et seq.) Agricultural cooperatives are likewise nonprofit corporate entities “since they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.” (Food & Agric. Code, § 54033.) Agricultural cooperatives share many characteristics with consumer cooperatives. (See, e.g., *id.* at § 54002, et seq.) Cooperatives should not purchase marijuana from, or sell to, non-members; instead, they should only provide a means for facilitating or coordinating transactions between members.

2. **Collectives:** California law does not define collectives, but the dictionary defines them as “a business, farm, etc., jointly owned and operated by the members of a group.” (*Random House Unabridged Dictionary*; Random House, Inc. © 2006.) Applying this definition, a collective should be an organization that merely facilitates the collaborative efforts of patient and caregiver members – including the allocation of costs and revenues. As such, a collective is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The collective should not purchase marijuana from, or sell to, non-members; instead, it should only provide a means for facilitating or coordinating transactions between members.

B. Guidelines for the Lawful Operation of a Cooperative or Collective:

Collectives and cooperatives should be organized with sufficient structure to ensure security, non-diversion of marijuana to illicit markets, and compliance with all state and local laws. The following are some suggested guidelines and practices for operating collective growing operations to help ensure lawful operation.

1. **Non-Profit Operation:** Nothing in Proposition 215 or the MMP authorizes collectives, cooperatives, or individuals to profit from the sale or distribution of marijuana. (See, e.g., § 11362.765(a) [“nothing in this section shall authorize . . . any individual or group to cultivate or distribute marijuana for profit”].)
2. **Business Licenses, Sales Tax, and Seller’s Permits:** The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller’s Permit. Some cities and counties also require dispensing collectives and cooperatives to obtain business licenses.
3. **Membership Application and Verification:** When a patient or primary caregiver wishes to join a collective or cooperative, the group can help prevent the diversion of marijuana for non-medical use by having potential members complete a written membership application. The following application guidelines should be followed to help ensure that marijuana grown for medical use is not diverted to illicit markets:
 - a) Verify the individual’s status as a qualified patient or primary caregiver. Unless he or she has a valid state medical marijuana identification card, this should involve personal contact with the recommending physician (or his or her agent), verification of the physician’s identity, as well as his or her state licensing status. Verification of primary caregiver status should include contact with the qualified patient, as well as validation of the patient’s recommendation. Copies should be made of the physician’s recommendation or identification card, if any;
 - b) Have the individual agree not to distribute marijuana to non-members;
 - c) Have the individual agree not to use the marijuana for other than medical purposes;
 - d) Maintain membership records on-site or have them reasonably available;
 - e) Track when members’ medical marijuana recommendation and/or identification cards expire; and
 - f) Enforce conditions of membership by excluding members whose identification card or physician recommendation are invalid or have expired, or who are caught diverting marijuana for non-medical use.

4. **Collectives Should Acquire, Possess, and Distribute Only Lawfully Cultivated Marijuana:** Collectives and cooperatives should acquire marijuana only from their constituent members, because only marijuana grown by a qualified patient or his or her primary caregiver may lawfully be transported by, or distributed to, other members of a collective or cooperative. (§§ 11362.765, 11362.775.) The collective or cooperative may then allocate it to other members of the group. Nothing allows marijuana to be purchased from outside the collective or cooperative for distribution to its members. Instead, the cycle should be a closed-circuit of marijuana cultivation and consumption with no purchases or sales to or from non-members. To help prevent diversion of medical marijuana to non-medical markets, collectives and cooperatives should document each member's contribution of labor, resources, or money to the enterprise. They also should track and record the source of their marijuana.

5. **Distribution and Sales to Non-Members are Prohibited:** State law allows primary caregivers to be reimbursed for certain services (including marijuana cultivation), but nothing allows individuals or groups to sell or distribute marijuana to non-members. Accordingly, a collective or cooperative may not distribute medical marijuana to any person who is not a member in good standing of the organization. A dispensing collective or cooperative may credit its members for marijuana they provide to the collective, which it may then allocate to other members. (§ 11362.765(c).) Members also may reimburse the collective or cooperative for marijuana that has been allocated to them. Any monetary reimbursement that members provide to the collective or cooperative should only be an amount necessary to cover overhead costs and operating expenses.

6. **Permissible Reimbursements and Allocations:** Marijuana grown at a collective or cooperative for medical purposes may be:

- a) Provided free to qualified patients and primary caregivers who are members of the collective or cooperative;
- b) Provided in exchange for services rendered to the entity;
- c) Allocated based on fees that are reasonably calculated to cover overhead costs and operating expenses; or
- d) Any combination of the above.

7. **Possession and Cultivation Guidelines:** If a person is acting as primary caregiver to more than one patient under section 11362.7(d)(2), he or she may aggregate the possession and cultivation limits for each patient. For example, applying the MMP's basic possession guidelines, if a caregiver is responsible for three patients, he or she may possess up to 24 oz. of marijuana (8 oz. per patient) and may grow 18 mature or 36 immature plants. Similarly, collectives and cooperatives may cultivate and transport marijuana in aggregate amounts tied to its membership numbers. Any patient or primary caregiver exceeding individual possession guidelines should have supporting records readily available when:

- a) Operating a location for cultivation;
- b) Transporting the group's medical marijuana; and
- c) Operating a location for distribution to members of the collective or cooperative.

8. **Security:** Collectives and cooperatives should provide adequate security to ensure that patients are safe and that the surrounding homes or businesses are not negatively impacted by nuisance activity such as loitering or crime. Further, to maintain security, prevent fraud, and deter robberies, collectives and cooperatives should keep accurate records and follow accepted cash handling practices, including regular bank runs and cash drops, and maintain a general ledger of cash transactions.

C. **Enforcement Guidelines:** Depending upon the facts and circumstances, deviations from the guidelines outlined above, or other indicia that marijuana is not for medical use, may give rise to probable cause for arrest and seizure. The following are additional guidelines to help identify medical marijuana collectives and cooperatives that are operating outside of state law.

1. **Storefront Dispensaries:** Although medical marijuana “dispensaries” have been operating in California for years, dispensaries, as such, are not recognized under the law. As noted above, the only recognized group entities are cooperatives and collectives. (§ 11362.775.) It is the opinion of this Office that a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially comply with the guidelines set forth in sections IV(A) and (B), above, are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law. For example, dispensaries that merely require patients to complete a form summarily designating the business owner as their primary caregiver – and then offering marijuana in exchange for cash “donations” – are likely unlawful. (*Peron, supra*, 59 Cal.App.4th at p. 1400 [cannabis club owner was not the primary caregiver to thousands of patients where he did not consistently assume responsibility for their housing, health, or safety].)

2. **Indicia of Unlawful Operation:** When investigating collectives or cooperatives, law enforcement officers should be alert for signs of mass production or illegal sales, including (a) excessive amounts of marijuana, (b) excessive amounts of cash, (c) failure to follow local and state laws applicable to similar businesses, such as maintenance of any required licenses and payment of any required taxes, including sales taxes, (d) weapons, (e) illicit drugs, (f) purchases from, or sales or distribution to, non-members, or (g) distribution outside of California.

EXHIBIT E

Assembly Bill No. 2385

Passed the Assembly August 29, 2016

Chief Clerk of the Assembly

Passed the Senate August 23, 2016

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 2016, at ____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 19320 of the Business and Professions Code, relating to marijuana.

LEGISLATIVE COUNSEL'S DIGEST

AB 2385, Jones-Sawyer. Medical Cannabis Regulation and Safety Act: state licenses: Measure D.

Existing law, the Medical Cannabis Regulation and Safety Act (MCRSA), provides for the licensure and regulation of medical cannabis and requires all commercial cannabis activity to be conducted between licensees. Existing law establishes the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs. Existing law authorizes licensing authorities to only issue state licenses to qualified applicants. Existing law, upon the date of implementation of regulations by the licensing authority, prohibits a person from engaging in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization.

This bill would instead prohibit a person from engaging in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization one year after the bureau posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses. The bill would also, with regard to commercial cannabis activity in the City of Los Angeles, prohibit licensing authorities from requiring a local license, permit, or other authorization, and would require the issuance of a state license, if the authorities determine, as specified, that the applicant meets all of the requirements of MCRSA and specified criteria relating to Measure D, which was approved by the voters of the City of Los Angeles at the May 21, 2013, general election. The bill would further provide that a license issued pursuant to the above provision has the same force and effect, and confers the same benefits and responsibilities, as licenses issued to licensees not subject to the above-described exception. The bill would require the exemption to the local licensing requirement provided by these provisions to be superseded by a subsequent initiative authorizing the City of Los

Angeles to issue local licenses to medical marijuana businesses in the city if the voters of Los Angeles approve the initiative prior to the time the State of California begins issuing state licenses.

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

SECTION 1. Section 19320 of the Business and Professions Code is amended to read:

19320. (a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this chapter.

(b) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. One year after the Bureau of Medical Cannabis Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. An entity seeking licensure pursuant to this chapter shall obtain a local license, permit, or other authorization prior to applying for state licensure. State licensing entities shall not issue a license to any applicant that is unable to provide documentation confirming authorization to operate from the local government in which the applicant proposes to operate. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a local license, permit, or other authorization from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(c) Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport or where any equipment that is not currently transporting medical cannabis or medical cannabis products permanently resides.

(d) Revocation of a local license, permit, or other required authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization. Local authorities shall notify the bureau upon

revocation of a local license, permit, or other authorization. The bureau shall inform relevant licensing authorities.

(e) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license.

(f) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(g) Nothing in this chapter shall be construed to supersede or limit state agencies, including the Department of Food and Agriculture, the State Water Resources Control Board, and the Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

(h) (1) Notwithstanding any other provision of this chapter:

(A) With regard to commercial cannabis activity in the City of Los Angeles, the licensing authorities shall not require a local license, permit, or other authorization and shall issue a state license to engage in commercial cannabis activity only if the licensing authorities determine the applicant satisfies all of the requirements of this act and demonstrates that it meets all of the following criteria established by Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election:

(i) The applicant was operating in the City of Los Angeles as a medical marijuana business by September 14, 2007, as evidenced by a business tax registration certificate issued by the City of Los Angeles on or before November 13, 2007.

(ii) The applicant registered with the City of Los Angeles city clerk by November 13, 2007, in accordance with all of the requirements of the City of Los Angeles' Interim Control Ordinance.

(iii) The applicant obtained a City of Los Angeles business tax registration for taxation as a medical marijuana collective (class L050).

(B) A state license issued pursuant to this paragraph for commercial cannabis activity shall have the same force and effect and shall confer the same benefits and responsibilities as licenses issued to licensees outside the City of Los Angeles that obtain a license, permit, or other authorization from the local jurisdiction.

(C) The determination of the licensing authority that an applicant for a state license meets the criteria listed in subparagraph (A) shall be based on a written or electronic notification provided to the licensing authority by the City of Los Angeles that the applicant has met the criteria. If the City of Los Angeles does not provide written or electronic notification to the licensing authority confirming an applicant has met the criteria, the licensing authority shall not issue a state license.

(2) Notwithstanding paragraph (1), if the voters of Los Angeles approve an initiative, after January 1, 2016, but prior to the time that the State of California begins issuing state licenses, that authorizes the City of Los Angeles to issue local licenses to medical marijuana businesses in Los Angeles, the exemption for local licensing in Los Angeles as set forth in paragraph (1) shall be superseded by the local licensing requirements as enacted by that initiative.

Approved _____, 2016

Governor

Assembly Bill No. 2385

Passed the Assembly August 29, 2016

Chief Clerk of the Assembly

Passed the Senate August 23, 2016

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 2016, at ____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 19320 of the Business and Professions Code, relating to marijuana.

LEGISLATIVE COUNSEL'S DIGEST

AB 2385, Jones-Sawyer. Medical Cannabis Regulation and Safety Act: state licenses: Measure D.

Existing law, the Medical Cannabis Regulation and Safety Act (MCRSA), provides for the licensure and regulation of medical cannabis and requires all commercial cannabis activity to be conducted between licensees. Existing law establishes the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs. Existing law authorizes licensing authorities to only issue state licenses to qualified applicants. Existing law, upon the date of implementation of regulations by the licensing authority, prohibits a person from engaging in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization.

This bill would instead prohibit a person from engaging in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization one year after the bureau posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses. The bill would also, with regard to commercial cannabis activity in the City of Los Angeles, prohibit licensing authorities from requiring a local license, permit, or other authorization, and would require the issuance of a state license, if the authorities determine, as specified, that the applicant meets all of the requirements of MCRSA and specified criteria relating to Measure D, which was approved by the voters of the City of Los Angeles at the May 21, 2013, general election. The bill would further provide that a license issued pursuant to the above provision has the same force and effect, and confers the same benefits and responsibilities, as licenses issued to licensees not subject to the above-described exception. The bill would require the exemption to the local licensing requirement provided by these provisions to be superseded by a subsequent initiative authorizing the City of Los

Angeles to issue local licenses to medical marijuana businesses in the city if the voters of Los Angeles approve the initiative prior to the time the State of California begins issuing state licenses.

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

SECTION 1. Section 19320 of the Business and Professions Code is amended to read:

19320. (a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this chapter.

(b) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. One year after the Bureau of Medical Cannabis Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. An entity seeking licensure pursuant to this chapter shall obtain a local license, permit, or other authorization prior to applying for state licensure. State licensing entities shall not issue a license to any applicant that is unable to provide documentation confirming authorization to operate from the local government in which the applicant proposes to operate. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a local license, permit, or other authorization from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(c) Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport or where any equipment that is not currently transporting medical cannabis or medical cannabis products permanently resides.

(d) Revocation of a local license, permit, or other required authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization. Local authorities shall notify the bureau upon

revocation of a local license, permit, or other authorization. The bureau shall inform relevant licensing authorities.

(e) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license.

(f) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(g) Nothing in this chapter shall be construed to supersede or limit state agencies, including the Department of Food and Agriculture, the State Water Resources Control Board, and the Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

(h) (1) Notwithstanding any other provision of this chapter:

(A) With regard to commercial cannabis activity in the City of Los Angeles, the licensing authorities shall not require a local license, permit, or other authorization and shall issue a state license to engage in commercial cannabis activity only if the licensing authorities determine the applicant satisfies all of the requirements of this act and demonstrates that it meets all of the following criteria established by Measure D, approved by the voters of the City of Los Angeles at the May 21, 2013, general election:

(i) The applicant was operating in the City of Los Angeles as a medical marijuana business by September 14, 2007, as evidenced by a business tax registration certificate issued by the City of Los Angeles on or before November 13, 2007.

(ii) The applicant registered with the City of Los Angeles city clerk by November 13, 2007, in accordance with all of the requirements of the City of Los Angeles' Interim Control Ordinance.

(iii) The applicant obtained a City of Los Angeles business tax registration for taxation as a medical marijuana collective (class L050).

(B) A state license issued pursuant to this paragraph for commercial cannabis activity shall have the same force and effect and shall confer the same benefits and responsibilities as licenses issued to licensees outside the City of Los Angeles that obtain a license, permit, or other authorization from the local jurisdiction.

(C) The determination of the licensing authority that an applicant for a state license meets the criteria listed in subparagraph (A) shall be based on a written or electronic notification provided to the licensing authority by the City of Los Angeles that the applicant has met the criteria. If the City of Los Angeles does not provide written or electronic notification to the licensing authority confirming an applicant has met the criteria, the licensing authority shall not issue a state license.

(2) Notwithstanding paragraph (1), if the voters of Los Angeles approve an initiative, after January 1, 2016, but prior to the time that the State of California begins issuing state licenses, that authorizes the City of Los Angeles to issue local licenses to medical marijuana businesses in Los Angeles, the exemption for local licensing in Los Angeles as set forth in paragraph (1) shall be superseded by the local licensing requirements as enacted by that initiative.

Approved _____, 2016

Governor

EXHIBIT F

AMENDED IN SENATE JUNE 27, 2017
AMENDED IN ASSEMBLY MAY 30, 2017
AMENDED IN ASSEMBLY APRIL 5, 2017
AMENDED IN ASSEMBLY MARCH 28, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 64

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

December 12, 2016

An act to amend Sections ~~19334, 26055, 26001, 26053, 26070, 26150, 26151, 26152, 26153, 26154, and 26200~~ 26100, 26110, and 26130 of, to add Sections *Section* 14235.5 and 19322.5 to, and to add Article 12 (commencing with Section 19349) to Chapter 3.5 of Division 8 of, the Business and Professions Code, and to amend Section 11362.775 of the Health and Safety Code, to amend Section 34019 of the Revenue and Taxation Code, and to amend Sections 23152, 23153, and 23222 of the Vehicle Code, relating to cannabis, and making an appropriation therefor: *cannabis*.

LEGISLATIVE COUNSEL'S DIGEST

AB 64, as amended, Bonta. Cannabis: ~~medical and nonmedical~~ licensure and regulation.

(1) Existing law, *the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA)*, an initiative measure enacted as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and

applicable local ordinances. Existing law, the Medical Cannabis Regulation and Safety Act (MCRSA), also authorizes a person who obtains both a state license under MCRSA and the relevant local license to engage in commercial-medical medicinal cannabis activity pursuant to those licenses, as specified. Under MCRSA, responsibility for the state licensure and regulation of commercial-medical cannabis activity is generally divided. Both MCRSA and AUMA generally divide responsibility for state licensure and regulation between the Bureau of Marijuana Control (bureau) within the Department of Consumer Affairs, which serves as the lead state agency and administers provisions relating to the transportation, storage unrelated to manufacturing activities, testing, distribution, and sale of medical cannabis; agency, the Department of Food and Agriculture, which administers provisions relating to the cultivation of medical cannabis; and the State Department of Public Health, which administers provisions relating to the manufacturing of medical cannabis. Health. AUMA requires the licensing authorities to begin issuing licenses to engage in commercial adult-use cannabis activity by January 1, 2018.

This bill would specify that licensees under the MCRSA may operate for profit or not for profit.

(2) Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, authorizes a person 21 years of age or older to possess and use up to 28.5 grams of marijuana and up to 8 grams of concentrated cannabis, and to possess up to 6 living marijuana plants and the marijuana produced by those plants, subject to certain restrictions, as specified. AUMA also authorizes a person who obtains a state license under AUMA to engage in commercial nonmedical marijuana activity pursuant to that license and applicable local ordinances. AUMA generally divides responsibility for the state licensure and regulation of commercial nonmedical marijuana activity between the bureau, the Department of Food and Agriculture, and the State Department of Public Health, and requires those state licensing authorities to begin issuing licenses by January 1, 2018.

Both MCRSA and AUMA require state licensure to engage in retail sale or delivery. Under MCRSA, persons may engage in those activities with respect to medical cannabis with a Type 10, or “dispensary,” or Type 10A, or “producing dispensary,” license. Under AUMA, persons

may engage in those activities with respect to nonmedical marijuana with a Type 10, or “retailer,” or Type 12, or “microbusiness,” license.

This bill would specify that a dispensary, producing dispensary, or retailer license may be issued for storefront locations with premises with direct physical access for the public or nonstorefront locations with premises without direct physical access for the public. The bill would define “premises” for these purposes to mean a “brick and mortar” facility.

~~(3) AUMA authorizes the Department of Consumer Affairs to issue retailer licenses, distributor licenses, and microbusiness licenses. AUMA authorizes a microbusiness licensee to cultivate nonmedical marijuana on an area less than 10,000 square feet and to act as a distributor, a Level 1 manufacturer, and a retailer, provided the licensee complies with all requirements imposed by AUMA on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.~~

~~This bill would specify that a microbusiness license does not authorize the distribution of nonmedical marijuana or marijuana products except those produced at the licensed cultivation or manufacturing sites of the microbusiness licensee and sold at the licensed retail establishments under the exclusive control of the microbusiness licensee.~~

~~(4) AUMA prescribes various restrictions and requirements on the advertising or marketing of nonmedical marijuana and marijuana products applicable to commercial nonmedical marijuana licensees under that act. These restrictions and requirements include, among other things, a prohibition on advertising or marketing on a billboard or similar advertising device located on an interstate highway or state highway that crosses the border of any other state.~~

~~This bill would expand that prohibition to apply to advertising or marketing on all interstate highways or state highways and would apply those restrictions and requirements, with this expanded prohibition, to entities regardless of licensure under AUMA, with certain exceptions. The bill would place similar restrictions and requirements on the advertising or marketing of medical cannabis and medical cannabis products.~~

~~(5) AUMA states that its licensure and regulation provisions do not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate licensed businesses, except as provided. AUMA provides that an applicant need not provide documentation that the applicant has obtained a license, permit, or other~~

authorization to operate from the local jurisdiction in which the applicant seeks to operate. AUMA prohibits state licensing authorities from approving an application for a state license if approval of the state license would violate the provisions of a local ordinance or regulation adopted to regulate licensed nonmedical marijuana businesses.

The bill would require the determination of a state licensing authority that an applicant for a state license is not in compliance with a local nonmedical marijuana business ordinance or regulation to be based on a written or electronic notification provided to the licensing authority by the local jurisdiction in response to an inquiry from the licensing authority. The bill would require the licensing authority to deem the applicant to be in compliance with all local nonmedical marijuana business ordinances or regulations if the local jurisdiction does not provide a written or electronic notification, as specified, within 90 business days of receiving an inquiry from a state licensing authority.

Senate Bill 94 of the 2017–18 Regular Session (SB 94), effective immediately upon enactment, would consolidate the provisions providing for the licensure and regulation of commercial medicinal cannabis activity and commercial adult-use cannabis activity under a single regulatory scheme, which would be known as the Medicinal and Adult-Use Regulation and Safety Act (MAUCRSA), by repealing MCRSA, incorporating certain provisions of MCRSA into the licensing provisions of AUMA, and making a variety of conforming and related changes.

AUMA defines “delivery” for the above-described purposes as meaning the commercial transfer of adult-use cannabis or cannabis products to a customer and including the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of adult-use cannabis or cannabis products. Under MAUCRSA, if SB 94 is enacted, “delivery” would no longer include the use by a retailer of any technology platform independently licensed.

This bill would expand MAUCRSA’s definition of “delivery” to include the use by a retailer of any technology platform owned, leased, or controlled by the retailer.

(2) MCRSA and AUMA prohibit, and if SB 94 is enacted, MAUCRSA would prohibit, a person licensed to test cannabis or cannabis products from obtaining licensure for any other commercial cannabis activity. Although MCRSA also prohibits testing licensees from owning or having

an ownership interest in any entity or premises licensed under a different category pursuant to MCRSA, and although AUMA also prohibits testing licensees from owning or having an ownership interest in a non-testing facility, SB 94 would repeal these additional prohibitions and instead prohibit a testing licensee from employing an individual who is also employed by any other licensee that does not hold a state testing laboratory license. SB 94 would condition a person's eligibility for more than one license under MAUCRSA upon a requirement that the licensed premises be separate and distinct.

This bill, if SB 94 is enacted, would repeal that separate and distinct premises requirement. The bill would also prohibit a testing licensee under MAUCRSA from owning, or having an ownership interest in, a premises licensed under MAUCRSA for any activity except testing.

(3) Existing law makes it an infraction punishable by a fine not exceeding \$100 for a person to possess not more than one ounce of cannabis while driving a motor vehicle, as specified, unless otherwise authorized by law. SB 94, effective immediately upon enactment, would repeal that provision and instead make it an infraction punishable by a fine not exceeding \$100 for a person to possess a receptacle containing cannabis or cannabis product that has been opened, or a seal broken, or to possess loose cannabis flower not in a container, while driving a motor vehicle, with certain exceptions.

This bill would require a retailer, microbusiness, or nonprofit licensed under MAUCRSA to display a sign educating its customers on California's laws on transporting cannabis or cannabis products in a vehicle, in accordance with the above-described provisions.

~~(6)~~

(4) Existing law, the Model State Trademark Law, provides for the registration of trademarks and service marks with the Secretary of State and requires the classification of goods and services for those purposes to conform to the classifications adopted by the United States Patent and Trademark Office.

*This bill, for purposes of marks for which a certificate of registration is issued on or after January 1, 2018, would, notwithstanding those provisions, authorize the use of specified classifications for marks related to ~~medical cannabis and nonmedical cannabis~~ *cannabis*, including *medicinal cannabis*, goods and services that are lawfully in commerce under state law in the State of California.*

(7) AUMA, commencing January 1, 2018, imposes an excise tax on the purchase of marijuana and marijuana products, including medical

cannabis and medical cannabis products, and a separate cultivation tax on all harvested marijuana, including medical cannabis, as specified, and requires revenues from those taxes to be deposited into the California Marijuana Tax Fund, which is continuously appropriated for specified purposes pursuant to a specified schedule. Under AUMA, this schedule includes an annual allocation to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year, for the purposes of establishing and adopting protocols to determine whether a driver is operating a vehicle while impaired, among other purposes. This schedule also includes separate annual allocations to the Department of the California Highway Patrol and the Board of State and Community Corrections, beginning with the 2018–19 fiscal year, to fund grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, among other purposes, and to fund grants to local governments to assist with local programs addressing public health and safety associated with the implementation of AUMA, respectively.

This bill would amend AUMA by modifying that schedule to require the disbursement of funds, prior to certain other disbursements, to the Department of the California Highway Patrol and the Board of State and Community Corrections for reasonable costs incurred managing the administration of those grants, would advance \$3,000,000 as a loan from the General Fund to the Department of the California Highway Patrol for use in the 2017–18 fiscal year for the purposes for which allocations to the Department of the California Highway Patrol are required until the 2022–23 fiscal year, as described above, and would require that loan to be repaid from specified amounts disbursed from the California Marijuana Tax Fund. By modifying the schedule of disbursements and advancing a loan, this bill would make an appropriation.

(8) Existing law makes it a crime for a person who is under the influence of any drug, or the combined influence of alcohol and any drug, to drive a vehicle. Existing law also makes it a crime for a person who is under the influence of any drug, or the combined influence of alcohol and any drug, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, when the act or neglect proximately causes bodily injury to a person other than the driver.

~~This bill would recast these provisions without substantive change to provide for separate offenses for a person who is under the influence of marijuana or the combined influence of alcohol and marijuana and a person who is under the influence of a drug other than marijuana or the combined influence of alcohol and a drug other than marijuana, as specified.~~

~~(9) Existing law makes it an infraction punishable by a fine not exceeding \$100 for a person to possess not more than one ounce of marijuana while driving a motor vehicle, as specified, unless otherwise authorized by law.~~

~~This bill would make it an infraction punishable by a fine not exceeding \$100 for a person to possess marijuana while driving a motor vehicle, as specified, unless the marijuana is stored in the vehicle as provided or the person is a licensee under MCRSA or AUMA acting in accordance with applicable regulations.~~

~~By creating a new crime, this bill would impose a state-mandated local program.~~

~~(10)~~

~~(5) Existing law exempts qualified medical marijuana medicinal cannabis patients with valid identification cards, the designated primary caregivers of those patients, and persons with identification cards who associate within the State of California in order, collectively or cooperatively, to cultivate cannabis for medical medicinal purposes from specified criminal liability, including possession, cultivation, and transport of cannabis until one year after the bureau posts a notice on its Internet Web site that licenses for medical commercial cannabis activity have begun being issued.~~

~~This bill would authorize these collectives and cooperatives to operate for profit or not for profit. The bill would limit the protection for collectives and collaboratives operating for profit to those collectives and collaboratives that possess a valid seller's permit from the State Board of Equalization and a valid local license, permit, or other authorization.~~

~~(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

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

~~(12)~~

(6) AUMA authorizes the Legislature to amend its provisions by a $\frac{2}{3}$ vote of each house if the amendment furthers its purposes and intent.

This bill would state that the bill furthers the purposes and intent of AUMA for specified reasons.

Vote: $\frac{2}{3}$. Appropriation: ~~yes~~-no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

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

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

3 (a) In 1996, California became the first state in the nation to
4 allow the use of ~~medical~~ medicinal cannabis after voters approved
5 Proposition 215, the California Compassionate Use Act. In 2003,
6 California enacted Senate Bill 420, the Medical Marijuana Program
7 Act, which allowed the ~~medical~~ medicinal cannabis industry to
8 organize as collectives and cooperatives, and provided limited
9 protections from prosecution. In 2015, California enacted the
10 Medical Cannabis Regulation and Safety Act (MCRSA), by passing
11 Assembly Bill 266 (Bonta, Cooley, Jones-Sawyer, Lackey, and
12 Wood), Assembly Bill 243 (Wood), and Senate Bill 643 (McGuire).
13 The Medical Cannabis Regulation and Safety Act was the first
14 proactive regulatory framework for ~~medical~~ medicinal cannabis
15 in the state's history. The MCRSA was revised in 2016 with the
16 passage of Senate Bill 837 and Assembly Bill 2516, which made
17 changes to implement the act and create a new cottage cultivation
18 license.

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

30 (c) AUMA directs the state to begin issuing licenses to
31 businesses in the adult use cannabis industry by January 1, 2018,

1 despite having only been approved by the voters on November 8,
2 2016. This is an aggressive timeline for implementation given that
3 it leaves state licensing authorities with less than 14 months to
4 engage in the stakeholder process, determine how to regulate the
5 ~~adult-use~~ *adult-use* cannabis industry and to what extent these
6 regulations should differ from those they develop for the ~~medical~~
7 *medicinal* cannabis industry, and begin issuing multiple types of
8 licenses under AUMA and the MCRSA, two systems with
9 significant policy differences.

10 (d) The Blue Ribbon Commission report published on July 22,
11 2015, highlighted the benefits and drawbacks of a unitary,
12 reconciled system for regulating ~~medical and adult-use~~ *medicinal*
13 *and adult-use* cannabis, suggesting that under such a system
14 regulated businesses can reach the entire market of both ~~adult-use~~
15 ~~and medical~~ *adult-use and medicinal* consumers under one set of
16 licenses, which would help reduce the costs of compliance with
17 regulations and enable the businesses to remain competitive with
18 the illicit market.

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

24 (f) ~~Both the MCRSA and AUMA place local control at the core~~
25 ~~of their regulatory structures, reflecting the diversity of opinions~~
26 ~~surrounding medical and adult-use cannabis in cities throughout~~
27 ~~California. As such, the regulatory options at the state level should~~
28 ~~reflect that diversity by providing for medical dispensaries, adult~~
29 ~~use dispensaries, and nonstorefront dispensaries.~~

30 (f) *Senate Bill 94 reconciled the Medical Cannabis Regulation*
31 *and Safety Act and the Control, Regulate and Tax Adult Use of*
32 *Marijuana Act and provided uniform standards for both medicinal*
33 *and adult-use cannabis activity.*

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

38 (h) It is the intent of the Legislature that this act ~~reconcile~~
39 *continue the reconciliation of* the Medical Cannabis Regulation
40 and Safety Act and the Control, Regulate and Tax Adult Use of

1 Marijuana Act in order to protect public safety, communities,
2 patients, consumers, and the environment.

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

5 14235.5. (a) Notwithstanding Section 14235, for purposes of
6 marks for which a certificate of registration is issued on or after
7 January 1, 2018, the following classifications may be used for
8 marks related to ~~medical cannabis and nonmedical cannabis~~
9 *cannabis, including medicinal cannabis*, goods and services that
10 are lawfully in commerce under state law in the State of California:

11 (1) 500 for goods that are ~~medical cannabis, medical cannabis~~
12 ~~products, nonmedical cannabis, or nonmedical cannabis products.~~
13 *cannabis or cannabis products, including medicinal cannabis or*
14 *medicinal cannabis products.*

15 (2) 501 for services related to ~~medical cannabis, medical~~
16 ~~cannabis products, nonmedical cannabis, or nonmedical cannabis~~
17 ~~products.~~ *cannabis or cannabis products, including medicinal*
18 *cannabis or medicinal cannabis products.*

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

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

23 (2) “Nonmedical cannabis” and “nonmedical ~~section,~~
24 “*cannabis,*” “*cannabis products,*” “*medicinal cannabis,*” and
25 “*medicinal cannabis products*” have the meanings provided for
26 “marijuana” and “marijuana products,” respectively, in Section
27 26001.

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

30 19322.5. A licensee may operate for profit or not for profit.

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

33 19334. (a) State licenses to be issued by the Department of
34 Consumer Affairs are as follows:

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

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

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

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

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

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

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

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

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

27 (4) ~~“Transport,” Type 12 license for transporters of medical~~
28 ~~cannabis or medical cannabis products between licensees. A Type~~
29 ~~12 licensee shall be bonded and insured at a minimum level~~
30 ~~established by the licensing authority.~~

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

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

37 (d) ~~A licensed dispensary shall implement sufficient security~~
38 ~~measures to both deter and prevent unauthorized entrance into~~
39 ~~areas containing medical cannabis or medical cannabis products~~
40 ~~and theft of medical cannabis or medical cannabis products at the~~

1 dispensary. These security measures shall include, but not be
2 limited to, all of the following:

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

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

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

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

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

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

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

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

27 (5) Any other breach of security.

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

31
32 Article 12. Advertising and Marketing Restrictions

33
34 19349. For purposes of this article:

35 (a) "Advertise" means the publication or dissemination of an
36 advertisement.

37 (b) "Advertisement" includes any written or verbal statement,
38 illustration, or depiction that is calculated to induce sales of medical
39 cannabis or medical cannabis products, including any written,
40 printed, graphic, or other material, billboard, sign, or other outdoor

1 display, public transit card, other periodical literature, publication,
2 or in a radio or television broadcast, or in any other media; except
3 that “advertisement” shall not include either of the following:

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

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

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

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

19 (1) Licensee.

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

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

27 19349.1. (a) All advertisements and marketing shall accurately
28 and legibly identify the entity responsible for its content.

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

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

- 1 (d) All advertising shall be truthful and appropriately
2 substantiated.
- 3 19349.2. An entity shall not do any of the following:
- 4 (a) Advertise or market in a manner that is false or untrue in
5 any material particular, or that, irrespective of falsity, directly, or
6 by ambiguity, omission, or inference, or by the addition of
7 irrelevant, scientific, or technical matter, tends to create a
8 misleading impression.
- 9 (b) Publish or disseminate advertisements or marketing
10 containing any statement concerning a brand or product that is
11 inconsistent with any statement on the labeling thereof.
- 12 (c) Publish or disseminate advertisements or marketing
13 containing any statement, design, device, or representation that
14 tends to create the impression that the medical cannabis originated
15 in a particular place or region, unless the label of the advertised
16 product bears an appellation of origin, and that appellation of origin
17 appears in the advertisement.
- 18 (d) Advertise or market on a billboard or similar advertising
19 device located on an interstate highway or state highway.
- 20 (e) Advertise or market medical cannabis or medical cannabis
21 products in a manner intended to encourage persons under the age
22 of 21 years to consume medical cannabis or medical cannabis
23 products.
- 24 (f) Publish or disseminate advertisements or marketing
25 containing symbols, language, music, gestures, cartoon characters,
26 or other content elements known to appeal primarily to minors.
- 27 (g) Advertise or market medical cannabis or medical cannabis
28 products on an advertising sign within 1,000 feet of a day care
29 center, school providing instruction in kindergarten or any grades
30 1 through 12, playground, or youth center.
- 31 19349.3. An entity shall not give away any amount of medical
32 cannabis or medical cannabis products, or any medical cannabis
33 accessories, as part of a business promotion or other commercial
34 activity.
- 35 19349.4. An entity shall not publish or disseminate
36 advertisements or marketing containing any statement that is untrue
37 in any particular manner or tends to create a misleading impression
38 as to the effects of medical cannabis consumption.
- 39 19349.5. (a) Subdivision (g) of Section 19349.2 shall not apply
40 to the placement of advertising signs inside a licensed premises

1 and that are not visible by normal unaided vision from a public
2 place, provided that those advertising signs do not advertise
3 medical cannabis or medical cannabis products in a manner
4 intended to encourage persons under the age of 21 years to consume
5 medical cannabis or medical cannabis products.

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

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

9 26055. (a) Licensing authorities may issue state licenses only
10 to qualified applicants.

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

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

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

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

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

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

14 26070. Retailers and Distributors.

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

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

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

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

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

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

29 (3) “Microbusiness,” for the cultivation of marijuana on an area
30 less than 10,000 square feet and to act as a licensed distributor,
31 Level 1 manufacturer, and retailer under this division, provided
32 such licensee complies with all requirements imposed by this
33 division on licensed cultivators, distributors, Level 1 manufacturers,
34 and retailers to the extent the licensee engages in such activities.
35 Microbusiness licenses that authorize cultivation of marijuana
36 shall include conditions requested by the Department of Fish and
37 Wildlife and the State Water Resources Control Board to ensure
38 that individual and cumulative effects of water diversion and
39 discharge associated with cultivation do not affect the instream
40 flows needed for fish spawning, migration, and rearing, and the

1 flow needed to maintain flow variability, and otherwise protect
2 fish, wildlife, fish and wildlife habitat, and water quality. A
3 microbusiness license does not authorize the distribution of
4 marijuana or marijuana products except those produced at the
5 licensed cultivation or manufacturing sites of the microbusiness
6 licensee and sold at the licensed retail establishments under the
7 exclusive control of the microbusiness licensee.

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

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

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

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

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

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

35 26150. For purposes of this chapter:

36 (a) "Advertise" means the publication or dissemination of an
37 advertisement.

38 (b) "Advertisement" includes any written or verbal statement,
39 illustration, or depiction which is calculated to induce sales of
40 marijuana or marijuana products, including any written, printed,

1 graphic, or other material, billboard, sign, or other outdoor display,
2 public transit card, other periodical literature, publication, or in a
3 radio or television broadcast, or in any other media; except that
4 such term shall not include:

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

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

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

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

19 (1) Licensee.

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

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

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

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

34 26151. (a) All advertisements and marketing shall accurately
35 and legibly identify the entity responsible for its content.

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

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

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

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

12 26152. No entity shall:

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

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

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

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

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

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

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

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

3 26153. An entity shall not gift any amount of marijuana or
4 marijuana products, or any marijuana accessories, as part of a
5 business promotion or other commercial activity.

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

8 26154. An entity shall not publish or disseminate advertising
9 or marketing containing any health-related statement that is untrue
10 in any particular manner or tends to create a misleading impression
11 as to the effects of marijuana consumption on the health of an
12 individual.

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

15 26200. (a) This division, except as provided by Sections 26054,
16 26080, and 26090, does not supersede or limit the authority of a
17 local jurisdiction to adopt and enforce local ordinances to regulate
18 businesses licensed under this division, including, but not limited
19 to, local zoning and land use requirements, business license
20 requirements, and requirements related to reducing exposure to
21 secondhand smoke, or to completely prohibit the establishment or
22 operation of one or more types of businesses licensed under this
23 division within the local jurisdiction.

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

27 (c) A local jurisdiction shall notify the bureau upon revocation
28 of any local license, permit, or authorization for a licensee to
29 engage in commercial marijuana activity within the local
30 jurisdiction. Within 10 days of notification, the bureau shall inform
31 the relevant licensing authorities. Within 10 days of being so
32 informed by the bureau, the relevant licensing authorities shall
33 commence proceedings under Chapter 3 (commencing with Section
34 26030) to determine whether a license issued to the licensee should
35 be suspended or revoked.

36 (d) Notwithstanding paragraph (1) of subdivision (a) of Section
37 11362.3 of the Health and Safety Code, a local jurisdiction may
38 allow for the smoking, vaporizing, and ingesting of marijuana or
39 marijuana products on the premises of a retailer or microbusiness
40 licensed under this division if all of the following apply:

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

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

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

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

9 11362.775. (a) ~~Subject to subdivision (d), qualified patients,~~
10 ~~persons with valid identification cards, and the designated primary~~
11 ~~caregivers of qualified patients and persons with identification~~
12 ~~cards, who associate within the State of California in order~~
13 ~~collectively or cooperatively to cultivate cannabis for medical~~
14 ~~purposes, shall not solely on the basis of that fact be subject to~~
15 ~~state criminal sanctions under Section 11357, 11358, 11359, 11360,~~
16 ~~11366, 11366.5, or 11570. A collective or cooperative that operates~~
17 ~~pursuant to this section may operate for profit or not for profit. A~~
18 ~~collective or cooperative that operates for profit shall retain the~~
19 ~~protections of this section only if it possesses a valid seller's permit~~
20 ~~from the State Board of Equalization and a valid local license,~~
21 ~~permit, or other authorization.~~

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

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

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

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

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

39 (ii) ~~The system is designed to recapture and contain solvents~~
40 ~~during the manufacturing process, and otherwise prevent the~~

- 1 off-gassing of solvents into the ambient atmosphere to mitigate
2 the risks of ignition and explosion during the manufacturing
3 process.
- 4 (iii) A licensed engineer certifies that the system was
5 commercially manufactured, safe for its intended use, and built to
6 codes of recognized and generally accepted good engineering
7 practices, including, but not limited to, the American Society of
8 Mechanical Engineers (ASME), the American National Standards
9 Institute (ANSI), Underwriters Laboratories (UL), the American
10 Society for Testing and Materials (ASTM), or OSHA Nationally
11 Recognized Testing Laboratories (NRTLs).
- 12 (iv) The system has a certification document that contains the
13 signature and stamp of a professional engineer and the serial
14 number of the extraction unit being certified.
- 15 (2) The collective or cooperative receives and maintains
16 approval from the local fire official for the closed-loop system,
17 other equipment, the extraction operation, and the facility.
- 18 (3) The collective or cooperative meets required fire, safety,
19 and building code requirements in one or more of the following:
- 20 (A) The California Fire Code.
21 (B) The National Fire Protection Association (NFPA) standards.
22 (C) International Building Code (IBC).
23 (D) The International Fire Code (IFC).
24 (E) Other applicable standards, including complying with all
25 applicable fire, safety, and building codes in processing, handling,
26 and storage of solvents or gasses.
- 27 (4) The collective or cooperative is in possession of a valid
28 seller's permit issued by the State Board of Equalization.
- 29 (5) The collective or cooperative is in possession of a valid local
30 license, permit, or other authorization specific to the manufacturing
31 of medical cannabis products, and in compliance with any
32 additional conditions imposed by the city or county issuing the
33 local license, permit, or other authorization.
- 34 (e) For purposes of this section, "manufacturing" means
35 compounding, converting, producing, deriving, processing, or
36 preparing, either directly or indirectly by chemical extraction or
37 independently by means of chemical synthesis, medical cannabis
38 products.
- 39 (d) This section shall remain in effect only until one year after
40 the Bureau of Marijuana Control posts a notice on its Internet Web

1 site that the licensing authorities have commenced issuing licenses
2 pursuant to the Medical Cannabis Regulation and Safety Act
3 (Chapter 3.5 (commencing with Section 19300) of Division 8 of
4 the Business and Professions Code).

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

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

9 34019. (a) Beginning with the 2017-18 fiscal year, the
10 Department of Finance shall estimate revenues to be received
11 pursuant to Sections 34011 and 34012 and provide those estimates
12 to the Controller no later than June 15 of each year. The Controller
13 shall use these estimates when disbursing funds pursuant to this
14 section. Before any funds are disbursed pursuant to subdivisions
15 (b), (c), (d), and (e), the Controller shall disburse from the Tax
16 Fund to the appropriate account, without regard to fiscal year, the
17 following:

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

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

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

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

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

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

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

13 (8) Sufficient funds to reimburse the Division of Labor
14 Standards Enforcement and the Division of Occupational Safety
15 and Health within the Department of Industrial Relations and the
16 Employment Development Department for the costs of applying
17 and enforcing state labor laws to licensees under Chapter 3.5
18 (commencing with Section 19300) of Division 8 of the Business
19 and Professions Code and Division 10 (commencing with Section
20 26000) of the Business and Professions Code.

21 (b) The Controller shall next disburse the sum of ten million
22 dollars (\$10,000,000) to a public university or universities in
23 California annually beginning with 2018-19 fiscal year until the
24 2028-29 fiscal year to research and evaluate the implementation
25 and effect of the Control, Regulate and Tax Adult Use of Marijuana
26 Act, and shall, if appropriate, make recommendations to the
27 Legislature and Governor regarding possible amendments to the
28 Control, Regulate and Tax Adult Use of Marijuana Act. The
29 recipients of these funds shall publish reports on their findings at
30 a minimum of every two years and shall make the reports available
31 to the public. The bureau shall select the universities to be funded.
32 The research funded pursuant to this subdivision shall include, but
33 not necessarily be limited to, all of the following:

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

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

39 (3) Public safety issues related to marijuana use, including
40 studying the effectiveness of the packaging and labeling

1 requirements and advertising and marketing restrictions contained
2 in the act at preventing underage access to and use of marijuana
3 and marijuana products, and studying the health-related effects
4 among users of varying potency levels of marijuana and marijuana
5 products.

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

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

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

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

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

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

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

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

1 (c) ~~The Controller shall next disburse the sum of three million~~
2 ~~dollars (\$3,000,000) annually to the Department of the California~~
3 ~~Highway Patrol beginning with the 2018–19 fiscal year until the~~
4 ~~2022–23 fiscal year to establish and adopt protocols to determine~~
5 ~~whether a driver is operating a vehicle while impaired, including~~
6 ~~impairment by the use of marijuana or marijuana products, and to~~
7 ~~establish and adopt protocols setting forth best practices to assist~~
8 ~~law enforcement agencies. The department may hire personnel to~~
9 ~~establish the protocols specified in this subdivision. In addition,~~
10 ~~the department may make grants to public and private research~~
11 ~~institutions for the purpose of developing technology for~~
12 ~~determining when a driver is operating a vehicle while impaired,~~
13 ~~including impairment by the use of marijuana or marijuana~~
14 ~~products.~~

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

38 (e) ~~The Controller shall next disburse the sum of two million~~
39 ~~dollars (\$2,000,000) annually to the University of California San~~
40 ~~Diego Center for Medicinal Cannabis Research to further the~~

1 objectives of the center including the enhanced understanding of
2 the efficacy and adverse effects of marijuana as a pharmacological
3 agent.

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

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

22 (A) Prevention and early intervention services including
23 outreach, risk survey and education to youth, families, caregivers,
24 schools, primary care health providers, behavioral health and
25 substance use disorder service providers, community and
26 faith-based organizations, fostercare providers, juvenile and family
27 courts, and others to recognize and reduce risks related to substance
28 use, and the early signs of problematic use and of substance use
29 disorders.

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

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

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

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

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

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

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

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

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

39 ~~(K) Funds shall be allocated to counties based on demonstrated~~
40 ~~need, including the number of youth in the county, the prevalence~~

1 of substance use disorders among adults, and confirmed through
2 statistical data, validated assessments or submitted reports prepared
3 by the applicable county to demonstrate and validate need.

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

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

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

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

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

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

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

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

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

13 ~~(E) Funds allocated pursuant to this paragraph shall be used to~~
14 ~~increase and enhance activities described in subparagraphs (A),~~
15 ~~(B), and (C), and not replace allocation of other funding for these~~
16 ~~purposes. Accordingly, annual General Fund appropriations to the~~
17 ~~Department of Fish and Wildlife and the Department of Parks and~~
18 ~~Recreation shall not be reduced below the levels provided in the~~
19 ~~Budget Act of 2014 (Chapter 25 of the Statutes of 2014).~~

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

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

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

39 ~~(C) To the Board of State and Community Corrections for~~
40 ~~making grants to local governments to assist with law enforcement,~~

1 fire protection, or other local programs addressing public health
2 and safety associated with the implementation of the Control,
3 Regulate and Tax Adult Use of Marijuana Act. The board shall
4 not make any grants to local governments which have banned the
5 cultivation, including personal cultivation under paragraph (3) of
6 subdivision (b) of Section 11362.2 of the Health and Safety Code,
7 or retail sale of marijuana or marijuana products pursuant to Section
8 26200 of the Business and Professions Code or as otherwise
9 provided by law.

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

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

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

26 (2) On and after July 1, 2028, the Legislature may amend this
27 section by majority vote to further the purposes of the Control,
28 Regulate and Tax Adult Use of Marijuana Act, including allocating
29 funds to programs other than those specified in subdivisions (d)
30 and (f). Any revisions pursuant to this subdivision shall not result
31 in a reduction of funds to accounts established pursuant to
32 subdivisions (d) and (f) in any subsequent year from the amount
33 allocated to each account in the 2027–28 fiscal year.

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

36 23152. (a) It is unlawful for a person who is under the
37 influence of any alcoholic beverage to drive a vehicle.

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

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

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

11 (c) It is unlawful for a person who is addicted to the use of any
12 drug to drive a vehicle. This subdivision shall not apply to a person
13 who is participating in a narcotic treatment program approved
14 pursuant to Article 3 (commencing with Section 11875) of Chapter
15 1 of Part 3 of Division 10.5 of the Health and Safety Code.

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

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

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

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

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

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

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

11 23153. (a) It is unlawful for a person, while under the influence
12 of any alcoholic beverage, to drive a vehicle and concurrently do
13 any act forbidden by law, or neglect any duty imposed by law in
14 driving the vehicle, when the act or neglect proximately causes
15 bodily injury to any person other than the driver.

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

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

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

31 (d) It is unlawful for a person, while having 0.04 percent or
32 more, by weight, of alcohol in his or her blood, to drive a
33 commercial motor vehicle, as defined in Section 15210 and
34 concurrently to do any act forbidden by law, or neglect any duty
35 imposed by law in driving the vehicle, when the act or neglect
36 proximately causes bodily injury to a person other than the driver.

37 In a prosecution under this subdivision, it is a rebuttable
38 presumption that the person had 0.04 percent or more, by weight,
39 of alcohol in his or her blood at the time of driving the vehicle if
40 the person had 0.04 percent or more, by weight, of alcohol in his

1 or her blood at the time of performance of a chemical test within
2 three hours after driving.

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

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

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

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

36 (i) It is unlawful for a person who is under the combined
37 influence of any alcoholic beverage and marijuana to drive a
38 vehicle and concurrently do any act forbidden by law, or neglect
39 any duty imposed by law in driving the vehicle, when the act or

1 neglect proximately causes bodily injury to any person other than
2 the driver.

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

5 ~~23222. (a) A person shall not have in his or her possession on~~
6 ~~his or her person, while driving a motor vehicle upon a highway~~
7 ~~or on lands, as described in Section 38001, any bottle, can, or other~~
8 ~~receptacle, containing any alcoholic beverage which has been~~
9 ~~opened, or a seal broken, or the contents of which have been~~
10 ~~partially removed.~~

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

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

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

24 ~~(A) The trunk of the vehicle.~~

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

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

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

37 SEC. 19. ~~The sum of three million dollars (\$3,000,000) is~~
38 ~~hereby advanced as a loan from the General Fund to the~~
39 ~~Department of the California Highway Patrol for use in the~~
40 ~~2017-18 fiscal year for the purposes described in subdivision (c)~~

1 of Section 34019 of the Revenue and Taxation Code. Moneys
2 advanced pursuant to this section shall be repaid from amounts to
3 be disbursed to the Department of the California Highway Patrol
4 pursuant to subdivision (e) of Section 34019 of the Revenue and
5 Taxation Code.

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

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

18 26001. For purposes of this division, the following definitions
19 shall apply:

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

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

28 (c) “Applicant” means an owner applying for a state license
29 pursuant to this division.

30 (d) “Batch” means a specific quantity of homogeneous cannabis
31 or cannabis product that is one of the following types:

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

37 (2) Manufactured cannabis batch. “Manufactured cannabis
38 batch” means either of the following:

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

4 (B) An amount of a type of manufactured cannabis produced
5 in one production cycle using the same formulation and standard
6 operating procedures.

7 (e) “Bureau” means the Bureau of Cannabis Control within the
8 Department of Consumer Affairs, formerly named the Bureau of
9 Marijuana Control, the Bureau of Medical Cannabis Regulation,
10 and the Bureau of Medical Marijuana Regulation.

11 (f) “Cannabis” means all parts of the plant *Cannabis sativa*
12 *Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing
13 or not; the seeds thereof; the resin, whether crude or purified,
14 extracted from any part of the plant; and every compound,
15 manufacture, salt, derivative, mixture, or preparation of the plant,
16 its seeds, or resin. “Cannabis” also means the separated resin,
17 whether crude or purified, obtained from cannabis. “Cannabis”
18 does not include the mature stalks of the plant, fiber produced from
19 the stalks, oil or cake made from the seeds of the plant, any other
20 compound, manufacture, salt, derivative, mixture, or preparation
21 of the mature stalks (except the resin extracted therefrom), fiber,
22 oil, or cake, or the sterilized seed of the plant which is incapable
23 of germination. For the purpose of this division, “cannabis” does
24 not mean “industrial hemp” as defined by Section 11018.5 of the
25 Health and Safety Code.

26 (g) “Cannabis accessories” has the same meaning as in Section
27 11018.2 of the Health and Safety Code.

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

35 (i) “Cannabis products” has the same meaning as in Section
36 11018.1 of the Health and Safety Code.

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

- 1 (k) “Commercial cannabis activity” includes the cultivation,
2 possession, manufacture, distribution, processing, storing,
3 laboratory testing, packaging, labeling, transportation, delivery or
4 sale of cannabis and cannabis products as provided for in this
5 division.
- 6 (l) “Cultivation” means any activity involving the planting,
7 growing, harvesting, drying, curing, grading, or trimming of
8 cannabis.
- 9 (m) “Cultivation site” means a location where cannabis is
10 planted, grown, harvested, dried, cured, graded, or trimmed, or a
11 location where any combination of those activities occurs.
- 12 (n) “Customer” means a natural person 21 years of age or over
13 or a natural person 18 years of age or older who possesses a
14 physician’s recommendation.
- 15 (o) “Day care center” has the same meaning as in Section
16 1596.76 of the Health and Safety Code.
- 17 (p) “Delivery” means the commercial transfer of cannabis or
18 cannabis products to a customer. “Delivery” also includes the use
19 by a retailer of any technology platform-~~owned and~~ *owned, leased,*
20 *or* controlled by the retailer.
- 21 (q) “Director” means the Director of Consumer Affairs.
- 22 (r) “Distribution” means the procurement, sale, and transport
23 of cannabis and cannabis products between licensees.
- 24 (s) “Dried flower” means all dead cannabis that has been
25 harvested, dried, cured, or otherwise processed, excluding leaves
26 and stems.
- 27 (t) “Edible cannabis product” means cannabis product that is
28 intended to be used, in whole or in part, for human consumption,
29 including, but not limited to, chewing gum, but excluding products
30 set forth in Division 15 (commencing with Section 32501) of the
31 Food and Agricultural Code. An edible cannabis product is not
32 considered food, as defined by Section 109935 of the Health and
33 Safety Code, or a drug, as defined by Section 109925 of the Health
34 and Safety Code.
- 35 (u) “Fund” means the Cannabis Control Fund established
36 pursuant to Section 26210.
- 37 (v) “Kind” means applicable type or designation regarding a
38 particular cannabis variant or cannabis product type, including,
39 but not limited to, strain name or other grower trademark, or
40 growing area designation.

1 (w) “Labeling” means any label or other written, printed, or
2 graphic matter upon a cannabis product, upon its container or
3 wrapper, or that accompanies any cannabis product.

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

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

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

26 (aa) “Licensing authority” means the state agency responsible
27 for the issuance, renewal, or reinstatement of the license, or the
28 state agency authorized to take disciplinary action against the
29 licensee.

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

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

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

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

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

- 1 (ag) “Manufacture” means to compound, blend, extract, infuse,
2 or otherwise make or prepare a cannabis product.
- 3 (ah) “Manufacturer” means a licensee that conducts the
4 production, preparation, propagation, or compounding of cannabis
5 or cannabis products either directly or indirectly or by extraction
6 methods, or independently by means of chemical synthesis, or by
7 a combination of extraction and chemical synthesis at a fixed
8 location that packages or repackages cannabis or cannabis products
9 or labels or relabels its container.
- 10 (ai) “Medicinal cannabis” or “medicinal cannabis product”
11 means cannabis or a cannabis product, respectively, intended to
12 be sold for use pursuant to the Compassionate Use Act of 1996
13 (Proposition 215), found at Section 11362.5 of the Health and
14 Safety Code, by a medicinal cannabis patient in California who
15 possesses a physician’s recommendation.
- 16 (aj) “Nursery” means a licensee that produces only clones,
17 immature plants, seeds, and other agricultural products used
18 specifically for the propagation and cultivation of cannabis.
- 19 (ak) “Operation” means any act for which licensure is required
20 under the provisions of this division, or any commercial transfer
21 of cannabis or cannabis products.
- 22 (al) “Owner” means any of the following:
- 23 (1) A person with an aggregate ownership interest of 20 percent
24 or more in the person applying for a license or a licensee, unless
25 the interest is solely a security, lien, or encumbrance.
- 26 (2) The chief executive officer of a nonprofit or other entity.
- 27 (3) A member of the board of directors of a nonprofit.
- 28 (4) An individual who will be participating in the direction,
29 control, or management of the person applying for a license.
- 30 (am) “Package” means any container or receptacle used for
31 holding cannabis or cannabis products.
- 32 (an) “Person” includes any individual, firm, partnership, joint
33 venture, association, corporation, limited liability company, estate,
34 trust, business trust, receiver, syndicate, or any other group or
35 combination acting as a unit, and the plural as well as the singular.
- 36 (ao) “Physician’s recommendation” means a recommendation
37 by a physician and surgeon that a patient use cannabis provided
38 in accordance with the Compassionate Use Act of 1996
39 (Proposition 215), found at Section 11362.5 of the Health and
40 Safety Code.

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

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

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

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

21 (1) Accredited by an accrediting body that is independent from
22 all other persons involved in commercial cannabis activity in the
23 state.

24 (2) Licensed by the bureau.

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

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

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

34 26053. (a) All commercial cannabis activity shall be conducted
35 between licensees, except as otherwise provided in this division.

36 (b) A person that holds a state testing laboratory license under
37 this division is prohibited from licensure for any other activity,
38 except testing, as authorized under this division. A person that
39 holds a state testing laboratory license shall not employ an
40 individual who is also employed by any other licensee that does

1 not hold a state testing laboratory license. *A person that holds a*
2 *state testing laboratory license shall not own, or have an ownership*
3 *interest in, a premises licensed pursuant to this division for any*
4 *activity except testing.*

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

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

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

14 ~~26070.—Retailers and Distributors.~~

15 26070. (a) State licenses to be issued by the bureau related to
16 the sale and distribution of cannabis and cannabis products are as
17 follows:

18 (1) “Retailer,” for the retail sale and delivery of cannabis or
19 cannabis products to customers. A retailer shall have a licensed
20 premises which is a physical location from which commercial
21 cannabis activities are conducted. A retailer’s premises may be
22 closed to the public. A retailer may conduct sales exclusively by
23 delivery.

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

27 (3) (A) “Microbusiness,” for the cultivation of cannabis on an
28 area less than 10,000 square feet and to act as a licensed distributor,
29 Level 1 manufacturer, and retailer under this division, provided
30 such licensee can demonstrate compliance with all requirements
31 imposed by this division on licensed cultivators, distributors, Level
32 1 manufacturers, and retailers to the extent the licensee engages
33 in ~~such~~ *those* activities. Microbusiness licenses that authorize
34 cultivation of cannabis shall include the license conditions
35 described in subdivision (b) of Section 26060.1.

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

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

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

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

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

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

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

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

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

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

14 (h) Upon receipt of the transported shipment, the licensee
15 receiving the shipment shall submit to the licensing authority a
16 record verifying receipt of the shipment and the details of the
17 shipment.

18 (i) Transporting, or arranging for or facilitating the transport
19 of, cannabis or cannabis products in violation of this chapter is
20 grounds for disciplinary action against the license.

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

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

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

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

37 (k) A retailer shall notify the licensing authority and the
38 appropriate law enforcement authorities within 24 hours after
39 discovering any of the following:

- 1 (1) Significant discrepancies identified during inventory. The
2 level of significance shall be determined by the bureau.
- 3 (2) Diversion, theft, loss, or any criminal activity pertaining to
4 the operation of the retailer.
- 5 (3) Diversion, theft, loss, or any criminal activity by any agent
6 or employee of the retailer pertaining to the operation of the
7 retailer.
- 8 (4) The loss or unauthorized alteration of records related to
9 cannabis or cannabis products, registered qualifying patients,
10 primary caregivers, or retailer employees or agents.
- 11 (5) Any other breach of security.
- 12 (l) Beginning January 1, 2018, a licensee may sell cannabis or
13 cannabis products that have not been tested for a limited and finite
14 time as determined by the bureau. The cannabis ~~and~~ or cannabis
15 products must have a label affixed to each package containing *the*
16 cannabis or cannabis products that clearly states “This product has
17 not been tested as required by the Medicinal and Adult-Use
18 Cannabis Regulation and Safety Act” and must comply with any
19 other requirement as determined by the bureau.
- 20 (m) *A retailer, microbusiness, or licensed nonprofit under*
21 *Section 26070.5 shall display a sign educating its customers on*
22 *California’s laws on transporting cannabis or cannabis products*
23 *in a vehicle, in accordance with Section 23222 of the Vehicle Code.*
- 24 *SEC. 6. Section 26100 of the Business and Professions Code,*
25 *as renumbered from Section 26100 of the Business and Professions*
26 *Code by Section 66 of Senate Bill 94 of the 2017–18 Regular*
27 *Session, is amended to read:*
- 28 26100. (a) Except as otherwise provided by law, cannabis or
29 cannabis products shall not be sold pursuant to a license provided
30 for under this division unless a representative sample of the
31 cannabis or cannabis products has been tested by a licensed testing
32 laboratory.
- 33 (b) The bureau shall develop criteria to determine which batches
34 shall be tested. All testing of the samples shall be performed on
35 the final form in which the cannabis or cannabis product will be
36 consumed or used.
- 37 (c) Testing of batches to meet the requirements of this division
38 shall only be conducted by a licensed testing laboratory.

- 1 (d) For each batch tested, the testing laboratory shall issue a
2 certificate of analysis for selected lots at a frequency determined
3 by the bureau with supporting data, to report both of the following:
4 (1) Whether the chemical profile of the sample conforms to the
5 labeled content of compounds, including, but not limited to, all of
6 the following, unless limited through regulation by the bureau:
7 (A) Tetrahydrocannabinol (THC).
8 (B) Tetrahydrocannabinolic Acid (THCA).
9 (C) Cannabidiol (CBD).
10 (D) Cannabidiolic Acid (CBDA).
11 (E) The terpenes required by the bureau in regulation.
12 (F) Cannabigerol (CBG).
13 (G) Cannabinol (CBN).
14 (H) Any other compounds or contaminants required by the
15 bureau.
- 16 (2) That the presence of contaminants does not exceed the levels
17 established by the bureau. In establishing the levels, the bureau
18 shall consider the American Herbal Pharmacopoeia monograph,
19 guidelines set by the Department of Pesticide Regulation pursuant
20 to subdivision (d) of Section 26060, and any other relevant sources.
21 For purposes of this paragraph, “contaminants” includes, but is
22 not limited to, all of the following:
23 (A) Residual solvent or processing chemicals.
24 (B) Foreign material, including, but not limited to, hair, insects,
25 or similar or related adulterant.
26 (C) Microbiological impurities as identified by the bureau in
27 regulation.
- 28 (e) Standards for residual levels of volatile organic compounds
29 shall be established by the bureau.
- 30 (f) The testing laboratory shall conduct all testing required by
31 this section in a manner consistent with general requirements for
32 the competence of testing and calibrations activities, including
33 sampling and using verified methods.
- 34 (g) All testing laboratories performing tests pursuant to this
35 section shall obtain and maintain ISO/IEC 17025 accreditation as
36 required by the bureau in regulation.
- 37 (h) If a test result falls outside the specifications authorized by
38 law or regulation, the testing laboratory shall follow a standard
39 operating procedure to confirm or refute the original result.

1 (i) A testing laboratory shall destroy the remains of the sample
2 of ~~medical~~ cannabis or ~~medical~~ cannabis product upon completion
3 of the analysis, as determined by the bureau through regulations.

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

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

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

20 26110. (a) Cannabis batches are subject to quality assurance
21 and testing prior to sale at a retailer, microbusiness, or nonprofit
22 licensed under Section 26070.5, except for immature cannabis
23 plants and seeds, as provided for in this division.

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

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

29 (1) The cannabis batch passes the testing requirements pursuant
30 to this division and is transported to a licensed retailer.

31 (2) The cannabis batch fails the testing requirements pursuant
32 to this division and is destroyed or transported to a manufacturer
33 for remediation as allowed by the bureau or the *State* Department
34 of Public Health.

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

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

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

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

16 (3) The quality assurance compliance monitor shall have access
17 to all records and test results required of a licensee by law in order
18 to conduct quality assurance analysis and to confirm test results.
19 All records of inspection and verification by the quality assurance
20 compliance monitor shall be provided to the bureau. Failure to
21 comply shall be noted by the quality assurance compliance monitor
22 for further investigation. Violations shall be reported to the bureau.
23 The quality assurance compliance monitor shall also verify the tax
24 payments collected and paid under ~~Sections 34011 and 34012~~
25 *Section 34012.5* of the Revenue and ~~Tax~~ *Taxation* Code are
26 accurate. The monitor shall also have access to the inputs and
27 assumptions in the track and trace system and shall be able to
28 verify the accuracy of those and that they are commensurate with
29 the tax payments.

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

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

37 (i) A distributor performing services pursuant to this section
38 may collect a fee from the licensee for the services provided. The
39 fee may include, but is not limited to, the costs incurred for

1 laboratory testing. A distributor may also collect applicable state
2 or local taxes and fees.

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

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

12 26130. (a) The State Department of Public Health shall
13 promulgate regulations governing the licensing of cannabis
14 manufacturers and standards for the manufacturing, packaging,
15 and labeling of all manufactured cannabis products. Licenses to
16 be issued are as follows:

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

21 (2) “Manufacturing Level 2,” for sites that manufacture cannabis
22 products using volatile solvents. A Manufacturing Level 2 M-Type
23 7 licensee shall only manufacture cannabis products for sale by a
24 retailer with an M-Type 10 license.

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

29 (c) Edible cannabis products shall be:

30 (1) Not designed to be appealing to children or easily confused
31 with commercially sold candy or foods that do not contain
32 cannabis.

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

36 (3) Delineated or scored into standardized serving sizes if the
37 cannabis product contains more than one serving and is an edible
38 cannabis product in solid form.

39 (4) Homogenized to ensure uniform disbursement of
40 cannabinoids throughout the product.

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

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

9 (7) Marked with a universal symbol, as determined by the State
10 Department of Public Health through regulation.

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

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

17 11362.775. (a) Subject to subdivision (d), qualified patients,
18 persons with valid identification cards, and the designated primary
19 caregivers of qualified patients and persons with identification
20 cards, who associate within the State of California in order
21 collectively or cooperatively to cultivate cannabis for medicinal
22 purposes, shall not solely on the basis of that fact be subject to
23 state criminal sanctions under Section 11357, 11358, 11359, 11360,
24 11366, 11366.5, or 11570. *A collective or cooperative that operates*
25 *pursuant to this section may operate for profit or not for profit. A*
26 *collective or cooperative that operates for profit shall retain the*
27 *protections of this section only if it possesses a valid seller's permit*
28 *from the State Board of Equalization and a valid local license,*
29 *permit, or other authorization.*

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

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

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

- 1 (B) Utilizes only manufacturing processes that use solvents
2 exclusively within a closed-loop system that meets all of the
3 following requirements:
- 4 (i) The system uses only solvents that are generally recognized
5 as safe pursuant to the federal Food, Drug, and Cosmetic Act (21
6 U.S.C. Sec. 301 et seq.).
 - 7 (ii) The system is designed to recapture and contain solvents
8 during the manufacturing process, and otherwise prevent the
9 off-gassing of solvents into the ambient atmosphere to mitigate
10 the risks of ignition and explosion during the manufacturing
11 process.
 - 12 (iii) A licensed engineer certifies that the system was
13 commercially manufactured, safe for its intended use, and built to
14 codes of recognized and generally accepted good engineering
15 practices, including, but not limited to, the American Society of
16 Mechanical Engineers (ASME), the American National Standards
17 Institute (ANSI), Underwriters Laboratories (UL), the American
18 Society for Testing and Materials (ASTM), or OSHA Nationally
19 Recognized Testing Laboratories (NRTLs).
 - 20 (iv) The system has a certification document that contains the
21 signature and stamp of a professional engineer and the serial
22 number of the extraction unit being certified.
- 23 (2) The collective or cooperative receives and maintains
24 approval from the local fire official for the closed-loop system,
25 other equipment, the extraction operation, and the facility.
- 26 (3) The collective or cooperative meets required fire, safety,
27 and building code requirements in one or more of the following:
- 28 (A) The California Fire Code.
 - 29 (B) The National Fire Protection Association (NFPA) standards.
 - 30 (C) International Building Code (IBC).
 - 31 (D) The International Fire Code (IFC).
 - 32 (E) Other applicable standards, including complying with all
33 applicable fire, safety, and building codes in processing, handling,
34 and storage of solvents or gasses.
- 35 (4) The collective or cooperative is in possession of a valid
36 seller's permit issued by the State Board of Equalization.
- 37 (5) The collective or cooperative is in possession of a valid local
38 license, permit, or other authorization specific to the manufacturing
39 of medicinal cannabis products, and in compliance with any

1 additional conditions imposed by the city or county issuing the
2 local license, permit, or other authorization.

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

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

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

16 ~~SEC. 21.~~

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

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

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

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

33 ~~(d)~~

34 (b) Taking ~~nonmedical marijuana~~ *adult-use cannabis* production
35 and sales out of the hands of the illegal market and bringing them
36 under a regulatory structure that prevents access by minors and
37 protects public safety, public health, and the environment.

38 ~~(e)~~

39 (c) Strictly controlling the cultivation, processing, manufacture,
40 distribution, testing, and sale of ~~nonmedical marijuana~~ *adult-use*

1 *cannabis* through a system of state licensing, regulation, and
2 enforcement.
3 (f)
4 (d) Allowing local governments to enforce state laws and
5 regulations for ~~nonmedical marijuana~~ *adult-use cannabis*
6 businesses if that authority is delegated to them by the state, and
7 enact additional local requirements for ~~nonmedical marijuana~~
8 *adult-use cannabis* businesses, but not require that they do so for
9 a ~~nonmedical marijuana~~ *an adult-use cannabis* business to be
10 issued a state license and be legal under state law.

O

EXHIBIT G

Senate Bill No. 94

CHAPTER 27

An act to amend Sections 26000, 26001, 26011, 26012, 26013, 26014, 26030, 26031, 26038, 26040, 26043, 26044, 26050, 26052, 26053, 26054, 26054.2, 26055, 26057, 26058, 26060, 26061, 26063, 26065, 26066, 26070, 26070.5, 26080, 26090, 26104, 26106, 26120, 26130, 26140, 26150, 26151, 26152, 26153, 26154, 26155, 26160, 26161, 26180, 26181, 26190, 26191, 26200, 26202, 26210, and 26211 of, to amend the heading of Chapter 10 (commencing with Section 26100) and the heading of Chapter 13 (commencing with Section 26130) of Division 10 of, to amend the heading of Division 10 (commencing with Section 26000) of, to amend and renumber Section 26101 of, to add Sections 26010.5, 26011.5, 26013.5, 26046, 26047, 26051.5, 26060.1, 26062.5, 26070.1, 26121, 26131, 26132, 26133, 26134, 26135, 26156, 26162, 26162.5, 26180.5, 26190.5, and 26210.5, to, to add Chapter 6.5 (commencing with Section 26067) and Chapter 22 (commencing with Section 26220) to Division 10 of, to add and repeal Section 26050.1 of, to repeal Sections 26054.1, 26056, 26056.5, 26064, 26067, 26100, and 26103 of, to repeal Chapter 3.5 (commencing with Section 19300) of Division 8 of, to repeal Chapter 17 (commencing with Section 26170) of Division 10 of, and to repeal and add Sections 26010, 26032, 26033, 26034, 26045, 26051, 26062, 26102, and 26110 of, the Business and Professions Code, to amend Sections 1602 and 1617 of the Fish and Game Code, to amend Sections 37104, 54036, and 81010 of the Food and Agricultural Code, to amend Sections 11006.5, 11014.5, 11018, 11018.1, 11018.2, 11018.5, 11032, 11054, 11357, 11358, 11359, 11360, 11361, 11361.1, 11361.5, 11362.1, 11362.2, 11362.3, 11362.4, 11362.45, 11362.7, 11362.71, 11362.715, 11362.765, 11362.768, 11362.77, 11362.775, 11362.78, 11362.785, 11362.79, 11362.795, 11362.8, 11362.81, 11362.83, 11362.85, 11362.9, 11364.5, 11470, 11478, 11479, 11479.2, 11480, 11485, 11532, 11553, and 109925 of, to amend the heading of Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of, and to repeal Section 11362.777 of, the Health and Safety Code, to amend Sections 34010, 34011, 34012, 34013, 34014, 34015, 34016, 34018, 34019, and 34021.5 of, to amend the heading of Part 14.5 (commencing with Section 34010) of Division 2 of, and to add Section 34012.5 to, the Revenue and Taxation Code, to amend Section 23222 of, and to add Section 2429.7 to, the Vehicle Code, and to amend Sections 1831, 1847, and 13276 of the Water Code, relating to cannabis, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2017. Filed with
Secretary of State June 27, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 94, Committee on Budget and Fiscal Review. Cannabis: medicinal and adult use.

(1) The California Uniform Controlled Substances Act makes various acts involving marijuana a crime except as authorized by law. Under the Compassionate Use Act of 1996 and existing law commonly referred to as the Medical Marijuana Program, these authorized exceptions include exemptions for the use of marijuana for personal medical purposes by patients pursuant to physician's recommendations and exemptions for acts by those patients and their primary caregivers related to that personal medical use. The Medical Marijuana Program also provides immunity from arrest to those exempt patients or designated primary caregivers who engage in certain acts involving marijuana, up to certain limits, and who have identification cards issued pursuant to the program unless there is reasonable cause to believe that the information contained in the card is false or fraudulent, the card has been obtained by means of fraud, or the person is otherwise in violation of the law. Under existing law, a person who steals, fraudulently uses, or commits other prohibited acts with respect to those identification cards is subject to criminal penalties. Under existing law, a person 18 years of age or older who plants, cultivates, harvests, dries, or processes more than 6 living cannabis plants, or any part thereof, may be charged with a felony if specified conditions exist, including when the offense resulted in a violation of endangered or threatened species laws.

The Control, Regulate and Tax Adult of Marijuana Act (AUMA), an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, commencing January 1, 2018, requires those patients to possess, and county health departments or their designees to ensure that those identification cards are supported by, physician's recommendations that comply with certain requirements.

This bill would require probable cause to believe that the information on the card is false or fraudulent, the card was obtained by fraud, or the person is otherwise in violation of the law to overcome immunity from arrest to patients and primary caregivers in possession of an identification card. The bill would authorize a person 18 years of age or older who plants, cultivates, harvests, dries, or processes more than 6 living cannabis plants, or any part thereof, where that activity results in a violation of specified laws relating to the unlawful taking of fish and wildlife to be charged with a felony. By modifying the scope of a crime, this bill would impose a state-mandated local program.

(2) AUMA authorizes a person 21 years of age or older to possess and use up to 28.5 grams of marijuana and up to 8 grams of concentrated cannabis, and to possess up to 6 living marijuana plants and the marijuana produced by those plants, subject to certain restrictions, as specified. Under AUMA, these restrictions include a prohibition on manufacturing concentrated cannabis using a volatile solvent, defined as volatile organic compounds and dangerous poisons, toxins, or carcinogens, unless done in

accordance with a state license. Under AUMA, a violation of this prohibition is a crime.

This bill would change the definition of volatile solvent for these purposes to include a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

(3) The Medical Cannabis Regulation and Safety Act (MCRSA) authorizes a person who obtains both a state license under MCRSA and the relevant local license to engage in commercial medical cannabis activity pursuant to those licenses, as specified. AUMA authorizes a person who obtains a state license under AUMA to engage in commercial adult-use marijuana activity, which does not include commercial medical cannabis activity, pursuant to that license and applicable local ordinances. Both MCRSA and AUMA generally divide responsibility for state licensure and regulation between the Bureau of Marijuana Control (bureau) within the Department of Consumer Affairs, which serves as the lead state agency, the Department of Food and Agriculture, and the State Department of Public Health. AUMA requires the bureau to convene an advisory committee to advise these licensing authorities on the development of standards and regulations pursuant to the licensing provisions of AUMA, and requires the advisory committee members to include specified subject matter experts. AUMA requires the licensing authorities to begin issuing licenses to engage in commercial adult-use marijuana activity by January 1, 2018.

This bill would repeal MCRSA and include certain provisions of MCRSA in the licensing provisions of AUMA. Under the bill, these consolidated provisions would be known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). The bill would rename the bureau the Bureau of Cannabis Control, would revise references to “marijuana” or “medical cannabis” in existing law to instead refer to “cannabis” or “medicinal cannabis,” respectively, and would apply a definition of “cannabis” similar to the definition used in MCRSA to MAUCRSA. The bill would generally impose the same requirements on both commercial medicinal and commercial adult-use cannabis activity, with specific exceptions. The bill would make applying for and being issued more than one license contingent upon the licensed premises being separate and distinct. The bill would allow a person to test both adult-use cannabis and medicinal cannabis under a single testing laboratory license. The bill would require the protection of the public to be the highest priority for a licensing authority in exercising its licensing, regulatory, and disciplinary functions under MAUCRSA, and would require the protection of the public to be paramount whenever the protection of the public is inconsistent with other interests sought to be promoted. The bill would require the advisory committee advising the licensing authorities on the development of standards and regulations to include persons who work directly with racially, ethnically, and economically diverse populations.

(4) Under existing law, most of the types of licenses to be issued for commercial adult-use cannabis activity under AUMA correspond to types

of licenses to be issued for commercial medicinal cannabis activity under MCRSA. However, specialty cottage cultivation licenses, producing dispensary licenses, and transporter licenses are available under MCRSA but not AUMA, while microbusiness licenses and commencing January 1, 2023, large outdoor, indoor, and mixed-light cultivation licenses are available under AUMA but not MCRSA.

Under this bill, the types of licenses available for commercial adult-use cannabis activity and commercial medicinal cannabis activity would be the same. The types of licenses available under both MCRSA and AUMA would continue to be available for both kinds of activity, and specialty cottage cultivation licenses, microbusiness licenses, and commencing January 1, 2023, large outdoor, indoor, and mixed-light cultivation licenses would also be available for both kinds of activity. Producing dispensary and transporter licenses would not be available.

This bill would impose certain requirements on the transportation and delivery of cannabis and cannabis products, and would provide the California Highway Patrol authority over the safety of operations of all vehicles transporting cannabis and cannabis products. The bill would require a retailer to notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering specified breaches of security. The bill would prohibit cannabis or cannabis products purchased by a customer from leaving a licensed retail premises unless they are placed in an opaque package.

(5) Both MCRSA and AUMA require cannabis or cannabis products to undergo quality assurance, inspection, and testing, as specified, before the cannabis or cannabis products may be offered for retail sale. Licenses for the testing of cannabis are to be issued by the bureau under MCRSA and by the State Department of Public Health under AUMA.

This bill would revise and recast those requirements to instead require distributors to store cannabis batches on their premises during testing, require testing laboratory employees to obtain samples for testing and transport those samples to testing laboratories, and require distributors to conduct a quality assurance review to ensure compliance with labeling and packing requirements, among other things, as specified. The bill would create the quality assurance compliance monitor, an employee or contractor of the bureau. The bill, commencing January 1, 2018, would authorize a licensee to sell untested cannabis or cannabis products for a limited time, as determined by the bureau, if the cannabis or cannabis products are labeled as untested and comply with other requirements determined by the bureau. The bill would also require the bureau to issue testing laboratory licenses.

(6) Both MCRSA and AUMA prohibit testing laboratory licensees from obtaining licenses to engage in any other commercial cannabis activity. MCRSA, until January 1, 2026, places certain additional limits on the combinations of medicinal cannabis license types a person may hold. AUMA prohibits large cultivation licensees from obtaining distributor or microbusiness licenses, but otherwise provides that a person may apply for

and be issued more than one license to engage in commercial adult-use cannabis activity.

The bill would apply the above-described provisions of AUMA to both adult-use cannabis licensees and medicinal cannabis licensees and would not apply MCRSA's additional limits.

(7) Both MCRSA and AUMA require applicants for state licenses to electronically submit fingerprint images and related information to the Department of Justice for the purpose of obtaining conviction and arrest information and to provide certain information and documentation in or with their applications under penalty of perjury. Although these requirements are generally similar, certain persons who are considered to be applicants subject to these requirements under MCRSA are not considered applicants under AUMA, and certain information or documentation must be provided by applicants for licenses under MCRSA or AUMA, but not both. Until January 1, 2019, AUMA authorizes licensing authorities to issue temporary licenses for a period of less than 12 months. Until December 31, 2019, AUMA prohibits licensing authorities from issuing licenses to persons who are not residents of California, as specified.

This bill would repeal that residency requirement. Under the bill, applicants for licenses under MAUCRSA would be subject to revised and recasted application requirements, and the persons subject to these requirements would also be revised. By modifying the scope of the crime of perjury, this bill would impose a state-mandated local program. The bill would also require local jurisdictions to provide information related to their regulation of commercial cannabis activity to the licensing authorities, as specified, and would require a licensing authority to take certain actions with regards to an application for license depending upon the response of the local jurisdiction. By requiring local governments to provide this information, this bill would impose a state-mandated local program. The bill, until July 1, 2019, would exempt from the California Environmental Quality Act the adoption of a specified ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, license, or other authorizations to engage in commercial cannabis activity. The bill would also specify requirements and limitations for those temporary licenses. The bill would provide that MAUCRSA does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that certain requirements are met.

(8) MCRSA provides a city in which a state licensed facility is located with the full power and authority to enforce MCRSA and regulations promulgated by the bureau and licensing authorities under MCRSA, if delegated by the state. MCRSA requires a city with this delegated authority to assume complete responsibility for any regulatory function relating to those licensees within the city limits that would otherwise be performed by the county or any county officer or employee.

This bill would expand these provisions to provide for the state delegation of the full power and authority to enforce MAUCRSA and regulations promulgated by the bureau and other licensing authorities under MAUCRSA to cities.

(9) AUMA requires a licensing authority to deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure. AUMA authorizes the denial of an application for licensure or renewal of a state license if any of specified conditions are met, including, among other things, the applicant has had a license revoked under AUMA, and the failure to comply with certain requirements imposed to protect natural resources. AUMA requires licensing authorities, in determining whether to grant, deny, or renew a license to engage in commercial adult-use cannabis activity, to consider factors reasonably related to the determination, including whether it is reasonably foreseeable that issuance, denial, or renewal of the license could allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power or could result in an excessive concentration of retail, microbusiness, or nonprofit licensees, among other factors. Beginning on March 1, 2020, and annually thereafter, AUMA requires, and beginning on March 1, 2023, and annually thereafter, MCRSA requires, each licensing authority to prepare and submit to the Legislature a report containing specified information on the authority's activities concerning commercial cannabis activities and to post the report on the authority's Internet Web site.

This bill would additionally authorize the denial of an application for licensure or renewal of a state license if the applicant has a license suspended under MAUCRSA or for inability to comply with certain requirements. The bill would remove the factors referenced above from consideration of a licensing authority in making a licensing decision, except that the bureau would continue to consider if an excessive concentration of licensees exists in determining whether to grant, deny, or renew a retail license, microbusiness license, or nonprofit license. The bill would require state licensing authorities to include in the first publication of their annual reports, which would be due on March 1, 2023, a joint report regarding the state of the cannabis market in California which identifies any statutory or regulatory changes necessary to ensure that the implementation of MAUCRSA does not result in those factors occurring, as specified. The bill would require, no later than January 1, 2018, the Secretary of Business, Consumer Services, and Housing Agency or the secretary's designee to initiate work with the Legislature, the Department of Consumer Affairs, the Department of Food and Agriculture, the State Department of Public Health and any other related departments to ensure that there is a safe and viable way to collect cash payments for taxes and fees related to the regulation of cannabis activity throughout the state.

(10) AUMA establishes the Marijuana Control Appeals Panel and requires the panel to consist of 3 members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. AUMA allows any person aggrieved by a state licensing authority

decision ordering a penalty assessment or issuing, denying, transferring, conditioning, suspending, or revoking a license to engage in commercial adult-use cannabis activity to appeal that decision to the panel. AUMA limits the panel's review of those decisions to specific inquiries. AUMA also allows a licensing authority or any person aggrieved by an order of the panel to seek judicial review of the order, as specified.

This bill would rename the panel the Cannabis Control Appeals Panel, and would require the membership of the panel to include one member appointed by the Senate Committee on Rules and one member appointed by the Speaker of the Assembly in addition to the 3 members appointed by the Governor. The bill would revise the panel's jurisdiction to include the review of appeals of state licensing authority decisions with regard to both commercial medicinal and commercial adult-use cannabis activity, and would provide for the appeal of orders of the panel to the Supreme Court and the courts of appeal, as specified. The bill would limit the judicial review of panel orders to specific inquiries and would provide that the findings and conclusions of state licensing authorities on questions of fact are final and not subject to review.

(11) AUMA prescribes various restrictions and requirements on the advertising or marketing of adult-use cannabis and adult-use cannabis products. MCRSA sets forth prohibitions on the adulteration or misbranding of medicinal cannabis products and authorizes the State Department of Public Health to take certain actions when it has evidence that a medicinal cannabis product is adulterated or misbranded. Existing law also authorizes the State Department of Public Health to issue citations and fines for violations of MCRSA or regulations adopted under MCRSA, as specified.

This bill additionally would prohibit a technology platform or an outdoor advertising company from displaying an advertisement from a licensee on an Internet Web page unless the advertisement displays the licensee's license number. The bill would generally apply those advertising and marketing restrictions, and those adulteration and misbranding prohibitions and enforcement provisions, to both medicinal and adult-use cannabis and cannabis products. The bill would also require edible cannabis products to be marked with a universal symbol, as specified. The bill would revise the State Department of Public Health's authority to issue citations and fines to include all violations of MAUCRSA and regulations adopted under MAUCRSA.

(12) Under existing law, licensing fees received by the state licensing authorities under both MCRSA and AUMA are deposited into the Marijuana Control Fund and fine and penalty moneys collected under MCRSA are generally deposited into the Medical Cannabis Fines and Penalties Account within the fund.

This bill would rename the Marijuana Control Fund the Cannabis Control Fund, would rename the Medical Cannabis Fines and Penalties Account the Cannabis Fines and Penalties Account, and would generally provide for the deposit of fine and penalty money collected under MAUCRSA into the Cannabis Fines and Penalties Account. The bill would appropriate

\$3,000,000 from the Cannabis Control Fund to the Department of the California Highway Patrol to be used for training drug recognition experts, as specified. The bill would require the bureau, in coordination with the Department of General Services, by July 1, 2018, to establish an office to collect fees and taxes in the County of Humboldt, County of Trinity, or County of Mendocino in order to ensure the safe payment and collection of cash in those counties.

(13) AUMA, commencing January 1, 2018, imposes an excise tax on purchasers of cannabis or cannabis products measured by the gross receipts of retail sale and a separate cultivation tax on harvested cannabis that enters the commercial market, as specified. A violation of the provisions relating to these taxes is a crime unless otherwise specified. AUMA requires revenues from those taxes to be deposited into the California Marijuana Tax Fund, and continuously appropriates that tax fund for specified purposes pursuant to a specified schedule. Under AUMA, this schedule includes an annual allocation to state licensing authorities for reasonable costs incurred in regulating commercial cannabis activity, to the extent those costs are not reimbursed pursuant to MCRSA and a specified provision of AUMA, and a separate allocation to the California State Auditor for reasonable costs incurred in conducting a specified performance audit that AUMA requires the California State Auditor's Office to conduct commencing January 1, 2019, and annually thereafter.

This bill would require the cannabis excise tax to be measured by the average market price, as defined, of the retail sale, instead of by the gross receipts of the retail sale. The bill would define "enters the commercial market" and other terms for the purposes of the cannabis cultivation and excise taxes and would require distributors and, in certain circumstances, manufacturers, to collect and remit the taxes, as specified. The bill would require distributors, instead of retailers and cultivators, to obtain permits from the State Board of Equalization. By modifying the scope of a crime, this bill would impose a state-mandated local program. The bill would rename the tax fund the California Cannabis Tax Fund. The bill would also transfer the performance audit to the Office of State Audits and Evaluations within the Department of Finance, would require the audit to be performed triennially instead of annually, and would transfer the allocation from the tax fund for the reasonable costs incurred in conducting that audit to the Department of Finance. By modifying the purposes for which the tax fund is continuously appropriated, the bill would make an appropriation.

(14) AUMA authorizes the Department of Food and Agriculture to issue licenses for the cultivation of adult-use cannabis beginning January 1, 2018, and to adopt regulations governing the licensing of indoor, outdoor, and mixed-light cultivation sites.

This bill would revise the department's license types to, among other things, authorize the department to license and adopt regulations governing nursery and special cottage cultivation sites.

(15) Existing law requires the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife, to adopt principles

and guidelines for diversion and use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows. Existing law authorizes the State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies to establish fees to cover the costs of their cannabis regulatory programs.

This bill would require an application for a license for cultivation to identify the source of water supply. The bill would require a license for cultivation to include additional requirements for compliance with the above-described provisions and to include in every license for cultivation a condition that the license is prohibited from being effective until the licensee has complied with provisions relating to a streambed alteration agreement or has received written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not required. The bill would prohibit the Department of Fish and Wildlife from issuing new licenses or increasing the total number of plant identifiers within a watershed or area if the board or the Department of Food and Agriculture finds, based on substantial evidence, that cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area. The bill would expand the authorization for the State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies to establish fees to cover the costs of their cannabis programs, regardless of whether the programs are regulatory.

(16) AUMA requires each California regional water quality board and authorizes the State Water Resources Control Board to address discharges of waste resulting from medical cannabis cultivation and adult-use cannabis cultivation.

This bill would require the state board or the appropriate regional board to address the discharges of waste resulting from cannabis cultivation.

(17) Existing law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or from depositing certain material where it may pass into any river, stream, or lake, without first notifying the Department of Fish and Wildlife of that activity, and entering into a lake or streambed alteration agreement if required by the department to protect fish and wildlife resources. Existing law exempts an entity from the requirement to enter into a lake or streambed alteration agreement with the department for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if the entity submits to the department the written notification, a copy of the license or renewed license, and the fee required for a lake or streambed alteration agreement, and the department determines certain requirements are met. Existing law authorizes the department to adopt regulations establishing the requirements and procedure for the issuance of a general agreement in a geographic area for a category or categories of activities related to cannabis cultivation that would be in lieu of an individual lake or streambed alteration agreement.

This bill would instead authorize the department to adopt general agreements for the cultivation of cannabis and would require the adoption or amendment of a general agreement to be done by the department as an emergency regulation. The bill would require any general agreement adopted by the department subsequent to adoption of regulations to be in lieu of an individual lake or streambed alteration agreement.

(18) AUMA requires standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis to apply to licensed cultivators.

This bill would require the Department of Pesticide Regulation to develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis. The bill would prohibit a cannabis cultivator from using any pesticide that has been banned for use in the state.

(19) Under existing law, the Department of Pesticide Regulation generally regulates pesticide use. A violation of those provisions and regulations adopted pursuant to those provisions is generally a misdemeanor. AUMA requires the Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, to promulgate regulations that require the application of pesticides or other pest control in connection with cannabis cultivation to meet standards equivalent to certain provisions of existing law where the department generally regulates pesticide use.

This bill would instead require the Department of Pesticide Regulation to require that the application of pesticides or other pest control in connection with cannabis cultivation comply with the department's general regulation of pesticide use. Because the violation of those provisions and regulations adopted pursuant to those provisions is a crime, this bill would impose a state-mandated local program.

(20) AUMA requires the Department of Food and Agriculture, in conjunction with the bureau, to establish a certified organic designation and organic certification program for adult-use cannabis and cannabis products, as prescribed.

This bill would eliminate the role of the bureau in establishing the designation and program. The bill would require, not later than January 1, 2021, the department to establish a program for cannabis comparable to the federal National Organic Program and the California Organic Food and Farming Act. The bill would require the department to be the sole determiner of organic designation and certification, unless the federal National Organic Program authorizes organic designation and certification for cannabis, in which case the department's authority would be repealed on the following January 1. The bill would prohibit a person from representing, selling, or offering any cannabis or cannabis products as organic or with the designation or certification established by the department, except as provided.

(21) AUMA requires the bureau to establish standards for recognition of a particular appellation of origin applicable to adult-use cannabis grown or cultivated in a certain geographical area in California.

This bill would transfer this responsibility to the Department of Food and Agriculture and require the department to begin establishing standards to designate a county of origin for cannabis no later than January 1, 2018. The bill would require the department, no later than January 1, 2021, to establish a process by which licensed cultivators may establish appellations of standards, practices, and varieties applicable to cannabis grown in a certain geographical area in California.

(22) Existing law requires each licensed cultivator of adult-use cannabis to ensure that the licensed premises do not pose an unreasonable risk of fire or combustion and requires each cultivator to ensure that certain property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.

This bill would repeal and replace these provisions with a requirement that specific provisions concerning building standards relating to fire and panic safety and regulations of the State Fire Marshal, including a requirement that the chief of any city, county, or city and county fire department or district providing fire protection services, or a Designated Campus Fire Marshal, and their authorized representatives, enforce these standards and regulations in their respective areas, also apply to licensees under MAUCRSA. By increasing the duties of local agencies, this bill would impose a state-mandated local program.

(23) MCRSA requires the Department of Food and Agriculture, in consultation with the bureau, to establish a track and trace program for reporting the movement of medical cannabis items throughout the distribution chain that utilizes a unique identifier and secure packaging and is capable of providing certain information. AUMA requires the Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, to expand the track and trace program provided for under MCRSA to include the reporting of the movement of adult-use cannabis and cannabis products throughout the distribution chain and to provide the amount of cultivation tax due.

This bill would instead require the establishment of a track and trace program to be the responsibility of the Department of Food and Agriculture, in consultation with the bureau. The bill would authorize a city, county, or city and county to administer a unique identifier and associated identifying information but would prohibit this from supplanting the Department of Food and Agriculture's track and trace program.

(24) MCRSA requires the Department of Food and Agriculture, in consultation with the State Board of Equalization, to create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program. MCRSA requires the information received and contained in records kept by the Department of Food and Agriculture or licensing authorities for the purposes of administering the medical cannabis track and trace program to be confidential and generally prohibits information from being disclosed pursuant to the California Public Records Act.

This bill would expand this exemption to the California Public Records Act to also apply to information received in the track and trace program for reporting the movement of adult-use cannabis and cannabis products.

(25) AUMA and MCRSA require licensees to maintain records of commercial cannabis activity, as specified. Existing law requires the State Department of Public Health to establish and maintain a voluntary program for the issuance of identification cards to qualified patients who have a physician's recommendation for medical cannabis. Existing law requires the counties to process applications and maintain records for the identification card program.

Existing law, the Confidentiality of Medical Information Act, prohibits providers of health care, health care service plans, contractors, employers, and 3rd-party administrators, among others, from disclosing medical information, as defined, without the patient's written authorization, subject to certain exceptions, as specified. A violation of the act resulting in economic loss or personal injury to a patient is a misdemeanor and subjects the violating party to liability for specified damages and administrative fines and penalties.

Existing law deems information identifying the names of patients, their medical conditions, or the names of their primary caregivers, received and contained in records of the State Department of Public Health and by any county public health department to be "medical information" within the meaning of the Confidentiality of Medical Information Act, and prohibits the department or any county public health department from disclosing this information, except as specified. Existing law requires information identifying the names of patients, their medical conditions, or the names of their primary caregivers, received and contained in records kept by the Bureau of Marijuana Control for the purposes of administering MCRSA to be maintained in accordance with state law relating to patient access to his or her health records, the Confidentiality of Medical Information Act, and other state and federal laws relating to confidential patient information.

This bill would deem information contained in a physician's recommendation to use cannabis for medical purposes to be "medical information" within the meaning of the Confidentiality of Medical Information Act, and would prohibit a licensee from disclosing this information, except as specified. By expanding the scope of a crime, this bill would create a state-mandated local program.

(26) AUMA authorizes the Department of Food and Agriculture to charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each adult-use cannabis plant.

This bill would authorize the Secretary of Food and Agriculture to enter into a cooperative agreement with a county agricultural commissioner or other state or local agency to assist the department in implementing certain responsibilities pertaining to the cultivation of cannabis and would require the secretary to provide notice of any cooperative agreement, as prescribed. The bill requires the Department of Food and Agriculture under a cooperative agreement to provide reimbursement from the fees collected to a county

agricultural commissioner, state agency, or local agency. The bill prohibits the secretary from delegating authority to issue cultivation licenses to a county agricultural commissioner, a local agency, or another state agency.

(27) Existing law, the California Industrial Hemp Farming Act, provides for the regulation of the growing and cultivation of industrial hemp under the Department of Food and Agriculture. AUMA provided that the bureau has authority to regulate and control plants and products that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled under a license issued under the provisions of AUMA.

This bill would eliminate the authority of the bureau to regulate and control industrial hemp.

(28) Existing law, the Milk and Milk Products Act of 1947, regulates the production of milk and milk products in this state. The act specifies standards for butter. The act requires a license from the Secretary of Food and Agriculture for each separate milk products plant or place of business dealing in, receiving, manufacturing, freezing, or processing milk, or any milk product, or manufacturing, freezing, or processing imitation ice cream or imitation ice milk. Existing law exempts from the act butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with medical cannabis at the premises or location that is not required to be licensed as a milk products plant.

This bill would also exempt butter that is subsequently infused or mixed with adult-use cannabis.

(29) Existing law permits 3 or more natural persons, a majority of whom are residents of this state, who are engaged in the production of certain products, including agricultural and farm products, to form a nonprofit cooperative association for specified purposes. Existing law imposes various requirements on the formation, reorganization, operation, and dissolution on the associations.

This bill would authorize 3 or more natural persons, who are engaged in the cultivation of any cannabis product, to form an association, defined as a cannabis cooperative for specified purposes. The bill would impose similar requirements on the formation, reorganization, operation, and dissolution on these associations.

(30) Existing law specifies the duties and powers of the Commissioner of the California Highway Patrol.

This bill would require the commissioner to appoint, and serve as the chairperson of, an impaired driving task force, with specified membership, to develop recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of impaired driving, as specified. The bill would require the task force, by January 1, 2021, to report to the Legislature its policy recommendations and the steps that state agencies are taking regarding impaired driving.

(31) Existing law makes it an infraction punishable by a fine not exceeding \$100 for a person to possess not more than one ounce of cannabis

while driving a motor vehicle, as specified, unless otherwise authorized by law.

This bill would repeal that provision and instead make it an infraction punishable by a fine not exceeding \$100 for a person to possess a receptacle containing cannabis or cannabis product that has been opened, or a seal broken, or to possess loose cannabis flower not in a container, while driving a motor vehicle, as specified, unless the receptacle is in the trunk of the vehicle or the person is a qualified patient carrying a current identification card or a physician's recommendation and the cannabis or cannabis product is contained in a container or receptacle that is either sealed, resealed, or closed. By creating a new crime, this bill would impose a state-mandated local program.

(32) This bill would make a variety of conforming and related changes.

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

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

This bill would make legislative findings to that effect.

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(36) AUMA authorizes the Legislature to amend its provisions by a $\frac{2}{3}$ vote of each house if the amendment furthers its purposes and intent.

This bill would state that the bill furthers the purposes and intent of AUMA for specified reasons.

(37) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. The Legislature finds and declares as follows:

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

(b) In 2015, California enacted three bills—Assembly Bill 243 (Wood, Chapter 688 of the Statutes of 2015); Assembly Bill 266 (Bonta, Chapter 689 of the Statutes of 2015); and Senate Bill 643 (McGuire, Chapter 719

of the Statutes of 2015)—that collectively established a comprehensive state regulatory framework for the licensing and enforcement of cultivation, manufacturing, retail sale, transportation, storage, delivery, and testing of medicinal cannabis in California. This regulatory scheme is known as the Medical Cannabis Regulation and Safety Act (MCRSA).

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

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

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

(f) In order to strictly control the cultivation, processing, manufacturing, distribution, testing, and sale of cannabis in a transparent manner that allows the state to fully implement and enforce a robust regulatory system, licensing authorities must know the identity of those individuals who have a significant financial interest in a licensee, or who can direct its operation. Without this knowledge, regulators would not know if an individual who controlled one licensee also had control over another. To ensure accountability and preserve the state’s ability to adequately enforce against all responsible parties the state must have access to key information.

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

(h) Before denying a license and creating arbitrary barriers to entry into the legal regulated marketplace, it is the intent of the state to compile data that will inform how to best craft licensure policies that will prevent the proliferation of the illegal market while allowing a balanced regulatory scheme that allows legitimate businesses that comply with local standards

to succeed. This will also permit licensing entities to issue licenses in a more timely manner.

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

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

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

SEC. 2. Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code is repealed.

SEC. 3. The heading of Division 10 (commencing with Section 26000) of the Business and Professions Code is amended to read:

DIVISION 10. CANNABIS

SEC. 4. Section 26000 of the Business and Professions Code is amended to read:

26000. (a) This division shall be known, and may be cited, as the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

(b) The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both of the following:

(1) Medicinal cannabis and medicinal cannabis products for patients with valid physician's recommendations.

(2) Adult-use cannabis and adult-use cannabis products for adults 21 years of age and over.

(c) In the furtherance of subdivision (b), this division sets forth the power and duties of the state agencies responsible for controlling and regulating the commercial medicinal and adult-use cannabis industry.

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

SEC. 5. Section 26001 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

(f) “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

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

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

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

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

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

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

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

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

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

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

(q) “Director” means the Director of Consumer Affairs.

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

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

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

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

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

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

(x) “Labor peace agreement” means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the state’s proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant’s business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization

to communicate with, and attempt to organize and represent, the applicant’s employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant’s employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (2) The chief executive officer of a nonprofit or other entity.
- (3) A member of the board of directors of a nonprofit.
- (4) An individual who will be participating in the direction, control, or management of the person applying for a license.

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

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

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

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

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

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

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

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

(2) Licensed by the bureau.

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

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

SEC. 6. Section 26010 of the Business and Professions Code is repealed.

SEC. 7. Section 26010 is added to the Business and Professions Code, to read:

26010. There is in the Department of Consumer Affairs the Bureau of Cannabis Control, under the supervision and control of the director. The director shall administer and enforce the provisions of this division related to the bureau.

SEC. 8. Section 26010.5 is added to the Business and Professions Code, to read:

26010.5. (a) The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the Director of Consumer Affairs with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the Director of Consumer Affairs and at the pleasure of the Governor.

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

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

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

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

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

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

SEC. 9. Section 26011 of the Business and Professions Code is amended to read:

26011. Neither the chief of the bureau nor any member of the Cannabis Control Appeals Panel established under Section 26040 shall do any of the following:

(a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division.

(b) Engage or have any interest in the sale or any insurance covering a licensee's business or premises.

(c) Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial cannabis activity.

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

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

SEC. 10. Section 26011.5 is added to the Business and Professions Code, to read:

26011.5. The protection of the public shall be the highest priority for all licensing authorities in exercising licensing, regulatory, and disciplinary functions under this division. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 11. Section 26012 of the Business and Professions Code is amended to read:

26012. (a) It being a matter of statewide concern, except as otherwise authorized in this division:

(1) The bureau shall have the sole authority to create, issue, deny, renew, discipline, suspend, or revoke licenses for microbusinesses, transportation, storage unrelated to manufacturing activities, distribution, testing, and sale of cannabis and cannabis products within the state.

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

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

(b) The licensing authorities shall have the authority to collect fees in connection with activities they regulate concerning cannabis. The licensing authorities may create licenses in addition to those identified in this division that the licensing authorities deem necessary to effectuate their duties under this division.

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

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

SEC. 12. Section 26013 of the Business and Professions Code is amended to read:

26013. (a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and

enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Those rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

(b) (1) Each licensing authority may adopt emergency regulations to implement this division.

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

(3) Notwithstanding any other law, the initial adoption of emergency regulations and the readoption of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readopted emergency regulations authorized by this section shall be each submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

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

SEC. 13. Section 26013.5 is added to the Business and Professions Code, to read:

26013.5. Notice of any action of a licensing authority required by this division to be given may be signed and given by the director of the licensing authority or an authorized employee of the licensing authority and may be made personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure, or in the manner prescribed by Section 124 of this code.

SEC. 14. Section 26014 of the Business and Professions Code is amended to read:

26014. (a) The bureau shall convene an advisory committee to advise the licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose such barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis.

(b) The advisory committee members shall include, but not be limited to, representatives of the cannabis industry, including medicinal cannabis, representatives of labor organizations, appropriate state and local agencies, persons who work directly with racially, ethnically, and economically diverse

populations, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

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

SEC. 15. Section 26030 of the Business and Professions Code is amended to read:

26030. Grounds for disciplinary action include, but are not limited to, all of the following:

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

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

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

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

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

(f) Failure to comply with the requirement of a local ordinance regulating commercial cannabis activity.

(g) The intentional and knowing sale of cannabis or cannabis products by an A-licensee to a person under 21 years of age.

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

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

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

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

SEC. 16. Section 26031 of the Business and Professions Code is amended to read:

26031. (a) Each licensing authority may suspend, revoke, place on probation with terms and conditions, or otherwise discipline licenses issued by that licensing authority and fine a licensee, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary

proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

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

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

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

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

SEC. 17. Section 26032 of the Business and Professions Code is repealed.

SEC. 18. Section 26032 is added to the Business and Professions Code, to read:

26032. (a) The actions of a licensee, its employees, and its agents are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law if they are all of the following:

(1) Permitted pursuant to a state license.

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

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

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

SEC. 19. Section 26033 of the Business and Professions Code is repealed.

SEC. 20. Section 26033 is added to the Business and Professions Code, to read:

26033. (a) A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person

is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this division.

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

SEC. 21. Section 26034 of the Business and Professions Code is repealed.

SEC. 22. Section 26034 is added to the Business and Professions Code, to read:

26034. All accusations against licensees shall be filed by the licensing authority within five years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in that case shall not be deemed to have accrued until discovery, by the licensing authority, of the facts constituting the fraud or misrepresentation, and, in that case, the accusation shall be filed within five years after that discovery.

SEC. 23. Section 26038 of the Business and Professions Code is amended to read:

26038. (a) A person engaging in commercial cannabis activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b). A violator shall be responsible for the cost of the destruction of cannabis associated with his or her violation.

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

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

SEC. 24. Section 26040 of the Business and Professions Code is amended to read:

26040. (a) (1) There is established in state government a Cannabis Control Appeals Panel which shall consist of the following members:

- (A) One member appointed by the Senate Committee on Rules.
- (B) One member appointed by the Speaker of the Assembly.

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

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

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

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

SEC. 25. Section 26043 of the Business and Professions Code is amended to read:

26043. (a) After proceedings pursuant to Section 26031 or 26058 or Chapter 2 (commencing with Section 480) or Chapter 3 (commencing with Section 490) of Division 1.5, any person aggrieved by the decision of a licensing authority denying the person's application for any license, denying the person's renewal of any license, placing any license on probation, imposing any condition on any license, imposing any fine on any license, assessing any penalty on any license, or canceling, suspending, revoking, or otherwise disciplining any license as provided for under this division, may appeal the licensing authority's written decision to the panel.

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

(c) Review by the panel of a decision of a licensing authority shall be limited to the following questions:

(1) Whether the licensing authority has proceeded without or in excess of its jurisdiction.

(2) Whether the licensing authority has proceeded in the manner required by law.

(3) Whether the decision is supported by the findings.

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

SEC. 26. Section 26044 of the Business and Professions Code is amended to read:

26044. (a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been

produced or which was improperly excluded at the hearing before the licensing authority, it may enter an order remanding the matter to the licensing authority for reconsideration in the light of that evidence.

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

SEC. 27. Section 26045 of the Business and Professions Code is repealed.

SEC. 28. Section 26045 is added to the Business and Professions Code, to read:

26045. (a) No court of this state, except the Supreme Court and the courts of appeal to the extent specified in this chapter, shall have jurisdiction to review, affirm, reverse, correct, or annul any order, rule, or decision of a licensing authority or to suspend, stay, or delay the operation or execution thereof, or to restrain, enjoin, or interfere with a licensing authority in the performance of its duties, but a writ of mandate shall lie from the Supreme Court or the courts of appeal in any proper case.

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

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

(d) The provisions of the Code of Civil Procedure relating to writs of review shall, insofar as applicable, apply to proceedings in the courts as provided by this chapter. A copy of every pleading filed pursuant to this chapter shall be served on the panel, the licensing authority, and on each party who entered an appearance before the panel.

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

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

SEC. 29. Section 26046 is added to the Business and Professions Code, to read:

26046. (a) The review by the court shall not extend further than to determine, based on the whole record of the licensing authority as certified by the panel, whether:

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

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

(3) The decision of the licensing authority is supported by the findings.

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

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

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

SEC. 30. Section 26047 is added to the Business and Professions Code, to read:

26047. The findings and conclusions of the licensing authority on questions of fact are conclusive and final and are not subject to review. Those questions of fact shall include ultimate facts and the findings and conclusions of the licensing authority. The panel, the licensing authority, and each party to the action or proceeding before the panel shall have the right to appear in the review proceeding. Following the hearing, the court shall enter judgment either affirming or reversing the decision of the licensing authority, or the court may remand the case for further proceedings before or reconsideration by the licensing authority.

SEC. 31. Section 26050 of the Business and Professions Code is amended to read:

26050. (a) The license classification pursuant to this division shall, at a minimum, be as follows:

- (1) Type 1—Cultivation; Specialty outdoor; Small.
- (2) Type 1A—Cultivation; Specialty indoor; Small.
- (3) Type 1B—Cultivation; Specialty mixed-light; Small.
- (4) Type 1C—Cultivation; Specialty cottage; Small.
- (5) Type 2—Cultivation; Outdoor; Small.
- (6) Type 2A—Cultivation; Indoor; Small.
- (7) Type 2B—Cultivation; Mixed-light; Small.
- (8) Type 3—Cultivation; Outdoor; Medium.
- (9) Type 3A—Cultivation; Indoor; Medium.
- (10) Type 3B—Cultivation; Mixed-light; Medium.
- (11) Type 4—Cultivation; Nursery.
- (12) Type 5—Cultivation; Outdoor; Large.
- (13) Type 5A—Cultivation; Indoor; Large.
- (14) Type 5B—Cultivation; Mixed-light; Large.
- (15) Type 6—Manufacturer 1.
- (16) Type 7—Manufacturer 2.
- (17) Type 8—Testing laboratory.
- (18) Type 10—Retailer.
- (19) Type 11—Distributor.
- (20) Type 12—Microbusiness.

(b) With the exception of testing laboratory licenses, which may be used to test cannabis and cannabis products regardless of whether they are intended for use by individuals who possess a physician's recommendation, all licenses issued under this division shall bear a clear designation indicating whether the license is for commercial adult-use cannabis activity as distinct from commercial medicinal cannabis activity by prominently affixing an "A" or "M," respectively. Examples of such a designation include, but are not limited to, "A-Type 1" or "M-Type 1." Except as specifically specified in this division, the requirements for A-licenses and M-licenses shall be the same. For testing laboratories, the bureau shall create a license that indicates a testing laboratory may test both adult-use and medicinal cannabis.

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

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

SEC. 32. Section 26050.1 is added to the Business and Professions Code, to read:

26050.1. (a) Notwithstanding subdivision (c) of Section 26050, until January 1, 2019, a licensing authority may, in its sole discretion, issue a temporary license if the applicant submits all of the following:

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

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

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

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

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

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

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

(4) A temporary license does not obligate the licensing authority to issue a nontemporary license nor does the temporary license create a vested right

in the holder to either an extension of the temporary license or to the granting of a subsequent nontemporary license.

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

SEC. 33. Section 26051 of the Business and Professions Code is repealed.

SEC. 34. Section 26051 is added to the Business and Professions Code, to read:

26051. (a) The Cartwright Act, the Unfair Practices Act, the Unfair Competition Law, and the other provisions of Part 2 (commencing with Section 16600) of Division 7 apply to all licensees regulated under this division.

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

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

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

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

SEC. 35. Section 26051.5 is added to the Business and Professions Code, to read:

26051.5. (a) An applicant for any type of state license issued pursuant to this division shall do all of the following:

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

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

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

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

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

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

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

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

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

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

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

(7) Provide any other information required by the licensing authority.

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

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

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

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

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

- (4) Inventory procedures.
- (5) Quality control procedures.
- (6) Security protocols.

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

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

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

SEC. 36. Section 26052 of the Business and Professions Code is amended to read:

26052. (a) A licensee shall not perform any of the following acts, or permit any of the following acts to be performed by any employee, agent, or contractor of the licensee:

- (1) Make any contract in restraint of trade in violation of Section 16600.
- (2) Form a trust or other prohibited organization in restraint of trade in violation of Section 16720.
- (3) Make a sale or contract for the sale of cannabis or cannabis products, or to fix a price charged therefor, or discount from, or rebate upon, that price, on the condition, agreement, or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of the seller, where the effect of that sale, contract, condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce.
- (4) Sell any cannabis or cannabis products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers.
- (5) Discriminate between different sections, communities, or cities or portions thereof, or between different locations in those sections,

communities, or cities or portions thereof in this state, by selling or furnishing cannabis or cannabis products at a lower price in one section, community, or city or any portion thereof, or in one location in that section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition.

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

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

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

SEC. 37. Section 26053 of the Business and Professions Code is amended to read:

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

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

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

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

SEC. 38. Section 26054 of the Business and Professions Code is amended to read:

26054. (a) A licensee shall not sell alcoholic beverages or tobacco products on or at any premises licensed under this division.

(b) A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

(c) It shall not be a violation of state or local law for a business engaged in the manufacture of cannabis accessories to possess, transport, purchase, or otherwise obtain small amounts of cannabis or cannabis products as necessary to conduct research and development related to the cannabis accessories, provided the cannabis and cannabis products are obtained from

a person licensed under this division permitted to provide or deliver the cannabis or cannabis products.

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

SEC. 39. Section 26054.1 of the Business and Professions Code is repealed.

SEC. 40. Section 26054.2 of the Business and Professions Code is amended to read:

26054.2. (a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws before September 1, 2016.

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

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

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

SEC. 41. Section 26055 of the Business and Professions Code is amended to read:

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

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate pursuant to that license within California until a new license is obtained.

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

(d) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

(e) An applicant may voluntarily provide proof of a license, permit, or other authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction.

(f) (1) A local jurisdiction shall provide to the bureau a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. If a local jurisdiction does not provide a contact person, the bureau shall assume that the clerk of the legislative body of the local jurisdiction is the contact person.

(2) Whenever there is a change in a local ordinance or regulation adopted pursuant to Section 26200 or a change in the contact person for the jurisdiction, the local jurisdiction shall provide that information to the bureau.

(3) The bureau shall share the information required by this subdivision with the other licensing authorities.

(g) (1) The licensing authority shall deny an application for a license under this division for a commercial cannabis activity that the local jurisdiction has notified the bureau is prohibited in accordance with subdivision (f). The licensing authority shall notify the contact person for the local jurisdiction of each application denied due to the local jurisdictions indication that the commercial cannabis activity for which a license is sought is prohibited by a local ordinance or regulation.

(2) Prior to issuing a state license under this division for any commercial cannabis activity:

(A) The licensing authority shall notify the contact person for the local jurisdiction of the receipt of an application for commercial cannabis activity within their jurisdiction.

(B) A local jurisdiction may notify the licensing authority that the applicant is not in compliance with a local ordinance or regulation. In this instance, the licensing authority shall deny the application.

(C) A local jurisdiction may notify the licensing authority that the applicant is in compliance with all applicable local ordinances and regulations. In this instance, the licensing authority may proceed with the licensing process.

(D) If the local jurisdiction does not provide notification of compliance or noncompliance with applicable local ordinances or regulations, or otherwise does not provide notification indicating that the completion of the local permitting process is still pending, within 60 business days of receiving the inquiry from a licensing authority submitted pursuant to subparagraph (A), the licensing authority shall make a rebuttable presumption that the applicant is in compliance with all local ordinances and regulations adopted in accordance with Section 26200, except as provided in subparagraphs (E) and (F).

(E) At any time after expiration of the 60-business-day period set forth in subparagraph (D), the local jurisdiction may provide written notification to the licensing authority that the applicant or licensee is not in compliance with a local ordinance or regulation adopted in accordance with Section 26200. Upon receiving this notification, the licensing authority shall not presume that the applicant or licensee has complied with all local ordinances and regulations adopted in accordance with Section 26200, and may commence disciplinary action in accordance with Chapter 3 (commencing with Section 26030). If the licensing authority does not take action against the licensee before the time of the renewal of the license, the license shall not be renewed until and unless the local jurisdiction notifies the licensing authority that the licensee is once again in compliance with local ordinances.

(F) A presumption by a licensing authority pursuant to this paragraph that an applicant has complied with all local ordinances and regulations adopted in accordance with Section 26200 shall not prevent, impair, or preempt the local government from enforcing all applicable local ordinances or regulations against the applicant, nor shall the presumption confer any right, vested or otherwise, upon the applicant to commence or continue operating in any local jurisdiction except in accordance with all local ordinances or regulations.

(3) For purposes of this section, “notification” includes written notification or access by a licensing authority to a local jurisdiction’s registry, database, or other platform designated by a local jurisdiction, containing information specified by the licensing authority, on applicants to determine local compliance.

(h) Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.

(i) A local or state public agency may charge and collect a fee from a person proposing a project pursuant to subdivision (a) of Section 21089 of the Public Resources Code.

SEC. 42. Section 26056 of the Business and Professions Code is repealed.

SEC. 43. Section 26056.5 of the Business and Professions Code is repealed.

SEC. 44. Section 26056 is added to the Business and Professions Code, to read:

26056. The requirements of Sections 13143.9, 13145, and 13146 of the Health and Safety Code shall apply to all licensees.

SEC. 45. Section 26057 of the Business and Professions Code is amended to read:

26057. (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure or inability to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow, water quality, and fish and wildlife.

(2) Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.

(3) Failure to provide information required by the licensing authority.

(4) The applicant, owner, or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(C) A felony conviction involving fraud, deceit, or embezzlement.

(D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(E) A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.

(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

(6) The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

(7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities, has had a license suspended or revoked under this division in the three years immediately preceding the date the application is filed with the licensing authority.

(8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(9) Any other condition specified in law.

SEC. 46. Section 26058 of the Business and Professions Code is amended to read:

26058. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein. Any appeal from a final decision of the licensing authority shall be conducted in accordance with Chapter 4 (commencing with Section 26040).

SEC. 47. Section 26060 of the Business and Professions Code is amended to read:

26060. (a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, nursery, special cottage, and mixed-light cultivation sites shall apply to licensed cultivators under this division. The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this division, including regulations governing the licensing of indoor, outdoor, mixed-light cultivation site, nursery, and special cottage cultivation.

(b) The regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).

(2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Chapter 6.5 (commencing with Section 26067). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

(4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers pursuant to Chapter 6.5 (commencing with Section 26067).

(c) The Department of Food and Agriculture shall serve as the lead agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) related to the licensing of cannabis cultivation.

(d) The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis.

(e) A cannabis cultivator shall not use any pesticide that has been banned for use in the state.

(f) The regulations promulgated by the Department of Food and Agriculture under this division shall implement the requirements of subdivision(b) of Section 26060.1.

(g) The Department of Pesticide Regulation shall require that the application of pesticides or other pest control in connection with the indoor, outdoor, nursery, specialty cottage, or mixed-light cultivation of cannabis complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

SEC. 48. Section 26060.1 is added to the Business and Professions Code, to read:

26060.1. (a) An application for a license for cultivation issued by the Department of Food and Agriculture shall identify the source of water supply as follows:

(1) (A) If water will be supplied by a retail water supplier, as defined in Section 13575 of the Water Code, the application shall identify the retail water supplier.

(B) Paragraphs (2) and (3) do not apply to any water subject to subparagraph (A) unless the retail water supplier has 10 or fewer customers, the applicant receives 10 percent or more of the water supplied by the retail water supplier, 25 percent or more of the water delivered by the retail water supplier is used for cannabis cultivation, or the applicant and the retail water supplier are affiliates, as defined in Section 2814.20 of Title 23 of the California Code of Regulations.

(2) If the water supply includes a diversion within the meaning of Section 5100 of the Water Code, the application shall identify the point of diversion and the maximum amount to be diverted as follows:

(A) For an application submitted before January 1, 2019, the application shall include a copy of one of the following:

(i) A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

(ii) A statement of water diversion and use filed with the State Water Resources Control Board before July 1, 2017, that covers the diversion and specifies the amount of water used for cannabis cultivation.

(iii) A pending application for a permit to appropriate water, filed with the State Water Resources Control Board before July 1, 2017.

(iv) Documentation submitted to the State Water Resources Control Board before July 1, 2017, demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of the Water Code.

(v) Documentation submitted to the State Water Resources Control Board before July 1, 2017, demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

(B) For an application submitted after December 31, 2018, the application shall include a copy of one of the following:

(i) A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

(ii) A statement of water diversion and use filed with the State Water Resources Control Board that covers the diversion and specifies the amount of water used for cannabis cultivation.

(iii) Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of the Water Code.

(iv) Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and in the calendar year in which the application is submitted. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

(3) If water will be supplied from a groundwater extraction not subject to paragraph (2), the application shall identify the location of the extraction and the maximum amount to be diverted for cannabis cultivation in any year.

(b) The Department of Food and Agriculture shall include in any license for cultivation all of the following:

(1) Conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to (A) ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning,

migration, and rearing, and the flows needed to maintain natural flow variability; (B) ensure that cultivation does not negatively impact springs, riparian habitat, wetlands, or aquatic habitat; and (C) otherwise protect fish, wildlife, fish and wildlife habitat, and water quality. The conditions shall include, but not be limited to, the principles, guidelines, and requirements established pursuant to Section 13149 of the Water Code.

(2) Any relevant mitigation requirements the Department of Food and Agriculture identifies as part of its approval of the final environmental documentation for the cannabis cultivation licensing program as requirements that should be included in a license for cultivation. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the identification of these mitigation measures. This paragraph does not reduce any requirements established pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(3) A condition that the license shall not be effective until the licensee has demonstrated compliance with Section 1602 of the Fish and Game Code or receives written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not required.

(c) The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this section.

(d) Notwithstanding paragraph (1) of subdivision (b), the Department of Food and Agriculture is not responsible for verifying compliance with the conditions requested or imposed by the Department of Fish and Wildlife or the State Water Resources Control Board. The Department of Fish and Wildlife or the State Water Resources Control Board, upon finding and making the final determination of a violation of a condition included pursuant to paragraph (1) of subdivision (b), shall notify the Department of Food and Agriculture, which may take appropriate action with respect to the licensee in accordance with Chapter 3 (commencing with Section 26030).

SEC. 49. Section 26061 of the Business and Professions Code is amended to read:

26061. (a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include all of the following:

(1) Type 1, or “specialty outdoor,” for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) Type 1A, or “specialty indoor,” for indoor cultivation using exclusively artificial lighting of between 501 and 5,000 square feet of total canopy size on one premises.

(3) Type 1B, or “specialty mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between 2,501 and 5,000 square feet of total canopy size on one premises.

(4) Type 1C, or “specialty cottage,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to

be determined by the licensing authority, of 2,500 square feet or less of total canopy size for mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

(5) Type 2, or “small outdoor,” for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(6) Type 2A, or “small indoor,” for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(7) Type 2B, or “small mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(8) Type 3, or “outdoor,” for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(9) Type 3A, or “indoor,” for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(10) Type 3B, or “mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(11) Type 4, or “nursery” for cultivation of cannabis solely as a nursery.

(b) Except as otherwise provided by law:

(1) Type 5, or “outdoor,” means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

(2) Type 5A, or “indoor,” means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(3) Type 5B, or “mixed-light,” means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(c) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

(d) Commencing on January 1, 2023, a Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold a Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not be eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

SEC. 50. Section 26062 of the Business and Professions Code is repealed.

SEC. 51. Section 26062 is added to the Business and Professions Code, to read:

26062. (a) No later than January 1, 2021, the Department of Food and Agriculture shall establish a program for cannabis that is comparable to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code) and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code. The Department of Food and Agriculture shall be the sole determiner of designation and certification.

(b) If at any time preceding or following the establishment of a program by the Department of Food and Agriculture pursuant to subdivision (a), the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)) authorizes organic designation and certification for cannabis, this section shall become inoperative and, as of January 1, of the following year, is repealed.

SEC. 52. Section 26062.5 is added to the Business and Professions Code, to read:

26062.5. A person shall not represent, sell, or offer for sale any cannabis or cannabis product as organic except in accordance with the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), if applicable. A person shall not represent, sell, or offer for sale any cannabis or cannabis product with the designation or certification established by the Department of Food and Agriculture pursuant to subdivision (a) of Section 26062 except in accordance with that subdivision.

SEC. 53. Section 26063 of the Business and Professions Code is amended to read:

26063. (a) No later than January 1, 2018, the Department of Food and Agriculture shall establish standards by which a licensed cultivator may designate a county of origin for cannabis. To be eligible for the designation, 100 percent of the cannabis shall be produced within the designated county, as defined by finite political boundaries.

(1) Cannabis shall not be advertised, marketed, labeled, or sold as grown in a California county when the cannabis was not grown in that county.

(2) The name of a California county, including any similar name that is likely to mislead consumers as to the origin of the product, shall not be used in the advertising, labeling, marketing, or packaging of cannabis products unless the cannabis contained in the product was grown in that county.

(b) No later than January 1, 2021, the Department of Food and Agriculture shall establish a process by which licensed cultivators may establish appellations of standards, practices, and varieties applicable to cannabis grown in a certain geographical area in California, not otherwise specified in subdivision (a).

SEC. 54. Section 26064 of the Business and Professions Code is repealed.

SEC. 55. Section 26065 of the Business and Professions Code is amended to read:

26065. An employee engaged in the cultivation of cannabis under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

SEC. 56. Section 26066 of the Business and Professions Code is amended to read:

26066. Indoor and outdoor cannabis cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, current building and fire standards, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies, shall address environmental impacts of cannabis cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

SEC. 57. Section 26067 of the Business and Professions Code is repealed.

SEC. 58. Chapter 6.5 (commencing with Section 26067) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 6.5. UNIQUE IDENTIFIERS AND TRACK AND TRACE

26067. (a) The department, in consultation with the bureau, shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier pursuant to Section 26069, secure packaging, and is capable of providing information that captures, at a minimum, all of the following:

- (1) The licensee receiving the product.
- (2) The transaction date.
- (3) The cultivator from which the product originates, including the associated unique identifier pursuant to Section 26069.

(b) (1) The department, in consultation with the State Board of Equalization, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:

- (A) The variety and quantity or weight of products shipped.
- (B) The estimated times of departure and arrival.
- (C) The variety and quantity or weight of products received.
- (D) The actual time of departure and arrival.
- (E) A categorization of the product.

(F) The license number and the unique identifier pursuant to Section 26069 issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.

(2) (A) The database shall be designed to flag irregularities for all licensing authorities in this division to investigate. All licensing authorities pursuant to this division may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.

(B) The department shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.

(3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.

(4) The bureau shall have 24-hour access to the electronic database administered by the department. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.

(5) The department shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the department.

(6) Information received and contained in records kept by the department or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this division or a local ordinance.

(7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this division.

26068. (a) The department, in consultation with the bureau and the State Board of Equalization, shall ensure that the track and trace program can also track and trace the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity, including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

(b) The department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs, and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of cannabis and cannabis products throughout the distribution chain and communicate the information to licensing agencies as required by law.

(c) Any software, database, or other information technology system utilized by the department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be

performed through a secure application programming interface (API) or comparable technology that is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

26069. (a) The department shall establish a Cannabis Cultivation Program to be administered by the secretary. The secretary shall administer this section as it pertains to the cultivation of cannabis. For purposes of this division, cannabis is an agricultural product.

(b) A person or entity shall not cultivate cannabis without first obtaining a state license issued by the department pursuant to this section.

(c) (1) The department, in consultation with, but not limited to, the bureau, shall implement a unique identification program for cannabis. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. If the State Water Resources Control Board or the Department of Fish and Wildlife finds, based on substantial evidence, that cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area, the department shall not issue new licenses or increase the total number of plant identifiers within that watershed or area.

(2) (A) The department shall establish a program for the identification of permitted cannabis plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each cannabis plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

(B) Unique identifiers shall only be issued to those persons appropriately licensed by this section.

(C) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26067.

(D) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each cannabis plant.

(E) The department may promulgate regulations to implement this section.

(3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

(d) A city, county, or city and county may administer unique identifiers and associated identifying information but a city, county, or city and county's identifiers shall not supplant the department's track and trace program.

(e) (1) This section does not apply to the cultivation of cannabis in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.

(2) Subdivision (b) does not apply to persons or entities licensed under subdivision (b) of Section 26070.5.

26069.1. The secretary may enter into a cooperative agreement with a county agricultural commissioner or other state or local agency to assist the department in implementing the provisions of this division related to administration, investigation, inspection, fee collection, document management, education and outreach, distribution of individual licenses approved by the secretary, and technical assistance pertaining to the cultivation of cannabis. The department shall pay compensation under a cooperative agreement from fees collected and deposited pursuant to this division and shall provide reimbursement to a county agricultural commissioner, state, or local agency for associated costs. The secretary shall not delegate through a cooperative agreement, or otherwise, its authority to issue cultivation licenses to a county agricultural commissioner, local agency, or another state agency. The secretary shall provide notice of any cooperative agreement entered into pursuant to this section to other relevant state agencies involved in the regulation of cannabis cultivation. No cooperative agreement under this section shall relieve the department of its obligations under paragraph (2) of subdivision (a) of Section 26012 to administer the provisions of this division related to, and associated with, the cultivation of cannabis.

26069.9. For purposes of this chapter:

(a) “Department” means the Department of Food and Agriculture.

(b) “Secretary” means the Secretary of Food and Agriculture.

SEC. 59. Section 26070 of the Business and Professions Code is amended to read:

26070. Retailers and Distributors.

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

(1) “Retailer,” for the retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. A retailer’s premises may be closed to the public. A retailer may conduct sales exclusively by delivery.

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

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

(B) In coordination with each other, the licensing authorities shall establish a process by which an applicant for a microbusiness license can

demonstrate compliance with all the requirements under this division for the activities that will be conducted under the license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Any other breach of security.

(l) Beginning January 1, 2018, a licensee may sell cannabis or cannabis products that have not been tested for a limited and finite time as determined by the bureau. The cannabis and cannabis products must have a label affixed to each package containing cannabis or cannabis products that clearly states "This product has not been tested as required by the Medicinal and Adult-Use Cannabis Regulation and Safety Act" and must comply with any other requirement as determined by the bureau.

SEC. 60. Section 26070.1 is added to the Business and Professions Code, to read:

26070.1. Cannabis or cannabis products purchased by a customer shall not leave a licensed retail premises unless they are placed in an opaque package.

SEC. 61. Section 26070.5 of the Business and Professions Code is amended to read:

26070.5. (a) The bureau shall, by January 1, 2020, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:

(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?

(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons?

(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons so long as the local jurisdiction does all of the following:

(1) Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities.

(2) Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division.

(3) Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation.

(4) Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

(c) Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

(d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

(e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

(2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

SEC. 62. Section 26080 of the Business and Professions Code is amended to read:

26080. (a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, cannabis or cannabis products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of cannabis or cannabis products on public roads by a licensee transporting cannabis or cannabis products in compliance with this division.

SEC. 63. Section 26090 of the Business and Professions Code is amended to read:

26090. (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.

(b) All employees of a retailer, microbusiness, or nonprofit delivering cannabis or cannabis products shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this division.

(c) During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

(d) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.

(e) A local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

SEC. 64. The heading of Chapter 10 (commencing with Section 26100) of Division 10 of the Business and Professions Code is amended to read:

CHAPTER 10. TESTING LABORATORIES

SEC. 65. Section 26100 of the Business and Professions Code is repealed.

SEC. 66. Section 26101 of the Business and Professions Code is amended and renumbered to read:

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

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

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

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

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

- (A) Tetrahydrocannabinol (THC).
- (B) Tetrahydrocannabinolic Acid (THCA).
- (C) Cannabidiol (CBD).
- (D) Cannabidiolic Acid (CBDA).
- (E) The terpenes required by the bureau in regulation.
- (F) Cannabigerol (CBG).
- (G) Cannabinol (CBN).
- (H) Any other compounds or contaminants required by the bureau.

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

- (A) Residual solvent or processing chemicals.
- (B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.
- (C) Microbiological impurities as identified by the bureau in regulation.

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

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

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

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

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

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

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

SEC. 67. Section 26102 of the Business and Professions Code is repealed.

SEC. 68. Section 26102 is added to the Business and Professions Code, to read:

26102. A testing laboratory shall not be licensed by the bureau unless the laboratory meets all of the following:

(a) Complies with any other requirements specified by the bureau.

(b) Notifies the bureau within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

(c) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

SEC. 69. Section 26103 of the Business and Professions Code is repealed.

SEC. 70. Section 26104 of the Business and Professions Code is amended to read:

26104. (a) A licensed testing laboratory shall, in performing activities concerning cannabis and cannabis products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The bureau shall develop procedures to do all of the following:

(1) Ensure that testing of cannabis and cannabis products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5.

(2) Specify how often licensees shall test cannabis and cannabis products, and that the cost of testing cannabis shall be borne by the licensed cultivators and the cost of testing cannabis products shall be borne by the licensed manufacturer, and that the costs of testing cannabis and cannabis products shall be borne by a nonprofit licensed under Section 26070.5.

(3) Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by the bureau, unless remedial measures can bring the cannabis or cannabis products into compliance with quality assurance standards as specified by law and implemented by the bureau.

(4) Ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by

this division and that the testing laboratory employee transports the sample to the testing laboratory.

(c) Except as provided in this division, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with this division, and shall not distribute, sell, deliver, transfer, transport, or dispense cannabis or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(d) A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purposes. A testing laboratory shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of cannabis or cannabis product received.

SEC. 71. Section 26106 of the Business and Professions Code is amended to read:

26106. Standards for the production, packaging, and labeling of all cannabis products developed by the State Department of Public Health apply to all licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5, unless otherwise specified by the State Department of Public Health.

SEC. 72. Section 26110 of the Business and Professions Code is repealed.

SEC. 73. Section 26110 is added to the Business and Professions Code, to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 74. Section 26120 of the Business and Professions Code is amended to read:

26120. (a) Prior to delivery or sale at a retailer, cannabis and cannabis products shall be labeled and placed in a resealable, tamper-evident, child-resistant package and shall include a unique identifier for the purposes of identifying and tracking cannabis and cannabis products.

(b) Packages and labels shall not be made to be attractive to children.

(c) All cannabis and cannabis product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the State Department of Public Health:

(1) The following statements, in bold print:

(A) For cannabis: **“GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”**

(B) For cannabis products: **“GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”**

(2) For packages containing only dried flower, the net weight of cannabis in the package.

(3) Identification of the source and date of cultivation, the type of cannabis or cannabis product and the date of manufacturing and packaging.

(4) The appellation of origin, if any.

(5) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total.

(6) A warning if nuts or other known allergens are used.

(7) Information associated with the unique identifier issued by the Department of Food and Agriculture.

(8) For a medicinal cannabis product sold at a retailer, the statement **“FOR MEDICAL USE ONLY.”**

(9) Any other requirement set by the bureau or the State Department of Public Health.

(d) Only generic food names may be used to describe the ingredients in edible cannabis products.

(e) In the event the Attorney General determines that cannabis is no longer a Schedule I controlled substance under federal law, the label

prescribed in subdivision (c) shall no longer require a statement that cannabis is a Schedule I controlled substance.

SEC. 75. Section 26121 is added to the Business and Professions Code, to read:

26121. (a) A cannabis product is misbranded if it is any of the following:

(1) Manufactured, packed, or held in this state in a manufacturing premises not duly licensed as provided in this division.

(2) Its labeling is false or misleading in any particular.

(3) Its labeling or packaging does not conform to the requirements of Section 26120 or any other labeling or packaging requirement established pursuant to this division.

(b) It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale a cannabis product that is misbranded.

(c) It is unlawful for any person to misbrand a cannabis product.

(d) It is unlawful for any person to receive in commerce a cannabis product that is misbranded or to deliver or offer for delivery any such cannabis product.

SEC. 76. The heading of Chapter 13 (commencing with Section 26130) of Division 10 of the Business and Professions Code is amended to read:

CHAPTER 13. MANUFACTURERS AND CANNABIS PRODUCTS

SEC. 77. Section 26130 of the Business and Professions Code is amended to read:

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

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

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

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

(c) Edible cannabis products shall be:

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

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

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

(4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

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

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

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

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

SEC. 78. Section 26131 is added to the Business and Professions Code, to read:

26131. (a) A cannabis product is adulterated if it is any of the following:

(1) It has been produced, prepared, packed, or held under unsanitary conditions in which it may have become contaminated with filth or in which it may have been rendered injurious.

(2) It consists in whole or in part of any filthy, putrid, or decomposed substance.

(3) It bears or contains any poisonous or deleterious substance that may render it injurious to users under the conditions of use suggested in the labeling or under conditions as are customary or usual.

(4) It bears or contains a substance that is restricted or limited under this division or regulations promulgated pursuant to this division and the level of substance in the product exceeds the limits specified pursuant to this division or in regulation.

(5) Its concentrations differ from, or its purity or quality is below, that which it is represented to possess.

(6) The methods, facilities, or controls used for its manufacture, packing, or holding do not conform to, or are not operated or administered in conformity with, practices established by regulations adopted under this division to ensure that the cannabis product meets the requirements of this division as to safety and has the concentrations it purports to have and meets the quality and purity characteristics that it purports or is represented to possess.

(7) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(8) It is an edible cannabis product and a substance has been mixed or packed with it after testing by a testing laboratory so as to reduce its quality

or concentration or if any substance has been substituted, wholly or in part, for the edible cannabis product.

(b) It is unlawful for a person to manufacture, sell, deliver, hold, or offer for sale a cannabis product that is adulterated.

(c) It is unlawful for a person to adulterate a cannabis product.

(d) It is unlawful for a person to receive in commerce a cannabis product that is adulterated or to deliver or proffer for delivery any such cannabis product.

SEC. 79. Section 26132 is added to the Business and Professions Code, to read:

26132. (a) When the State Department of Public Health has evidence that a cannabis product is adulterated or misbranded, the department shall notify the manufacturer.

(b) The State Department of Public Health may order a manufacturer to immediately cease distribution of a cannabis product and recall the product if the department determines both of the following:

(1) The manufacture, distribution, or sale of the cannabis product creates or poses an immediate and serious threat to human life or health.

(2) Other procedures available to the State Department of Public Health to remedy or prevent the occurrence of the situation would result in an unreasonable delay.

(c) The State Department of Public Health shall provide the manufacturer an opportunity for an informal proceeding on the matter, as determined by the department, within five days, on the actions required by the order and on why the product should not be recalled. Following the proceeding, the order shall be affirmed, modified, or set aside as determined appropriate by the State Department of Public Health.

(d) The State Department of Public Health's powers set forth in this section expressly include the power to order movement, segregation, isolation, or destruction of cannabis products, as well as the power to hold those products in place.

(e) If the State Department of Public Health determines it is necessary, it may issue the mandatory recall order and may use all appropriate measures to obtain reimbursement from the manufacturer for any and all costs associated with these orders. All funds obtained by the State Department of Public Health from these efforts shall be deposited into a fee account specific to the State Department of Public Health, to be established in the Cannabis Control Fund, and will be available for use by the department upon appropriation by the Legislature.

(f) It is unlawful for any person to move or allow to be moved a cannabis product subject to an order issued pursuant to this section unless that person has first obtained written authorization from the State Department of Public Health.

SEC. 80. Section 26133 is added to the Business and Professions Code, to read:

26133. (a) If the State Department of Public Health finds or has probable cause to believe that a cannabis product is adulterated or misbranded within

the meaning of this division or the sale of the cannabis product would be in violation of this division, the department shall affix to the cannabis product, or component thereof, a tag or other appropriate marking. The State Department of Public Health shall give notice that the cannabis product is, or is suspected of being, adulterated or misbranded, or the sale of the cannabis would be in violation of this division and has been embargoed and that no person shall remove or dispose of the cannabis product by sale or otherwise until permission for removal or disposal is given by the State Department of Public Health or a court.

(b) It is unlawful for a person to remove, sell, or dispose of a detained or embargoed cannabis product without written permission of the State Department of Public Health or a court. A violation of this subdivision is punishable by a fine of not more than ten thousand dollars (\$10,000).

(c) If the adulteration or misbranding can be corrected by proper labeling or additional processing of the cannabis product and all of the provisions of this division can be complied with, the licensee or owner may request the State Department of Public Health to remove the tag or other marking. If, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected, the department may remove the tag or other marking.

(d) If the State Department of Public Health finds that a cannabis product that is embargoed is not adulterated or misbranded, or that its sale is not otherwise in violation of this division, the State Department of Public Health may remove the tag or other marking.

(e) The cannabis product may be destroyed by the owner pursuant to a corrective action plan approved by the State Department of Public Health and under the supervision of the department. The cannabis product shall be destroyed at the expense of the licensee or owner.

(f) A proceeding for condemnation of a cannabis product under this section shall be subject to appropriate notice to, and the opportunity for a hearing with regard to, the person affected in accordance with Section 26016.

(g) Upon a finding by the administrative law judge that the cannabis product is adulterated or misbranded, or that its sale is otherwise in violation of this division, the administrative law judge may direct the cannabis product to be destroyed at the expense of the licensee or owner. The administrative law judge may also direct a licensee or owner of the affected cannabis product to pay fees and reasonable costs, including the costs of storage and testing, incurred by the bureau or the State Department of Public Health in investigating and prosecuting the action taken pursuant to this section.

(h) When, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected by proper labeling or additional processing of the cannabis and cannabis product and when all provisions of this division have been complied with, and after costs, fees, and expenses have been paid, the State Department of Public Health may release the embargo and remove the tag or other marking.

(i) The State Department of Public Health may condemn a cannabis product under provisions of this division. The cannabis product shall be destroyed at the expense of the licensee or owner.

SEC. 81. Section 26134 is added to the Business and Professions Code, to read:

26134. (a) The State Department of Public Health may issue a citation, which may contain an order of abatement and an order to pay an administrative fine assessed by the department if the licensee is in violation of this division or any regulation adopted pursuant to it.

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the law determined to have been violated.

(2) If appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) The administrative fine assessed by the State Department of Public Health shall not exceed five thousand dollars (\$5,000) for each violation, unless a different fine amount is expressly provided by this division. In assessing a fine, the department shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation issued or a fine assessed pursuant to this section shall notify the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the State Department of Public Health within 30 days of the date of issuance of the citation or fine. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment of the fine, unless assessment of the fine or the citation is being appealed, may result in further legal action being taken by the State Department of Public Health. If a licensee does not contest a citation or pay the fine, the full amount of the fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee, including the amount of the fine.

(6) A citation may be issued without the assessment of an administrative fine.

(7) The State Department of Public Health may limit the assessment of administrative fines to only particular violations of this division and establish any other requirement for implementation of the citation system by regulation.

(b) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

SEC. 82. Section 26135 is added to the Business and Professions Code, to read:

26135. A peace officer, including a peace officer within the State Department of Public Health or the bureau, may seize cannabis and cannabis products in any of the following circumstances:

- (a) The cannabis or cannabis product is subject to recall or embargo by any licensing authority.
- (b) The cannabis or cannabis product is subject to destruction pursuant to this division.
- (c) The cannabis or cannabis product is seized related to an investigation or disciplinary action for violation of this division.

SEC. 83. Section 26140 of the Business and Professions Code is amended to read:

26140. (a) An A-licensee shall not:

- (1) Sell cannabis or cannabis products to persons under 21 years of age.
- (2) Allow any person under 21 years of age on its premises.
- (3) Employ or retain persons under 21 years of age.
- (4) Sell or transfer cannabis or cannabis products unless the person to whom the cannabis or cannabis product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish cannabis to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any cannabis while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase cannabis. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (a), an M-licensee may:

- (1) Allow on the premises any person 18 years of age or older who possesses a valid government-issued identification card and either a valid physician's recommendation or a valid county-issued identification card under Section 11362.712 of the Health and Safety Code.
- (2) Sell cannabis, cannabis products, and cannabis accessories to a person 18 years of age or older who possesses a valid government-issued identification card and either a valid physician's recommendation or a valid county-issued identification card under Section 11362.712 of the Health and Safety Code.

SEC. 84. Section 26150 of the Business and Professions Code is amended to read:

26150. For purposes of this chapter:

- (a) "Advertise" means the publication or dissemination of an advertisement.

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

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

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

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

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

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

SEC. 85. Section 26151 of the Business and Professions Code is amended to read:

26151. (a) (1) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee’s license number.

(2) A technology platform shall not display an advertisement by a licensee on an Internet Web page unless the advertisement displays the license number of the licensee.

(3) An outdoor advertising company subject to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200) of Division 3) shall not display an advertisement by a licensee unless the advertisement displays the license number of the licensee.

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

(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the licensee. For purposes of this section, that method of age affirmation may

include user confirmation, birth date disclosure, or other similar registration method.

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

SEC. 86. Section 26152 of the Business and Professions Code is amended to read:

26152. A licensee shall not do any of the following:

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

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

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

(d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

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

(f) Publish or disseminate advertising or marketing that is attractive to children.

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

SEC. 87. Section 26153 of the Business and Professions Code is amended to read:

26153. A licensee shall not give away any amount of cannabis or cannabis products, or any cannabis accessories, as part of a business promotion or other commercial activity.

SEC. 88. Section 26154 of the Business and Professions Code is amended to read:

26154. A licensee shall not include on the label of any cannabis or cannabis product or publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of cannabis consumption.

SEC. 89. Section 26155 of the Business and Professions Code is amended to read:

26155. (a) The provisions of subdivision (g) of Section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise cannabis or cannabis products

in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

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

SEC. 90. Section 26156 is added to the Business and Professions Code, to read:

26156. The requirements of Section 5272 apply to this division.

SEC. 91. Section 26160 of the Business and Professions Code is amended to read:

26160. (a) A licensee shall keep accurate records of commercial cannabis activity.

(b) All records related to commercial cannabis activity as defined by the licensing authorities shall be maintained for a minimum of seven years.

(c) Licensing authorities may examine the records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections and examinations of records shall be conducted during standard business hours of the licensed facility or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing authority upon request.

(e) A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.

(f) If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of up to thirty thousand dollars (\$30,000) per individual violation.

SEC. 92. Section 26161 of the Business and Professions Code is amended to read:

26161. (a) Every sale or transport of cannabis or cannabis products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the licensing authorities or State Board of Equalization and shall not be commingled with invoices covering other commodities.

(b) Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:

(1) Name and address of the purchaser.

(2) Date of sale and invoice number.

(3) Kind, quantity, size, and capacity of packages of cannabis or cannabis products sold.

(4) The cost to the purchaser, together with any discount applied to the price as shown on the invoice.

(5) The place from which transport of the cannabis or cannabis product was made unless transport was made from the premises of the licensee.

(6) Any other information specified by the licensing authority.

SEC. 93. Section 26162 is added to the Business and Professions Code, to read:

26162. (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

(b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, and other state and federal laws relating to confidential patient information.

(c) Nothing in this section precludes the following:

(1) Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

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

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

(4) 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.

(d) Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

SEC. 94. Section 26162.5 is added to the Business and Professions Code, to read:

26162.5. Information contained in a physician's recommendation issued in accordance with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 and received by a licensee, including, but not limited to, the name, address, or social security number of the patient, the patient's medical condition, or the name of the patient's primary caregiver is hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by a licensee except as necessary for authorized employees of the State of California or any city, county, or

city and county to perform official duties pursuant to this chapter, or a local ordinance.

SEC. 95. Chapter 17 (commencing with Section 26170) of Division 10 of the Business and Professions Code is repealed.

SEC. 96. Section 26180 of the Business and Professions Code is amended to read:

26180. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26067, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Cannabis Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

SEC. 97. Section 26180.5 is added to the Business and Professions Code, to read:

26180.5. No later than January 1, 2018, the Secretary of Business, Consumer Services, and Housing or his or her designee shall initiate work with the Legislature, the Department of Consumer Affairs, the Department of Food and Agriculture, the State Department of Public Health, and any other related departments to ensure that there is a safe and viable way to collect cash payments for taxes and fees related to the regulation of cannabis activity throughout the state.

SEC. 98. Section 26181 of the Business and Professions Code is amended to read:

26181. The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their cannabis programs.

SEC. 99. Section 26190 of the Business and Professions Code is amended to read:

26190. Beginning on March 1, 2023, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities, in compliance with Section 9795 of the Government Code, and post the report on the authority's

Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

(a) The amount of funds allocated and spent by the licensing authority for cannabis licensing, enforcement, and administration.

(b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.

(c) The average time for processing state license applications, by state license category.

(d) The number of appeals from the denial of state licenses or other disciplinary actions taken by the licensing authority and the average time spent on these appeals.

(e) The number of complaints submitted by citizens or representatives of cities or counties regarding licensees, provided as both a comprehensive statewide number and by geographical region.

(f) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities.

(g) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

(h) A detailed list of the petitions for regulatory relief or rulemaking changes received by the licensing authorities from licensees requesting modifications of the enforcement of rules under this division.

(i) (1) For the first publication of the reports, the licensing authorities shall provide a joint report to the Legislature regarding the state of the cannabis market in California. This report shall identify any statutory or regulatory changes necessary to ensure that the implementation of this division does not do any of the following:

(A) Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power.

(B) Perpetuate the presence of an illegal market for cannabis or cannabis products in the state or out of the state.

(C) Encourage underage use or adult abuse of cannabis or cannabis products, or illegal diversion of cannabis or cannabis products out of the state.

(D) Result in an excessive concentration of licensees in a given city, county, or both.

(E) Present an unreasonable risk of minors being exposed to cannabis or cannabis products.

(F) Result in violations of any environmental protection laws.

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

(A) The ratio of licensees to population in a census tract or census division exceeds the ratio of licensees to population in the county in which the census tract or census division is located, unless reduction of that ratio would unduly

limit the development of the legal market so as to perpetuate the illegal market for cannabis or cannabis products.

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

SEC. 100. Section 26190.5 is added to the Business and Professions Code, to read:

26190.5. The bureau shall contract with the California Cannabis Research Program, known as the Center for Medicinal Cannabis Research, and formerly known as the California Marijuana Research Program, authorized pursuant to Section 11362.9 of the Health and Safety Code, to develop a study that identifies the impact that cannabis has on motor skills.

SEC. 101. Section 26191 of the Business and Professions Code is amended to read:

26191. (a) Commencing January 1, 2019, and by January 1 triennially thereafter, the Office of State Audits and Evaluations within the Department of Finance shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

(1) The actual costs of the program.

(2) The overall effectiveness of enforcement programs.

(3) Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(b) The Legislature shall provide sufficient funds to the Department of Finance to conduct the triennial audit required by this section.

SEC. 102. Section 26200 of the Business and Professions Code is amended to read:

26200. (a) (1) This division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) This division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(b) This division shall not be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 10 days of notification,

the bureau shall inform the relevant licensing authorities. Within 60 days of being so informed by the bureau, the relevant licensing authorities shall begin the process to determine whether a license issued to the licensee should be suspended or revoked pursuant to Chapter 3 (commencing with Section 26030).

(d) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(e) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that the activities, at a minimum, comply with the requirements of paragraphs (1) to (3), inclusive, of subdivision (g), that all participants are licensed under this division, and that the activities are otherwise consistent with regulations promulgated and adopted by the bureau governing state temporary event licenses. These temporary event licenses shall only be issued in local jurisdictions that authorize such events.

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

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

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

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

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

SEC. 103. Section 26202 of the Business and Professions Code is amended to read:

26202. (a) A local jurisdiction may enforce this division and the regulations promulgated by any licensing authority if delegated the power to do so by the licensing authority.

(b) A licensing authority shall implement the delegation of enforcement authority in subdivision (a) through an agreement between the licensing

authority and the local jurisdiction to which enforcement authority is to be delegated.

SEC. 104. Section 26210 of the Business and Professions Code is amended to read:

26210. (a) The Marijuana Control Fund, formerly known as the Medical Cannabis Regulation and Safety Act Fund and the Medical Marijuana Regulation and Safety Act Fund, is hereby renamed the Cannabis Control Fund. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on moneys in the fund.

(b) Upon the effective date of this section, whenever “Marijuana Control Fund,” “Medical Cannabis Regulation and Safety Act Fund,” or “Medical Marijuana Regulation and Safety Act Fund” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Cannabis Control Fund.

(c) Any General Fund or special fund loan that was used to establish and support the regulatory activities of the state licensing entities pursuant to former Section 19351 shall be repaid by the initial proceeds from fees collected pursuant to this division or any rule or regulation adopted pursuant to this division, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

(d) The Medical Cannabis Fines and Penalties Account established in former Section 19351 is hereby renamed the Cannabis Fines and Penalties Account.

SEC. 105. Section 26210.5 is added to the Business and Professions Code, to read:

26210.5. By July 1, 2018, the bureau, in coordination with the Department of General Services, shall establish an office to collect fees and taxes in the County of Humboldt, County of Trinity, or County of Mendocino in order to ensure the safe payment and collection of cash in those counties.

SEC. 106. Section 26211 of the Business and Professions Code is amended to read:

26211. (a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the State Board of Equalization under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.

(1) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the State Board of Equalization, as necessary, to implement the provisions

of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

(2) Within 45 days of November 9, 2016, the date this section became operative:

(A) The Director of Finance shall determine an amount of the initial advance from the General Fund to the Cannabis Control Fund that does not exceed thirty million dollars (\$30,000,000); and

(B) There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the State Department of Health Care Services to provide for the public information program described in subdivision (c).

(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Cannabis Control Fund to support the activities of the bureau, state licensing authorities under this division, and the State Board of Equalization to support its activities under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

(c) The State Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of cannabis and cannabis products to persons under the age of 21 years, describe the penalties for providing access to cannabis and cannabis products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from cannabis use, the potential harms of using cannabis while pregnant or breastfeeding, and the potential harms of overusing cannabis or cannabis products.

SEC. 107. Chapter 22 (commencing with Section 26220) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 22. CANNABIS COOPERATIVE ASSOCIATIONS

Article 1. Definitions

26220. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

26220.1. "Association" means any cannabis cooperative that is organized pursuant to this chapter. An association shall be deemed incorporated pursuant to this chapter, or organized pursuant to this chapter and shall be deemed a cultivator of a cannabis product within the meaning of this chapter, if it is functioning under, or is subject to, the provisions of this chapter, irrespective of whether it was originally incorporated pursuant to those provisions or was incorporated under other provisions.

26220.2. “Member” includes members of associations without capital stock and holders of common stock in associations that are organized with shares of stock.

26220.3. “Cannabis product” includes any cannabis associated with a licensed cultivator.

Article 2. General Provisions

26222. The purpose of this chapter is to do all of the following:

(a) Promote, foster, and encourage the intelligent and orderly marketing of cannabis product through cooperation.

(b) Eliminate speculation and waste.

(c) Make the distribution of cannabis product as direct as can be efficiently done.

(d) Stabilize the marketing of cannabis product.

(e) Satisfy the conditions of Section 26052.

26222.1. An exemption under law that applies to a cannabis product in the possession, or under the control, of the individual cultivator, shall apply similarly and completely to the cannabis product that is delivered by its cultivator members that are in the possession, or under the control, of the association.

26222.2. A person, firm, corporation, or association, that is hereafter organized or doing business in this state, may not use the word “cannabis cooperative” as part of its corporate name or other business name or title for producers’ cooperative marketing activities, unless it has complied with this chapter.

26222.3. An association that is organized pursuant to this chapter shall not conspire in restraint of trade, or serve as an illegal monopoly, attempt to lessen competition, or to fix prices in violation of law of this state.

26222.4. The marketing contracts and agreements between an association that is organized pursuant to this chapter and its members and any agreements authorized in this chapter shall not result in restraint of trade, or violation of law of this state.

26222.5. The General Corporation Law (Division 1 (commencing with Section 100) of Title 1 of the Corporations Code) applies to each association that is organized pursuant to this chapter, except where those provisions are in conflict with or inconsistent with the express provisions of this chapter. For the purpose of associations organized without shares of stock, the members shall be deemed to be “shareholders” as the term is used in the General Corporation Law.

26222.6. (a) Except as provided in subdivision (c), Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure does not apply to a proprietary interest in an association organized in accordance with this chapter. A proprietary interest that would otherwise escheat to the state pursuant to Chapter 7 (commencing with Section 1500)

of Title 10 of Part 3 of the Code of Civil Procedure shall instead become the property of the association.

(b) Notwithstanding subdivision (a), no proprietary interest shall become the property of the association under this section unless all of the following requirements are satisfied:

(1) At least 60 days' prior notice of the proposed transfer of the proprietary interest to the association is given to the affected member by first-class or certified mail to the last address of the member shown on the association's records, and by publication in a newspaper of general circulation in the county in which the member last resided as shown on the association's records. Notice given pursuant to this paragraph constitutes actual notice.

(2) No written notice objecting to the transfer is received by the association from the affected member or, if the member is deceased, from the member's heirs or the executor or executrix of the estate, prior to the date of the proposed transfer.

(c) "Proprietary interest" means and includes any membership, membership certificate, membership share, share certificate, or equity or dividend certificate of any class representing a proprietary interest in, and issued by, the association together with all accrued and unpaid earnings, dividends, and patronage distributions relating thereto.

Article 3. Purposes

26223. (a) Three or more natural persons, who are engaged in the cultivation of any cannabis product, may form an association pursuant to this chapter for the purpose of engaging in any activity in connection with any of the following:

(1) The cultivation, marketing, or selling of the cannabis products of its members.

(2) The growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any product of its members.

(3) The manufacturing, selling, or supplying to its members of machinery, equipment, or supplies.

(4) The financing of the activities that are specified by this section.

(b) Members of a cannabis cooperative shall be disclosed to the licensing authority before the application is processed.

(c) Members of a cannabis cooperative formed pursuant to this chapter shall be limited to cultivators who only hold a single Type 1 or Type 2 license.

(d) Collectively, members of a cannabis cooperative shall not grow more than four acres of total canopy size of cultivation throughout the state during the period that the respective licensees are valid.

(e) No member of a cooperative formed pursuant to this section shall be licensed to operate a cannabis business in another state or country.

Article 4. Articles of Incorporation

26224. The articles of incorporation of an association shall show that the signers of the articles of incorporation are engaged in the cultivation of cannabis products, and that they propose to incorporate an association pursuant to this chapter, and shall state all of the following:

(a) The name of the association.
(b) The purposes for which it is formed.
(c) The city, county, or city and county where the principal office for the transaction of business of the association is to be located.

(d) The number of directors of the association, which shall not be less than three, and the names and addresses of the persons who are to serve as first directors. If it is desired that the first directors shall serve for terms of different lengths, the term for which each person so named to serve shall also be stated.

(e) If organized without shares of stock, whether the voting power and the property rights and interest of each member are equal or unequal. If voting power and property rights and interest of each member are unequal, the general rule or rules that are applicable to all members by which the voting power and the property rights and interests, respectively, of each member may be and are determined and fixed shall also be stated.

(f) (1) If organized with shares of stock, the number of shares that may be issued and if the shares are to have a par value, the par value of each share, and the aggregate par value of all shares. If the shares are to be without par value, it shall be so stated.

(2) If the shares of stock are to be classified, a description of the classes of shares and a statement of the number of shares of each kind or class and the nature and extent of the preferences, rights, privileges, and restrictions that are granted to or imposed upon the holders of the respective classes of stock. Except as to the matters and things so stated, no distinction shall exist between the classes of stock or the holders of them. One class of stock shall always be known as common stock, and voting power may be restricted to holders of common stock.

26224.1. Articles of incorporation shall be signed, acknowledged, and filed in the manner that is prescribed by the general laws of this state for domestic corporations.

26224.2. The articles of incorporation of any association may be amended in the manner and for the purposes which are authorized by the General Corporation Law, Division 1 (commencing with Section 100) of Title 1 of the Corporations Code.

Article 5. Bylaws

26225. Each association shall, within 30 days after its incorporation, adopt for its government and management, a code of bylaws, consistent with this chapter. The vote or written assent of shareholders or members

that hold at least a majority of the voting power is necessary to adopt the bylaws and is effectual to repeal or amend a bylaw, or to adopt an additional bylaw. The power to repeal and amend the bylaws, and adopt new bylaws, may, by a similar vote, or similar written assent, be delegated to the board of directors, which authority may, by a similar vote, or similar written assent, be revoked.

26225.1. The bylaws may prescribe the time, place, and manner of calling and conducting its meetings. Meetings of members or stockholders shall be held at the place as provided in the bylaws, or, if no provision is made, in the city, county, or city and county where the principal place of business is located at a place designated by the board of directors. Meetings of the board of directors may be held at any place within or without the state that is fixed by a quorum of the board of directors unless otherwise provided in the articles of incorporation or bylaws.

26225.2. The bylaws may prescribe the number of stockholders, directors, or members that constitutes a quorum.

26225.3. The bylaws may prescribe the following:

(a) The right of members or stockholders to vote by proxy or by mail or both, and the conditions, manner, form, and effects of those votes.

(b) The right of members or stockholders to cumulate their votes and the prohibition, if any, of cumulative voting.

26225.4. (a) The bylaws may prescribe the qualifications, compensation, duties, and term of office of directors and officers and the time of their election.

(b) The number of directors set forth in the articles of incorporation shall be either a fixed number or a variable number. If a fixed number, it shall not be less than three, and if a variable number, the stated minimum shall not be less than three and the stated maximum shall not be greater than two times the stated minimum minus one.

(c) The number of directors may also be set forth in the bylaws either as a fixed number or as a variable number subject to the same limitations as in subdivision (b). After shares have been issued or members have been admitted, any adoption or amendment of the bylaw provision shall be approved by the outstanding shares as provided in Section 152 of the Corporations Code.

(d) In the event of an inconsistency between an article provision referred to in subdivision (b) and a bylaw provision referred to in subdivision (c), the provision more recently adopted or amended shall prevail.

(e) If a variable number of directors is set forth in the articles of incorporation or the bylaws, the exact number of directors shall be fixed, within the limits specified, by approval of the board of directors or the shareholders as provided in Section 153 of the Corporations Code in the manner designated in the bylaws.

26225.5. The bylaws may prescribe penalties for violations of the bylaws.

26225.6. The bylaws may prescribe the amount of entrance, organization, and membership fees, if any, the manner and method of collection of the fees, and the purposes for which they may be used.

26225.7. The bylaws may prescribe the amount that each member or stockholder shall be required to pay annually, or from time to time, if at all, to carry on the business of the association, the charge, if any, to be paid by each member or stockholder for services that are rendered by the association to him, the time of payment and the manner of collection, and the marketing contract between the association and its members or stockholders that every member or stockholder may be required to sign.

26225.8. The bylaws may prescribe the amount of dividends, if any, that may be declared on the stock or membership capital. To the extent that dividends are payable out of the excess of association income over association expenses attributable to business transacted with or for members, dividends shall not exceed 8 percent per annum.

26225.9. The bylaws may prescribe any of the following:

(a) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock.

(b) The method, time, and manner of permitting members to withdraw or the holders of common stock to transfer their stock.

(c) The manner of assignment and transfer of the interest of members, and of the shares of common stock.

(d) The conditions under which, and time when, membership of a member shall cease.

(e) The automatic suspension of the rights of a member when he or she ceases to be eligible to membership in the association.

(f) The mode, manner, and effect of the expulsion of a member.

26225.95. (a) The bylaws may prescribe any of the following:

(1) The manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture of his or her membership, or at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors.

(2) The conditions and terms for the repurchase by the association from its stockholders of their stock upon their disqualification as stockholders.

(b) If a member is expelled and the bylaws do not provide any procedure or penalty for expulsion, the board of directors shall equitably and conclusively appraise his or her property interest in the association and shall fix the amount of his or her property interest in money, which shall be paid to him or her within one year after such expulsion.

Article 6. Directors and Management

26226. The affairs of the association shall be managed by a board of not less than three directors who are elected by the members or stockholders.

26226.1. The bylaws may provide that the territory in which the association has members shall be divided into districts and that directors shall be elected from the several districts. If the bylaws divides the territory

into districts for the election of directors, the bylaws shall specify the number of directors to be elected by each district and the manner and method of reapportioning the directors and of redistricting the territory covered by the association.

26226.2. The bylaws may provide that primary elections shall be held to nominate directors. If the bylaws provide that the territory in which the association has members shall be divided into districts, the bylaws may also provide that the results of the primary elections in the various districts shall be final and shall be ratified at the annual meeting of the association.

26226.3. The bylaws may provide that the territory in which the association has members shall be divided into districts, and that the directors shall be elected by representatives or advisers, who themselves have been elected by the members or stockholders from the several territorial districts. If the bylaws divide the territory into districts for the election of representatives or advisers who elect the directors, the bylaws shall specify the number of representatives or advisers to be elected by each district and the manner and method of reapportioning the representatives or advisers and of redistricting the territory that is covered by the association.

26226.4. The bylaws may provide that one or more directors may be chosen by a public official or commission or by the other directors selected by the members. The director shall represent primarily the interest of the general public in the association. The director shall have the same powers and rights as other directors. These directors shall not number more than one-fifth of the entire number of directors.

26226.5. The bylaws may provide for an executive committee and may allot to the committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

26226.6. An association may provide a fair remuneration for the time that is actually spent by its officers and directors in its service and for the service of the members of its executive committee.

26226.7. If a vacancy on the board of directors occurs, except by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the bylaws provide for an election of directors by districts. If the bylaws provide for an election of directors by districts, the vacancy shall be filled either by the election of a director from the district in which the vacancy occurs or by the board of directors calling a special meeting of the members or stockholders in that district to fill the vacancy.

26226.8. (a) The directors shall elect a president, one or more vice presidents, a secretary, a treasurer, and such other officers as may be prescribed by the bylaws. Any two or more offices, except those of president and secretary, may be held by the same person.

(b) The treasurer may be a bank or a depository and, as such, shall not be considered as an officer, but as a function of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds shall be deposited only as and where authorized by the board of directors.

26226.9. (a) A member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition that is signed by 5 percent of the members, which requests the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer, against whom the charges have been brought, shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses. The person bringing the charges against him or her shall have the same opportunity.

(b) If the bylaws provide for election of directors by districts with primary elections in each district, the petition for removal of a director shall be signed by 20 percent of the members that reside in the district from which the director was elected. The board of directors shall call a special meeting of the members who reside in that district to consider the removal of the director. By a vote of the majority of the members of that district at the special meeting, the director in question shall be removed from office.

Article 7. Powers

26227. An association may engage in any activity in connection with the growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any cannabis product that is produced or delivered to it by its members; or any activity in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment, or in the financing of any such activities; or in any one or more of the activities that are specified in this section with a valid license.

26227.1. An association may borrow without limitation as to the amount of corporate indebtedness or liability and may make advances to members.

26227.2. An association may act as the agent or representative of any member or members in any of the activities specified in Section 26226.2 or 26226.3.

26227.3. An association may purchase or otherwise acquire, hold, own, and exercise all rights of ownership in, sell, transfer, pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of an association that is engaged in any related activity or in the growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of a cannabis product that is handled by the association.

26227.4. An association may establish reserves and invest the funds of the reserves in bonds or in other property as may be provided in the bylaws.

26227.5. An association may buy, hold, and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conduct and operation of, or incidental to, the business of the association.

26227.6. An association may levy assessments in the manner and in the amount as may be provided in its bylaws.

26227.7. An association may do any of the following anywhere:

(a) That which is what is necessary, suitable, or proper for the accomplishment of a purpose, or the attainment of an object, that is enumerated in this article.

(b) That which is conducive to, or expedient for, the interest or benefit of the association.

(c) Contract accordingly.

(d) Exercise and possess all powers, rights, and privileges that are necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged.

(e) Exercise any other rights, powers, and privileges that are granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this chapter.

26227.75. An association may use or employ any of its facilities for any purpose, provided the proceeds that arise from such use and employment shall go to reduce the cost of operation for its members. The cannabis products that are handled for, or the services, machinery, equipment, or supplies or facilities that are furnished to, nonmembers shall not, however, exceed in value the cannabis products that are handled for, or the services, merchandise, or facilities that are supplied to, members during the same period.

26227.8. (a) An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other association, with or without capital stock, that is engaged in growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any cannabis product that is handled by the association, or the byproducts of the cannabis product.

(b) Any two or more associations that are organized pursuant to this section may be merged into one constituent association or consolidated into a new association. The merger or consolidation shall be made in the manner that is prescribed by the general laws of the state that cover domestic corporations.

26227.9. (a) Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations and arrangements with another cannabis cooperative or association that is formed in this or in any other state for the cannabis cooperative and more economical carrying on of its business or any part of its business.

(b) Any two or more associations may, by agreement between them, unite in employing and using, or may separately employ and use, the same personnel, methods, means, and agencies for carrying on and conducting their respective business.

Article 8. Financial Provisions

26228. An association is not subject in any manner to the terms of the Corporate Securities Law (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code), and any association may issue its membership certificates or stock or other securities as provided in this chapter without the necessity of any qualification under that law.

26228.1. If an association issues nonpar value stock, the issuance of the stock shall be governed by the terms of all general laws that cover the issuance of nonpar value stock in domestic corporations.

26228.2. If an association with preferred shares of stock purchases the stock or any property, or any interest in any property of any person, it may discharge the obligations that are so incurred, wholly or in part, by exchanging for the acquired interest, shares of its preferred stock to an amount that at par value would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. In that case, the transfer to the association of the stock or interest that is purchased is equivalent to payment in cash for the shares of stock that are issued.

26228.3. The board of directors of every association shall cause to be sent to the members of the association not later than 120 days after the close of the fiscal or calendar year an annual report of the operations of the association, unless the report is expressly dispensed with in the bylaws. If required by the bylaws, interim reports of the operations of the association for the three-month, six-month, or nine-month periods of the current fiscal year of the association shall be furnished to the members of the association. Such annual report and any such interim reports shall include a balance sheet as of such closing date. Such financial statement shall be prepared from, and be in accordance with, the books. It shall be prepared in a form that is sanctioned by sound accounting practice for the association or approved by a duly certified public accountant or a public accountant.

Article 9. Members

26229. Under the terms and conditions that are prescribed in the bylaws adopted by it, an association may admit as members or issue common stock only to persons engaged in the cultivation of a cannabis product that is to be handled by or through the association.

26229.1. If a member of a nonstock association is other than a natural person, the member may be represented by any individual, associate, officer, or manager or member of it, who is duly authorized in writing.

26229.2. Any association may become a member or stockholder of any other association.

26229.3. If a member of an association that is established without shares of stock has paid his membership fee in full, he or she shall receive a certificate of membership.

26229.4. An association shall not issue a certificate for stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but the retention as security does not affect the member's right to vote.

26229.5. An association, in its bylaws, may limit the amount of common stock that any member may own.

26229.6. The bylaws shall prohibit the transfer of the common stock or membership certificates of the associations to a person that is not qualified to be a shareholder or member as specified in this chapter. These restrictions shall be printed upon every certificate of stock or membership that is subject to them.

26229.7. The association may, at any time, as specified in the bylaws, except when the debts of the association exceed 50 percent of its assets, buy in or purchase its common stock at the book value of the common stock, as conclusively determined by the board of directors, and pay for it in cash within one year thereafter.

26229.8. A member or stockholder is not liable for the debts of the association to an amount that exceeds the sum that remains unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory note that is given in payment of the membership fee or the subscription to the capital stock.

Article 10. Marketing Contracts

26230. The association and its members may make and execute marketing contracts that require the members to sell, for any period of time, but not over 15 years, all or a specified part of a cannabis product exclusively to or through the association, or a facility that is created by the association. If the members contract a sale to the association, title to the cannabis product passes absolutely and unreservedly, except for recorded liens, to the association upon delivery or at another specified time that is expressly and definitely agreed in the contract.

26230.1. Notwithstanding any provisions of the Civil Code, a contract that is entered into by a member or stockholder of an association that provides for the delivery to the association of a cannabis product that is produced or acquired by the member or stockholder may be specifically enforced by the association to secure the delivery to it of the cannabis product.

26230.2. The bylaws or a marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by him or her of any provision of the marketing contract regarding the sale or delivery or withholding of a cannabis product and may provide that the member will pay all costs, premiums for bonds, expenses, and fees, if any action is brought upon the contract by the association. These provisions are valid and enforceable in the courts of this

state. The clauses that provide for liquidated damages are enforceable as such and shall not be regarded as penalties.

26230.3. If there is a breach or threatened breach of a marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance of the contract. Pending the adjudication of the action and upon filing a verified complaint that shows the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

Article 11. Reorganization of Corporations Organized Pursuant to Other Laws

26231. A corporation that is organized or existing pursuant to any law except Title 23 (commencing with Section 653aa) of Part 4 of Division 1 of the Civil Code may be brought under the provisions of this chapter by amending its articles of incorporation, in the manner that is prescribed by the general corporation laws, to conform to this chapter. If a corporation amends its articles of incorporation to conform to this chapter, it shall be deemed to be organized and existing pursuant to, and entitled to the benefit of, and subject to this chapter for all purposes and as fully as though it had been originally organized pursuant to this chapter.

26231.1. Articles of incorporation shall be deemed to conform to this chapter within the meaning of Section 26231 if it clearly appears from the articles of incorporation that the corporation desires to be subject to, and to be organized, exist, and function pursuant to this chapter.

26231.2. If the amended articles conform, as provided in Section 26231.1, provisions in the articles of incorporation that appeared in the original articles or some previous amended articles, are ineffective if, and to the extent that, they are inapplicable to, or inconsistent with, this chapter.

SEC. 108. Section 1602 of the Fish and Game Code is amended to read:

1602. (a) An entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

(1) The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:

(A) A detailed description of the project's location and a map.

(B) The name, if any, of the river, stream, or lake affected.

(C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.

(D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(E) A copy of any other applicable local, state, or federal permit or agreement already issued.

(F) Any other information required by the department.

(2) The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.

(3) The entity pays the applicable fees, pursuant to Section 1609.

(4) One of the following occurs:

(A) (i) The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(ii) Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this clause may be renewed annually.

(B) The department determines that the activity may substantially adversely affect an existing fish or wildlife resource and issues a final agreement to the entity that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.

(C) A panel of arbitrators issues a final agreement to the entity in accordance with subdivision (b) of Section 1603, and the entity conducts the activity in accordance with the agreement.

(D) The department does not issue a draft agreement to the entity within 60 days from the date notification is complete, and the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(b) (1) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required after the initial notification and agreement, unless the department determines either of the following:

(A) The work described in the agreement has substantially changed.

(B) Conditions affecting fish and wildlife resources have substantially changed, and those resources are adversely affected by the activity conducted under the agreement.

(2) This subdivision applies only if notice to, and agreement with, the department was attained prior to January 1, 1977, and the department has been provided a copy of the agreement or other proof of the existence of the agreement that satisfies the department, if requested.

(c) Notwithstanding subdivision (a), the department is not required to determine whether the notification is complete or otherwise process the notification until the department has received the applicable fees.

(d) (1) Notwithstanding subdivision (a), an entity shall not be required to obtain an agreement with the department pursuant to this chapter for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if all of the following occur:

(A) The entity submits all of the following to the department:

(i) The written notification described in paragraph (1) of subdivision (a).

(ii) A copy of the license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture that includes the requirements specified in Section 26060.1 of the Business and Professions Code.

(iii) The fee specified in paragraph (3) of subdivision (a).

(B) The department determines in its sole discretion that compliance with the requirements specified in Section 26060.1 of the Business and Professions Code that are included in the license will adequately protect existing fish and wildlife resources that may be substantially adversely affected by the cultivation without the need for additional measures that the department would include in a draft streambed alteration agreement in accordance with Section 1603.

(C) The department notifies the entity in writing that the exemption applies to the cultivation authorized by the license or renewed license.

(2) The department shall notify the entity in writing whether the exemption in paragraph (1) applies to the cultivation authorized by the license or renewed license within 60 days from the date that the notification is complete and the fee has been paid.

(3) If an entity receives an exemption pursuant to this subdivision and fails to comply with any of the requirements described in Section 26060.1 of the Business and Professions Code that are included in the license, the failure shall constitute a violation under this section, and the department shall notify the Department of Food and Agriculture of any enforcement action taken.

(e) It is unlawful for any entity to violate this chapter.

SEC. 109. Section 1617 of the Fish and Game Code is amended to read:

1617. (a) The department may adopt general agreements for the cultivation of cannabis.

(b) Any general agreement adopted by the department subsequent to adoption of regulations under this section shall be in lieu of an individual agreement described in subparagraph (B) of paragraph (4) of subdivision (a) of Section 1602.

(c) Subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and all other time periods to process agreements specified in this chapter do not apply to the issuance of a general agreement adopted by the department pursuant to this section.

(d) Any general agreement issued by the department pursuant to this section is a final agreement and is not subject to Section 1603 or 1604.

(e) The department shall charge a fee for a general agreement adopted by the department under this section in accordance with Section 1609.

(f) If the department adopts or amends a general agreement under this section, it shall do so as an emergency regulation. An emergency regulation adopted pursuant to this section, and any amendments to it, shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the department, or any amendments to it made by the department pursuant to this section, shall stay in effect until revised by the department.

(g) Regulations adopted pursuant to this section, and any amendment thereto, shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 110. Section 37104 of the Food and Agricultural Code is amended to read:

37104. Notwithstanding Section 26001 of the Business and Professions Code, butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with medicinal or adult-use cannabis at the premises or location that is not subject to licensing as a milk product plant is exempt from the provisions of this division.

SEC. 111. Section 54036 of the Food and Agricultural Code is amended to read:

54036. A person, firm, corporation, or association, that is hereafter organized or doing business in this state, may not use the word “cooperative” as part of its corporate name or other business name or title for producers’ cooperative marketing activities, unless it has complied with this chapter or is otherwise authorized by Chapter 22 (commencing with Section 26220) of Division 10 of the Business and Professions Code.

SEC. 112. Section 81010 of the Food and Agricultural Code is amended to read:

81010. This division, and Section 221 shall become operative on January 1, 2017.

SEC. 113. Section 11006.5 of the Health and Safety Code is amended to read:

11006.5. “Concentrated cannabis” means the separated resin, whether crude or purified, obtained from cannabis.

SEC. 114. Section 11014.5 of the Health and Safety Code is amended to read:

11014.5. (a) “Drug paraphernalia” means all equipment, products and materials of any kind which are designed for use or marketed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing,

compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this division. It includes, but is not limited to:

(1) Kits designed for use or marketed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits designed for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices designed for use or marketed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.

(5) Scales and balances designed for use or marketed for use in weighing or measuring controlled substances.

(6) Containers and other objects designed for use or marketed for use in storing or concealing controlled substances.

(7) Hypodermic syringes, needles, and other objects designed for use or marketed for use in parenterally injecting controlled substances into the human body.

(8) Objects designed for use or marketed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, such as:

(A) Carburetion tubes and devices.

(B) Smoking and carburetion masks.

(C) Roach clips, meaning objects used to hold burning material, such as a cannabis cigarette, that has become too small or too short to be held in the hand.

(D) Miniature cocaine spoons, and cocaine vials.

(E) Chamber pipes.

(F) Carburetor pipes.

(G) Electric pipes.

(H) Air-driven pipes.

(I) Chillums.

(J) Bongs.

(K) Ice pipes or chillers.

(b) For the purposes of this section, the phrase “marketed for use” means advertising, distributing, offering for sale, displaying for sale, or selling in a manner which promotes the use of equipment, products, or materials with controlled substances.

(c) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) Instructions, oral or written, provided with the object concerning its use for ingesting, inhaling, or otherwise introducing a controlled substance into the human body.

(3) Descriptive materials accompanying the object which explain or depict its use.

(4) National and local advertising concerning its use.

(5) The manner in which the object is displayed for sale.

(6) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(7) Expert testimony concerning its use.

(d) If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

SEC. 115. Section 11018 of the Health and Safety Code is amended to read:

11018. “Cannabis” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include either of the following:

(a) Industrial hemp, as defined in Section 11018.5.

(b) The weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

SEC. 116. Section 11018.1 of the Health and Safety Code is amended to read:

11018.1. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

SEC. 117. Section 11018.2 of the Health and Safety Code is amended to read:

11018.2. “Cannabis accessories” means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

SEC. 118. Section 11018.5 of the Health and Safety Code is amended to read:

11018.5. (a) “Industrial hemp” means a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L. having no more than

three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

(b) Industrial hemp shall not be subject to the provisions of this division or of Division 10 (commencing with Section 26000) of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 (commencing with Section 81000) of the Food and Agricultural Code, inclusive.

SEC. 119. Section 11032 of the Health and Safety Code is amended to read:

11032. If reference is made to the term “narcotics” in any law not in this division, unless otherwise expressly provided, it means those controlled substances classified in Schedules I and II, as defined in this division. If reference is made to “restricted dangerous drugs” not in this division, unless otherwise expressly provided, it means those controlled substances classified in Schedules III and IV. If reference is made to the term “marijuana” in any law not in this division, unless otherwise expressly provided, it means cannabis as defined in this division.

SEC. 120. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) The controlled substances listed in this section are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol.
- (2) Allylprodine.
- (3) Alphacetylmethadol (except levoalphacetylmethadol, also known as levo-alpha- acetylmethadol, levomethadyl acetate, or LAAM).
- (4) Alphameprodine.
- (5) Alphamethadol.
- (6) Benzethidine.
- (7) Betacetylmethadol.
- (8) Betameprodine.
- (9) Betamethadol.
- (10) Betaprodine.
- (11) Clonitazene.
- (12) Dextromoramide.
- (13) Diampromide.
- (14) Diethylthiambutene.
- (15) Difenoxin.
- (16) Dimenoxadol.

- (17) Dimepheptanol.
 - (18) Dimethylthiambutene.
 - (19) Dioxaphetyl butyrate.
 - (20) Dipipanone.
 - (21) Ethylmethylthiambutene.
 - (22) Etonitazene.
 - (23) Etoxidine.
 - (24) Furethidine.
 - (25) Hydroxypethidine.
 - (26) Ketobemidone.
 - (27) Levomoramide.
 - (28) Levophenacymorphan.
 - (29) Morpheridine.
 - (30) Noracymethadol.
 - (31) Norlevorphanol.
 - (32) Normethadone.
 - (33) Norpiperone.
 - (34) Phenadoxone.
 - (35) Phenampromide.
 - (36) Phenomorphan.
 - (37) Phenoperidine.
 - (38) Piritramide.
 - (39) Proheptazine.
 - (40) Properidine.
 - (41) Propiram.
 - (42) Racemoramide.
 - (43) Tilidine.
 - (44) Trimeperidine.
 - (45) Any substance which contains any quantity of acetylfentanyl (N-[1-phenethyl-4-piperidinyl] acetanilide) or a derivative thereof.
 - (46) Any substance which contains any quantity of the thiophene analog of acetylfentanyl (N-[1-[2-(2-thienyl)ethyl]-4-piperidinyl] acetanilide) or a derivative thereof.
 - (47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
 - (48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).
- (c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (1) Acetorphine.
 - (2) Acetyldihydrocodeine.
 - (3) Benzylmorphine.
 - (4) Codeine methylbromide.
 - (5) Codeine-N-Oxide.
 - (6) Cyprenorphine.
 - (7) Desomorphine.
 - (8) Dihydromorphine.

- (9) Drotebanol.
- (10) Etorphine (except hydrochloride salt).
- (11) Heroin.
- (12) Hydromorphinol.
- (13) Methyldesorphine.
- (14) Methyldihydromorphine.
- (15) Morphine methylbromide.
- (16) Morphine methylsulfonate.
- (17) Morphine-N-Oxide.
- (18) Myrophine.
- (19) Nicocodeine.
- (20) Nicomorphine.
- (21) Normorphine.
- (22) Pholcodine.
- (23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

- (1) 4-bromo-2,5-dimethoxy-amphetamine—Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.
- (2) 2,5-dimethoxyamphetamine—Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.
- (3) 4-methoxyamphetamine—Some trade or other names: 4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.
- (4) 5-methoxy-3,4-methylenedioxy-amphetamine.
- (5) 4-methyl-2,5-dimethoxy-amphetamine—Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP"
- (6) 3,4-methylenedioxy amphetamine.
- (7) 3,4,5-trimethoxy amphetamine.
- (8) Bufotenine—Some trade or other names: 3-(beta-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserolonin, 5-hydroxy-N,N-dimethyltryptamine; mappine.
- (9) Diethyltryptamine—Some trade or other names: N,N-Diethyltryptamine; DET.
- (10) Dimethyltryptamine—Some trade or other names: DMT.
- (11) Ibogaine—Some trade or other names: 7-Ethyl-6,6beta, 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernantheiboga.
- (12) Lysergic acid diethylamide.
- (13) Cannabis.
- (14) Mescaline.

(15) Peyote—Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).

(16) N-ethyl-3-piperidyl benzilate.

(17) N-methyl-3-piperidyl benzilate.

(18) Psilocybin.

(19) Psilocyn.

(20) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

Because nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.

(21) Ethylamine analog of phencyclidine—Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

(22) Pyrrolidine analog of phencyclidine—Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCP, PHP.

(23) Thiophene analog of phencyclidine—Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone.

(2) Methaqualone.

(3) Gamma hydroxybutyric acid (also known by other names such as GHB; gamma hydroxy butyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate), including its immediate precursors, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, including, but not limited to, gammabutyrolactone, for which an application has not been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its isomers:

(1) Cocaine base.

- (2) Fenethylamine, including its salts.
- (3) N-Ethylamphetamine, including its salts.

SEC. 121. The heading of Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of the Health and Safety Code is amended to read:

Article 2. Cannabis

SEC. 122. Section 11357 of the Health and Safety Code is amended to read:

11357. (a) Except as authorized by law, possession of not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, or both, shall be punished or adjudicated as follows:

(1) Persons under the age of 18 are guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.

(B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.

(2) Persons at least 18 years of age but less than 21 years of age are guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).

(b) Except as authorized by law, possession of more than 28.5 grams of cannabis, or more than four grams of concentrated cannabis, shall be punished as follows:

(1) Persons under the age of 18 who possess more than 28.5 grams of cannabis or more than four grams of concentrated cannabis, or both, are guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.

(B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.

(2) Persons 18 years of age or over who possess more than 28.5 grams of cannabis, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both that fine and imprisonment.

(c) Except as authorized by law, a person 18 years of age or over who possesses not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive,

during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished as follows:

(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars (\$500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

(d) Except as authorized by law, a person under the age of 18 who possesses not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of an infraction and shall be punished in the same manner provided in paragraph (1) of subdivision (b).

SEC. 123. Section 11358 of the Health and Safety Code is amended to read:

11358. Each person who plants, cultivates, harvests, dries, or processes cannabis plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

(a) Each person under the age of 18 who plants, cultivates, harvests, dries, or processes any cannabis plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Each person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living cannabis plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

(c) Each person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living cannabis plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both that fine and imprisonment.

(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living cannabis plants, or any part thereof, except as otherwise provided by law, may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if any of the following conditions exist:

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.

(2) The person has two or more prior convictions under subdivision (c).

(3) The offense resulted in any of the following:

(A) Violation of Section 1052 of the Water Code relating to illegal diversion of water.

(B) Violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of water.

(C) Violation of Section 5650 or 5652 of the Fish and Game Code relating to waters of the state.

(D) Violation of Section 1602 of the Fish and Game Code relating to rivers, streams, and lakes.

(E) Violation of Section 374.8 of the Penal Code relating to hazardous substances or Section 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous waste.

(F) Violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act, or Section 2000 of the Fish and Game Code relating to the unlawful taking of fish and wildlife.

(G) Intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

SEC. 124. Section 11359 of the Health and Safety Code is amended to read:

11359. Every person who possesses for sale any cannabis, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who possesses cannabis for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Every person 18 years of age or over who possesses cannabis for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) The person has two or more prior convictions under subdivision (b);

or

(3) The offense occurred in connection with the knowing sale or attempted sale of cannabis to a person under the age of 18 years.

(d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any cannabis.

SEC. 125. Section 11360 of the Health and Safety Code is amended to read:

11360. (a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell,

furnish, administer, or give away, or attempts to import into this state or transport any cannabis shall be punished as follows:

(1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of Section 11357.

(2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three, or four years if:

(A) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(B) The person has two or more prior convictions under paragraph (2);

(C) The offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer, or give away cannabis to a person under the age of 18 years; or

(D) The offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of cannabis or more than four grams of concentrated cannabis.

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of cannabis, other than concentrated cannabis, is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, that person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) For purposes of this section, “transport” means to transport for sale.

(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

SEC. 126. Section 11361 of the Health and Safety Code is amended to read:

11361. (a) A person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any cannabis, who unlawfully sells, or offers to sell, any cannabis to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any cannabis to a minor under 14 years of age, or who induces a minor to use cannabis in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

(b) A person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any cannabis to a minor 14 years of age or older in violation of law shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 127. Section 11361.1 of the Health and Safety Code is amended to read:

11361.1. (a) The drug education and counseling requirements under Sections 11357, 11358, 11359, and 11360 shall be:

(1) Mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;

(2) Free to participants, and shall consist of at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of cannabis and other controlled substances.

(b) For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under Sections 11357, 11358, 11359, and 11360.

SEC. 128. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. (a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of Section 11357 or subdivision (b) of Section 11360, or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (d) of Section 11357, or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records, including the statewide criminal databases, shall provide for the timely destruction of the records in accordance with subdivision (c), and those records shall also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether the defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall commence from the date the person is released from custody. The requirements of this subdivision do

not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking cannabis, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which cannabis is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of cannabis, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents (\$37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion

of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars (\$10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

SEC. 129. Section 11362.1 of the Health and Safety Code is amended to read:

11362.1. (a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:

(1) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis;

(2) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of cannabis in the form of concentrated cannabis, including as contained in cannabis products;

(3) Possess, plant, cultivate, harvest, dry, or process not more than six living cannabis plants and possess the cannabis produced by the plants;

(4) Smoke or ingest cannabis or cannabis products; and

(5) Possess, transport, purchase, obtain, use, manufacture, or give away cannabis accessories to persons 21 years of age or older without any compensation whatsoever.

(b) Paragraph (5) of subdivision (a) is intended to meet the requirements of subsection (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. Sec. 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute cannabis accessories.

(c) Cannabis and cannabis products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.

SEC. 130. Section 11362.2 of the Health and Safety Code is amended to read:

11362.2. (a) Personal cultivation of cannabis under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:

(1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b).

(2) The living plants and any cannabis produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.

(3) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

(b) (1) A city, county, or city and county may enact and enforce reasonable regulations to regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.

(2) Notwithstanding paragraph (1), a city, county, or city and county shall not completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

(3) Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.

(4) Paragraph (3) shall become inoperative upon a determination by the California Attorney General that adult use of cannabis is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) is unenforceable upon the date of that determination by the Attorney General.

(5) For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

SEC. 131. Section 11362.3 of the Health and Safety Code is amended to read:

11362.3. (a) Section 11362.1 does not permit any person to:

(1) Smoke or ingest cannabis or cannabis products in a public place, except in accordance with Section 26200 of the Business and Professions Code.

(2) Smoke cannabis or cannabis products in a location where smoking tobacco is prohibited.

(3) Smoke cannabis or cannabis products within 1,000 feet of a school, day care center, or youth center while children are present at the school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of the school, day care center, or youth center while children are present.

(4) Possess an open container or open package of cannabis or cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(5) Possess, smoke, or ingest cannabis or cannabis products in or upon the grounds of a school, day care center, or youth center while children are present.

(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(7) Smoke or ingest cannabis or cannabis products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(8) Smoke or ingest cannabis or cannabis products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under 21 years of age are present.

(b) For purposes of this section, the following definitions apply:

(1) “Day care center” has the same meaning as in Section 1596.76.

(2) “Smoke” means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated cannabis or cannabis product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoke” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(3) “Volatile solvent” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

(4) “Youth center” has the same meaning as in Section 11353.1.

(c) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

SEC. 132. Section 11362.4 of the Health and Safety Code is amended to read:

11362.4. (a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one-hundred-dollar (\$100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.

(b) A person who engages in the conduct described in paragraphs (2), (3), or (4) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine, unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivision (c) or (d) of Section 11357.

(d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.

(e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine.

(f) Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.

(g) (1) The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that such a program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.

(2) The drug education program required by this section for persons under the age of 18 shall be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of cannabis and other controlled substances.

(h) Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

SEC. 133. Section 11362.45 of the Health and Safety Code is amended to read:

11362.45. Section 11362.1 does not amend, repeal, affect, restrict, or preempt:

(a) Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, cannabis or cannabis products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.

(b) Laws prohibiting the sale, administering, furnishing, or giving away of cannabis, cannabis products, or cannabis accessories, or the offering to sell, administer, furnish, or give away cannabis, cannabis products, or cannabis accessories to a person younger than 21 years of age.

(c) Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.

(d) Laws pertaining to smoking or ingesting cannabis or cannabis products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

(e) Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting cannabis or cannabis products.

(f) The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace, or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

(g) The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 within a building owned, leased, or occupied by the state or local government agency.

(h) The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 on the individual's or entity's privately owned property.

(i) Laws pertaining to the Compassionate Use Act of 1996.

SEC. 134. Section 11362.7 of the Health and Safety Code is amended to read:

11362.7. For purposes of this article, the following definitions shall apply:

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical

record the physician’s assessment of whether the patient has a serious medical condition and whether the medical use of cannabis is appropriate.

(b) “Department” means the State Department of Public Health.

(c) “Person with an identification card” means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.

(d) “Primary caregiver” means the individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient, and may include any of the following:

(1) In a case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Section 6922, 7002, 7050, or 7120 of the Family Code.

(f) “Qualified patient” means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

(g) “Identification card” means a document issued by the department that identifies a person authorized to engage in the medical use of cannabis and the person’s designated primary caregiver, if any.

(h) “Serious medical condition” means all of the following medical conditions:

(1) Acquired immune deficiency syndrome (AIDS).

- (2) Anorexia.
- (3) Arthritis.
- (4) Cachexia.
- (5) Cancer.
- (6) Chronic pain.
- (7) Glaucoma.
- (8) Migraine.
- (9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.
- (10) Seizures, including, but not limited to, seizures associated with epilepsy.
- (11) Severe nausea.
- (12) Any other chronic or persistent medical symptom that either:
 - (A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the federal Americans with Disabilities Act of 1990 (Public Law 101-336).
 - (B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health.
- (i) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit as part of an application for an identification card.

SEC. 135. Section 11362.71 of the Health and Safety Code is amended to read:

11362.71. (a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.

(2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.

(b) Every county health department, or the county's designee, shall do all of the following:

(1) Provide applications upon request to individuals seeking to join the identification card program.

(2) Receive and process completed applications in accordance with Section 11362.72.

(3) Maintain records of identification card programs.

(4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).

(5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.

(c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the

functions described in subdivision (b), except for an entity or organization that cultivates or distributes cannabis.

(d) The department shall develop all of the following:

(1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.

(2) Application forms that shall be issued to requesting applicants.

(3) An identification card that identifies a person authorized to engage in the medical use of cannabis and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.

(e) No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medicinal cannabis in an amount established pursuant to this article, unless there is probable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.

(f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

SEC. 136. Section 11362.715 of the Health and Safety Code is amended to read:

11362.715. (a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:

(1) The name of the person and proof of his or her residency within the county.

(2) Written documentation by the attending physician in the person's medical records stating that the person has been diagnosed with a serious medical condition and that the medicinal use of cannabis is appropriate.

(3) The name, office address, office telephone number, and California medical license number of the person's attending physician.

(4) The name and the duties of the primary caregiver.

(5) A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.

(b) If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person's legal representative, including, but not limited to, any of the following:

(1) A conservator with authority to make medical decisions.

(2) An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.

(3) Any other individual authorized by statutory or decisional law to make medical decisions for the person.

(c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.

(d) The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

SEC. 137. Section 11362.765 of the Health and Safety Code is amended to read:

11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. This section does not authorize the individual to smoke or otherwise consume cannabis unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute cannabis for profit.

(b) Subdivision (a) shall apply to all of the following:

(1) A qualified patient or a person with an identification card who transports or processes cannabis for his or her own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away cannabis for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

(3) An individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medicinal cannabis to the qualified patient or person or acquiring the skills necessary to cultivate or administer cannabis for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use cannabis under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section 11359 or 11360.

SEC. 138. Section 11362.768 of the Health and Safety Code is amended to read:

11362.768. (a) This section shall apply to individuals specified in subdivision (b) of Section 11362.765.

(b) No medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medicinal

cannabis pursuant to this article shall be located within a 600-foot radius of a school.

(c) The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.

(d) This section shall not apply to a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider that is also a licensed residential medical or elder care facility.

(e) This section shall apply only to a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider that is authorized by law to possess, cultivate, or distribute medicinal cannabis and that has a storefront or mobile retail outlet which ordinarily requires a local business license.

(f) Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider.

(g) This section does not preempt local ordinances, adopted prior to January 1, 2011, that regulate the location or establishment of a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider.

(h) For the purposes of this section, “school” means any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

SEC. 139. Section 11362.77 of the Health and Safety Code is amended to read:

11362.77. (a) A qualified patient or primary caregiver may possess no more than eight ounces of dried cannabis per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature cannabis plants per qualified patient.

(b) If a qualified patient or primary caregiver has a physician’s recommendation that this quantity does not meet the qualified patient’s medical needs, the qualified patient or primary caregiver may possess an amount of cannabis consistent with the patient’s needs.

(c) Counties and cities may retain or enact medicinal cannabis guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a).

(d) Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of cannabis under this section.

(e) A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of cannabis consistent with this article.

SEC. 140. Section 11362.775 of the Health and Safety Code is amended to read:

11362.775. (a) Subject to subdivision (d), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medicinal purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

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

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

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

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

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

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

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

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

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

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

(A) The California Fire Code.

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

(C) International Building Code (IBC).

(D) The International Fire Code (IFC).

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

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

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

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

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

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

SEC. 141. Section 11362.777 of the Health and Safety Code is repealed.

SEC. 142. Section 11362.78 of the Health and Safety Code is amended to read:

11362.78. A state or local law enforcement agency or officer shall not refuse to accept an identification card issued pursuant to this article unless the state or local law enforcement agency or officer has probable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

SEC. 143. Section 11362.785 of the Health and Safety Code is amended to read:

11362.785. (a) Nothing in this article shall require any accommodation of medicinal use of cannabis on the property or premises of a place of employment or during the hours of employment or on the property or premises of a jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

(b) Notwithstanding subdivision (a), a person shall not be prohibited or prevented from obtaining and submitting the written information and documentation necessary to apply for an identification card on the basis that the person is incarcerated in a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained.

(c) This article does not prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has an identification card, to use cannabis for medicinal purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

(d) This article does not require a governmental, private, or any other health insurance provider or health care service plan to be liable for a claim for reimbursement for the medicinal use of cannabis.

SEC. 144. Section 11362.79 of the Health and Safety Code is amended to read:

11362.79. This article does not authorize a qualified patient or person with an identification card to engage in the smoking of medicinal cannabis under any of the following circumstances:

- (a) In a place where smoking is prohibited by law.
- (b) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medicinal use occurs within a residence.
- (c) On a schoolbus.
- (d) While in a motor vehicle that is being operated.
- (e) While operating a boat.

SEC. 145. Section 11362.795 of the Health and Safety Code is amended to read:

11362.795. (a) (1) Any criminal defendant who is eligible to use cannabis pursuant to Section 11362.5 may request that the court confirm that he or she is allowed to use medicinal cannabis while he or she is on probation or released on bail.

(2) The court's decision and the reasons for the decision shall be stated on the record and an entry stating those reasons shall be made in the minutes of the court.

(3) During the period of probation or release on bail, if a physician recommends that the probationer or defendant use medicinal cannabis, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of medicinal cannabis.

(4) The court's consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(b) (1) Any person who is to be released on parole from a jail, state prison, school, road camp, or other state or local institution of confinement and who is eligible to use medicinal cannabis pursuant to Section 11362.5 may request that he or she be allowed to use medicinal cannabis during the period he or she is released on parole. A parolee's written conditions of parole shall reflect whether or not a request for a modification of the conditions of his or her parole to use medicinal cannabis was made, and whether the request was granted or denied.

(2) During the period of the parole, where a physician recommends that the parolee use medicinal cannabis, the parolee may request a modification of the conditions of the parole to authorize the use of medicinal cannabis.

(3) Any parolee whose request to use medicinal cannabis while on parole was denied may pursue an administrative appeal of the decision. Any decision on the appeal shall be in writing and shall reflect the reasons for the decision.

(4) The administrative consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

SEC. 146. Section 11362.8 of the Health and Safety Code is amended to read:

11362.8. A professional licensing board shall not impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11362.72. However, this section shall not apply to acts performed by a physician relating to the discussion or recommendation of the medical use of cannabis to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

SEC. 147. Section 11362.81 of the Health and Safety Code is amended to read:

11362.81. (a) A person specified in subdivision (b) shall be subject to the following penalties:

(1) For the first offense, imprisonment in the county jail for no more than six months or a fine not to exceed one thousand dollars (\$1,000), or both.

(2) For a second or subsequent offense, imprisonment in the county jail for no more than one year, or a fine not to exceed one thousand dollars (\$1,000), or both.

(b) Subdivision (a) applies to any of the following:

(1) A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining an identification card.

(2) A person who steals or fraudulently uses any person's identification card in order to acquire, possess, cultivate, transport, use, produce, or distribute cannabis.

(3) A person who counterfeits, tampers with, or fraudulently produces an identification card.

(4) A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program.

(c) In addition to the penalties prescribed in subdivision (a), a person described in subdivision (b) may be precluded from attempting to obtain, or obtaining or using, an identification card for a period of up to six months at the discretion of the court.

(d) In addition to the requirements of this article, the Attorney General shall develop and adopt appropriate guidelines to ensure the security and nondiversion of cannabis grown for medicinal use by patients qualified under the Compassionate Use Act of 1996.

SEC. 148. Section 11362.83 of the Health and Safety Code is amended to read:

11362.83. Nothing in this article shall prevent a city or other local governing body from adopting and enforcing any of the following:

(a) Adopting local ordinances that regulate the location, operation, or establishment of a medicinal cannabis cooperative or collective.

(b) The civil and criminal enforcement of local ordinances described in subdivision (a).

(c) Enacting other laws consistent with this article.

SEC. 149. Section 11362.85 of the Health and Safety Code is amended to read:

11362.85. Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify cannabis, the Legislature may amend or repeal the provisions of this code, as necessary, to conform state law to such changes in federal law.

SEC. 150. Section 11362.9 of the Health and Safety Code is amended to read:

11362.9. (a) (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering cannabis as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California Cannabis Research Program. Whenever “California Marijuana Research Program” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the California Cannabis Research Program.

(2) The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of cannabis and, if found valuable, shall develop medical guidelines for the appropriate administration and use of cannabis. The studies may include studies to ascertain the effect of cannabis on motor skills.

(b) The program may immediately solicit proposals for research projects to be included in the cannabis studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

(1) Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding cannabis’ general medical efficacy and safety.

(2) Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on cannabis.

(3) Proposals shall contain provisions for a patient registry.

(4) Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

(5) Proposals shall contain protocols suitable for research on cannabis, addressing patients diagnosed with acquired immunodeficiency syndrome

(AIDS) or human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

(6) Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of cannabis.

(7) Proposals shall demonstrate the use of a laboratory capable of analyzing cannabis, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

(c) In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

(1) The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

(2) Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

(d) If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

(e) It is the intent of the Legislature that the program be established as follows:

(1) The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.

(2) When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.

(3) The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the

required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.

(4) The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.

(5) The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.

(f) All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.

(g) Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, cannabis. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.

(h) The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.

(i) The cannabis studies shall employ state-of-the-art research methodologies.

(j) The program shall ensure that all cannabis used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply cannabis for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

(k) The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

(l) (1) To enhance understanding of the efficacy and adverse effects of cannabis as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of cannabis in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of cannabis as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of cannabis.

(2) The program shall examine the safety of cannabis in patients with various medical disorders, including cannabis's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

(3) The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of cannabis as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of cannabis.

(m) (1) Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.

(2) If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

(n) In order to maximize the scope and size of the cannabis studies, the program may do any of the following:

(1) Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the cannabis studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.

(2) Include within the scope of the cannabis studies other cannabis research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of cannabis as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of cannabis and that he or she will have no control over the use of these funds.

(o) (1) Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the cannabis studies.

(2) Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:

- (A) The names and number of diseases or conditions under study.
- (B) The number of patients enrolled in each study by disease.
- (C) Any scientifically valid preliminary findings.

(p) If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall

serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

(q) No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section.

(r) This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act.

SEC. 151. Section 11364.5 of the Health and Safety Code is amended to read:

11364.5. (a) Except as authorized by law, no person shall maintain or operate any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away unless such drug paraphernalia is completely and wholly kept, displayed or offered within a separate room or enclosure to which persons under the age of 18 years not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia is kept, displayed or offered in such room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

(b) Except as authorized by law, no owner, manager, proprietor or other person in charge of any room or enclosure, within any place of business, in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away shall permit or allow any person under the age of 18 years to enter, be in, remain in or visit such room or enclosure unless that minor person is accompanied by one of his or her parents or by his or her legal guardian.

(c) Unless authorized by law, no person under the age of 18 years shall enter, be in, remain in, or visit any room or enclosure in any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred, or given away unless accompanied by one of his or her parents or by his or her legal guardian.

(d) As used in this section, "drug paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following:

(1) Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.

(5) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.

(7) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, cannabis.

(8) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, such as the following:

(A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(B) Water pipes.

(C) Carburetion tubes and devices.

(D) Smoking and carburetion masks.

(E) Roach clips, meaning objects used to hold burning material, such as a cannabis cigarette that has become too small or too short to be held in the hand.

(F) Miniature cocaine spoons, and cocaine vials.

(G) Chamber pipes.

(H) Carburetor pipes.

(I) Electric pipes.

(J) Air-driven pipes.

(K) Chillums.

(L) Bongs.

(M) Ice pipes or chillers.

(e) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

(3) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

(4) Instructions, oral or written, provided with the object concerning its use.

(5) Descriptive materials, accompanying the object which explain or depict its use.

(6) National and local advertising concerning its use.

(7) The manner in which the object is displayed for sale.

(8) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(9) The existence and scope of legitimate uses for the object in the community.

(10) Expert testimony concerning its use.

(f) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes drug paraphernalia described in paragraph (11) of subdivision (d) upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who furnishes or prescribes drug paraphernalia described in paragraph (11) of subdivision (d) to his or her patients.

(3) Any manufacturer, wholesaler, or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in paragraph (11) of subdivision (d).

(g) Notwithstanding any other provision of law, including Section 11374, violation of this section shall not constitute a criminal offense, but operation of a business in violation of the provisions of this section shall be grounds for revocation or nonrenewal of any license, permit, or other entitlement previously issued by a city, county, or city and county for the privilege of engaging in such business and shall be grounds for denial of any future license, permit, or other entitlement authorizing the conduct of such business or any other business, if the business includes the sale of drug paraphernalia.

SEC. 152. Section 11470 of the Health and Safety Code is amended to read:

11470. The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

(c) All property except real property or a boat, airplane, or any vehicle which is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

(e) The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an instrument to facilitate the manufacture of, or possession for sale or sale of 14.25 grams or more of heroin, or a substance containing 14.25 grams or more of heroin, or 14.25 grams or more of a substance containing heroin, or 28.5 grams or more of Schedule I controlled substances except cannabis, peyote, or psilocybin; 10 pounds dry weight or more of cannabis, peyote, or psilocybin; or 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or a substance containing 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or 57 grams or more of a substance containing cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or 28.5 grams or more of Schedule II controlled substances. An interest in a vehicle which may be lawfully driven on the highway with a class C, class M1, or class M2 license, as prescribed in Section 12804.9 of the Vehicle Code, shall not be forfeited under this subdivision if there is a community property interest in the vehicle by a person other than the defendant and the vehicle is the sole class C, class M1, or class M2 vehicle available to the defendant's immediate family.

(f) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, or securities used or intended to be used to facilitate any violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property, or the filing of a petition under this chapter, or the issuance of an order of forfeiture of the property, whichever comes first.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

(h) (1) Subject to the requirements of Section 11488.5 and except as further limited by this subdivision to protect innocent parties who claim a property interest acquired from a defendant, all right, title, and interest in any personal property described in this section shall vest in the state upon commission of the act giving rise to forfeiture under this chapter, if the state or local governmental entity proves a violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves the manufacture, sale, possession for sale, offer for sale, offer to manufacture, or conspiracy to commit at least one of those offenses, in accordance with the burden of proof set forth in paragraph (1) of subdivision (i) of Section 11488.4 or, in the case of cash or negotiable instruments in excess of twenty-five thousand dollars (\$25,000), paragraph (4) of subdivision (i) of Section 11488.4.

(2) The operation of the special vesting rule established by this subdivision shall be limited to circumstances where its application will not defeat the claim of any person, including a bona fide purchaser or encumbrancer who, pursuant to Section 11488.5, 11488.6, or 11489, claims an interest in the property seized, notwithstanding that the interest in the property being claimed was acquired from a defendant whose property interest would otherwise have been subject to divestment pursuant to this subdivision.

SEC. 153. Section 11478 of the Health and Safety Code is amended to read:

11478. Cannabis may be provided by the Attorney General to the heads of research projects which have been registered by the Attorney General, and which have been approved by the research advisory panel pursuant to Section 11480.

The head of the approved research project shall personally receipt for such quantities of cannabis and shall make a record of their disposition. The receipt and record shall be retained by the Attorney General. The head of the approved research project shall also, at intervals and in the manner required by the research advisory panel, report the progress or conclusions of the research project.

SEC. 154. Section 11479 of the Health and Safety Code is amended to read:

11479. Notwithstanding Sections 11473 and 11473.5, at any time after seizure by a law enforcement agency of a suspected controlled substance, except in the case of growing or harvested cannabis, that amount in excess of 10 pounds in gross weight may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. In the case of growing or harvested cannabis, that amount in excess of two pounds, or the amount of cannabis a medicinal cannabis patient or designated caregiver is authorized to possess by ordinance in the city or county where the cannabis was seized, whichever is greater, may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate.

Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. These samples shall be in addition to the 10 pounds required above. When the suspected controlled substance consists of growing or harvested cannabis plants, at least one 2-pound sample or a sample in the amount of medicinal cannabis a medicinal cannabis patient or designated caregiver is authorized to possess by ordinance in the city or county where the cannabis was seized, whichever is greater, shall be retained. This sample may include stalks, branches, or leaves. In addition, five representative samples of leaves or buds shall be retained for evidentiary purposes from the total amount of suspected controlled substances to be destroyed.

(b) Photographs and videos have been taken that reasonably and accurately demonstrate the total amount of the suspected controlled substance to be destroyed.

(c) The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating that weight after dimensional measurement of the total suspected controlled substance.

(d) The chief of the law enforcement agency has determined that it is not reasonably possible to preserve the suspected controlled substance in place, or to remove the suspected controlled substance to another location. In making this determination, the difficulty of transporting and storing the suspected controlled substance to another site and the storage facilities may be taken into consideration.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court that has jurisdiction over any pending criminal proceedings pertaining to that suspected controlled substance, reciting the applicable information required by subdivisions (a), (b), (c), and (d) together with information establishing the location of the suspected controlled substance, and specifying the date and time of the destruction. In the event that there are no criminal proceedings pending that pertain to that suspected controlled substance, the affidavit may be filed in any court within the county that would have jurisdiction over a person against whom those criminal charges might be filed.

SEC. 155. Section 11479.2 of the Health and Safety Code is amended to read:

11479.2. Notwithstanding the provisions of Sections 11473, 11473.5, 11474, 11479, and 11479.1, at any time after seizure by a law enforcement agency of a suspected controlled substance, except cannabis, any amount, as determined by the court, in excess of 57 grams may, by court order, be destroyed by the chief of a law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. Those samples shall be in addition to the 57 grams required above and each sample shall weigh not less than one gram at the time the sample is collected.

(b) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance to be destroyed.

(c) The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating such weight after dimensional measurement of the total suspected controlled substance.

(d) In cases involving controlled substances suspected of containing cocaine or methamphetamine, an analysis has determined the qualitative and quantitative nature of the suspected controlled substance.

(e) The law enforcement agency with custody of the controlled substance sought to be destroyed has filed a written motion for the order of destruction in the court which has jurisdiction over any pending criminal proceeding in which a defendant is charged by accusatory pleading with a crime specifically involving the suspected controlled substance sought to be destroyed. The motion shall, by affidavit of the chief of the law enforcement agency or designated subordinate, recite the applicable information required by subdivisions (a), (b), (c), and (d), together with information establishing the location of the suspected controlled substance and the title of any pending criminal proceeding as defined in this subdivision. The motion shall bear proof of service upon all parties to any pending criminal proceeding. No motion shall be made when a defendant is without counsel until the defendant has entered his or her plea to the charges.

(f) The order for destruction shall issue pursuant to this section upon the motion and affidavit in support of the order, unless within 20 days after application for the order, a defendant has requested, in writing, a hearing on the motion. Within 10 days after the filing of that request, or a longer period of time upon good cause shown by either party, the court shall conduct a hearing on the motion in which each party to the motion for destruction shall be permitted to call and examine witnesses. The hearing shall be recorded. Upon conclusion of the hearing, if the court finds that the defendant would not be prejudiced by the destruction, it shall grant the motion and make an order for destruction. In making the order, the court shall ensure that the representative samples to be retained are of sufficient quantities to allow for qualitative analyses by both the prosecution and the defense. Any order for destruction pursuant to this section shall include the applicable information required by subdivisions (a), (b), (c), (d), and (e) and the name of the agency responsible for the destruction. Unless waived, the order shall provide for a 10-day delay prior to destruction in order to allow expert analysis of the controlled substance by the defense.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which

ordered destruction stating the location of the retained, suspected controlled substance and specifying the date and time of destruction.

This section does not apply to seizures involving hazardous chemicals or controlled substances in mixture or combination with hazardous chemicals.

SEC. 156. Section 11480 of the Health and Safety Code is amended to read:

11480. (a) The Legislature finds that there is a need to encourage further research into the nature and effects of cannabis and hallucinogenic drugs and to coordinate research efforts on such subjects.

(b) There is a Research Advisory Panel that consists of a representative of the State Department of Health Services, a representative of the California State Board of Pharmacy, the State Public Health Officer, a representative of the Attorney General, a representative of the University of California who shall be a pharmacologist, a physician, or a person holding a doctorate degree in the health sciences, a representative of a private university in this state who shall be a pharmacologist, a physician, or a person holding a doctorate degree in the health sciences, a representative of a statewide professional medical society in this state who shall be engaged in the private practice of medicine and shall be experienced in treating controlled substance dependency, a representative appointed by and serving at the pleasure of the Governor who shall have experience in drug abuse, cancer, or controlled substance research and who is either a registered nurse, licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, or other health professional. The Governor shall annually designate the private university and the professional medical society represented on the panel. Members of the panel shall be appointed by the heads of the entities to be represented, and they shall serve at the pleasure of the appointing power.

(c) The Research Advisory Panel shall appoint two special members to the Research Advisory Panel, who shall serve at the pleasure of the Research Advisory Panel only during the period Article 6 (commencing with Section 11260) of Chapter 5 remains effective. The additional members shall be physicians and surgeons, and who are board certified in oncology, ophthalmology, or psychiatry.

(d) The panel shall annually select a chairperson from among its members.

(e) The panel may hold hearings on, and in other ways study, research projects concerning cannabis or hallucinogenic drugs in this state. Members of the panel shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties.

(f) The panel may approve research projects, which have been registered by the Attorney General, into the nature and effects of cannabis or hallucinogenic drugs, and shall inform the Attorney General of the head of the approved research projects that are entitled to receive quantities of cannabis pursuant to Section 11478.

(g) The panel may withdraw approval of a research project at any time, and when approval is withdrawn shall notify the head of the research project to return any quantities of cannabis to the Attorney General.

(h) The panel shall report annually to the Legislature and the Governor those research projects approved by the panel, the nature of each research project, and, where available, the conclusions of the research project.

SEC. 157. Section 11485 of the Health and Safety Code is amended to read:

11485. Any peace officer of this state who, incident to a search under a search warrant issued for a violation of Section 11358 with respect to which no prosecution of a defendant results, seizes personal property suspected of being used in the planting, cultivation, harvesting, drying, processing, or transporting of cannabis, shall, if the seized personal property is not being held for evidence or destroyed as contraband, and if the owner of the property is unknown or has not claimed the property, provide notice regarding the seizure and manner of reclamation of the property to any owner or tenant of real property on which the property was seized. In addition, this notice shall be posted at the location of seizure and shall be published at least once in a newspaper of general circulation in the county in which the property was seized. If, after 90 days following the first publication of the notice, no owner appears and proves his or her ownership, the seized personal property shall be deemed to be abandoned and may be disposed of by sale to the public at public auction as set forth in Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code, or may be disposed of by transfer to a government agency or community service organization. Any profit from the sale or transfer of the property shall be expended for investigative services with respect to crimes involving cannabis.

SEC. 158. Section 11532 of the Health and Safety Code is amended to read:

11532. (a) It is unlawful for any person to loiter in any public place in a manner and under circumstances manifesting the purpose and with the intent to commit an offense specified in Chapter 6 (commencing with Section 11350) and Chapter 6.5 (commencing with Section 11400).

(b) Among circumstances that may be considered in determining whether a person has the requisite intent to engage in drug-related activity are that the person:

- (1) Acts as a “look-out.”
- (2) Transfers small objects or packages for currency in a furtive fashion.
- (3) Tries to conceal himself or herself or any object that reasonably could be involved in an unlawful drug-related activity.
- (4) Uses signals or language indicative of summoning purchasers of illegal drugs.
- (5) Repeatedly beckons to, stops, attempts to stop, or engages in conversations with passersby, whether on foot or in a motor vehicle, indicative of summoning purchasers of illegal drugs.

(6) Repeatedly passes to or receives from passersby, whether on foot or in a motor vehicle, money or small objects.

(7) Is under the influence of a controlled substance or possesses narcotic or drug paraphernalia. For the purposes of this paragraph, “narcotic or drug paraphernalia” means any device, contrivance, instrument, or apparatus designed or marketed for the use of smoking, injecting, ingesting, or consuming cannabis, hashish, PCP, or any controlled substance, including, but not limited to, roach clips, cigarette papers, and rollers designed or marketed for use in smoking a controlled substance.

(8) Has been convicted in any court within this state, within five years prior to the arrest under this chapter, of any violation involving the use, possession, or sale of any of the substances referred to in Chapter 6 (commencing with Section 11350) or Chapter 6.5 (commencing with Section 11400), or has been convicted of any violation of those provisions or substantially similar laws of any political subdivision of this state or of any other state.

(9) Is currently subject to any order prohibiting his or her presence in any high drug activity geographic area.

(10) Has engaged, within six months prior to the date of arrest under this section, in any behavior described in this subdivision, with the exception of paragraph (8), or in any other behavior indicative of illegal drug-related activity.

(c) The list of circumstances set forth in subdivision (b) is not exclusive. The circumstances set forth in subdivision (b) should be considered particularly salient if they occur in an area that is known for unlawful drug use and trafficking, or if they occur on or in premises that have been reported to law enforcement as a place suspected of unlawful drug activity. Any other relevant circumstances may be considered in determining whether a person has the requisite intent. Moreover, no one circumstance or combination of circumstances is in itself determinative of intent. Intent must be determined based on an evaluation of the particular circumstances of each case.

SEC. 159. Section 11553 of the Health and Safety Code is amended to read:

11553. The fact that a person is or has been, or is suspected of being, a user of cannabis is not alone sufficient grounds upon which to invoke Section 11551 or 11552.

This section shall not be construed to limit the discretion of a judge to invoke Section 11551 or 11552 if the court has reason to believe a person is or has been a user of narcotics or drugs other than cannabis.

SEC. 160. Section 109925 of the Health and Safety Code is amended to read:

109925. (a) “Drug” means any of the following:

- (1) An article recognized in an official compendium.
- (2) An article used or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or any other animal.

(3) An article other than food, that is used or intended to affect the structure or any function of the body of human beings or any other animal.

(4) An article used or intended for use as a component of an article designated in paragraphs (1) to (3), inclusive.

(b) The term “drug” does not include any device.

(c) Any food for which a claim (as described in Sections 403(r)(1)(B) (21 U.S.C. Sec. 343(r)(1)(B)) and 403(r)(3) (21 U.S.C. Sec. 343(r)(3)) or Sections 403(r)(1)(B) (21 U.S.C. Sec. 343(r)(1)(B)) and 403(r)(5)(D) (21 U.S.C. Sec. 343(r)(5)(D)) of the federal act), is made in accordance with the requirements set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act, is not a drug under subdivision (b) solely because the label or labeling contains such a claim.

(d) Cannabis product, including any cannabis product intended for external use, is not a drug.

SEC. 161. The heading of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code is amended to read:

PART 14.5. CANNABIS TAX

SEC. 162. Section 34010 of the Revenue and Taxation Code is amended to read:

34010. For purposes of this part:

(a) “Arm’s length transaction” shall mean a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

(b) “Average market price” shall mean:

(1) In an arm’s length transaction, the average market price means the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the board on a biannual basis in six-month intervals.

(2) In a nonarm’s length transaction, the average market price means the cannabis retailer’s gross receipts from the retail sale of the cannabis or cannabis products.

(c) “Board” shall mean the State Board of Equalization or its successor agency.

(d) “Bureau” shall mean the Bureau of Cannabis Control within the Department of Consumer Affairs.

(e) “Tax Fund” means the California Cannabis Tax Fund created by Section 34018.

(f) “Cannabis” shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medicinal cannabis.

(g) “Cannabis products” shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medicinal concentrates and medicinal cannabis products.

(h) “Cannabis flowers” shall mean the dried flowers of the cannabis plant as defined by the board.

(i) “Cannabis leaves” shall mean all parts of the cannabis plant other than cannabis flowers that are sold or consumed.

(j) “Cannabis retailer” shall mean a person required to be licensed as a retailer, microbusiness, or nonprofit pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(k) “Cultivator” shall mean all persons required to be licensed to cultivate cannabis pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(l) “Distributor” shall mean a person required to be licensed as a distributor pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(m) “Enters the commercial market” shall mean cannabis or cannabis product that has completed and complies with all quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code.

(n) “Gross receipts” shall have the same meaning as set forth in Section 6012.

(o) “Microbusiness” shall have the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.

(p) “Nonprofit” shall have the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

(q) “Person” shall have the same meaning as set forth in Section 6005.

(r) “Retail sale” shall have the same meaning as set forth in Section 6007.

(s) “Sale” and “purchase” shall mean any change of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

(t) “Transfer” shall mean to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration.

(u) “Unprocessed cannabis” shall include cannabis flowers, cannabis leaves, or other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers.

SEC. 163. Section 34011 of the Revenue and Taxation Code is amended to read:

34011. (a) Effective January 1, 2018, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. A purchaser’s liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers. Each cannabis retailer shall provide a purchaser with

an invoice, receipt, or other document that displays the cannabis excise tax separately from the list price, the price advertised in the premises, the marked price, or other price and includes a statement that reads: “The cannabis cultivation and excise taxes are included in the total amount of this invoice.”

(b) (1) A distributor in an arm’s length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer. A distributor in a nonarm’s length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer, or at the time of retail sale by the cannabis retailer, whichever is earlier. A distributor shall report and remit the cannabis excise tax to the board pursuant to Section 34015. A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting the cannabis excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the board.

(2) A distributor shall provide an invoice, receipt, or other similar document to the cannabis retailer that identifies the licensee receiving the product, the distributor from which the product originates, including the associated unique identifier, the amount of cannabis excise tax, and any other information deemed necessary by the board. The board may authorize other forms of documentation under this paragraph.

(c) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(d) Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use tax under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

(e) Cannabis or cannabis products shall not be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(f) The sales and use taxes imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical cannabis as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

SEC. 164. Section 34012 of the Revenue and Taxation Code is amended to read:

34012. (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested cannabis that enters the commercial market upon all cultivators. The tax shall be due after the cannabis is harvested and enters the commercial market.

(1) The tax for cannabis flowers shall be nine dollars and twenty-five cents (\$9.25) per dry-weight ounce.

(2) The tax for cannabis leaves shall be set at two dollars and seventy-five cents (\$2.75) per dry-weight ounce.

(b) The board may adjust the tax rate for cannabis leaves annually to reflect fluctuations in the relative price of cannabis flowers to cannabis leaves.

(c) The board may from time to time establish other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with cannabis flowers.

(d) The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the cannabis is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications, and denominations as may be prescribed by the board and may be purchased by any licensee under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that cannabis shall not be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26068 of the Business and Professions Code.

(h) Cultivators shall be responsible for payment of the tax pursuant to regulations adopted by the board. A cultivator's liability for the tax is not extinguished until the tax has been paid to this state except that an invoice, receipt, or other document from a distributor or manufacturer given to the cultivator pursuant to paragraph (3) is sufficient to relieve the cultivator from further liability for the tax to which the invoice, receipt, or other document refers. Cannabis shall not be sold unless the tax has been paid as provided in this part.

(1) A distributor shall collect the cultivation tax from a cultivator upon entry into the commercial market. This paragraph shall not apply where a cultivator is not required to send, and does not send, the harvested cannabis to a distributor.

(2) (A) A manufacturer shall collect the cultivation tax from a cultivator on the first sale or transfer of unprocessed cannabis by a cultivator to a manufacturer. The manufacturer shall remit the cultivation tax collected on the cannabis product sold or transferred to a distributor for quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code. All cultivation tax applicable to a unique identifier shall be paid upon the first sale or transfer of cannabis or cannabis product with an associated unique identifier. This paragraph shall not apply where a distributor collects the cultivation tax from a cultivator pursuant to paragraph (1).

(B) Notwithstanding subparagraph (A), the board may prescribe a substitute method and manner for collection and remittance of the cultivation tax under this paragraph, including a method and manner for collection of the cultivation tax by a distributor.

(3) A distributor or manufacturer shall provide to the cultivator, and a distributor that collects the cultivation tax from a manufacturer pursuant to paragraph (2) shall provide to the manufacturer, an invoice, receipt, or other similar document that identifies the licensee receiving the product, the cultivator from which the product originates, including the associated unique identifier, the amount of cultivation tax, and any other information deemed necessary by the board. The board may authorize other forms of documentation under this paragraph.

(4) The board may adopt regulations prescribing procedures for the refund of cultivation tax collected on cannabis or cannabis product that fails quality assurance, inspection, and testing as described in Section 26110 of the Business and Professions Code.

(i) All cannabis removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all cannabis cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to cannabis cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code).

(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

(l) The Department of Food and Agriculture is not responsible for enforcing any provisions of the cultivation tax.

SEC. 165. Section 34012.5 is added to the Revenue and Taxation Code, to read:

34012.5. (a) The cultivation tax and cannabis excise tax required to be collected by the distributor, or required to be collected by the manufacturer pursuant to paragraph (2) of subdivision (h) of Section 34012, and any amount unreturned to the cultivator or cannabis retailer that is not tax but was collected from the cultivator or cannabis retailer under the representation by the distributor or the manufacturer that it was tax constitute debts owed by the distributor or the manufacturer to this state.

(b) A distributor or manufacturer that has collected any amount of tax in excess of the amount of tax imposed by this part and actually due from a cultivator or cannabis retailer, may refund such amount to the cultivator or cannabis retailer, even though such tax amount has already been paid over to the board and no corresponding credit or refund has yet been secured. The distributor or manufacturer may claim credit for that overpayment against the amount of tax imposed by this part that is due upon any other quarterly return, providing that credit is claimed in a return dated no later than three years from the date of overpayment.

(c) Any tax collected from a cultivator or cannabis retailer that has not been remitted to the board shall be deemed a debt owed to the State of California by the person required to collect and remit the tax.

SEC. 166. Section 34013 of the Revenue and Taxation Code is amended to read:

34013. (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to “fee” shall include the taxes imposed by this part, and references to “feepayer” shall include a person required to pay or collect the taxes imposed by this part.

(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag cannabis or cannabis products, or the packages thereof, to designate prior tax payment.

(d) Until January 1, 2019, the board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer, and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

(e) Any person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code.

(f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board’s request, the Attorney General shall bring the actions.

SEC. 167. Section 34014 of the Revenue and Taxation Code is amended to read:

34014. (a) All distributors must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a distributor without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

(b) The board may require every licensed distributor, retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on cannabis produced or received by the retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. “Good cause” includes, but is not limited to, the inability of a distributor, retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a cannabis business. A person may not commence or continue any business or operation relating to cannabis cultivation until any surety required by the board with respect to the business or operation has been properly prepared, executed, and submitted under this part.

(c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

SEC. 168. Section 34015 of the Revenue and Taxation Code is amended to read:

34015. (a) Unless otherwise prescribed by the board pursuant to subdivision (c), the excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each distributor using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to subdivision (d) of Section 34012 the board may by regulation determine when and how the tax shall be paid.

(b) The board may require every person engaged in the cultivation, distribution, manufacturing, retail sale of cannabis or cannabis products, or any other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person’s inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

(c) The board may adopt regulations prescribing the due date for returns and remittances of excise tax collected by a distributor in an arm’s length transaction pursuant to subdivision (b) of Section 34011.

(d) The board may make examinations of the books and records of any person licensed, or required to be licensed, pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, as it may deem necessary in carrying out this part.

SEC. 169. Section 34016 of the Revenue and Taxation Code is amended to read:

34016. (a) Any peace officer or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which cannabis or cannabis products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

(3) Inspections shall be conducted no more than once in a 24-hour period.

(b) Any person who fails or refuses to allow an inspection shall be guilty of a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Cannabis Tax Fund.

(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of cannabis or cannabis products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the cannabis or cannabis products. Any cannabis or cannabis products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.

(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

(f) All moneys remitted to the board under this part shall be credited to the California Cannabis Tax Fund.

SEC. 170. Section 34018 of the Revenue and Taxation Code is amended to read:

34018. (a) The California Cannabis Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.

(b) Notwithstanding any other law, the California Cannabis Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year

and shall be expended only in accordance with the provisions of this part and its purposes.

(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered “moneys” for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

SEC. 171. Section 34019 of the Revenue and Taxation Code is amended to read:

34019. (a) Beginning with the 2017–18 fiscal year, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

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

(2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code. This paragraph shall remain operative through the 2022–23 fiscal year.

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

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

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

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

(7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development

Department for the costs of applying and enforcing state labor laws to licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with the 2018–19 fiscal year until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

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

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

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

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

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

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

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

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

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

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

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

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products.

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

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

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

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

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, fostercare providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

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

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

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

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

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders

with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

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

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

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

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

(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments, or submitted reports prepared by the applicable county to demonstrate and validate need.

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

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

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

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

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

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

Restoration and Protection Account through grants for purposes specified in this paragraph.

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

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

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

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

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

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

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

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the

implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of cannabis or cannabis products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

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

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

(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in the 2027–28 fiscal year. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

SEC. 172. Section 34021.5 of the Revenue and Taxation Code is amended to read:

34021.5. (a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products by a licensee operating under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(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, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

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

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

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

(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use taxes imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of this code.

SEC. 173. Section 2429.7 is added to the Vehicle Code, to read:

2429.7. (a) The commissioner shall appoint an impaired driving task force to develop recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of impaired driving, including driving under the influence of cannabis and controlled substances. The task force shall also examine the use of technology, including field testing technologies and validated field sobriety tests, to identify drivers under the influence of prescription drugs, cannabis, and controlled substances. The task force shall include, but is not limited to, the commissioner, who shall serve as chairperson, and at least one member from each of the following:

- (1) The Office of Traffic Safety.
- (2) The National Highway Traffic Safety Administration.
- (3) Local law enforcement.
- (4) District attorneys.
- (5) Public defenders.
- (6) California Association of Crime Laboratory Directors.
- (7) California Attorneys for Criminal Justice.
- (8) The California Cannabis Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code.
- (9) An organization that represents medicinal cannabis patients.
- (10) Licensed physicians with expertise in substance abuse disorder treatment.
- (11) Researchers with expertise in identifying impairment caused by prescription medications and controlled substances.
- (12) Nongovernmental organizations committed to social justice issues.
- (13) A nongovernmental organization that focuses on improving roadway safety.

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

(c) The task force members shall be free of economic relationships with any company that profits from the sale of technologies or equipment that is intended to identify impairment. Members and their organizations shall not receive pay from, grants from, or any form of financial support from companies or entities that sell such technologies or equipment.

(d) The task force shall make recommendations regarding prevention of impaired driving, means of identifying impaired driving, and responses to impaired driving that reduce reoccurrence, including, but not limited to, evidence-based approaches that do not rely on incarceration.

(e) The task force shall make recommendations regarding how to best capture data to evaluate the impact that cannabis legalization is having on roadway safety.

(f) By January 1, 2021, the task force shall report to the Legislature its policy recommendations and the steps state agencies are taking regarding impaired driving. The report shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 174. Section 23222 of the Vehicle Code is amended to read:

23222. (a) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

(b) (1) Except as authorized by law, every person who has in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any receptacle containing any cannabis or cannabis products, as defined by Section 11018.1 of the Health and Safety Code, which has been opened or has a seal broken, or loose cannabis flower not in a container, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).

(2) Paragraph (1) does not apply to a person who has a receptacle containing cannabis or cannabis products that has been opened, has a seal broken, or the contents of which have been partially removed, or to a person who has loose cannabis flower not in a container, if the receptacle or loose cannabis flower not in a container is in the trunk of the vehicle.

(c) Subdivision (b) does not apply to a qualified patient or person with an identification card, as defined in Section 11362.7 of the Health and Safety Code, if both of the following apply:

(1) The person is carrying a current identification card or a physician's recommendation.

(2) The cannabis or cannabis product is contained in a container or receptacle that is either sealed, resealed, or closed.

SEC. 175. Section 1831 of the Water Code is amended to read:

1831. (a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the

board may issue an order to that person to cease and desist from that violation.

(b) The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.

(c) The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.

(d) The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:

(1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.

(2) Any term or condition of a permit, license, certification, or registration issued under this division.

(3) Any decision or order of the board issued under this part, Section 275, Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

(4) A regulation adopted under Section 1058.5.

(5) Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

(6) Any diversion or use of water for cannabis cultivation if any of paragraphs (1) to (5), inclusive, or any of the following applies:

(A) A license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) or Chapter 7 (commencing with Section 26070) of Division 10 of the Business and Professions Code.

(B) The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

(C) The diversion or use is not in compliance with a requirement imposed under paragraphs (1) and (2) of subdivision (b) of Section 26060.1 of, and paragraph (3) of subdivision (a) of Section 26070 of, the Business and Professions Code.

(e) This article does not alter the regulatory authority of the board under other provisions of law.

SEC. 176. Section 1847 of the Water Code is amended to read:

1847. (a) A person or entity may be liable for a violation of any of the requirements of subdivision (b) in an amount not to exceed the sum of the following:

(1) Five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of that person.

(2) Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

(b) Liability may be imposed for any of the following violations:

(1) Violation of a principle, guideline, or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

(2) Failure to submit information, or making a material misstatement in information submitted, under Section 26060.1 of the Business and Professions Code.

(3) Violation of any requirement imposed under subdivision (b) of Section 26060.1 of the Business and Professions Code.

(4) Diversion or use of water for cannabis cultivation for which a license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) or Chapter 7 (commencing with Section 26070) of Division 10 of the Business and Professions Code.

(c) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

(d) Civil liability may be imposed administratively by the board pursuant to Section 1055.

SEC. 177. Section 13276 of the Water Code is amended to read:

13276. (a) The multiagency task force, the Department of Fish and Wildlife and state board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by cannabis cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on water quality and on fish and wildlife throughout the state.

(b) The state board or the appropriate regional board shall address discharges of waste resulting from cannabis cultivation under Division 10 of the Business and Professions Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, the state board or the regional board shall include conditions to address items that include, but are not limited to, all of the following:

(1) Site development and maintenance, erosion control, and drainage features.

(2) Stream crossing installation and maintenance.

(3) Riparian and wetland protection and management.

(4) Soil disposal.

(5) Water storage and use.

(6) Irrigation runoff.

(7) Fertilizers and soil.

(8) Pesticides and herbicides.

(9) Petroleum products and other chemicals.

(10) Cultivation-related waste.

(11) Refuse and human waste.

(12) Cleanup, restoration, and mitigation.

SEC. 178. The amount of three million dollars (\$3,000,000) is hereby appropriated from the Cannabis Control Fund to the Department of the California Highway Patrol to be used to for training drug recognition experts.

Program costs may include, but are not limited to, training, overtime, and backfill of state and local law enforcement officers to attend training.

SEC. 179. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 180. The Legislature finds and declares that Sections 58 and 93 of this act, which add Sections 26067 and 26162 to the Business and Professions Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect public safety and prevent the diversion of cannabis to the illegal market, it is necessary for that information to be confidential.

SEC. 181. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 182. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act by accomplishing all of the following:

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

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

(c) Allowing local governments to enforce state laws and regulations for adult-use cannabis businesses if that authority is delegated to them by the state, and enact additional local requirements for adult-use cannabis businesses, but not require that they do so for an adult-use cannabis business to be issued a state license and be legal under state law.

(d) Requiring track and trace management procedures to track adult-use cannabis from cultivation to sale.

(e) Requiring licensed adult-use cannabis businesses to follow strict environmental and product safety standards as a condition of maintaining their license.

(f) Denying access to cannabis by persons younger than 21 years of age who are not medicinal cannabis patients.

(g) Preventing the illegal production or distribution of cannabis.

(h) Preventing the illegal diversion of cannabis from California to other states or countries or to the illegal market.

(i) Reducing barriers to entry into the legal, regulated market.

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

SEC. 183. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

O

EXHIBIT H

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BUSINESS AND PROFESSIONS CODE

GENERAL PROVISIONS

27.

- (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity 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) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.
- (b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.
- (c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:
 - (1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.
 - (2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.
 - (3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.
 - (4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.
 - (5) The Professional Fiduciaries Bureau shall disclose information on its licensees.
 - (6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.
 - (7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.
 - (8) The California Board of Accountancy shall disclose information on its licensees and registrants.
 - (9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.
 - (10) The State Athletic Commission shall disclose information on its licensees and registrants.
 - (11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.
 - (12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.
 - (13) The Acupuncture Board shall disclose information on its licensees.
 - (14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.
 - (15) The Dental Board of California shall disclose information on its licensees.
 - (16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

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- (17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.
- (d) The State Board of Chiropractic Examiners shall disclose information on its licensees.
- (e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.
- (f) The Bureau of Medical Cannabis Regulation shall disclose information on its licensees.
- (g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

**DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 1. THE DEPARTMENT (100-144.5)**

101.

The department is comprised of the following:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.
- (u) The Landscape Architects Technical Committee.
- (v) The Division of Investigation.
- (w) The Bureau of Automotive Repair.
- (x) The Respiratory Care Board of California.
- (y) The Acupuncture Board.
- (z) The Board of Psychology.
- (aa) The California Board of Podiatric Medicine.
- (ab) The Physical Therapy Board of California.
- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.
- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) The Professional Fiduciaries Bureau.
- (ak) The State Board of Chiropractic Examiners.
- (al) The Bureau of Real Estate.
- (am) The Bureau of Real Estate Appraisers.
- (an) The Structural Pest Control Board.
- (ao) The Bureau of Medical Cannabis Regulation.
- (ap) Any other boards, offices, or officers subject to its jurisdiction by law.

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144.

- (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.
- (b) Subdivision (a) applies to the following:
- (1) California Board of Accountancy.
 - (2) State Athletic Commission.
 - (3) Board of Behavioral Sciences.
 - (4) Court Reporters Board of California.
 - (5) State Board of Guide Dogs for the Blind.
 - (6) California State Board of Pharmacy.
 - (7) Board of Registered Nursing.
 - (8) Veterinary Medical Board.
 - (9) Board of Vocational Nursing and Psychiatric Technicians.
 - (10) Respiratory Care Board of California.
 - (11) Physical Therapy Board of California.
 - (12) Physician Assistant Committee of the Medical Board of California.
 - (13) Speech-Language Pathology and Audiology and Hearing Aid Dispenser Board.
 - (14) Medical Board of California.
 - (15) State Board of Optometry.
 - (16) Acupuncture Board.
 - (17) Cemetery and Funeral Bureau.
 - (18) Bureau of Security and Investigative Services.
 - (19) Division of Investigation.
 - (20) Board of Psychology.
 - (21) California Board of Occupational Therapy.
 - (22) Structural Pest Control Board.
 - (23) Contractors' State License Board.
 - (24) Naturopathic Medicine Committee.
 - (25) Professional Fiduciaries Bureau.
 - (26) Board for Professional Engineers, Land Surveyors, and Geologists.
 - (27) Bureau of Medical Cannabis Regulation.
- (c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

**DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 3. FUNDS OF THE DEPARTMENT (200 – 211)**

205.1.

Notwithstanding subdivision (a) of Section 205, the Medical Cannabis Regulation and Safety Act Fund is a special fund within the Professions and Vocations Fund, and is subject to subdivision (b) of Section 205.

**DIVISION 2. HEALING ARTS
CHAPTER 5. MEDICINE
ARTICLE 12. ENFORCEMENT (2220-2319)**

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 without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing,

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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) Repeated acts of clearly excessive recommending of cannabis to patients for medical purposes, or repeated acts of recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.
- (5) Sexual misconduct with one or more patients during a course of treatment or an examination.
- (6) 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).

2241.5.

- (a) A physician and surgeon may prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.
- (b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.
- (c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:
 - (1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.
 - (2) Violates Section 2241 regarding treatment of an addict.
 - (3) Violates Section 2242 or 2525.3 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs or recommending medical cannabis.
 - (4) Violates Section 2242.1 regarding prescribing on the Internet.
 - (5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these controlled substances or dangerous drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.
 - (6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.
 - (7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.
- (d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.
- (e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5.

2242.1.

- (a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state, without an appropriate prior examination and medical indication, except as authorized by Section 2242.
- (b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either a fine of up to twenty-five thousand dollars (\$25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars (\$25,000) per occurrence.
- (c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).

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- (d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Contingent Fund of the Medical Board of California.
- (e) If the person or entity that is the subject of an action brought pursuant to this section is not a resident of this state, a violation of this section shall, if applicable, be reported to the person's or entity's appropriate professional licensing authority.
- (f) Nothing in this section shall prohibit the board from commencing a disciplinary action against a physician and surgeon pursuant to Section 2242 or 2525.3.

ARTICLE 25. RECOMMENDING MEDICAL CANNABIS (2525-2525.5)

2525.

- (a) It is unlawful for a physician and surgeon who recommends cannabis to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a state license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8, 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. A violation of this section shall be a misdemeanor punishable by up to one year in county jail and a fine of up to five thousand dollars (\$5,000) or by civil penalties of up to five thousand dollars (\$5,000) and shall constitute unprofessional conduct.
- (c) A violation of this section shall be a misdemeanor punishable by up to one year in county jail and a fine of up to five thousand dollars (\$5,000) or by civil penalties of up to five thousand dollars (\$5,000) and shall constitute unprofessional conduct.

2525.1.

The Medical Board of California 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 medical cannabis.

2525.2.

An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

2525.3.

Recommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

2525.4.

It is unprofessional conduct for any attending physician recommending medical cannabis to be employed by, or enter into any other agreement with, any person or entity dispensing medical cannabis.

2525.5.

- (a) A person shall not distribute any form of advertising for physician recommendations for medical cannabis 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 cannabis 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 medical cannabis. Recommendations must come from an attending physician as defined in Section 11362.7 of the Health and Safety Code.

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Cannabis is a Schedule I drug according to the federal Controlled Substances Act. Activity related to cannabis use is subject to federal prosecution, regardless of the protections provided by state law.

- (b) Advertising for attending physician recommendations for medical cannabis shall meet all of the requirements in 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.

**DIVISION 8. SPECIAL BUSINESS REGULATIONS
CHAPTER 3.5. MEDICAL CANNABIS REGULATION AND SAFETY ACT
ARTICLE 1. DEFINITIONS (19300 – 19300.7)**

19300.

This act shall be known and may be cited as the Medical Cannabis Regulation and Safety Act.

19300.5.

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

- (a) "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.
- (b) "Applicant," for purposes of Article 4 (commencing with Section 19320), includes the following:
- (1) Owner or owners of the proposed premises, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the premises.
 - (2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed premises.
 - (3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.
- (c) "Batch" means a specific quantity of homogeneous medical cannabis or medical cannabis product and is one of the following types:
- (1) "Harvest batch" means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals, and harvested at the same time.
 - (2) "Manufactured cannabis batch" means either:
 - (A) An amount of cannabis concentrate or extract produced in one production cycle using the same extraction methods and standard operating procedures, and is from the same harvest batch.
 - (B) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.
- (d) "Bureau" means the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs.
- (e) "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.
- (f) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" 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 the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- (g) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- (h) "Certificate of accreditation" means a certificate issued by an accrediting body to a testing laboratory.
- (i) "Chief" means Chief of the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs.
- (j) "Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.
- (k) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis.

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- (l) "Cultivation site" means a location where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.
- (m) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.
- (n) "Dispensary" means a premises where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Section 19340, medical cannabis and medical cannabis products as part of a retail sale.
- (o) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- (p) "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.
- (q) "Distributor" means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.
- (r) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (s) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.
- (t) "Fund" means the Medical Cannabis Regulation and Safety Act Fund established pursuant to Section 19351.
- (u) "Identification program" means the universal identification certificate program for commercial medical cannabis activity authorized by this chapter.
- (v) "Labeling" means any label or other written, printed, or graphic matter upon a medical cannabis product, or upon its container or wrapper, or that accompanies any medical cannabis product.
- (w) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.
- (x) "Licensee" means a person issued a state license under this chapter to engage in commercial cannabis activity.
- (y) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license.
- (z) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.
- (aa) "Local license, permit, or other authorization" means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.
- (ab) "Lot" means a batch or a specifically identified portion of a batch.
- (ac) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.
- (ad) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container.
- (ae) "Manufacturing site" means the premises that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.
- (af) "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California

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pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

- (ag) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.
- (ah) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- (ai) "Primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.
- (aj) "State license" or "license" means a state license issued pursuant to this chapter.
- (ak) "Testing laboratory" means the premises where tests are performed on medical cannabis or medical cannabis products and that holds a valid certificate of accreditation.
- (al) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.
- (am) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.
- (an) "Transporter" means a person who holds a license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between licensees that have been issued a license pursuant to this chapter.

19300.7.

License classifications pursuant to this chapter are as follows:

- (a) Type 1 = Cultivation; Specialty outdoor; Small.
- (b) Type 1A = Cultivation; Specialty indoor; Small.
- (c) Type 1B = Cultivation; Specialty mixed-light; Small.
- (d) Type 2 = Cultivation; Outdoor; Small.
- (e) Type 2A = Cultivation; Indoor; Small.
- (f) Type 2B = Cultivation; Mixed-light; Small.
- (g) Type 3 = Cultivation; Outdoor; Medium.
- (h) Type 3A = Cultivation; Indoor; Medium.
- (i) Type 3B = Cultivation; Mixed-light; Medium.
- (j) Type 4 = Cultivation; Nursery.
- (k) Type 6 = Manufacturer 1.
- (l) Type 7 = Manufacturer 2.
- (m) Type 8 = Testing laboratory.
- (n) Type 10 = Dispensary; General.
- (o) Type 10A = Producing Dispensary; No more than three retail sites.
- (p) Type 11 = Distributor.
- (q) Type 12 = Transporter.

ARTICLE 2. ADMINISTRATION (19302 – 19310)

19302.

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

19302.1.

- (a) The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the Director of Consumer Affairs with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.
- (b) Every power granted to or duty imposed upon the Director of Consumer Affairs 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.

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- (c) The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service laws and regulations. The Governor may also appoint a deputy chief and an assistant chief counsel to the bureau. These positions shall hold office at the pleasure of the Governor.
- (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, testing, distribution, and sale of medical cannabis within the state and to collect fees in connection with activities the bureau regulates. The bureau shall have the authority to 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 and will serve as lead agency for the purpose of fulfilling the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). The Department of Food and Agriculture shall have the authority to create, issue, renew, discipline, suspend, or revoke licenses for the cultivation of medical cannabis and to collect fees in connection with activities it regulates. The Department of Food and Agriculture shall have the authority to create licenses in addition to those identified in this chapter that it deems necessary to effectuate its duties under this chapter.
- (f) The State Department of Public Health shall administer the provisions of this chapter related to and associated with the manufacturing of medical cannabis. The State Department of Public Health shall have the authority to create, issue, renew, discipline, suspend, or revoke licenses for the manufacturing of medical cannabis and medical cannabis products and to collect fees in connection with activities it regulates. The State Department of Public Health shall have the authority to create licenses in addition to those identified in this chapter that it deems necessary to effectuate its duties under this chapter.

19303.

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

19304.

- (a) The licensing authorities shall make and prescribe rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable each licensing authority to exercise the powers and duties conferred upon it by this chapter, not inconsistent with any statute of this state, including particularly this chapter and 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, each licensing authority has the power conferred by Sections 11180 to 11191, inclusive, of the Government Code.
- (b) Each licensing authority may adopt emergency regulations to implement this chapter.
 - (1) Each licensing authority may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted by this section. Any such readoption shall be limited to one time for each regulation.
 - (2) Notwithstanding any other law, the initial adoption of emergency regulations and the readoption of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readopted emergency regulations authorized by this section shall be each submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

19305.

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

19306.

- (a) The bureau may convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this chapter, including best practices and guidelines to ensure qualified patients have adequate access to medical cannabis and medical cannabis products. The advisory committee members shall be determined by the chief.
- (b) The advisory committee members may include, but not be limited to, representatives of the medical cannabis industry, representatives of medical cannabis cultivators, appropriate local and state agencies, appropriate local and state law enforcement, physicians, environmental and public health experts, and medical cannabis patient advocates.

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19307.

A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this chapter. A licensing authority may work with state and local law enforcement agencies on investigations and enforcement actions pertaining to licenses.

For any hearing held pursuant to this chapter, the director, or a licensing authority, may delegate the power to hear and decide to an administrative law judge. 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.

19308.

For any hearing held pursuant to this chapter, the director, or a licensing authority, may delegate the power to hear and decide to an administrative law judge. 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.

19309.

In any hearing before a licensing authority pursuant to this chapter, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

19310.

A licensing authority may on its own motion at any time before a penalty assessment is placed into effect and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

ARTICLE 3. ENFORCEMENT (19311 – 19319)

19311.

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

- (a) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.
- (b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.
- (c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this chapter.
- (d) Failure to comply with any state law, except as provided for in this chapter or other California law.
- (e) Failure to maintain safe conditions for inspection by a licensing authority.
- (f) Failure to comply with any operating procedure submitted to the licensing authority pursuant to subdivision (b) of Section 19322.

19312.

- (a)
 - (1) Each licensing authority may suspend, revoke, place on probation with terms and conditions, or otherwise discipline licenses issued by that licensing authority and fine a licensee, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action.
 - (2) A licensing authority may revoke a license when a local agency has notified the licensing authority that a licensee or applicant within its jurisdiction is in violation of state rules and regulation relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for termination or revocation of the license.
- (b) The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director and agency head, as that term is defined in Section 11405.40 of the Government Code, of each licensing authority shall have all the powers granted therein.
- (c) Each licensing authority may take disciplinary action and assess fines against its respective licensees for any violation of this chapter when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial cannabis activity.
- (d) A licensing authority may recover the costs of investigation and enforcement of a disciplinary proceeding pursuant to Section 125.3 of this code.

19313.5.

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

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19314.

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

19315.

- (a) Nothing in this chapter shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.
- (b) Nothing in this chapter shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.
- (c) Nothing in this chapter shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority under the Fish and Game Code, the Water Code, the Food and Agricultural Code, or the Health and Safety Code.

19316.

- (a) Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, security, and worker protections established by the state shall be the minimum standards for all licensees statewide.
- (b) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this chapter and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall further assume complete responsibility for any regulatory function relating to those licensees within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.
- (c) Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

19317.

- (a) The actions of a licensee, its employees, and its agents that are (1) permitted pursuant to both a state license and a license or permit issued by the local jurisdiction following the requirements of the applicable local ordinances, and (2) conducted in accordance with the requirements of this chapter and regulations adopted pursuant to 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, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to both a state license and a local license or permit following the requirements of the applicable local ordinances, 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.

19319.

- (a) A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this chapter.
- (b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code, is exempt from the licensure requirements of this chapter.

ARTICLE 4. LICENSING (19320 – 19325)

19320.

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

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- (b) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a local license, permit, or other authorization from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.
- (c) Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport or where any equipment that is not currently transporting medical cannabis or medical cannabis products permanently resides.
- (d) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization. Local authorities shall notify the bureau upon revocation of a local license, permit, or other authorization. The bureau shall inform relevant licensing authorities.
- (e) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license.
- (f) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.
- (g) Nothing in this chapter shall be construed to supersede or limit state agencies, including the Department of Food and Agriculture, the State Water Resources Control Board, and the Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

19321.

- (a) A license issued pursuant to this chapter shall be valid for 12 months from the date of issuance. The license shall be renewed annually. Each licensing authority shall establish procedures for the renewal of a license.
- (b) Notwithstanding subdivision (b) of Section 19320, the premises or person that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter only if (1) a completed application and all required documentation and approvals for licensure are submitted to the licensing authority no later than the deadline established by the licensing authority and (2) the applicant continues to operate in compliance with all local and state requirements, except possession of a state license pursuant to this chapter. In issuing licenses, the licensing authority shall prioritize any premises or person that can demonstrate to the authority's satisfaction that the premises or person was in operation and in good standing with the local jurisdiction by January 1, 2016.
- (c) Issuance of a state license or a determination of compliance with local law by the licensing authority shall in no way limit the ability of the City of Los Angeles to prosecute any person or entity for a violation of, or otherwise enforce, Proposition D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, or the city's zoning laws. Nor may issuance of a license or determination of compliance with local law by the licensing authority be deemed to establish, or be relied upon, in determining satisfaction with the immunity requirements of Proposition D or local zoning law, in court or in any other context or forum.

19322.

- (a) A person shall not submit an application for a state license issued by a licensing authority pursuant to this chapter unless that person has received a license, permit, or authorization from the local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:
 - (1) Electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.
 - (A) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.
 - (B) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.
 - (C) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.
 - (2) Provide documentation issued by the local jurisdiction in which the proposed business is operating certifying that the applicant is or will be in compliance with all local ordinances and regulations.

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- (3) Provide evidence of the legal right to occupy and use the proposed location. For an applicant seeking a cultivator, distributor, manufacturing, testing, transporter, or dispensary license, provide a statement from the owner of real property or their agent where the cultivation, distribution, manufacturing, testing, transport, or dispensing of commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit cultivation, distribution, manufacturing, testing, transport, or dispensary activities to be conducted on the property by the tenant applicant.
 - (4) If the application is for a cultivator or a dispensary, provide evidence that the proposed location is located beyond at least a 600-foot radius from a school, as required by Section 11362.768 of the Health and Safety Code.
 - (5) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.
 - (6)
 - (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.
 - (B) For the purposes of this paragraph, "employee" does not include a supervisor.
 - (C) For purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
 - (7) Provide the applicant's valid seller's permit number issued pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code or indicate that the applicant is currently applying for a seller's permit.
 - (8) Provide any other information required by the licensing authority.
 - (9) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.
 - (10) Pay all applicable fees required for licensure by the licensing authority.
 - (11) Provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements.
- (b) For applicants seeking licensure to cultivate, distribute, manufacture, test, or dispense medical, cannabis or medical cannabis products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:
- (1) Cultivation.
 - (2) Extraction and infusion methods.
 - (3) The transportation process.
 - (4) Inventory procedures.
 - (5) Quality control procedures.
 - (6) Security protocols.

19323.

- (a) A licensing authority shall deny an application if the applicant or the premises for which a state license is applied does not qualify for licensure under this chapter or the rules and regulations for the state license.
- (b) A licensing authority may deny an application for licensure or renewal of a state license, or issue a conditional license, if any of the following conditions apply:
 - (1) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to subdivision (a) of Section 19332.
 - (2) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.
 - (3) The applicant has failed to provide information required by the licensing authority.
 - (4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

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- (A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.
- (B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
- (C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
- (D) A felony conviction involving fraud, deceit, or embezzlement.
- (5) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code.
- (6) The applicant or any of its officers, directors, or owners has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
- (7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.
- (8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.
- (9) The applicant or any of its officers, directors, owners, employees, or authorized agents have failed to comply with any operating procedure required pursuant to subdivision (b) of Section 19322.
- (10) Conduct that constitutes grounds for disciplinary action pursuant to this chapter.

19324.

Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

19325.

An applicant shall not be denied a state license if the denial is based solely on any of the following:

- (a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.
- (b) A conviction that was subsequently dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

ARTICLE 5. MEDICAL MARIJUANA REGULATION (19326 – 19330)

19326.

- (a) A person other than a transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.
- (b)
 - (1) All cultivators, manufacturers, and licensees holding a producing dispensary license in addition to a cultivation or manufacturing license shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in Section 19300.5, for presale quality assurance and inspection by a distributor and for a batch testing by a testing laboratory prior to distribution to a dispensary.
 - (2) Notwithstanding paragraph (1), a cultivator shall not be required to send medical cannabis to a distributor if the medical cannabis is to be used, sold, or otherwise distributed by methods approved pursuant to this chapter by a manufacturer for further manufacturing.
- (c)
 - (1) Upon receipt of medical cannabis or medical cannabis products, from a cultivator, manufacturer, or a licensee holding a producing dispensary license in addition to a cultivation or a manufacturing license, the distributor shall first inspect the product to ensure the identity and quantity of the product and ensure a random sample of the medical cannabis or medical cannabis product is tested by a testing laboratory.
 - (2) Upon issuance of a certificate of analysis by the testing laboratory that the product is fit for dispensing medical cannabis and medical cannabis products shall undergo a quality assurance review by the distributor prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state.
 - (3) This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed. However, a distributor responsible for executing the contract is authorized to collect a fee for the services

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rendered, including, but not limited to, costs incurred by a testing laboratory, as well as applicable state or local taxes and fees.

- (d) Medical cannabis and medical cannabis products shall be tested by a licensed testing laboratory, prior to dispensing, pursuant to Section 19344.
- (e) This chapter shall not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. On-site testing by the licensee shall not be certified by the Bureau of Medical Cannabis Regulation.

19327.

- (a) A licensee shall keep accurate records of commercial cannabis activity.
- (b) All records related to commercial cannabis activity shall be maintained for a minimum of seven years.
- (c) Licensing authorities may examine the records of licensees and inspect the premises of a licensee as the licensing authority or a state or local agency deems necessary to perform its duties under this chapter. All inspections and examination of records shall be conducted during standard business hours of the licensed facility or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.
- (d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed.
- (e) A licensee or its agent, or employee that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section has engaged in a violation of this chapter.
- (f) If a licensee, its agent, or an employee of a licensee fails to maintain or provide the records required pursuant to this section, the licensee may be subject to a citation and fine of thirty thousand dollars (\$30,000) per individual violation.

19328.

- (a) Except as provided in paragraphs (9) and (10), a licensee may only hold a state license in up to two separate license categories, as follows:
 - (1) Type 1, 1A, 1B, 2, 2A, or 2B licensees may also hold either a Type 6 or 7 state license.
 - (2) Type 6 or 7 licensees, or a combination thereof, may also hold either a Type 1, 1A, 1B, 2, 2A, or 2B state license.
 - (3) Type 6 or 7 licensees, or a combination thereof, may also hold a Type 10A state license.
 - (4) Type 10A licensees may also hold either a Type 6 or 7 state license, or a combination thereof.
 - (5) Type 1, 1A, 1B, 2, 2A, or 2B licensees, or a combination thereof, may also hold a Type 10A state license.
 - (6) Type 10A licensees may hold a Type 1, 1A, 1B, 2, 2A, or 2B state license, or a combination thereof.
 - (7) Type 11 licensees shall also hold a Type 12 state license, but shall not hold any other type of state license.
 - (8) Type 12 licensees may hold a Type 11 state license.
 - (9) A Type 10A licensee may hold a Type 6 or 7 state license and may also hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses are valid. All cultivation pursuant to this section shall comply with local ordinances. This paragraph shall become inoperative on January 1, 2026.
 - (10) All cultivators and manufacturers may hold a Type 12 transporter license. All cultivators and manufacturers who are issued Type 12 transporter licenses shall comply with the following:
 - (A) Cultivators shall only transport medical cannabis from a cultivation site to a manufacturer or a distributor.
 - (B) Manufacturers shall only transport medical cannabis and medical cannabis products as follows:
 - (i) Between a cultivation site and a manufacturing site.
 - (ii) Between a manufacturing site and a manufacturing site.
 - (iii) Between a manufacturing site and a distributor.
- (b) Except as provided in subdivision (a), a person or entity that holds a state license is prohibited from licensure for any other activity authorized under this chapter, and is prohibited from holding an ownership interest in real property, personal property, or other assets associated with or used in any other license category.
- (c)
 - (1) In a jurisdiction that adopted a local ordinance, prior to July 1, 2015, requiring qualified businesses to cultivate, manufacture, and dispense medical cannabis or medical cannabis products, with all commercial cannabis activity being conducted by a single qualified business, upon licensure that business shall not be subject to subdivision (a) if it meets all of the following conditions:
 - (A) The business was cultivating, manufacturing, and dispensing medical cannabis or medical cannabis products on, January 1, 2016, and has continuously done so since that date.
 - (B) The business has been in full compliance with all applicable local ordinances at all times prior to licensure.
 - (C) The business is registered with the State Board of Equalization for tax purposes.

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- (2) A business licensed pursuant to paragraph (1) is not required to conduct all cultivation or manufacturing within the bounds of a local jurisdiction, but all cultivation and manufacturing shall have commenced prior to January 1, 2016, and have been in full compliance with applicable local ordinances.
- (d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

19329.

A licensee shall not also be licensed as a retailer of alcoholic beverages pursuant to Division 9 (commencing with Section 23000).

19330.

This chapter and Article 2 (commencing with Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

ARTICLE 6. LICENSED CULTIVATION SITES (19332 – 19333)

19332.

- (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor commercial cultivation sites.
- (b) The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis.
- (c) The Department of Food and Agriculture shall serve as the lead agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) related to the licensing of cannabis cultivation.
- (d) Pursuant to Section 13149 of the Water Code, the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife and the Department of Food and Agriculture, shall ensure that individual and cumulative effects of water diversion and discharge associated with cultivation of cannabis do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.
- (e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:
- (1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).
 - (2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws. Nothing in this chapter, and no regulation adopted by the department, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.
 - (3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Article 8 (commencing with Section 19337). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.
 - (4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to Article 8 (commencing with Section 19337).
- (f) The Department of Pesticide Regulation shall require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.
- (g) State cultivator license types issued by the Department of Food and Agriculture may include:
- (1) Type 1, or "specialty outdoor," for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.
 - (2) Type 1A, or "specialty indoor," for indoor cultivation using exclusively artificial lighting of between 501 and 5,000 square feet of total canopy size on one premises.
 - (3) Type 1B, or "specialty mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between 2,501 and 5,000 square feet of total canopy size on one premises.
 - (4) Type 1C, or "specialty cottage," for cultivation using a combination of natural and supplemental artificial light at a maximum threshold to be determined by the licensing authority, of 2,500 square feet or less of total canopy size for

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mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

- (5) Type 2, or "small outdoor," for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.
- (6) Type 2A, or "small indoor," for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.
- (7) Type 2B, or "small mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.
- (8) Type 3, or "outdoor," for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.
- (9) Type 3A, or "indoor," for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.
- (10) Type 3B, or "mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.
- (11) Type 4, or "nursery," for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants, if the licensee also holds a Type 12 transporter license issued pursuant to this chapter.

19332.2.

- (a) An application for a license for indoor or outdoor cultivation shall identify the source of water supply.
 - (1)
 - (A) If water will be supplied by a retail water supplier, as defined in Section 13575 of the Water Code, the application shall identify the retail water supplier.
 - (B) Paragraphs (2) and (3) shall not apply to any water subject to subparagraph (A) unless the retail water supplier has 10 or fewer customers, the applicant receives 10 percent or more of the water supplied by the retail water supplier, 25 percent or more of the water delivered by the retail water supplier is used for cannabis cultivation, or the applicant and the retail water supplier are affiliates, as defined in Section 2814.20 of Title 23 of the California Code of Regulations.
 - (2) If the water supply includes a diversion within the meaning of Section 5100 of the Water Code, the application shall identify the point of diversion and maximum amount to be diverted.
 - (3) If water will be supplied from a groundwater extraction not subject to paragraph (2), the application shall identify the location of the extraction and the maximum amount to be diverted for cannabis cultivation in any year.
- (b) An application for a license issued by the Department of Food and Agriculture before January 1, 2020, shall include one of the following:
 - (1) A copy of a registration, permit, or license issued under Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.
 - (2) A copy of a statement of water diversion and use, filed with the State Water Resources Control Board before July 1, 2017, that covers the diversion and specifies the amount of water used for cannabis cultivation.
 - (3) A copy of a pending application for a permit to appropriate water, filed with the State Water Resources Control Board before July 1, 2017.
 - (4) Documentation, submitted to the State Water Resources Control Board before July 1, 2017, establishing that the diversion is subject to subdivision (a), (c), (d) or (e) of Section 5101 of the Water Code.
 - (5) Documentation, submitted to the State Water Resources Control Board before July 1, 2017, establishing that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017.
- (c) An application for a cultivation license issued after December 31, 2019, shall include one of the following:
 - (1) A copy of a registration, permit, or license issued under Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.
 - (2) A copy of a statement of water diversion and use, filed with the State Water Resources Control Board, that covers the diversion.
 - (3) Documentation, submitted to the State Water Resources Control Board, establishing that the diversion is subject to subdivision (a), (c), (d) or (e) of Section 5101 of the Water Code.

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- (4) Documentation, submitted to the State Water Resources Control Board, establishing that the diversion is authorized under a riparian right and that no diversion occurred in any calendar year between January 1, 2010, and the calendar year in which the application is submitted.
- (d) The Department of Food and Agriculture shall include in any license for cultivation requirements for compliance with applicable principles, guidelines, and requirements established under Section 13149 of the Water Code.
- (e) The Department of Food and Agriculture shall include in any license for cultivation any relevant mitigation requirements the Department of Food and Agriculture identifies as part of its approval of the final environmental documentation for the cannabis cultivation licensing program as requirements that should be included in a license for cultivation. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the identification of these mitigation measures.
- (f) Every license for cultivation shall include a condition that the license shall not be effective until the licensee has complied with Section 1602 of the Fish and Game Code or receives written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not required.
- (g) The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this section.

19332.5.

- (a) Not later than January 1, 2020, the Department of Food and Agriculture shall make available a certified organic designation and organic certification program for medical cannabis cultivation, if permitted under federal law and the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.
- (b) The Department of Food and Agriculture may establish appellations of origin for cannabis grown in California.
- (c) It is unlawful for medical cannabis to be marketed, labeled, or sold as grown in a California county when the medical cannabis was not grown in that county.
- (d) It is unlawful to use the name of a California county in the labeling, marketing, or packaging of medical cannabis products unless the product was grown in that county.

19333.

An employee engaged in commercial cannabis cultivation activity shall be subject to Wage Order 4-2001 of the Industrial Welfare Commission.

ARTICLE 7. LICENSED DISTRIBUTORS, DISPENSARIES, AND TRANSPORTERS (19334 – 19334)

19334.

- (a) State licenses to be issued by the Department of Consumer Affairs are as follows:
 - (1) "Dispensary," Type 10 license as defined in this chapter. This license shall allow for delivery pursuant to Section 19340.
 - (2) "Distributor," Type 11 license for the distribution of medical cannabis and medical cannabis products from manufacturer to dispensary. A distributor licensee shall hold a Type 12 or transporter license. Each location where product is stored for the purposes of distribution must be individually licensed. A distributor licensee shall not hold a license in a cultivation, manufacturing, dispensing, or testing license category and shall not own, or have an ownership interest in, premises licensed in those categories other than a security interest, lien, or encumbrance on property that is used by a licensee. A distributor shall be bonded and insured at a minimum level established by the licensing authority.
 - (3) "Producing dispensary," Type 10A for dispensers who have no more than three licensed dispensary facilities and wish to hold either a cultivation or manufacturing license or both. This license shall allow for delivery where expressly authorized by local ordinance. Each dispensary must be individually licensed.
 - (4) "Transport," Type 12 license for transporters of medical cannabis or medical cannabis products between licensees. A Type 12 licensee shall be bonded and insured at a minimum level established by the licensing authority.
- (b) The bureau shall establish minimum security requirements for the commercial transportation, storage, and delivery of medical cannabis and medical cannabis products.
- (c) The State Department of Public Health shall establish minimum security requirements for the storage of medical cannabis products at the manufacturing site.
- (d) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:
 - (1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.

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- (2) Establishing limited access areas accessible only to authorized dispensary personnel.
- (3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.
- (e) A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:
 - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.
 - (2) Diversion, theft, loss, or any criminal activity pertaining to the operation of the dispensary.
 - (3) Diversion, theft, loss, or any criminal activity by any agent or employee of the dispensary pertaining to the operation of the dispensary.
 - (4) The loss or unauthorized alteration of records related to medical cannabis or medical cannabis products, registered qualifying patients, primary caregivers, or dispensary employees or agents.
 - (5) Any other breach of security.

ARTICLE 7.5 UNIQUE IDENTIFIER AND TRACK AND TRACE PROGRAM (19335 – 19336)

19335.

- (a) The Department of Food and Agriculture, in consultation with the bureau, shall establish a track and trace program for reporting the movement of medical cannabis items throughout the distribution chain that utilizes a unique identifier pursuant to Section 11362.777 of the Health and Safety Code and secure packaging and is capable of providing information that captures, at a minimum, all of the following:
 - (1) The licensee receiving the product.
 - (2) The transaction date.
 - (3) The cultivator from which the product originates, including the associated unique identifier, pursuant to Section 11362.777 of the Health and Safety Code.
- (b)
 - (1) The Department of Food and Agriculture, in consultation with the State Board of Equalization, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:
 - (A) The quantity, or weight, and variety of products shipped.
 - (B) The estimated times of departure and arrival.
 - (C) The quantity, or weight, and variety of products received.
 - (D) The actual time of departure and arrival.
 - (E) A categorization of the product.
 - (F) The license number and the unique identifier pursuant to Section 11362.777 of the Health and Safety Code issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, transporters, distributors, and dispensaries.
 - (2)
 - (A) The database shall be designed to flag irregularities for all licensing authorities in this chapter to investigate. All licensing authorities pursuant to this chapter may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.
 - (B) The Department of Food and Agriculture shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.
 - (3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.
 - (4) The bureau shall have 24-hour access to the electronic database administered by the Department of Food and Agriculture. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of medical cannabis and medical cannabis products.
 - (5) The Department of Food and Agriculture shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the Department of Food and Agriculture.
 - (6) Information received and contained in records kept by the Department of Food and Agriculture or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter or a local ordinance.
 - (7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this chapter.

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19336.

- (a) Chapter 4 (commencing with Section 55121) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the bureau's collection of the fees, civil fines, and penalties imposed pursuant to this chapter.
- (b) Chapter 8 (commencing with Section 55381) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the disclosure of information under this chapter.

ARTICLE 8. LICENSED TRANSPORTERS (19337 – 19338)

19337.

- (a) A licensee authorized to transport medical cannabis and medical cannabis products between licenses shall do so only as set forth in this chapter.
- (b) Prior to transporting medical cannabis or medical cannabis products, a licensed transporter of medical cannabis or medical cannabis products shall do both of the following:
 - (1) Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest must include the unique identifier, pursuant to Section 11362.777 of the Health and Safety Code, issued by the Department of Food and Agriculture for the original cannabis product.
 - (2) Securely transmit the manifest to the bureau and the licensee that will receive the medical cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 19335.
- (c) During transportation, the licensed transporter shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the Department of Consumer Affairs and law enforcement officers.
- (d) The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to the Department of Consumer Affairs and any law enforcement officers.
- (e) Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing agency a record verifying receipt of the shipment and the details of the shipment.
- (f) Transporting, or arranging for or facilitating the transport of, medical cannabis or medical cannabis products in violation of this chapter is grounds for disciplinary action against the license.

19338.

- (a) This chapter shall not be construed to authorize or permit a licensee to transport or cause to be transported cannabis or cannabis products outside the state, unless authorized by federal law.
- (b) A local jurisdiction shall not prevent transportation of medical cannabis or medical cannabis products on public roads by a licensee transporting medical cannabis or medical cannabis products in compliance with this chapter.

ARTICLE 9. DELIVERY (19340 – 19340)

19340.

- (a) Deliveries, as defined in this chapter, can only be made by a dispensary and in a city, county, or city and county that does not explicitly prohibit it by local ordinance.
- (b) Upon approval of the licensing authority, a licensed dispensary that delivers medical cannabis or medical cannabis products shall comply with both of the following:
 - (1) The city, county, or city and county in which the licensed dispensary is located, and in which each delivery is made, do not explicitly by ordinance prohibit delivery, as defined in Section 19300.5.
 - (2) All employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current license authorizing those services with them during deliveries and the employee's government-issued identification, and shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.
- (c) A county shall have the authority to impose a tax, pursuant to Article 11 (commencing with Section 19348), on each delivery transaction completed by a licensee.
- (d) During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.
- (e) The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the licensing authority and law enforcement officers.
- (f) A local jurisdiction shall not prevent carriage of medical cannabis or medical cannabis products on public roads by a licensee acting in compliance with this chapter.

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ARTICLE 10. LICENSED MANUFACTURERS AND LICENSED LABORATORIES (19341 – 19347.8)

19341.

The State Department of Public Health shall promulgate regulations governing the licensing of manufacturers. The State Department of Public Health shall develop standards for the manufacturing and labeling of all manufactured medical cannabis products. Licenses to be issued are as follows:

- (a) "Manufacturing level 1," for manufacturing sites that produce medical cannabis products using nonvolatile solvents.
- (b) "Manufacturing level 2," for manufacturing sites that produce medical cannabis products using volatile solvents. The State Department of Public Health shall limit the number of licenses of this type.

19342.

- (a) For the purposes of testing medical cannabis or medical cannabis products, licensees shall use a testing laboratory that has adopted a standard operating procedure using methods consistent with general requirements established by the International Organization for Standardization, specifically ISO/IEC 17025, to test medical cannabis and medical cannabis products. The testing laboratory shall be accredited by a body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.
- (b) An agent of a testing laboratory shall obtain samples according to a statistically valid sampling method for each lot.
- (c) A testing laboratory shall analyze samples according to both of the following:
 - (1) In the final form that the medical cannabis or medical cannabis products will be consumed or used, including moisture content and other attributes.
 - (2) A scientifically valid methodology, as determined by the bureau.
- (d) If a test result falls outside the specifications authorized by law or regulation, the testing laboratory shall follow a standard operating procedure to confirm or refute the original result.
- (e) A testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis.
- (f) The State Department of Public Health and the Department of Pesticide Regulation shall provide assistance to the bureau in developing regulations, as requested by the bureau.

19343.

A testing laboratory shall not be licensed by the bureau unless the laboratory meets all of the following:

- (a) A testing laboratory shall not hold a license in another license category under this chapter and shall not own or have an ownership interest in any other entity or premises licensed under a different category pursuant to this chapter.
- (b) Follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis or medical cannabis products. The testing laboratory shall also comply with any other requirements specified by the bureau.
- (c) Notifies the bureau within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.
- (d) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

19344.

- (a) A testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:
 - (1) Whether the chemical profile of the lot conforms to the specifications of the lot for compounds, including, but not limited to, all of the following, unless limited through regulation by the bureau:
 - (A) Tetrahydrocannabinol (THC).
 - (B) Tetrahydrocannabinolic Acid (THCA).
 - (C) Cannabidiol (CBD).
 - (D) Cannabidiolic Acid (CBDA).
 - (E) Terpenes required by the bureau in a regulation.
 - (F) Cannabigerol (CBG).
 - (G) Cannabinol (CBN).
 - (H) Any other compounds or contaminants required by the bureau.
 - (2) That the presence of contaminants does not exceed the levels set by the bureau. In setting the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (b) of Section 19332, and any other relevant sources.
 - (A) Residual solvent or processing chemicals.
 - (B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.
 - (C) Microbiological impurities as identified by the bureau in regulation.

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- (b) Residual levels of volatile organic compounds shall be below the lesser of either the specifications set by the United States Pharmacopeia (U.S.P. Chapter 467) or those set by the bureau.

19345.

- (a) Except as provided in this chapter, a testing laboratory shall not acquire or receive medical cannabis or medical cannabis products except from a licensee in accordance with this chapter, and shall not distribute, sell, deliver, transfer, transport, or dispense medical cannabis or medical cannabis products, from the licensed premises the medical cannabis or medical cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.
- (b) A testing laboratory may receive and test samples of medical cannabis or medical cannabis products from a qualified patient or primary caregiver only if he or she presents his or her valid recommendation for cannabis for medical purposes from a physician. A testing laboratory shall not certify samples from a qualified patient or caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or caregiver shall be recorded with the name of the qualified patient or caregiver and the amount of medical cannabis or medical cannabis product received.
- (c) The bureau shall develop procedures related to all of the following:
 - (1) Ensuring that testing of medical cannabis and medical cannabis products occurs prior to delivery to dispensaries or any other business.
 - (2) Specifying how often licensees shall test medical cannabis and medical cannabis products.
 - (3) Requiring the destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by state law, unless remedial measures can bring the medical cannabis or medical cannabis products into compliance with quality assurance standards as specified by state law.
- (d) Cultivators and manufacturers shall pay all costs related to and associated with the testing of medical cannabis and medical cannabis products required by this chapter.

19347.

- (a) Prior to delivery by or sale at a dispensary, medical cannabis and medical cannabis products shall be labeled and in tamper proof packaging and shall include a unique identifier, as prescribed by the Department of Food and Agriculture, for the purpose of identifying and tracking medical cannabis or medical cannabis products. Packages of medical cannabis and medical cannabis products shall meet the following requirements:
 - (1) Medical cannabis packages and labels shall not be made to be attractive to children.
 - (2) All medical cannabis and medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:
 - (A) Cultivation and manufacture date and source.
 - (B) The statement "SCHEDULE I CONTROLLED SUBSTANCE."
 - (C) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.
 - (D) The statement "FOR MEDICAL USE ONLY."
 - (E) The statement "THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS."
 - (F) The statement "THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."
 - (G) For packages containing only dried flower, the net weight of medical cannabis in the package.
 - (H) A warning if nuts or other known allergens are used in the manufacturing of the medical cannabis products.
 - (I) List of ingredients and pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC, CBD, and other cannabinoid amount in milligrams per serving, servings per package, and the THC, CBD, and other cannabinoid amount in milligrams for the package total.
 - (J) Clear indication, in bold type, that the product contains medical cannabis.
 - (K) Any other requirement set by the bureau or the State Department of Public Health.
 - (L) Information associated with the unique identifier issued by the Department of Food and Agriculture pursuant to Section 11362.777 of the Health and Safety Code.
 - (M) All manufactured and edible medical cannabis products shall be sold only in special packaging constructed to be child-resistant unless otherwise exempted by regulation.
- (b) Only generic food names may be used to describe edible medical cannabis products.

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19347.1.

- (a) The State Department of Public Health may issue a citation, which may contain an order of abatement and an order to pay an administrative fine assessed by the department where the licensee is in violation of this chapter or any regulation adopted pursuant to it.
 - (1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.
 - (2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.
 - (3) In no event shall the administrative fine assessed by the State Department of Public Health exceed five thousand dollars (\$5,000) for each violation, unless a different fine amount is expressly provided by this chapter. In assessing a fine, the licensing authority shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.
 - (4) A citation issued or a fine assessed pursuant to this section shall notify the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the State Department of Public Health within 30 days of the date of issuance of the citation or fine. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
 - (5) Failure of a licensee to pay a fine within 30 days of the date of assessment of the fine, unless assessment of the fine or the citation is being appealed, may result in further legal action being taken by the State Department of Public Health. If a licensee does not contest a citation or pay the fine, the full amount of the fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee, including the amount of the fine.
 - (6) A citation may be issued without the assessment of an administrative fine.
 - (7) The State Department of Public Health may limit the assessment of administrative fines to only particular violations of the chapter and establish any other requirement for implementation of the citation system by regulation.
- (b) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

19347.2.

The State Department of Public Health may, in addition to the administrative citation system authorized by Section 19347.1, also establish by regulation a similar system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the State Department of Public Health as pertains to this chapter. The administrative citation system authorized by this section shall meet the requirements of Section 19347.1 and shall not be applied to an unlicensed person who is otherwise exempt from the licensing provisions of this chapter. The establishment of an administrative citation system for unlicensed activity does not preclude the use of other enforcement statutes for unlicensed activities at the discretion of the State Department of Public Health.

19347.3.

In determining whether to exercise its discretion when enforcing this chapter, the State Department of Public Health may consider whether the public interest will be adequately served in the circumstances by a suitable written notice or warning. The State Department of Public Health may also require licensees to provide it with a written plan of correction and correct a violation within a timeframe the State Department of Public Health deems necessary under the circumstances.

19347.4.

The State Department of Public Health may notify the public regarding any medical cannabis product when the State Department of Public Health deems it necessary for the protection of the health and safety of the consumer or for his or her protection from fraud.

19347.5.

- (a) A medical cannabis product is misbranded if it is any of the following:
 - (1) Manufactured, packed, or held in this state in a manufacturing site not duly licensed as provided in this chapter.
 - (2) Its labeling is false or misleading in any particular.
 - (3) Its labeling or packaging does not conform to the requirements of Section 19347 or any other labeling or packaging requirement established pursuant to this chapter.
- (b) It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale a medical cannabis product that is misbranded.
- (c) It is unlawful for any person to misbrand a medical cannabis product.

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- (d) It is unlawful for any person to receive in commerce a medical cannabis product that is misbranded or to deliver or offer for delivery any such medical cannabis product.

19347.6.

- (a) A medical cannabis product is adulterated if it is any of the following:
- (1) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered injurious.
 - (2) It consists in whole or in part of any filthy, putrid, or decomposed substance.
 - (3) It bears or contains any poisonous or deleterious substance that may render it injurious to users under the conditions of use suggested in the labeling or under conditions as are customary or usual.
 - (4) It bears or contains a substance that is restricted or limited under this chapter or regulations promulgated pursuant to this chapter and the level of substance in the product exceeds the limits specified pursuant to this chapter or in regulation.
 - (5) Its concentrations differ from, or its purity or quality is below, that which it is represented to possess.
 - (6) The methods, facilities, or controls used for its manufacture, packing, or holding do not conform to or are not operated or administered in conformity with practices established by regulations adopted under this chapter to ensure that the medical cannabis product meets the requirements of this chapter as to safety and has the concentrations it purports to have and meets the quality and purity characteristics that it purports or is represented to possess.
 - (7) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.
 - (8) It is an edible cannabis product and any substance has been mixed or packed with it after testing by a testing laboratory so as to reduce its quality or concentration or if any substance has been substituted, wholly or in part, for the edible cannabis product.
- (b) It is unlawful for a person to manufacture, sell, deliver, hold, or offer for sale a medical cannabis product that is adulterated.
- (c) It is unlawful for any person to adulterate a medical cannabis product.
- (d) It is unlawful for any person to receive in commerce a medical cannabis product that is adulterated or to deliver or proffer for delivery any such medical cannabis product.

19347.7.

- (a) When the State Department of Public Health has evidence that a medical cannabis product is adulterated or misbranded, the department shall notify the manufacturer.
- (b) The State Department of Public Health may order a manufacturer to immediately cease distribution of a medical cannabis product and recall the product if the department determines both of the following:
- (1) The manufacture, distribution, or sale of the medical cannabis product creates or poses an immediate and serious threat to human life or health.
 - (2) Other procedures available to the State Department of Public Health to remedy or prevent the occurrence of the situation would result in an unreasonable delay.
- (c) The State Department of Public Health shall provide the manufacturer an opportunity for an informal proceeding on the matter, as determined by the department, within five days, on the actions required by the order and on why the product should not be recalled. Following the proceeding, the order shall be affirmed, modified, or set aside as determined appropriate by the State Department of Public Health.
- (d) The State Department of Public Health's powers set forth in this section expressly include the power to order movement, segregation, isolation, or destruction of medical cannabis products, as well as the power to hold those products in place.
- (e) If the State Department of Public Health determines it is necessary, it may issue the mandatory recall order and may use all appropriate measures to obtain reimbursement from the manufacturer for any and all costs associated with these orders. All funds obtained by the State Department of Public Health from these efforts shall be deposited into a fee account specific to the State Department of Public Health, to be established in the Medical Cannabis Regulation and Safety Act Fund, and will be available for use by the department upon appropriation by the legislature.
- (f) It is unlawful for any person to move or allow to be moved a medical cannabis product subject to an order issued pursuant to this section unless that person has first obtained written authorization from the State Department of Public Health.

19347.8.

- (a) Whenever the State Department of Public Health finds or has probable cause to believe that any medical cannabis product is adulterated or misbranded within the meaning of this chapter or the sale of the medical cannabis product would be in violation of this chapter, the department shall affix to the medical cannabis product, or component thereof, a tag or other

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appropriate marking. The State Department of Public Health shall give notice that the medical cannabis product is, or is suspected of being, adulterated or misbranded, or the sale of which would be in violation of this chapter and has been embargoed and that no person shall remove or dispose of the medical cannabis product by sale or otherwise until permission for removal or disposal is given by the State Department of Public Health or a court.

- (b) It is unlawful for any person to remove, sell, or dispose of a detained or embargoed medical cannabis product without written permission of the State Department of Public Health or a court. A violation of this subdivision is subject to a fine of not more than ten thousand dollars (\$10,000).
- (c) If the adulteration or misbranding can be corrected by proper labeling or additional processing of the medical cannabis product and all of the provisions of this chapter can be complied with, the claimant or owner may request the State Department of Public Health to remove the tag or other marking. If, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected, the department may remove the tag or other marking.
- (d) When the State Department of Public Health finds that a medical cannabis product that is embargoed is not adulterated, misbranded, or whose sale is not otherwise in violation of this chapter, the State Department of Public Health may remove the tag or other marking.
- (e) The medical cannabis product may be destroyed by the owner pursuant to a corrective action plan approved by the State Department of Public Health and under the supervision of the department. The medical cannabis product shall be destroyed at the expense of the claimant or owner.
- (f) A proceeding for condemnation of any medical cannabis product under this section shall be subject to appropriate notice to, and the opportunity for a hearing with regard to, the person affected in accordance with Section 19308.
- (g) a finding by the administrative law judge that the medical cannabis product is adulterated, misbranded, or whose sale is otherwise in violation of this chapter, the administrative law judge may direct the medical cannabis product to be destroyed at the expense of the claimant or owner. The administrative law judge may also direct a claimant or owner of the affected medical cannabis product to pay fees and reasonable costs, including the costs of storage and testing, incurred by the bureau or the Department of Public Health in investigating and prosecuting the action taken pursuant to this section.
- (h) When, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected by proper labeling or additional processing of the medical cannabis and medical cannabis product and when all provisions of this chapter have been complied with, and after costs, fees, and expenses have been paid, the State Department of Public Health may release the embargo and remove the tag or other marking and the medical cannabis shall no longer be held for sale in violation of this chapter.
- (i) The State Department of Public Health may condemn any medical cannabis product under provisions of this chapter. The medical cannabis product shall be destroyed at the expense of the claimant or owner.

ARTICLE 11. TAXATION (19348 – 19348)

19348.

- (a)
 - (1) A county may impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by a licensee operating pursuant to this chapter.
 - (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, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.
 - (3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.
 - (4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.
- (b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.
- (c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.
- (d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

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ARTICLE 13. FUNDING (19350 – 19352)

19350.

Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter, as follows:

- (a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this chapter. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this chapter as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 19335, but shall not exceed the reasonable regulatory costs to the licensing authority.
- (b) The total fees assessed pursuant to this chapter shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this chapter.
- (c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business. License fees shall cover the costs of administering the track and trace program managed by the Department of Food and Agriculture, as identified in Article 7.5 (commencing with Section 19335).
- (d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Medical Cannabis Regulation and Safety Act Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation of the Legislature, by the designated licensing authority for the administration of this chapter.

19351.

- (a) The Medical Cannabis Regulation and Safety Act Fund is hereby established within the State Treasury. Moneys in the fund shall be available upon appropriation by the Legislature. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the moneys in the fund.
- (b)
 - (1) Funds for the establishment and support of the regulatory activities pursuant to this chapter shall be advanced as a General Fund or special fund loan, and shall be repaid by the initial proceeds from fees collected pursuant to this chapter or any rule or regulation adopted pursuant to this chapter, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Medical Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.
 - (2) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this chapter.
 - (3) The Director of Finance may provide an initial operating loan from the General Fund to the Medical Cannabis Regulation and Safety Act Fund that does not exceed ten million dollars (\$10,000,000).
- (c) Except as otherwise provided, all moneys collected pursuant to this chapter as a result of fines or penalties imposed under this chapter shall be deposited directly into the Medical Cannabis Fines and Penalties Account, which is hereby established within the fund, and shall be available, upon appropriation by the Legislature to the bureau, for the purposes of funding the enforcement grant program pursuant to subdivision (d).
- (d)
 - (1) The bureau shall establish a grant program to allocate moneys from the Medical Cannabis Fines and Penalties Account to state and local entities for the following purposes:
 - (A) To assist with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to cannabis activities.
 - (B) For allocation to state and local agencies and law enforcement to remedy the environmental impacts of cannabis cultivation.
 - (2) The costs of the grant program under this subdivision shall, upon appropriation by the Legislature, be paid for with moneys in the Medical Cannabis Fines and Penalties Account.
 - (3) The grant program established by this subdivision shall only be implemented after the loan specified in this section is repaid.

19352.

The sum of ten million dollars (\$10,000,000) is hereby appropriated from the Medical Marijuana Regulation and Safety Act Fund to the Department of Consumer Affairs to begin the activities of the Bureau of Medical Marijuana Regulation. Funds appropriated pursuant to this section shall not include moneys received from fines or penalties.

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ARTICLE 14. REPORTING (19353 – 19354)

19353.

Beginning on March 1, 2023, and on or before March 1 of each following year, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

- (a) The amount of funds allocated and spent by the licensing authority for medical cannabis licensing, enforcement, and administration.
- (b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.
- (c) The average time for processing state license applications, by state license category.
- (d) The number of appeals from the denial of state licenses or other disciplinary actions taken by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the bureau.
- (e) The number of complaints submitted by citizens or representatives of cities or counties regarding licensees, provided as both a comprehensive statewide number and by geographical region.
- (f) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the bureau.
- (g) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

19354.

The bureau shall contract 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, to develop a study that identifies the impact that cannabis has on motor skills.

ARTICLE 15. PRIVACY (19355 – 19355)

19355.

- (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.
- (b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, and other state and federal laws relating to confidential patient information.
- (c) Nothing in this section precludes the following:
 - (1) Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.
 - (2) Notifications from the bureau or any licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.
 - (3) Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.
 - (4) 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.
- (d) Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

ARTICLE 17. PENALTIES AND VIOLATIONS (19360 – 19360)

19360.

- (a) A person engaging in commercial cannabis activity without a license and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the department, state or local authority, or court may order the destruction of medical cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of medical cannabis associated with his or her violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the Medical Cannabis Fines and Penalties Account established pursuant to Section 19351.

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- (b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General on behalf of the people, the penalty collected shall be deposited into the Medical Cannabis Fines and Penalties Account. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city or city and county in which the judgment was entered. If the action is brought by a city attorney and is adjudicated in a superior court located in the unincorporated area or another city in the same county, the penalty shall be paid one-half to the treasurer of the city in which the complaining attorney has jurisdiction and one-half to the treasurer of the county in which the judgment is entered.
- (c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person or entity engaging in cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under Section 11362.7 of the Health and Safety Code.

LABOR CODE

CHAPTER 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD (140 – 147.5)

147.5.

- (a) By January 1, 2017, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of facilities issued a license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.
- (b) By July 1, 2017, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By July 1, 2017, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

GOVERNMENT CODE

ARTICLE 7.5 SUNSET REVIEW (9147.7)

9147.7.

- (a) For the purpose of this section, “eligible agency” means any agency, authority, board, bureau, commission, conservancy, council, department, division, or office of state government, however denominated, excluding an agency that is constitutionally created or an agency related to postsecondary education, for which a date for repeal has been established by statute on or after January 1, 2011.
- (b) The Joint Sunset Review Committee is hereby created to identify and eliminate waste, duplication, and inefficiency in government agencies. The purpose of the committee is to conduct a comprehensive analysis over 15 years, and on a periodic basis thereafter, of every eligible agency to determine if the agency is still necessary and cost effective.
- (c) Each eligible agency scheduled for repeal shall submit to the committee, on or before December 1 prior to the year it is set to be repealed, a complete agency report covering the entire period since last reviewed, including, but not limited to, the following:
 - (1) The purpose and necessity of the agency.
 - (2) A description of the agency budget, priorities, and job descriptions of employees of the agency.
 - (3) Any programs and projects under the direction of the agency.
 - (4) Measures of the success or failures of the agency and justifications for the metrics used to evaluate successes and failures.
 - (5) Any recommendations of the agency for changes or reorganization in order to better fulfill its purpose.
- (d) The committee shall take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency shall be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency. No eligible agency shall be extended in perpetuity unless specifically exempted from the provisions of this section. The committee may recommend that the Legislature extend the statutory sunset date for no more than one year to allow the committee more time to evaluate the eligible agency.
- (e) The committee shall be comprised of 10 members of the Legislature. The Senate Committee on Rules shall appoint five members of the Senate to the committee, not more than three of whom shall be members of the same political party. The Speaker of the Assembly shall appoint five members of the Assembly to the committee, not more than three of whom shall be members of the same political party. Members shall be appointed within 15 days after the commencement of the regular session. Each member of the committee who is appointed by the Senate Committee on Rules or the Speaker of the

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Assembly shall serve during that committee member's term of office or until that committee member no longer is a Member of the Senate or the Assembly, whichever is applicable. A vacancy on the committee shall be filled in the same manner as the original appointment. Three Assembly Members and three Senators who are members of the committee shall constitute a quorum for the conduct of committee business. Members of the committee shall receive no compensation for their work with the committee.

- (f) The committee shall meet not later than 30 days after the first day of the regular session to choose a chairperson and to establish the schedule for eligible agency review provided for in the statutes governing the eligible agencies. The chairperson of the committee shall alternate every two years between a Member of the Senate and a Member of the Assembly, and the vice chairperson of the committee shall be a member of the opposite house as the chairperson.
- (g) This section shall not be construed to change the existing jurisdiction of the budget or policy committees of the Legislature.
- (h) This section shall not apply to the Bureau of Medical Marijuana Regulation.

FISH AND GAME CODE

DIVISION 2. DEPARTMENT OF FISH AND WILDLIFE

CHAPTER 6. FISH AND WILDLIFE PROTECTION AND CONSERVATION

1602.

- (a) An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:
 - (1) The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:
 - (A) A detailed description of the project's location and a map.
 - (B) The name, if any, of the river, stream, or lake affected.
 - (C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.
 - (D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.
 - (E) A copy of any other applicable local, state, or federal permit or agreement already issued.
 - (F) Any other information required by the department.
 - (2) The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.
 - (3) The entity pays the applicable fees, pursuant to Section 1609.
 - (4) One of the following occurs:
 - (A)
 - (i) The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.
 - (ii) Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this clause may be renewed annually.
 - (B) The department determines that the activity may substantially adversely affect an existing fish or wildlife resource and issues a final agreement to the entity that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.
 - (C) A panel of arbitrators issues a final agreement to the entity in accordance with subdivision (b) of Section 1603, and the entity conducts the activity in accordance with the agreement.
 - (D) The department does not issue a draft agreement to the entity within 60 days from the date notification is complete, and the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

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- (b)
 - (1) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required after the initial notification and agreement, unless the department determines either of the following:
 - (A) The work described in the agreement has substantially changed.
 - (B) Conditions affecting fish and wildlife resources have substantially changed, and those resources are adversely affected by the activity conducted under the agreement.
 - (2) This subdivision applies only if notice to, and agreement with, the department was attained prior to January 1, 1977, and the department has been provided a copy of the agreement or other proof of the existence of the agreement that satisfies the department, if requested.
- (c)
 - (1) Notwithstanding subdivision (a), an entity shall not be required to obtain an agreement with the department pursuant to this chapter for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if all of the following occur:
 - (A) The entity submits all of the following to the department:
 - (i) The written notification described in paragraph (1) of subdivision (a).
 - (ii) A copy of the license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture that includes the requirements specified in subdivisions (d), (e), and (f) of Section 19332.2 of the Business and Professions Code.
 - (iii) The fee specified in paragraph (3) of subdivision (a).
 - (B) The department determines in its sole discretion that compliance with the requirements specified in subdivisions (d), (e), and (f) of Section 19332.2 of the Business and Professions Code that are included in the license will adequately protect existing fish and wildlife resources that may be substantially adversely affected by the cultivation without the need for additional measures that the department would include in a draft streambed alteration agreement in accordance with Section 1603.
 - (C) The department notifies the entity in writing that the exemption applies to the cultivation authorized by the license or renewed license.
 - (2) The department shall notify the entity in writing whether the exemption in paragraph (1) applies to the cultivation authorized by the license or renewed license within 60 days from the date that the notification is complete and the fee has been paid.
 - (3) If an entity receives an exemption pursuant to this subdivision and fails to comply with any of the requirements described in subdivision (d), (e), or (f) of Section 19332.2 of the Business and Professions Code that are included in the license, the failure shall constitute a violation under this section, and the department shall notify the Department of Food and Agriculture of any enforcement action taken.
- (d) It is unlawful for any person to violate this chapter.

1617.

- (a) The department may adopt regulations establishing the requirements and procedure for the issuance of a general agreement in a geographic area for a category or categories of activities related to cannabis cultivation.
- (b) A general agreement adopted by the department subsequent to adoption of regulations under this section shall be in lieu of an individual agreement described in subparagraph (B) of paragraph (4) of subdivision (a) of Section 1602.
- (c) Subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and all other time periods to process agreements specified in this chapter do not apply to the issuance of a general agreement adopted by the department pursuant to this section.
- (d) The department general agreement issued by the department pursuant to this section is a final agreement and is not subject to Section 1603 or 1604.
- (e) The department shall charge a fee for a general agreement adopted by the department under this section in accordance with Section 1609.
- (f) Regulations adopted pursuant to this section, and any amendment thereto, shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

DIVISION 9. FINES AND PENALTIES

CHAPTER 1. GENERAL PROVISIONS (12000 -12029)

12025.2.

The director or his or her designee may issue a complaint to any person or entity in accordance with Section 1055 of the Water Code alleging a violation for which liability may be imposed under Section 1052 or 1847 of the Water Code that harms fish and

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wildlife resources. The complaint is subject to the substantive and procedural requirements set forth in Section 1055 of the Water Code, and the department shall be designated a party to any proceeding before the State Water Resources Control Board regarding a complaint filed pursuant to this section.

12029.

- (a) The Legislature finds and declares all of the following:
- (1) The environmental impacts associated with cannabis cultivation have increased, and unlawful water diversions for cannabis irrigation have a detrimental effect on fish and wildlife and their habitat, which are held in trust by the state for the benefit of the people of the state.
 - (2) The remediation of existing cannabis cultivation sites is often complex and the permitting of these sites requires greater department staff time and personnel expenditures. The potential for cannabis cultivation sites to significantly impact the state's fish and wildlife resources requires immediate action on the part of the department's lake and streambed alteration permitting staff.
- (b) In order to address unlawful water diversions and other violations of the Fish and Game Code associated with cannabis cultivation, the department shall establish the watershed enforcement program to facilitate the investigation, enforcement, and prosecution of these offenses.
- (c) The department, in coordination with the State Water Resources Control, Board and the Department of Food and Agriculture, shall establish a permanent multiagency task force to address the environmental impacts of cannabis cultivation. The multiagency task force, to the extent feasible and subject to available, resources, shall expand its enforcement efforts on a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on fish and wildlife and their habitats throughout the state.
- (d) In order to facilitate the remediation and permitting of cannabis cultivation sites, the department may adopt regulations to enhance the fees on any entity subject to Section 1602 for cannabis cultivation sites that require remediation. The fee schedule established pursuant to this subdivision shall not exceed the fee limits in Section 1609.

FOOD AND AGRICULTURAL CODE

DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947

PART 3. MANUFACTURED PRODUCTS

CHAPTER 3. BUTTER

ARTICLE 1. GENERAL PROVISIONS

37104.

Notwithstanding Section 19300.5 of the Business and Professions Code, butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with medical cannabis at the premises or location that is not subject to licensing as a milk product plant is exempt from the provisions of this division

DIVISION 18. FIELD CROPS, SEEDS, SEED POTATOES, ONE-VARIETY COTTON DISTRICTS, AND NURSERY STOCK GRADES AND STANDARDS

CHAPTER 2. CALIFORNIA SEED LAW

ARTICLE 8. LABELING OF SEEDS (52451 – 52456)

52452.

- (a) Except as otherwise provided in Section 52454, each container of agricultural seed that is for sale or sold within this state for sowing, purposes shall bear upon it or have attached to it in a conspicuous place a plainly written or printed label or tag in the English language that includes all of the following information:
- (1) The commonly accepted name of the kind, kind and variety, or kind and type of each agricultural seed component in excess of 5 percent of the whole, and the percentage by weight of each. If the aggregate of agricultural seed components, each present in an amount not exceeding 5 percent of the whole, exceeds 10 percent of the whole, each component in excess of 1 percent of the whole shall be named together with the percentage by weight of each. If more than one component is required to be named, the names of all components shall be shown in letters of the same type and size.
 - (2) The lot number or other lot identification.
 - (3) The percentage by weight of all weed seeds.
 - (4) The name and approximate number of each kind of restricted noxious weed seed per pound.
 - (5) The percentage by weight of any agricultural seed except that which is required to be named on the label.

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- (6) The percentage by weight of inert matter. If a percentage by weight is required to be shown by any provision of this section, that percentage shall be exclusive of any substance that is added to the seed as a coating and shown on the label as such.
- (7) For each agricultural seed in excess of 5 percent of the whole, stated in accordance with paragraph (1), the percentage of germination exclusive of hard seed, the percentage of hard seed, if present, and the calendar month and year the test was completed to determine the percentages. Following the statement of those percentages, the additional statement "total germination and hard seed" may be stated.
- (8) The name and address of the person who labeled the seed or of the person who sells the seed within this state.
- (b) Subdivision (a) does not apply in the following instances:
 - (1) The sale is an occasional sale of seed grain by the producer of the seed grain to his or her neighbor for use by the purchaser within the county of production.
 - (2) Any cannabis seed, as defined in subdivision (f) of Section 19300.5 of the Business and Professions Code, sold or offered for sale in the state.
- (c) All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the regulations that are adopted pursuant to this chapter.
- (d) For purposes of this section, "neighbor" means a person who lives in close proximity, not to exceed three miles, to another.

HEALTH AND SAFETY CODE

DIVISION 10.

CHAPTER 6. OFFENSES AND PENALTIES

ARTICLE 2. MARIJUANA (11357 – 11362.9)

11362.775.

- (a) Subject to subdivision (b), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.
- (b) A collective or cooperative that operates pursuant to this section and manufactures medical cannabis products shall not, solely on the basis of that fact, be subject to state criminal sanctions under Section 11379.6 if the collective or cooperative abides by all of the following requirements:
 - (1) The collective or cooperative does either or both of the following:
 - (A) Utilizes only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
 - (B) Utilizes only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:
 - (i) The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
 - (ii) The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.
 - (iii) A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).
 - (iv) The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.
 - (2) The collective or cooperative receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility.
 - (3) The collective or cooperative meets required fire, safety, and building code requirements in one or more of the following:
 - (A) The California Fire Code.
 - (B) The National Fire Protection Association (NFPA) standards.
 - (C) International Building Code (IBC).

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- (D) The International Fire Code (IFC).
- (E) Other applicable standards, including complying with all applicable fire, safety, and building codes in processing, handling, and storage of solvents or gasses.
- (4) The collective or cooperative is in possession of a valid seller's permit issued by the State Board of Equalization.
- (5) The collective or cooperative is in possession of a valid local license, permit, or other authorization specific to the manufacturing of medical cannabis products, and in compliance with any additional conditions imposed by the city or county issuing the local license, permit, or other authorization.
- (c) For purposes of this section, "manufacturing" means compounding, converting, producing, deriving, processing, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, medical cannabis products.
- (d) This section shall remain in effect only until one year after the Bureau of Medical Cannabis Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medical Cannabis Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code).
- (e) This section is repealed one year after the date upon which the notice is posted pursuant to subdivision (d).

11362.777.

- (a) The Department of Food and Agriculture shall establish a Medical Cannabis Cultivation Program to be administered by the secretary and, except as specified in subdivision (c), shall administer this section as it pertains to the commercial cultivation of medical cannabis. For purposes of this section and Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code, medical cannabis is an agricultural product.
- (b)
 - (1) A person or entity shall not cultivate medical cannabis without first obtaining both of the following:
 - (A) A license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.
 - (B) A state license issued by the department pursuant to this section.
 - (2) A person or entity shall not submit an application for a state license pursuant to this section unless that person or entity has received a license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.
 - (3) A person or entity shall not submit an application for a state license pursuant to this section if the proposed cultivation of cannabis will violate the provisions of any local ordinance or regulation, or if medical cannabis is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.
- (c)
 - (1) Except as otherwise specified in this subdivision, and without limiting any other local regulation, a city, county, or city and county, through its current or future land use regulations or ordinance, may issue or deny a permit to cultivate medical cannabis pursuant to this section. A city, county, or city and county may inspect the intended cultivation site for suitability before issuing a permit. After the city, county, or city and county has approved a permit, the applicant shall apply for a state medical cannabis cultivation license from the department. A locally issued cultivation permit shall only become active upon licensing by the department and receiving final local approval. A person shall not cultivate medical cannabis before obtaining both a permit from the city, county, or city and county and a state medical cannabis cultivation license from the department.
 - (2) A city, county, or city and county that issues or denies conditional licenses to cultivate medical cannabis pursuant to this section shall notify the department in a manner prescribed by the secretary.
 - (3) A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the department's state licensing requirements.
- (d)
 - (1) The secretary may prescribe, adopt, and enforce regulations relating to the implementation, administration, and enforcement of this part, including, but not limited to, applicant requirements, collections, reporting, refunds, and appeals.
 - (2) The secretary may prescribe, adopt, and enforce any emergency regulations as necessary to implement this part. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

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- (3) The secretary may enter into a cooperative agreement with a county agricultural commissioner to carry out the provisions of this chapter, including, but not limited to, administration, investigations, inspections, licensing and assistance pertaining to the cultivation of medical cannabis. Compensation under the cooperative agreement shall be paid from assessments and fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner for associated costs.
- (e)
 - (1) The department, in consultation with, but not limited to, the Bureau of Medical Marijuana Regulation, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for medical marijuana. In implementing the program, the department shall consider issues, including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:
 - (A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.
 - (B) Cultivation will not negatively impact springs, riparian wetlands, and aquatic habitats.
 - (2) The department shall establish a program for the identification of permitted medical cannabis plants at a cultivation site during the cultivation period. The unique identifier shall be attached at the base of each plant. A unique identifier, such as, but not limited to, a zip tie, shall be issued for each medical cannabis plant.
 - (A) Unique identifiers will only be issued to those persons appropriately licensed by this section.
 - (B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in section 19335 of the Business and Professions Code.
 - (C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each medical cannabis plant.
 - (D) The department may promulgate regulations to implement this section.
 - (3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.
- (f)
 - (1) A city, county, or city and county that issues or denies licenses, permits, or other entitlements to cultivate medical cannabis pursuant to this section shall notify the department in a manner prescribed by the secretary.
 - (2) Unique identifiers and associated identifying information administered by a city, county, or city and county shall adhere to the requirements set by the department and be the equivalent to those administered by the department.
- (g) This section does not apply to a qualified patient cultivating cannabis pursuant to Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 100 square feet and he or she cultivates cannabis for his or her personal medical use and does not sell, distribute, donate, or provide cannabis to any other person or entity. This section does not apply to a primary caregiver cultivating cannabis pursuant to Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 500 square feet and he or she cultivates cannabis exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Section 11362.765. For purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises. Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution.

11362.9

- (a)
 - (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering marijuana as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California Marijuana Research Program.
 - (2) The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of marijuana and, if found valuable, shall develop medical guidelines for the appropriate administration and use of marijuana. The studies may include studies to ascertain the effect of marijuana on motor skills.
- (b) The program may immediately solicit proposals for research projects to be included in the marijuana studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

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- (1) Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding marijuana's general medical efficacy and safety.
 - (2) Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on marijuana.
 - (3) Proposals shall contain provisions for a patient registry.
 - (4) Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.
 - (5) Proposals shall contain protocols suitable for research on marijuana, addressing patients diagnosed with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.
 - (6) Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of marijuana.
 - (7) Proposals shall demonstrate the use of a laboratory capable of analyzing marijuana, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.
- (c) In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:
- (1) The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.
 - (2) Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.
- (d) If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.
- (e) It is the intent of the Legislature that the program be established as follows:
- (1) The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.
 - (2) When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.
 - (3) The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.
 - (4) The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.
 - (5) The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.
- (f) All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.
- (g) Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, marijuana. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.
- (h) The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.
- (i) The marijuana studies shall employ state-of-the-art research methodologies.
- (j) The program shall ensure that all marijuana used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply marijuana for authorized

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research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

- (k) The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

- (l)
 - (1) To enhance understanding of the efficacy and adverse effects of marijuana as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of marijuana in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of marijuana as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of marijuana.
 - (2) The program shall examine the safety of marijuana in patients with various medical disorders, including marijuana's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.
 - (3) The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of marijuana as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of marijuana.

- (m)
 - (1) Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.
 - (2) If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

- (n) In order to maximize the scope and size of the marijuana studies, the program may do any of the following:
 - (1) Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the marijuana studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources. Include within the scope of the marijuana studies other marijuana research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of marijuana as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of marijuana and that he or she will have no control over the use of these funds.
 - (2) Include within the scope of the marijuana studies other marijuana research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of marijuana as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of marijuana and that he or she will have no control over the use of these funds.

- (o)
 - (1) Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the marijuana studies.
 - (2) Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:
 - (A) The names and number of disease or conditions under study.
 - (B) The number of patients enrolled in each study by disease.
 - (C) Any scientifically valid preliminary findings.

- (p) If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

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- (q) No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section.
- (r) This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act.

ARTICLE 2.5 MEDICAL MARIJUANA PROGRAM (11362.7 – 11362.83)

11362.769.

Indoor and outdoor medical cannabis cultivation shall be conducted in accordance with state and local laws. State agencies, including, but not limited to, the Department of Food and Agriculture, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical cannabis cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

REVENUE AND TAXATION CODE

DIVISION 2 PART 14.5. MARIJUANA TAX

34010.

For purposes of this part:

- (a) "Board" shall mean the Board of Equalization or its successor agency.
- (b) "Bureau" shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.
- (c) "Tax Fund" means the California Marijuana Tax Fund created by Section 34018.
- (d) "Marijuana" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medical cannabis.
- (e) "Marijuana products" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.
- (f) "Marijuana flowers" shall mean the dried flowers of the marijuana plant as defined by the Board.
- (g) "Marijuana leaves" shall mean all parts of the marijuana plant other than marijuana flowers that are sold or consumed.
- (h) "Gross receipts" shall have the same meaning as set forth in Section 6012.
- (i) "Retail sale" shall have the same meaning as set forth in Section 6007.
- (j) "Person" shall have the same meaning as set for in section 6005.
- (k) "Microbusiness" shall have the same meaning as set for in Section 26070(a)(3) of the Business and Professions Code.
- (l) "Nonprofit" shall have the same meaning as set for in Section 26070.5 of the Business and Professions Code.

34011.

- (a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate off fifteen percent (15%) of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.
- (b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if non-itemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.
- (c) A dispensary or other person required to be licensed pursuant to Chapter 3. 5 of Division 8 of the Business and Professions Code or a retailer, micro business, nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.
- (d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.
- (e) Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section.

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- (f) No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.
- (g) The sales and use tax imposed by Part 1 of this division shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 of Division 8 of the Business and Professions Code when a qualified patient (or primary caregiver for a qualified patient) provides his or her card issued under Section 11362. 71 of the Health and Safety Code and a valid government issued identification card.

34012.

- (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3. 5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code. The tax shall be due after the marijuana is harvested.
 - (1) The tax for marijuana flowers shall be nine dollars and twenty five cents (\$9.25) per dry-weight ounce.
 - (2) The tax for marijuana leaves shall be set at two dollars and seventy five cents (\$2. 75) per dry-weight ounce.
- (b) The board may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.
- (c) The board may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.
- (d) The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.
- (e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee under Chapter 3.5 of Division 8 of the Business and Professions Code or under Division 10 of the Business and Professions Code.
- (f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.
- (g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.
- (h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code shall be responsible for payment of the tax pursuant to regulations adopted by the board. No marijuana may be sold unless the tax has been paid as provided in this part.
- (i) All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.
- (j) The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to marijuana cultivated for personal use under Section 113 62.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.
- (k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

34013.

- (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.
- (b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

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- (c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.
- (d) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349. 6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.
- (e) Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code.
- (f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

34014.

- (a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.
- (b) The board may require every licensed dispensary, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on marijuana produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation have been properly prepared, executed and submitted under this part.
- (c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

34015.

- (a) The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Divisions 8 or 10 of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to section 34012(d) the board may by regulation determine when and how the tax shall be paid.
- (b) The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business or Professions Code or Division 10 of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

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34016.

- (a) Any peace officer, or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.
 - (1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.
 - (2) Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.
 - (3) Inspections shall be requested or conducted no more than once in a 24-hour period.
- (b) Any person who fails or refuses to allow an inspection shall be subject to a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5, 000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.
- (c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.
- (d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1, 000) for each offense.
- (e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.
- (f) All moneys remitted to the board under this part shall be credited to the California Marijuana Tax Fund.

34017.

The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019.

34018.

- (a) The California Marijuana Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.
- (b) Notwithstanding any other law, the California Marijuana Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.
- (c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "moneys" for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

34019.

- (a) Beginning with fiscal year 2017-2018 the Department of Finance shall estimate revenues to be received pursuant to sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c),(d), and (e) of this section the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

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- (1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed four percent (4%) of tax revenues received.
 - (2) Reasonable costs incurred by the Bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health for implementing, administering, and enforcing Chapter 3.5 of Division 8 of the Business and Professions Code and Division IO of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022-2023.
 - (3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 of Division 8 of the Business and Professions Code or Division JO of the Business and Professions Code to the extent those costs are not otherwise reimbursed.
 - (4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.
 - (5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.
 - (6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.
 - (7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 of Division 8 of the Business and Professions Code and Division 10 of the Business and Professions Code.
- (b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018-2019 until fiscal year 2028-2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:
- (1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.
 - (2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.
 - (3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the Act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.
 - (4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.
 - (5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.
 - (6) Whether additional protections are needed to prevent unlawful monopolies or anticompetitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.
 - (7) The economic impacts in the private and public sectors, including but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.
 - (8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the Act, and whether different agencies might do so more effectively.
 - (9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production.

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- (10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.
- (11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate, and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcome of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.
- (c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018-2019 until fiscal year 2022-2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.
- (d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning fiscal year 2018-2019 and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until fiscal year 2022-2023, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the Department of Social Services, to administer a Community Reinvestments grants program to local health departments and at least fifty-percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The Office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the Office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than four percent (4%) for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.
- (e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the Center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.
- (f) By July 15 of each fiscal year beginning in fiscal year 2018-2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:
- (1) Sixty percent (60%) shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The Department of Health Care services shall enter into inter-agency agreements with the Department of Public Health and the Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:
- (A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.
- (B) Grants to schools to develop and support Student Assistance Programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

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- (C) Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders.
 - (D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.
 - (E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes, screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.
 - (F) To the extent permitted by law and where indicated, interventions shall utilize a two generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.
 - (G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.
 - (H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.
 - (I) Construction of community-based youth treatment facilities.
 - (J) The departments may contract with each county behavioral health program for the provision of services.
 - (K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments or submitted reports prepared by the applicable county to demonstrate and validate need.
 - (L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.
 - (M) The departments may use up to four percent (4%) of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.
 - (N) If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.
 - (O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.
- (2) Twenty percent (20%) shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:
- (A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.
 - (B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to

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facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

- (C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency task force established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.
 - (D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).
 - (E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of Statutes of 2014).
- (3) Twenty percent (20%) shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:
- (A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The Department may hire personnel to conduct the training programs specified in this subparagraph.
 - (B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.
 - (C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The Board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under Section 11362.2(b)(3) of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.
 - (D) For purposes of this paragraph the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022-2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before fiscal year 2022-2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).
- (g) Funds allocated pursuant to subdivision (j) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.
- (h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (j) of this section. Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (j) in any subsequent year from the amount allocated to each account in fiscal year 2027-2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (j) of this section.

34020.

The Controller shall periodically audit the Tax Fund to ensure that those funds are used and accounted for in a manner consistent with this part and as otherwise required by law.

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34021.

- (a) The taxes imposed by this Part shall be in addition to any other tax imposed by a city, county, or city and county.

34021.5

- (a)
- (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code.
 - (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, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.
 - (3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.
 - (4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.
- (b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.
- (c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.
- (d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

WATER CODE

DIVISION 2 PART 1. GENERAL PROVISIONS

CHAPTER 2. ADMINISTRATIVE PROVISIONS GENERALLY (1050 - 1060)

1058.5.

- (a) This section applies to any emergency regulation adopted by the board for which the board makes both of the following findings:
- (1) The emergency regulation is adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.
 - (2) The emergency regulation is adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions.
- (b) Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, any findings of emergency adopted by the board, in connection with the adoption of an emergency regulation under this section, are not subject to review by the Office of Administrative Law.
- (c) An emergency regulation adopted by the board under this section may remain in effect for up to 270 days, as determined by the board, and is deemed repealed immediately upon a finding by the board that due to changed conditions it is no longer necessary for the regulation to remain in effect. An emergency regulation adopted by the board under this section may be renewed if the board determines that the conditions specified in paragraph (2) of subdivision (a) are still in effect.

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- (d) In addition to any other applicable civil or criminal penalties, any person or entity who violates a regulation adopted by the board pursuant to this section is guilty of an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.
- (e)
 - (1) Notwithstanding subdivision (b) of Section 1551 or subdivision (e) of Section 1848, a civil liability imposed under Chapter 12 (commencing with Section 1825) of Part 2 of Division 2 by the board or a court for a violation of an emergency conservation regulation adopted pursuant to this section shall be deposited, and separately accounted for, in the Water Rights Fund. Funds deposited in accordance with this subdivision shall be available, upon appropriation, for water conservation activities and programs.
 - (2) For purposes of this subdivision, an "emergency conservation regulation" means an emergency regulation that requires an end user of water, a water retailer, or a water wholesaler to conserve water or report to the board on water conservation. Water conservation includes restrictions or limitations on particular uses of water or a reduction in the amount of water used or served, but does not include curtailment of diversions when water is not available under the diverter's priority of right or reporting requirements related to curtailments.

**DIVISION 2 PART 2. APPROPRIATION OF WATER
CHAPTER 8. WATER RIGHT FEES
ARTICLE 1. FEE SCHEDULES (1525 – 1530)**

1525.

- (a) Each person or entity who holds a permit or license to appropriate water, and each lessor of water leased under Chapter 1.5 (commencing with Section 1020) of Part 1, shall pay an annual fee according to a fee schedule established by the board.
- (b) Each person or entity who files any of the following shall pay a fee according to a fee schedule established by the board:
 - (1) An application for a permit to appropriate water.
 - (2) A registration of appropriation for a small domestic use, small irrigation use, or livestock stockpond use.
 - (3) A petition for an extension of time within which to begin construction, to complete construction, or to apply the water to full beneficial use under a permit.
 - (4) A petition to change the point of diversion, place of use, or purpose of use, under a permit, license, or registration.
 - (5) A petition to change the conditions of a permit or license, requested by the permittee or licensee, that is not otherwise subject to paragraph (3) or (4).
 - (6) A petition to change the point of discharge, place of use, or purpose of use, of treated wastewater, requested pursuant to Section 1211.
 - (7) An application for approval of a water lease agreement.
 - (8) A request for release from priority pursuant to Section 10504.
 - (9) An application for an assignment of a state-filed application pursuant to Section 10504.
 - (10) A statement of water diversion and use pursuant to Part 5.1 (commencing with Section 5100) that reports that water was used for cannabis cultivation.
- (c) The board shall set the fee schedule authorized by this section so that the total amount of fees collected pursuant to this section equals that amount necessary to recover costs incurred in connection with the issuance, administration, review, monitoring, and enforcement of permits, licenses, certificates, and registrations to appropriate water, water leases, statements of water diversion and use for cannabis cultivation, and orders approving changes in point of discharge, place of use, or purpose of use of treated wastewater. The board may include, as recoverable costs, but is not limited to including, the costs incurred in reviewing applications, registrations, statements of water diversion and use for cannabis cultivation, petitions and requests, prescribing terms of permits, licenses, registrations, and change orders, enforcing and evaluating compliance with permits, licenses, certificates, registrations, change orders, and water leases, inspection, monitoring, planning, modeling, reviewing documents prepared for the purpose of regulating the diversion and use of water, applying and enforcing the prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division and the water diversion related provisions of Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code, and the administrative costs incurred in connection with carrying out these actions.
- (d)
 - (1) The board shall adopt the schedule of fees authorized under this section as emergency regulations in accordance with Section 1530.
 - (2) For filings subject to subdivision (b), the schedule may provide for a single filing fee or for an initial filing fee followed by an annual fee, as appropriate to the type of filing involved, and may include supplemental fees for filings that have already been made but have not yet been acted upon by the board at the time the schedule of fees takes effect.

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- (3) The board shall set the amount of total revenue collected each year through the fees authorized by this section at an amount equal to the amounts appropriated by the Legislature for expenditure for support of water rights program activities from the Water Rights Fund established under Section 1550, taking into account the reserves in the Water Rights Fund. The board shall review and revise the fees each fiscal year as necessary to conform with the amounts appropriated. If the board determines that the revenue collected during the preceding year was greater than, or less than, the amounts appropriated, the board may further adjust the annual fees to compensate for the over or under collection of revenue.
- (e) Annual fees imposed pursuant to this section for the 2003–04 fiscal year shall be assessed for the entire 2003–04 fiscal year.

ARTICLE 2. COLLECTION AND ENFORCEMENT (1535 – 1541)

1535.

- (a) Any fee subject to this chapter that is required in connection with the filing of an application, registration, request, statement, or proof of claim, other than an annual fee required after the period covered by the initial filing fee, shall be paid to the board.
- (b) If a fee established under subdivision (b) of Section 1525, Section 1528, or Section 13160.1 is not paid when due, the board may cancel the application, registration, petition, request, statement, or claim, or may refer the matter to the State Board of Equalization for collection of the unpaid fee.

ARTICLE 3. WATER RIGHTS FUND (1550 – 1552)

1552.

Except as provided in subdivision (e) of Section 1058.5, moneys in the Water Rights Fund are available for expenditure, upon appropriation by the Legislature, for the following purposes:

- (a) For expenditure by the State Board of Equalization in the administration of this chapter and the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code) in connection with any fee or expense subject to this chapter.
- (b) For the payment of refunds, pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code, of fees or expenses collected pursuant to this chapter.
- (c) For expenditure by the board for the purposes of carrying out this division, Division 1 (commencing with Section 100), Part 2 (commencing with Section 10500) and Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, and the water diversion related provisions of Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.
- (d) For expenditures by the board for the purposes of carrying out Sections 13160 and 13160.1 in connection with activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.
- (e) For expenditures by the board for the purposes of carrying out Sections 13140 and 13170 in connection with plans and policies that address the diversion or use of water.

CHAPTER 12. ENFORCEMENT OF WATER RIGHTS

ARTICLE 2. CEASE AND DESIST ORDERS (1831 – 1836)

1831.

- (a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.
- (b) The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.
- (c) The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.
- (d) The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:
- (1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.
 - (2) Any term or condition of a permit, license, certification, or registration issued under this division.
 - (3) Any decision or order of the board issued under this part, Section 275, Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.
 - (4) A regulation adopted under Section 1058.5.
 - (5) Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

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- (6) Any diversion or use of water for cannabis cultivation if any of the following applies:
- (A) A license is required, but has not been obtained, under Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.
 - (B) The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.
 - (C) The diversion or use is not in compliance with a requirement imposed under subdivision (d) or (e) of Section 19332.2 of the Business and Professions Code.
- (e) This article does not alter the regulatory authority of the board under other provisions of law.

ARTICLE 3. MONITORING AND REPORTING (1840 - 1841)

1840.

- (a)
- (1) Except as provided in subdivision (b), a person who, on or after January 1, 2016, diverts 10 acre-feet of water per year or more under a permit or license shall install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage. The measurements shall be made using the best available technologies and best professional practices, as defined in Section 5100, using a device or methods satisfactory to the board, as follows:
 - (A) A device shall be capable of continuous monitoring of the rate and quantity of water diverted and shall be properly maintained. The permittee or licensee shall provide the board with evidence that the device has been installed with the first report submitted after installation of the device. The permittee or licensee shall provide the board with evidence demonstrating that the device is functioning properly as part of the reports submitted at five-year intervals after the report documenting installation of the device, or upon request of the board.
 - (B) In developing regulations pursuant to Section 1841, the board shall consider devices and methods that provide accurate measurement of the total amount diverted and the rate of diversion. The board shall consider devices and methods that provide accurate measurements within an acceptable range of error, including the following:
 - (i) Electricity records dedicated to a pump and recent pump test.
 - (ii) Staff gage calibrated with an acceptable streamflow rating curve.
 - (iii) Staff gage calibrated for a flume or weir.
 - (iv) Staff gage calibrated with an acceptable storage capacity curve.
 - (v) Pressure transducer and acceptable storage capacity curve.
 - (2) The permittee or licensee shall maintain a record of all diversion monitoring that includes the date, time, and diversion rate at time intervals of one hour or less, and the total amount of water diverted. These records shall be included with reports submitted under the permit or license, as required under subdivision (c), or upon request of the board.
- (b)
- (1) The board may modify the requirements of subdivision (a) upon finding either of the following:
 - (A) That strict compliance is infeasible, is unreasonably expensive, would unreasonably affect public trust uses, or would result in the waste or unreasonable use of water.
 - (B) That the need for monitoring and reporting is adequately addressed by other conditions of the permit or license.
 - (2) The board may increase the 10-acre-foot reporting threshold of subdivision (a) in a watershed or subwatershed, after considering the diversion reporting threshold in relation to quantity of water within the watershed or subwatershed. The board may increase the 10-acre-foot reporting threshold to 25 acre-feet or above if it finds that the benefits of the additional information within the watershed or subwatershed are substantially outweighed by the cost of installing measuring devices or employing methods for measurement for diversions at the 10-acre-foot threshold.
- (c) At least annually, a person who diverts water under a registration, permit, or license shall report to the board the following information:
- (1) The quantity of water diverted by month.
 - (2) The maximum rate of diversion by months in the preceding calendar year.
 - (3) The information required by subdivision (a), if applicable.
 - (4) The amount of water used, if any, for cannabis cultivation.
- (d) Compliance with the applicable requirements of this section is a condition of every registration, permit, or license.

ARTICLE 4. ENFORCEMENT (1845 - 1848)

1845.

- (a) Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or

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mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

- (b)
- (1) A person or entity who violates a cease and desist order issued pursuant to this chapter may be liable in an amount not to exceed the following:
 - (A) If the violation occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions, ten thousand dollars (\$10,000) for each day in which the violation occurs.
 - (B) If the violation is not described by subparagraph (A), one thousand dollars (\$1,000) for each day in which the violation occurs.
 - (2) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.
 - (3) Civil liability may be imposed administratively by the board pursuant to Section 1055.

1846.

- (a) A person or entity may be liable for a violation of any of the following in an amount not to exceed five hundred dollars (\$500) for each day in which the violation occurs:
 - (1) A term or condition of a permit, license, certificate, or registration issued under this division.
 - (2) A regulation or order adopted by the board.
- (b) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.
- (c) Civil liability may be imposed administratively by the board pursuant to Section 1055.

1847.

- (a) A person or entity may be liable for a violation of any of the requirements of subdivision (b) in an amount not to exceed the sum of the following:
 - (1) Five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of that person.
 - (2) Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.
- (b) Liability may be imposed for any of the following violations:
 - (1) Violation of a limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.
 - (2) Failure to submit information, or making a material misstatement in information submitted, under subdivision (a), (b), or (c) of Section 19332.2 of the Business and Professions Code.
 - (3) Violation of any requirement imposed under subdivision (e) of Section 19332.2 of the Business and Professions Code.
 - (4) Diversion or use of water for cannabis cultivation for which a license is required, but has not been obtained, under Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.
- (c) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.
- (d) Civil liability may be imposed administratively by the board pursuant to Section 1055.

1848.

- (a) Except as provided in subdivisions (b) and (c), remedies under this chapter are in addition to, and do not supersede or limit, any other remedy, civil or criminal.
- (b) Civil liability shall not be imposed both administratively and by the superior court for the same violation.
- (c) No liability shall be recoverable under Section 1846 or 1847 for a violation for which liability is recovered under Section 1052.
- (d) In determining the appropriate amount, the court, or the board, as the case may be, shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

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- (e) All funds recovered pursuant to this article shall be deposited in the Water Rights Fund established pursuant to Section 1550.

DIVISION 2 PART 5.1. STATEMENTS OF WATER DIVERSIONS AND USE (5100 -5107)

5103.

Each statement shall be prepared on a form provided by the board. The statement shall include all of the following information:

- (a) The name and address of the person who diverted water and of the person filing the statement.
- (b) The name of the stream or other source from which water was diverted, and the name of the next major stream or other body of water to which the source is tributary.
- (c) The place of diversion. The location of the diversion works shall be depicted on a specific United States Geological Survey topographic map, or shall be identified using the California Coordinate System, or latitude and longitude measurements. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.
- (d) The capacity of the diversion works and of the storage reservoir, if any, and the months in which water was used during the preceding calendar year.

(e)

(1)

- (A) At least monthly records of water diversions. The measurements of the diversion shall be made in accordance with Section 1840.
- (B)
 - (i) On and after July 1, 2016, the measurement of a diversion of 10 acre-feet or more per year shall comply with regulations adopted by the board pursuant to Article 3 (commencing with Section 1840) of Chapter 12 of Part 2.
 - (ii) The requirement of clause (i) is extended to January 1, 2017, for any statement filer that enters into a voluntary agreement that is acceptable to the board to reduce the statement filer's diversions during the 2015 irrigation season.

(2)

- (A) The terms of, and eligibility for, any grant or loan awarded or administered by the department, the board, or the California Bay-Delta Authority on behalf of a person that is subject to paragraph (1) shall be conditioned on compliance with that paragraph.
- (B) Notwithstanding subparagraph (A), the board may determine that a person is eligible for a grant or loan even though the person is not complying with paragraph (1), if both of the following apply:
 - (i) The board determines that the grant or loan will assist the grantee or loan recipient in complying with paragraph (1).
 - (ii) The person has submitted to the board a one-year schedule for complying with paragraph (1).
- (C) It is the intent of the Legislature that the requirements of this subdivision shall complement and not affect the scope of authority granted to the board by provisions of law other than this article.

(f)

- (1) The purpose of use.
- (2) The amount of water used, if any, for cannabis cultivation.

- (g) A general description of the area in which the water was used. The location of the place of use shall be depicted on a specific United States Geological Survey topographic map and on any other maps with identifiable landmarks. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.
- (h) The year in which the diversion was commenced as near as is known.

13149.

(a)

(1)

- (A) The board, in consultation with the Department of Fish and Wildlife, shall adopt principles and guidelines for diversion and use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows. The principles and guidelines adopted under this section may include, but are not limited to, instream flow objectives, limits on diversions, and requirements for screening of diversions and elimination of barriers to fish passage. The principles and guidelines may include requirements that apply to groundwater extractions where the board determines those requirements are reasonably necessary for purposes of this section.

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- (B) Prior to adopting principles and guidelines under this section, the board shall allow for public comment and hearing, pursuant to Section 13147. The board shall provide an opportunity for the public to review and comment on the proposal for at least 60 days and shall consider the public comments before adopting the principles and guidelines.
 - (2) The board, in consultation with the Department of Fish and Wildlife, shall adopt principles and guidelines pending the development of long-term principles and guidelines under paragraph (1). The principles and guidelines, including the interim principles and guidelines, shall include measures to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation. The board may update the interim principles and guidelines as it determines to be reasonably necessary for purposes of this section.
 - (3) The Department of Fish and Wildlife, in consultation with the board, may establish interim requirements to protect fish and wildlife from the impacts of diversions for cannabis cultivation pending the adoption of long-term principles and guidelines by the board under paragraph (1). The requirements may also include measures to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation.
- (b)
- (1) Notwithstanding Section 15300.2 of Title 14 of the California Code of Regulations, actions of the board and the Department of Fish and Wildlife under this section shall be deemed to be within Section 15308 of Title 14 of the California Code of regulations, provided that those actions do not involve relaxation of existing streamflow standards.
 - (2) The board shall adopt principles and guidelines under this section as part of state policy for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7.
 - (3) If the Department of Fish and Wildlife establishes interim requirements under this section, it shall do so as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of those interim requirements is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the emergency regulations shall remain in effect until revised by the Department of Fish and Wildlife, provided that the emergency regulations shall not apply after long-term principles and guidelines adopted by the board under this section take effect for the stream or other body of water where the diversion is located.
 - (4) A diversion for cannabis cultivation is subject to both the interim principles and guidelines and the interim requirements in the period before final principles and guidelines are adopted by the board.
 - (5) The board shall have primary enforcement responsibility for principles and guidelines adopted under this section, and shall notify the Department of Food and Agriculture of any enforcement action taken.

EXHIBIT I


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AB-1159 Cannabis: legal services. (2017-2018)

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Date Published: 10/06/2017 09:00 PM

Assembly Bill No. 1159

CHAPTER 530

An act to add Section 1550.5 to the Civil Code, and to amend Section 956 of the Evidence Code, relating to cannabis.

[Approved by Governor October 06, 2017. Filed with Secretary of State October 06, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1159, Chiu. Cannabis: legal services.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, authorizes the consumption of nonmedical marijuana, also known as adult-use cannabis, by persons over 21 years of age and establishes a system for the licensure and regulation of certain commercial nonmedical marijuana activities. Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, expands and modifies this system to also include the licensure and regulation of certain commercial medicinal cannabis activities.

Existing law prescribes the manner in which contracts may be created and requires that a contract be for a lawful object. Under existing law a contract that is contrary to an express provision of law, contrary to the policy of express law, or that is otherwise contrary to good morals is not lawful.

This bill would provide that commercial activity relating to medicinal cannabis or adult-use cannabis conducted in compliance with state law and any applicable local standards and regulations is a lawful object of a contract, is not contrary to an express policy or provision of law or to good morals, and is not against public policy.

Existing law grants a lawyer's client a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the client and lawyer, as defined, if the privilege is claimed by the holder of the privilege, a person who is authorized to claim the privilege by the holder, or the person who was the lawyer at the time of the confidential communication, as specified. Existing law excepts communications from the privilege if the services of the lawyer were sought or obtained to enable or aid anyone to commit, or plan to commit, a crime or fraud.

This bill would provide that the above exception does not apply to legal services rendered in compliance with state or local laws on medicinal cannabis or adult-use cannabis and that confidential communications provided for the purpose of rendering those services are confidential communications, as specified.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Section 1550.5 is added to the Civil Code, to read:

1550.5. (a) The Legislature finds and declares all of the following:

(1) The Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorized the use of marijuana for medical purposes in this state.

(2) The Legislature passed the Medical Cannabis Regulation and Safety Act, formerly 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code, to regulate and license medical cannabis in the state.

(3) The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, authorized the consumption of nonmedical marijuana by persons over 21 years of age and provided for the licensure and regulation of certain commercial nonmedical marijuana activities in this state.

(4) The Legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business and Professions Code) to consolidate the licensure and regulation of certain commercial activities with respect to medicinal cannabis and nonmedical marijuana, now known as adult-use cannabis.

(b) Notwithstanding any law, including, but not limited to, Sections 1550, 1667, and 1668 and federal law, commercial activity relating to medicinal cannabis or adult-use cannabis conducted in compliance with California law and any applicable local standards, requirements, and regulations shall be deemed to be all of the following:

(1) A lawful object of a contract.

(2) Not contrary to, an express provision of law, any policy of express law, or good morals.

(3) Not against public policy.

SEC. 2. Section 956 of the Evidence Code is amended to read:

956. (a) There is no privilege under this article if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(b) This exception to the privilege granted by this article shall not apply to legal services rendered in compliance with state and local laws on medicinal cannabis or adult-use cannabis, and confidential communications provided for the purpose of rendering those services are confidential communications between client and lawyer, as defined in Section 952, provided the lawyer also advises the client on conflicts with respect to federal law.

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Robert E. Fuller (SBN 171770)
rfuller@nelsonhardiman.com
Zachary E. Rothenberg (SBN 215404)
zrothenberg@nelsonhardiman.com
Salvatore J. Zimmitti (SBN 245678)
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NELSON HARDIMAN LLP
11835 West Olympic Boulevard, Suite 900
Los Angeles, CA 90064
Telephone: (310) 203-2800
Facsimile: (310) 203-2727

Attorneys for Plaintiffs-in-Intervention
SoCal Building Ventures, LLC and San Diego
Building Ventures, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO - CENTRAL DIVISION

SALAM RAZUKI, an individual, ,
Plaintiff,

v.

NINUS MALAN, et al.,
Defendants.

CASE NO.: 37-2018-00034229-CU-BC-CTL
Assigned to: Hon. Eddie E. Sturgeon

**SUPPLEMENTAL DECLARATION OF
DANIEL J. SPILLANE IV IN SUPPORT OF
PLAINTIFFS-IN-INTERVENTION'S
OPPOSITION TO *EX PARTE*
APPLICATION TO VACATE
RECEIVERSHIP ORDER**

*[Filed concurrently with Declaration of
Salvatore Zimmitti; Declaration of Jim
Townsend and Declaration of Aaron Lachant]*

Action Filed: July 10, 2018

AND RELATED COMPLAINT-IN-
INTERVENTION

DATE: August 20, 2018
TIME: 2:00 p.m.
DEPT: C-67

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SUPPLEMENTAL DECLARATION OF DANIEL J SPILLANE IV

I, Daniel J. Spillane IV, declare as follows:

1. I am an individual and Project Manager for OPPX LLC, an operating company that Plaintiff-in-Intervention SoCal Building Ventures, LLC contracts with for cannabis product manufacturing and extraction. I make this Supplemental Declaration in support of SoCal's Supplemental Opposition to *Ex Parte* Motion to Vacate Receivership. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

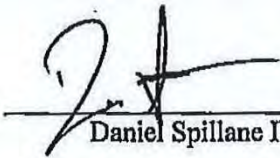
2. As part of my role, I oversee the buildout, source equipment, staff the project and develop the intellectual property and standard operations and procedures for the extraction processes. I also manage the day to day at the Mira Este Facility.

3. On August 16, 2018, I was informed by a security guard who was present at the Mira Este Facility that U-Haul vans had arrived at the facility. True and correct copies of photos taken of these vehicles by the guard and provided to me are attached hereto as Exhibit A.

4. Because I was concerned that property may be removed from the facility using these vehicles, I informed SoCal. I was later told that Defendants' counsel indicated that the vehicles were being used to bring cannabis product into the facility.

5. It is my understanding that U-Haul vehicles are not a compliant form of transporting cannabis products. It is my understanding and SoCal's policy that transportation of this material can only be performed by a licensed, bonded, and permitted distributor using secured (armored) vehicles. A detailed manifest must also be prepared detailing any and all shipments.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on August 17, 2018, at San Diego, California.


Daniel Spillane IV, Declarant

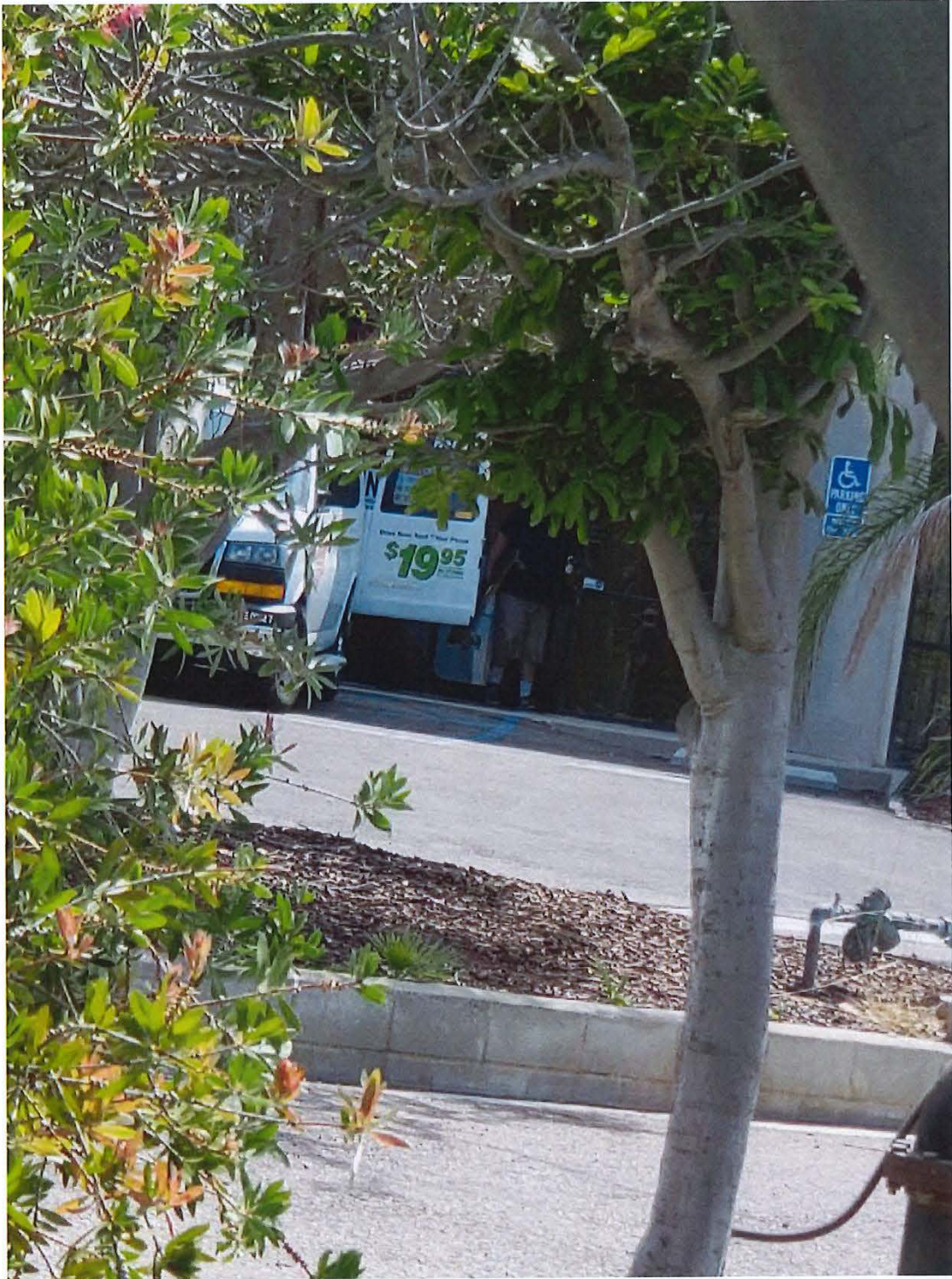




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Robert E. Fuller (SBN 171770)
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Telephone: (310) 203-2800
Facsimile: (310) 203-2727

Attorneys for Plaintiffs-in-Intervention
SoCal Building Ventures, LLC and San Diego
Building Ventures, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO - CENTRAL DIVISION

SALAM RAZUKI, an individual, ,

Plaintiff,

v.

NINUS MALAN, et al.,

Defendants.

CASE NO.: 37-2018-00034229-CU-BC-CTL
Assigned to: Hon. Eddie E. Sturgeon

**SUPPLEMENTAL DECLARATION OF JIM
TOWNSEND IN SUPPORT OF
PLAINTIFFS-IN-INTERVENTION'S
OPPOSITION TO *EX PARTE*
APPLICATION TO VACATE
RECEIVERSHIP ORDER**

*[Filed concurrently with Declaration of
Salvatore Zimmitti; Declaration of Daniel J.
Spillane IV and Declaration of Aaron Lachant]*

Action Filed: July 10, 2018

AND RELATED COMPLAINT-IN-
INTERVENTION

DATE: August 20, 2018
TIME: 2:00 p.m.
DEPT: C-67

1 nine of this declaration, Mr. Hakim purports to explain the basis for Defendants' termination of
2 the Mira Este Agreement and argues that SoCal's breach included "the failure to make payments
3 to [Mira Este] in connection with SoCal's obligations under the management agreement." The
4 only support Mr. Hakim provides for this alleged payment failure is a June 1, 2018 letter
5 prepared by David Jarvis and attached as Exhibit 1 to the declaration. This June 1 letter purports
6 to identify four "outstanding items" that required SoCal's immediate attention. However, this
7 letter is misleading and inaccurate, and does not evidence any payment default by SoCal for the
8 reasons below.

9 (a) Item # 1: \$125,000.00 – Tenant Improvements for Mira Este/Certificate of
10 Occupancy Obtained February 2, 2018. SoCal repeatedly requested proof of payments such as
11 receipts to establish that this amount was paid for Defendants and therefore eligible for
12 reimbursement. This proof was never provided, causing SoCal to suspect that Defendants claim
13 for reimbursement was false or fraudulent. SoCal has been very diligent in paying all fees
14 associated with Mira Este project. Between November 2017 and April 3, 2018, SoCal paid a total
15 of \$132,114.50 for Mira Este for its Conditional Use Permit, legal, and tenant improvement
16 costs/fees; this includes:

- 17 (i) Wire to Mira Este Properties - Nov 22, 2017 - \$66,658.00
18 (ii) Check 1054 - Mira Este Properties - May 23, 2018 - \$33,330.00
19 (iii) Check 1018 - Mira Este Properties - January 4, 2018 - \$15,206.00
20 (iv) Check 1040 - Mira Este Properties - April 3, 2018 - \$16,920.50

21 True and correct copies of the proof of the above payments are attached hereto as Exhibit B.

22 (b) Item # 2: \$50,125.00 – Bounced check dated May 23, 2018 to Mira Este,
23 plus \$125 service fee for the returned check. This check was replaced by a wire transfer on June
24 4, 2018 in the amount of \$50,125.00. A true and correct copy of the wire information associated
25 with this payment is attached hereto as Exhibit C.

26 (c) Item #3: \$75,125.00 – Bounced check. The March 2018 date provided by
27 Mr. Jarvis in his June 1 letter is incorrect. The check failed on January 23, 2018 and SoCal
28 wired replacement funds to Mira Este the next day on January 24, 2018 totaling \$108,500. This

SUPPLEMENTAL DECLARATION OF JIM TOWNSEND

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payment is also reflected in the attached Exhibit C.

(d) Item #4: \$12,500.00 – For alleged Manager’s share of CUP costs for Roselle project. SoCal repeatedly requested proof of these cost (e.g., receipts, invoices, or other proof of payment); however, Defendants never provided this to SoCal so that these costs could be verified as accurate or legitimate.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on August 16, 2018, at Westlake Village, California.



Jim Townsend, Declarant

EXHIBIT A

Science At The Right Cost



Lab Society
4699 Nautilus Ct S #503
Boulder, CO 80301
United States

Invoicing and shipping address:

Josh Rowley
9212 Mira Este Court
San Diego, CA 92126
United States
☎ 203-988-3995

Josh Rowley
9212 Mira Este Court
San Diego, CA 92126
United States

Quotation # SO03685

Quotation Date:
04/24/2018 19:50:42

Salesperson:
Peter DeLone

Payment Terms:
Immediate Payment

Description	Quantity	Unit Price	Taxes	Price
[EG6102C] Gloves (Nitrile), Case (LG, 6 Mil)	1.000 Each	100.00	No Tax	\$ 100.00
[JL-1494-10x200] Glass Stirring Rod (10x200mm)	5.000 Each	0.75	No Tax	\$ 3.75
[JL-1494-7x300] Glass Stirring Rod (7x300mm)	5.000 Each	0.50	No Tax	\$ 2.50
[FEN-1100-21] Spatula, Metal (210mm, Double Sided)	4.000 Each	5.25	No Tax	\$ 21.00
[FEN-1100-30] Spatula, Metal (300mm, Double Sided)	4.000 Each	6.00	No Tax	\$ 24.00
[FEN-1206-21] Spatula, Metal (210mm, Micro Rounded Spoon)	2.000 Each	5.00	No Tax	\$ 10.00
[FEN-1136-15] Spatula, Metal (210mm, One Tapered End)	2.000 Each	5.50	No Tax	\$ 11.00
[AE-7-442000] Beaker, Bomex (2000ml)	5.000 Each	12.50	No Tax	\$ 62.50
[AE-7-444000] Beaker, Bomex (4000ml)	5.000 Each	26.50	No Tax	\$ 132.50
[AE-7-440400] Beaker, Bomex (400ml)	3.000 Each	3.10	No Tax	\$ 9.30
[AE-7-440600] Beaker, Bomex (600ml)	3.000 Each	3.75	No Tax	\$ 11.25
[LS-MSR-H350] Magnetic Stir Bar Retriever (50 lb.)	1.000 Each	15.00	No Tax	\$ 15.00
[MAGSTIR-7PC] Magnetic Stir Bar, Economy (7 Piece Set, Pill Shaped)	1.000 Each	29.99	No Tax	\$ 29.99
[Z20] Magnetic Stir Bar, Economy (7 x 20mm, Pill Shaped)	2.000 Each	1.20	No Tax	\$ 2.40
[Z45] Magnetic Stir Bar, Economy (8 x 45mm, Pill Shaped)	2.000 Each	2.82	No Tax	\$ 5.64
[H-1565M] Chemical Storage Cabinet (60 Gal.)	1.000 Each	1,075.00	No Tax	\$ 1,075.00
[HEI-036110540] Heidolph MR Magnetic Stirring Hotplate Hel-Tec 220V	1.000 Each	1,136.00	No Tax	\$ 1,136.00
[KC-34155-CASE] Kim Wipes (Case)	1.000 Each	150.00	No Tax	\$ 150.00
[734655769967] Parafilm Roll, 4 in. (125 ft.)	1.000 Each	38.00	No Tax	\$ 38.00
[JXL-25C] Cork Stand (110mm)	3.000 Each	5.00	No Tax	\$ 15.00
[JXL-25F] Cork Stand (160mm)	3.000 Each	5.00	No Tax	\$ 15.00

Phone: (720) 600-2037 • Email: sales@labsociety.com • Website: http://labsociety.com



Lab Society
4699 Nautilus Ct S #503
Boulder, CO 80301
United States

Science At The Right Cost

Description	Quantity	Unit Price	Taxes	Price
[X001CQMQ63] Brush, Cleaning (10 Piece)	1.000 Each	10.00	No Tax	\$ 10.00
[BRUSH-PC13] Brush, Cleaning (13 In.)	2.000 Each	9.99	No Tax	\$ 19.98
[E1014-3-8L] Ethylene Glycol, Purified	5.000 Each	41.00	No Tax	\$ 205.00
[LS-DA1J-29] Single Distribution Adapter (29/42 Joint)	1.000 Each	105.00	No Tax	\$ 105.00
[LS-DA3J-29] Multi Distribution Adapter (29/26, 3-Way)	1.000 Each	235.00	No Tax	\$ 235.00
[LS-PDH-2S] Packable Distillation Head (PDH-2S (Silvered), 34/45 Lower Inner Joint)	1.000 Each	995.00	No Tax	\$ 995.00
[HS-23243A] Drying Rack	3.000 Each	132.00	No Tax	\$ 396.00
Freight Manual	1.000 Each	150.00	No Tax	\$ 150.00
Total Without Taxes				\$ 4,985.81
Taxes				\$ 0.00
Total				\$ 4,985.81

Returns:

Please do not return any material without our consent. Please call or email your request to help@labsociety.com to receive authorization. Lab Society cannot be responsible for material returned without our permission. Upon approval, Lab Society will accept, for return or exchange, items that are in new condition, unopened, and free of damages by the customer within 30 days of the initial purchase date. Returns made after 30 days are subject to a 20% restocking fee. Items must be in original packaging with proof of purchase; otherwise, the return or exchange will not be honored. Shipping and processing fees for returns/exchanges will be at the customer's expense.

Damaged Items/Shortages:

Please call or email help@labsociety.com to report shortages, breakage or discrepancies in your order within 10 days of receipt of your order. Do not discard broken items prior to speaking with our returns department. Pictures may be required of broken/damaged items to improve packaging and shipping methods.

Special Orders:

In the event that a paid invoice including non-stocked items (special order) requires cancellation, Lab Society will impose a 10% maintenance fee to cover any incurred expenses including shipping, processing, and office fees.

Payment term: Immediate Payment



Lab Society
 4699 Nautilus Ct S #503
 Boulder, CO 80301
 United States

Science At The Right Cost

Invoicing and shipping address:

Dan Spillane
 9212 Mira Este Court
 San Diego, CA 92126
 United States

Invoice INV/2018/0887

Invoice Date: 05/31/2018 **Due Date:** 05/31/2018 **Source:** SO03488

Description	Quantity	Unit Price	Taxes	Tax Excluded Price
[CDO-28] Cascade Decarboxylation Oven	1.000 Each	9,950.00	No Tax	\$ 9,950.00
Freight - Cascade	1.000 Each	0.00		\$ 0.00
Freight Manual	1.000 Each	600.98	No Tax	\$ 600.98
Subtotal				\$ 10,550.98
No Tax				\$ 0.00
Total				\$ 10,550.98
Paid				\$ 10,263.09
Amount Due				\$ 287.89

Tax	Base	Amount
No Tax	\$ 10,550.98	\$ 0.00

Payment term: Immediate Payment

2346



LabTrader Inc.
1396 Poinsettia Ave.
Vista, CA 92081

Invoice

Date	Invoice #
6/12/2018	629.6799

Bill To
San Diego Building Ventures LLC 9212 Mira Este Court San Diego, CA 92126

Ship To
San Diego Building Ventures LLC 9212 Mira Este Court San Diego, CA 92126

P.O. Number	Terms	Due Date	Ship	Via
	prepay	6/12/2018	6/12/2018	

Description	Reference #	Quantity	Price Each	Amount
Thermo Scientific Forma 8600 Series -86C Chest Ultra-Low Temperature Freezer	F820CD	1	8,500.00	8,500.00T
Thermo Revco Ultima II -86C Chest Ultra-Low Temperature Freezer	LT0917006	1	3,400.00	3,400.00T
Local Delivery in San Diego County			280.00	280.00

Subtotal	\$12,180.00
Sales Tax (7.75%)	\$922.25
Payments/Credits	\$0.00
Balance Due	\$13,102.25

EXHIBIT B

WT FED#03258 TORREY PINES BANK, /FTR/BNF=Mira Este Properties, LLC \$66,658.00
SRF# 0000737326676246 TRN#171122184530 RFB#

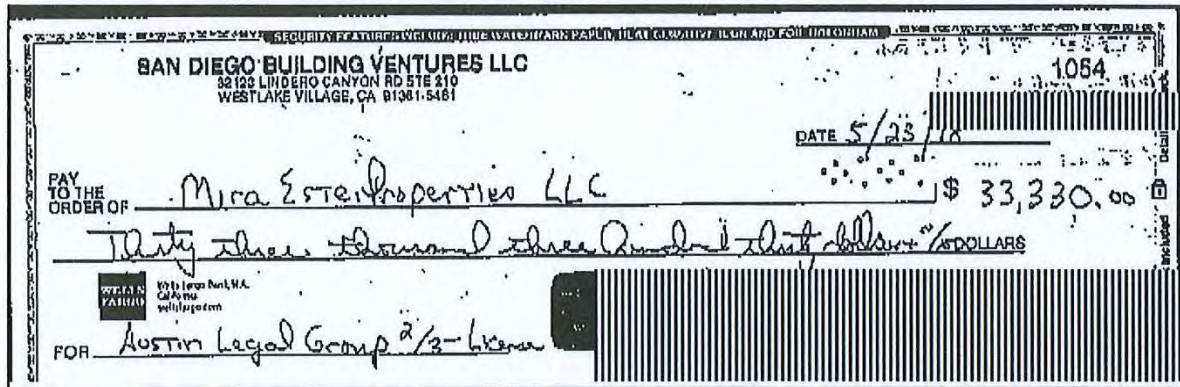
EXHIBIT B

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Check Details

Check Number	1054
Date Posted	05/23/18
Check Amount	\$33,330.00



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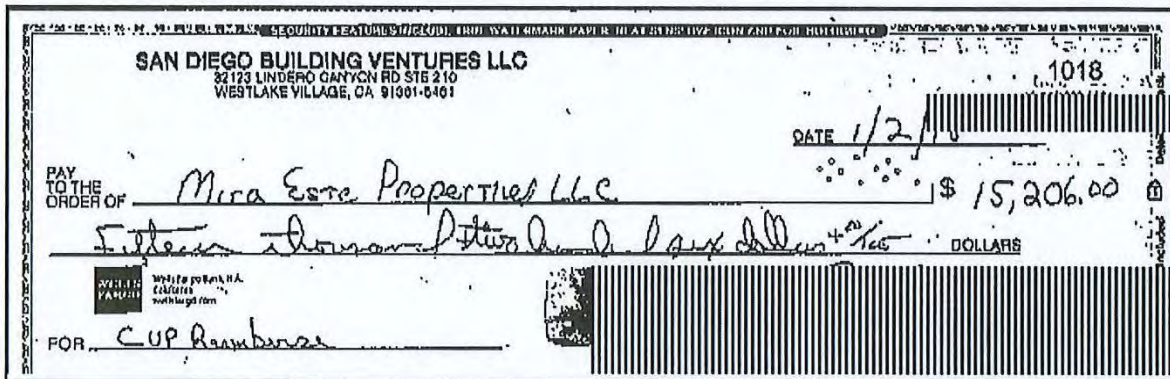
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Check Details

Check Number	1018
Date Posted	01/04/18
Check Amount	\$15,206.00



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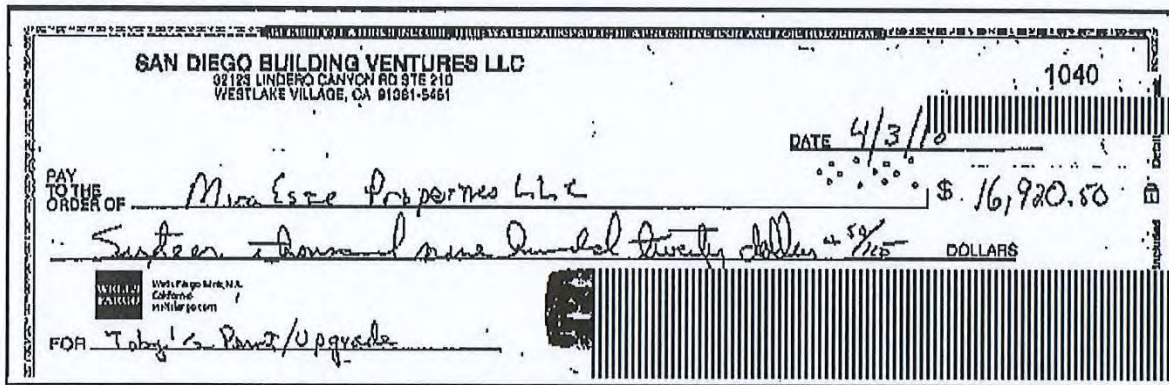
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Check Details

Check Number	1040
Date Posted	04/05/18
Check Amount	\$16,920.50



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Equal Housing Lender

EXHIBIT C

1. Check 1052 to Mira Este Properties for \$50,000 – May 28 returned – Replaced with:

WT FED#04280 TORREY PINES BANK, /FTR/BNF=Mira Este
 6/04/18 Properties LLC SRF# GW00000016470163 TRN#180604084047 RFB# \$50,125.00
 778

- 2.

Expand 01/24/18 NSF RETURN ITEM FEE FOR A TRANSACTION RECEIVED \$35.00
 ON 01/23 \$75,000.00 CHECK # 01021

Expand 01/24/18 NSF RETURN ITEM FEE FOR A TRANSACTION RECEIVED \$35.00
 ON 01/23 \$33,500.00 CHECK # 01022

Replace with Wire on 1/24 for \$100,000 and wire for \$8,500

Wells Fargo Portfolio Checking (continued)					
<i>Date</i>	<i>Description</i>	<i>Check No.</i>	<i>Deposits/ Additions</i>	<i>Withdrawals/ Subtractions</i>	<i>Ending Daily Balance</i>
1/23	WT Fed#07358 Redwood Capital Ba /Ftr/Bnf=Humboldt Land Title Company Srf# 0011721022139941 Trn#180123072398 Rfb#			25,000.00	
1/23	Deposited OR Cashed Check	2736		15,000.00	
1/23	Deposited OR Cashed Check	2737		10,000.00	99,940.60
1/24	Deposit Made In A Branch/Store		7,000.00		
1/24	Wire Trans Svc Charge - Sequence: 180124149007 Srf# 0011721024052961 Trn#180124149007 Rfb#			30.00	
1/24	WT Fed#07951 Torrey Pines Bank, /Ftr/Bnf=Mira Este Properties, LLC Srf# 0011721024052961 Trn#180124149007 Rfb#			100,000.00	
1/24	So Cal Gas Paid Scgc 180123 0365031901 301601474094582006			555.01	
1/24	Barclaycard US Creditcard Xxxx8763 Chris Berman			6,000.00	
1/24	American Express ACH Pmt 180124 W2758 Chris Berman			5,000.00	
1/24	Overdraft Xfer From Credit Card OR Line		4,644.41		0.00
1/25	ATM Check Deposit On 01/25 Westlake Blvd Westlake Vill CA 0003412 ATM ID 0968H Card 3085		93,000.00		93,000.00
1/29	Venmo Cashout Xxxx8743 Chris Berman		200.00		
1/29	Paypal Inst Xfer 180127 Airbnb Christopher Berman			1,206.46	91,993.54
1/30	Jonathan Club 00132849 180129 Mrc19217452 E Berman Christopher			1,796.97	90,196.57
1/31	ATT Payment 013018 723168003Epayj Chris E Berman			180.03	
1/31	Chase Credit Crd Epay 180130 3431910659 Christopher Berman			1,000.00	
1/31	Interest Payment		2.28		89,018.82
Ending balance on 1/31					89,018.82
Totals			\$289,823.69	\$221,706.13	

WT FED#04933 TORREY PINES BANK, /FTR/BNF=Mira Este
 01/24/18 Properties LLC SRF# GW00000010079402 TRN#180124124695 RFB# \$8,500.00
 619

EXHIBIT C

3. Return check 1/23 to San Diego United Holdings – replaced next day with wire

Expand 01/24/18 NSF RETURN ITEM FEE FOR A TRANSACTION RECEIVED \$35.00
ON 01/23 \$11,000.00 CHECK # 01020

Expand 01/25/18 WT FED#07237 BANK OF AMERICA, N /FTR/BNF=San \$11,000.00
Diego United Holding Group LLC SRF# GW00000010096293
TRN#180125069873 RFB# 620