

## **Text of Proposed Law**

### **SECTION 1. Title.**

This measure shall be known and may be cited as “The Marijuana Control, Legalization and Revenue Act of 2014.”

### **SEC. 2. Statement of General Purpose.**

This initiative measure grants to Californians the freedom to use, grow, transport and sell cannabis subject to reasonable regulation and taxation in a manner similar to alcohol.

### **SEC. 3. Findings and Declarations.**

The People of California find and declare as follows:

(a) Any benefits of a prohibition on marijuana are vastly outweighed by the costs to society of investigating, arresting, prosecuting, and incarcerating otherwise law-abiding citizens.

(b) Medical marijuana, also known as medical cannabis, provides important health benefits to the People of California.

(c) Revenue from a sales tax on cannabis will generate millions of dollars in new revenue for California.

(d) Regulating marijuana will make Californians safer by cutting off the profits to criminals and eliminating the illegal growing of marijuana throughout California.

**SEC. 4.** *A new Division 10, entitled “Marijuana Legalization, Regulation and Taxation” (Sections 27000 to 27510) is added to the Business and Professions Code, to read:*

### **Chapter 1. General.**

#### **§ 27000. Purposes.**

This Act implements a comprehensive, statewide scheme authorizing, controlling, and regulating the cultivation, processing and distribution of marijuana for dietary, medical and adult social consumption. The subjects addressed by this initiative are a matter of statewide concern. It is the intent of the People in enacting this initiative to accomplish all of the following:

(a) Prevent the distribution of marijuana to minors, with the exception of minors for whom medical marijuana has been recommended by a physician;

(b) Prevent the profits from the sale of marijuana from going to criminal enterprises, gangs and cartels;

(c) Prevent the diversion of marijuana from California to states where it is illegal;

(d) Prevent state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- (e) Prevent the violence and the use of firearms in the cultivation and distribution of marijuana;
- (f) Prevent “drugged driving” and other adverse public health consequences associated with marijuana use;
- (g) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;
- (h) Clarify California’s medical marijuana laws;
- (i) Encourage the Governor and Legislature to enact legislation allowing non-violent inmates who were convicted of buying or possessing marijuana to have their sentences reviewed and criminal records expunged;
- (j) Regulate marijuana in a manner comparable to alcohol;
- (k) Encourage the federal government to reconsider its policies concerning cannabis and to change its laws;
- (l) Create a right to use or dispense marijuana that is consistent with reasonable local regulations are permitted as provided herein;
- (m) Ensure that all local jurisdictions within the state shall accommodate reasonable dietary, medical, and adult social use of marijuana;
- (n) Ensure that local jurisdictions do not penalize medical marijuana collectives, cooperatives or dispensaries that comply with the Attorney General Guidelines;
- (o) To permit the enactment of consistent and reasonable local regulations, as provided herein, to accommodate medical marijuana collectives, cooperatives and dispensaries that follow the Attorney General Guidelines;
- (p) Ensure that no local government may enact a complete ban on medical marijuana collectives, cooperatives or dispensaries that follow the Attorney General Guidelines, unless expressly permitted by this Act;
- (q) Ensure that if a medical marijuana collective, cooperative or dispensary follows the Attorney General Guidelines, any conflict with a local zoning law shall be deemed a legal but non-conforming uses of the relevant property or properties;
- (r) To create an all-encompassing model for the control and distribution of marijuana for dietary, medical and social consumption;
- (s) Ensure that local jurisdictions may not define as a nuisance *per se* any action or conduct authorized by this Act, rather, a showing of an actual nuisance shall be required;
- (t) To allow for a comprehensive seed-to-sale program for marijuana grown in California.
- (u) To reclassify and de-schedule cannabis from the California Uniform Controlled Substances Act and add it to the list of available medicines in California.

**27020. Definitions.**

“Adult” means an individual twenty-one (21) years of age or older.

“Attorney General Guidelines” means the “*Guidelines For The Security and Non-Diversion of Marijuana Grown for Medical Use*,” issued by the California Attorney General in August 2008.

“Cannabis” means “marijuana” or “marihuana” as defined in Health and Safety Code Section 11018.

“Cannabis Business Certificate” is a certificate issued by the Division indicating that the business has successfully applied for inclusion on the list of entities registered as cannabis manufacturers, cannabis distributors, cannabis retailers, analytical cannabis

laboratories, medical cannabis retailers, or as compassion providers, as set forth in Section 27230 “Types of Registered Businesses.”

“Cannabis-containing product” means a product containing cannabis that is processed for use or consumption, including, without limitation, edible products, ointments and tinctures.

“Collective” is a business entity of any kind, including but not limited to a farm, jointly owned and operated by the members of a group. A collective is an organization that merely facilitates the collaborative efforts of 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 cannot purchase marijuana from, or sell to, non-members; instead, it must only provide a means for facilitating or coordinating transactions between members.

“Controlled substance” means a dangerous, harmful, or detrimental drug as listed under Schedules I to V of Title II of the federal Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. No. 91-513, 84 Stat. 1236 (Oct. 27, 1970), as amended.

“Concentrated cannabis” shall have the same definition as in Health and Safety Code Section 11006.5.

“Dietary cannabis” means cannabis used as a food in its non-psychoactive state for the unique provision of the essential cannabinoid acids, terpenes, flavonoids and other beneficial constituents.

“Excessive” means any requirement or fee that exceeds a normal, usual, or reasonable requirement or fee.

“Individual” means a natural person as defined in Revenue and Taxation Code Section 17005.

“Marijuana” has the meaning set forth in Health and Safety Code Section 11018.

“Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

“Prohibitive” means any requirement or fee that is so burdensome as to discourage the use or business in cannabis.

“Registered business” or a “listed business” is a business that has successfully applied for inclusion on the list of entities registered as cannabis manufacturers, cannabis distributors, cannabis retailers, analytical cannabis laboratories, medical cannabis retailers, or as compassion providers, as set forth in Section 27230 “Types of Registered Business.”

“Restricted area” means the portion of a business location which is clearly identified as such on the floor plan proposal that is submitted with the business’ registration application to the department designated by this Act. The business may cultivate, distribute, possess or produce cannabis in the restricted area.

“Site” means the lot, parcel or portion of a lot or parcel that is used by a person or registered business under this Act used for conduct specifically authorized under this Act.

“Social consumption” means the consumption, smoking, vaporizing, ingesting, topical use, or any other use of cannabis and cannabis-containing products by an individual authorized under this Act, with the exception of consumption of cannabis and cannabis-containing products in accordance with dietary use or a medical treatment regimen.

## **Chapter 2. Medical Marijuana.**

### **§ 27040. Medical Cannabis Protections.**

This Act shall not adversely affect the individual and group medical rights and protections afforded by Health and Safety Code Sections 11362.5 through 11362.83, except as provided in subdivisions (a) and (b).

(a) Effective July 10, 2015, the application and renewal fee established for individuals seeking to obtain or renew voluntary medical marijuana identification card, as defined in Health and Safety Code 11362.7(g), shall not exceed thirty-five dollars (\$35). No California public agency shall collect information pertaining to the residency of the applicant or the designated primary caregiver of the applicant. The Department of Public Health or its successor agency shall designate a portion of the application fee sufficient to cover the expenses of the county health department or the county's designee in processing and accepting applications pursuant to Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.

(b) A voluntary medical cannabis registry identification card or its equivalent issued by another state government to permit the medical use of cannabis by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of cannabis shall have the same force and effect as a voluntary medical marijuana identification card issued by the State of California.

### **Chapter 3. Recreational Use of Marijuana Legal.**

#### **§ 27050. No Adverse Actions.**

No person shall be subject to any administrative, civil or criminal penalty related to the use, growth, cultivation, possession, transportation, or sale of cannabis or the seeds or pollen thereof, nor for land use related to any such activity, if the activity complies with this Act.

#### **§ 27051. Minor Children.**

Unless a child's physical or mental health is in danger as a result of the cultivation of marijuana, the mere presence of one or more minors in a household shall not render such cultivation unlawful *per se*, nor shall such cultivation be used in any manner to diminish paternal rights or justify the removal of a child from the home.

#### **§ 27060. No Prohibitions.**

Using, selling, cultivating, or producing cannabis in any form, including any concentrated form of the separated or extracted resins, whether obtained in crude or purified form, or extracted using any solvents, shall not be prohibited, unless otherwise provided in this Act.

#### **§ 27070. Discrimination Prohibited.**

Except as provided in this Division, no person shall discriminate against any cannabis user by refusing to provide services or benefits or increasing the charge for services or benefits, including, but not limited to, the following:

(a) The mere use of cannabis shall not, without more, form the basis for denying any license, right, or privilege.

(b) Providers of electricity, water or other utility services shall not charge higher rates to any person, nor otherwise discriminate against individuals or businesses, based on the presence, use, or handling of cannabis or hemp.

(c) Banking and financial institutions licensed by the State of California shall not deny financial services to, nor otherwise discriminate against, persons or entities due to their lawful use of or commerce in cannabis.

(d) Insurance and re-insurance entities licensed by the State of California shall not deny insurance or re-insurance services to, or otherwise discriminate against, persons or entities due to their lawful use of or commerce in cannabis.

#### **§ 27080. Regulation of Second Hand Smoke.**

Second hand smoke produced by the smoking of cannabis shall be subject to the same state and applicable local time, place, and manner restrictions that apply to tobacco.

#### **§ 27090. Protections.**

(a) It shall be lawful and not a violation of California law for an individual twenty-one (21) years of age or older:

(1) To smoke or ingest cannabis in one's home, in any privately owned property, or in public in a manner that does not endanger others or violate this division;

(2) To be under the influence of cannabis, except as provided in subdivision (f) of section 647 of the Penal Code; and

(3) To cultivate cannabis on privately owned property with the consent of the owner of such property.

(b) No employer may terminate, suspend, or deny employment based on cannabis consumption in accordance with a recommendation to do so by a qualified medical doctor. No public agency shall alter, amend, assess, condition, deny, limit, postpone, qualify, revoke, surcharge, or suspend any certificate, franchise, incident, interest, license, opportunity, permit, privilege, right or title of any person because of lawful cannabis use or other conduct permitted by this division.

#### **§ 27100. Reasonable Regulation.**

(a) No license or permit fee for cannabis operations shall be excessive, discriminatory, or prohibitive.

(b) No farmers, manufacturers, processors, or distributors of cannabis shall be subject to any zoning requirement, licensing fee, or tax that is excessive, discriminatory, or prohibitive.

(c) No county or municipality may ban or prohibit collectives, cooperatives or dispensaries, whether producing cannabis for dietary purposes, medical purposes, or for personal use, or cannabis-containing products, if they comply with this division, except that the number of storefront dispensing premises may be limited to one for each 10,000 residents of the county or municipality in which the premises are situated. Existing collectives, cooperatives or dispensaries that are in compliance with the Attorney General Guidelines on the effective date of this Act are hereby grandfathered and shall be deemed approved with respect to zoning.

(d) Any application form used by any governmental agency to obtain a tax registration certificate shall not require identification or specification of any cannabis operational purpose and shall instead classify the sales as general retail or similar. The State of California and its agencies and employees shall not disclose and shall protect the identities of all persons, individuals, and corporate entities engaged in cannabis commerce or use, without a court order expressly authorizing the release of such information on a case by case basis. Commercial sales of cannabis shall not be subject to limitations that are discriminatory.

(e) The State Board of Equalization shall permit cannabis business activities the option to answer “decline to state” on their seller’s permit application.

(f) No information provided to any state or local governmental entity may be released to an agency or agent of the federal government in connection with the federal prosecution of a person for cannabis activities that are lawful in California.

#### **Chapter 4. Sales Tax and Allocation of Revenue.**

##### **§ 27110. No Sales or Use Tax for Medical or Dietary Sales.**

Cannabis that is sold for dietary or medical purposes shall not be subject to sales or use taxes, unless those taxes were collected prior to the effective date of this Act.

##### **§ 27120. The Sales and Use Tax Applies to Sales for Adult Social Consumption.**

Except as otherwise provided in this Act, cannabis sold for adult social consumption shall be subject to all state and local sales and use taxes applicable to the jurisdiction in which it is sold.

##### **§ 27130. Revenue Allocation.**

(a) All revenues derived from taxes imposed pursuant to this Division, with the exception of payment of refunds and reasonable and necessary administration and collection expenses, shall be deposited in the Public Benefit Fund, which is hereby created in the State Treasury, and shall be subject to annual appropriation to the State Controller for allocation in accordance with the following formula:

- (1) Twenty percent (20%) for education;
  - (2) Twenty percent (20%) for health care;
  - (3) Twenty percent (20%) for police, sheriff, and fire services;
  - (4) Twenty percent (20%) for drug abuse education and treatment; and
  - (5) \$7.5 million for operations of the Cannabis Control Commission, adjusted biennially for changes in the Consumer Price Index.
- (6) The remainder, if any, for the State General Fund.

(b) In any fiscal year, an appropriation of between nineteen percent (19%) and twenty-one percent (21%) shall be deemed compliant with subdivision (a)(1) through (a)(4).

(c) Not less than 67 percent (67%) of the aggregate expenditures in categories (a)(1) through (a)(4) shall be appropriated to counties, cities, cities and counties, and special districts.

(d) With the exception of the Cannabis Control Commission, the precise recipients of the revenue in the Public Benefit Fund each fiscal year shall be determined by the Governor and the Legislature during the budget process.

(e) On or before the 27th day of each month, the Controller shall allocate the amounts deposited and remaining unexpended and unresolved in the Public Benefit Fund on the 15th day of each month in accordance with the allocation scheme enacted in the budget bill.

## **Chapter 5. Administration.**

### **§ 27200. Cannabis Control Commission.**

(a) There is in state government the California Cannabis Control Commission, consisting of five members appointed by the Governor, subject to confirmation by the Senate.

(b) The regulation of commercial cannabis cultivation, processing, transportation, distribution, and sales is vested in the commission. The commission shall issue business certificates authorizing the cultivation, processing, transportation, distribution, wholesale, and retail sales of cannabis.

### **§ 27210. Commission Members; Eligibility; Qualifications.**

(a) Each member of the commission shall be a citizen of the United States and a resident of this state.

(b) No Member of the Legislature, no person holding any elective office in state, county, or local government, and no officer or official of any political party is eligible for appointment to the commission.

(c) No more than two of the five members of the commission shall be members of the same political party. At least one member of the commission shall be registered to vote “no party preference.”

(d) A person is ineligible for appointment to the commission if, within two years prior to appointment, the person, or any partnership or corporation in which the person is a principal, was employed by, retained by, or derived substantial income from, any cannabis establishment.

(e) One member of the commission shall be a certified public accountant or hold an M.B.A. degree, one member shall be an attorney and an active member of the State Bar of California, one member shall have a background in law enforcement, one member shall own or have owned a small business, and one member shall be from the public at large.

### **§ 27211. Commission Members.**

(a) Of the members initially appointed, two shall be appointed for a term of two years, two shall be appointed for a term of three years, and one shall be appointed for a term of four years. After the initial terms, the term of office of each member of the commission is four years.

(b) The Governor shall designate one member to serve as chairperson. The initial appointments shall be made within three months of the operative date of this section.

Thereafter, vacancies shall be filled within 60 days of the date of the vacancy by the Governor, subject to confirmation by the Senate.

(c) The Governor may remove any member of the commission for incompetence, neglect of duty, or corruption upon first giving him or her a copy of the charges and an opportunity to be heard.

**§ 27212. Commission Members; Oath of Office.**

Before entering upon the duties of his or her office, each member of the commission shall subscribe to the constitutional oath of office and, in addition, swear that he or she is not, and during his or her term of office shall not be, pecuniarily interested in, or doing business with, any person, business, or organization regulated by the commission.

**§ 27213. Salary.**

The members of the commission shall receive the salary provided for by Section 11553.5 of the Government Code.

**§ 27214. Executive Director.**

(a) The commission shall have an executive director appointed by the commission. A person is ineligible for appointment as executive director if, within two years prior to appointment, the person, or any partnership or corporation in which the person is a principal, was employed by, retained by, or derived substantial income from, any cannabis business.

(b) The executive director shall receive an annual salary established by the commission and approved by the Department of Personnel Administration. The executive director shall be the commission's executive officer and shall carry out and execute the duties as specified by law and by the commission.

(c) The commission may appoint other staff and clerical personnel as necessary to carry out its duties under this division.

**§ 27215. Commission Offices.**

(a) The commission shall establish and maintain a general office for the transaction of its business in Sacramento. The commission may hold up to three meetings annually at other locations within the state.

(b) A public record of every vote shall be maintained at the commission's principal office.

(c) A majority of the membership of the commission is a quorum of the commission. The concurring vote of three members of the commission shall be required for any official action of the commission or for the exercise of any of the commission's duties, powers, or functions.

(d) Except as otherwise provided in this division, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code applies to meetings of the commission. Notwithstanding Section 11125.1 of the Government Code, documents, which are filed with the commission for the purpose of



evaluating the qualifications of an applicant, are exempt from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

**§ 27216. Commission Meetings and Records.**

(a) The commission shall maintain for ten years a record of all proceedings at regular and special meetings of the commission. These records shall be open to public inspection.

(b) The commission shall maintain for five years a file of all applications for business certificates under this division, together with a record of all actions taken with respect to those applications. The file and record shall be open to public inspection.

(c) The commission may maintain any other files and records as they deem appropriate. Except as provided in this division, the records of the commission are exempt from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(d) Except as necessary for the administration of this division, no commissioner and no official, employee, or agent of the commission, having obtained access to confidential records or information in the performance of duties pursuant to this division, shall knowingly disclose or furnish the records or information, or any part thereof, to any person who is not authorized by law to receive it. A violation of this subdivision is a misdemeanor punishable by up to one year in prison, a fine of up to \$10,000, or both.

(e) Notwithstanding subdivision (k) of Section 1798.24 of the Civil Code, a court shall not compel disclosure of personal information in the possession of the commission to any person in any civil proceeding wherein the or the commission is not a party, except for good cause and upon a showing that the information cannot otherwise be obtained. Nothing herein shall be construed to authorize the disclosure of personal information that would otherwise be exempt from disclosure.

**§ 27217. State or Local Government Agencies.**

All files, records, reports, and other information in possession of any state or local governmental agency that are relevant to an investigation by the commission conducted pursuant to this division shall be made available to the commission as requested. However, any tax information received from a governmental agency shall be used solely for effectuating the purposes of this division. To the extent that the files, records, reports, or information described in this section are confidential or otherwise privileged from disclosure under any law or exercise of discretion, they shall not lose that confidential or privileged status for having been disclosed to the commission.

**§ 27218. Commission Responsibilities.**

The responsibilities of the commission shall include:

(a) Assuring that business certificates, approvals, and permits are not issued to, or held by, persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(b) Assuring that there is no material involvement, directly or indirectly, with a licensed cannabis operation, or the ownership or management thereof, by persons whose

operations are conducted in a manner that is inimical to the public health, safety, or welfare.

**§ 27219. Commission Powers.**

The commission shall have all powers necessary and proper to enable it fully and effectively to carry out the policies and purposes of this division, including, without limitation, all of the following:

- (a) To regulate commercial cannabis cultivation, processing, transportation, distribution.
- (b) To issue business certificates authorizing the cultivation, processing, transportation, distribution, wholesale, and retail sales of cannabis.
- (c) To collect business certificate fees or taxes.
- (d) To deny, suspend or revoke cannabis business certificates for good cause following analogous procedures as those used for alcohol and adopted by regulation.
- (e) For any cause deemed reasonable by the commission, to deny any application for a business certificate provided for in this division; to limit, condition, or restrict any certificate, or impose any fine upon any person certificated. The commission may condition, restrict, discipline, or take action against the certificate of an individual owner endorsed on the certificate of the cannabis enterprise whether or not the commission takes action against the cannabis enterprise itself.
- (f) Approve or disapprove transactions, events, and processes as provided in this division.
- (g) Take actions deemed to be reasonable to ensure that no ineligible or unsuitable persons are associated with controlled cannabis activities.
- (h) Take actions deemed to be reasonable to ensure that cannabis activities take place only in suitable locations.
- (i) Grant temporary certificates on appropriate terms and conditions.
- (j) Institute a civil action in any superior court against any person subject to this division to restrain a violation of this division. An action brought against a person pursuant to this section does not preclude a criminal action or administrative proceeding against that person by the Attorney General or any district attorney or city attorney.
- (k) Issue subpoenas to compel attendance of witnesses and production of documents and other material things at a meeting or hearing of the commission or its committees, including advisory committees.

**27220. Oaths.**

The executive director and members of the commission may administer oaths and certify official acts in connection with the business of the commission.

**§ 27221. Rulemaking Procedure; Review by OAL.**

The regulations of the commission shall be promulgated in compliance with the Administrative Procedure Act, except that any review by the Office of Administrative Law shall be limited to ensuring compliance only with the procedural provisions of that statute, in the exact same manner that it reviews regulations of the Fair Political Practices Commission.

**§ 27222. Regulations; Content Requirements.**

(a) The commission shall adopt regulations for the administration and enforcement of this division.

(b) The regulations of the commission shall include appropriate controls on the premises for commercial production, cultivation, processing, transportation and sales of cannabis. They also shall address age verification measures to prevent the diversion of cannabis to minors; prohibitions on the use of firearms at cultivation, processing, or distribution facilities; and regulations concerning time, place and manner of operation, occupancy, protection of adjoining and nearby properties, and other environmental and public health controls.

(c) No regulation of the commission shall infringe on the individual rights set forth in this Act. Any taxes, regulations, fines and fees imposed pursuant to this section shall not be imposed on personal amounts of cannabis below three pounds of processed cannabis and 100 square feet of cannabis plant canopy per adult, provided that the processed cannabis did not violate another provision of this division. For medical purposes, no more than 10 adults shall aggregate together for purposes of forming a non-commercial, unregulated cannabis garden consistent with Section 27300. The presence of persons younger than 18 years of age in a household does not make the cultivation unlawful nor shall it be used in any manner to diminish paternal rights or justify the removal of a child from the home, unless the child's physical health and wellbeing is in actual imminent danger.

(d) The regulations adopted by the commission shall do all of the following:

(1) With respect to applications, certificates, investigations, and fees, the regulations shall include, but not be limited to, provisions that do all of the following:

(A) Prescribe the method and form of application and certificates.

(B) Prescribe the information to be furnished by any applicant and certificate holder concerning, as appropriate, the person's personal history, habits, character, associates, criminal record, business activities, organizational structure, and financial affairs, past or present.

(C) Prescribe the information to be furnished by any certificate holder relating to any employees.

(D) Require fingerprinting or other methods of identification of an applicant, certificate holder, or employee of such.

(E) Prescribe the manner and method of collection and payment of fees and issuance of certificates.

(2) Implement the provisions of this division relating to certificates and other approvals.

(4) Require any registrant to report and keep records of transactions, involving cash or credit.

(5) Provide for the receipt of protests and written comments on an application by public agencies, public officials, local governing bodies, or residents of the location of the cannabis establishment or future cannabis establishment.

(6) Provide for the disapproval of advertising by licensed cannabis establishments that are determined by the commission to be deceptive to the public. Advertisement that appeals to children or adolescents is presumptively deceptive.

(7) Govern all of the following:

- (A) The extension of credit.
- (B) The cashing, deposit, and redemption of checks or other negotiable instruments.
- (C) The verification of identification in monetary transactions.
- (8) Prescribe minimum procedures for adoption by any registrant to exercise effective control over their internal fiscal and cannabis affairs, which shall include, but not be limited to, provisions for all of the following:
  - (A) The safeguarding of assets and revenues, including the recording of cash and evidences of indebtedness.
  - (B) Prescribing the manner in which compensation from cannabis sales and gross revenue shall be computed and reported by any registrant.
  - (C) The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the commission.
- (9) Provide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants.
- (10) Require periodic financial reports from each registrant.
- (11) Specify standard forms for reporting financial conditions, results of operations, and other relevant financial information.
- (12) Formulate a uniform code of accounts and accounting classifications to ensure consistency, comparability, and effective disclosure of financial information.
- (13) Require audits to be conducted, in accordance with generally accepted auditing standards, of the financial statements of all registrants whose annual gross revenues equal or exceed a specified sum. However, nothing herein shall be construed to limit the commission's authority to require audits of any registrant. Audits, compilations, and reviews provided for in this subdivision shall be made by independent certified public accountants licensed to practice in this state.
- (14) Restrict, limit, or otherwise regulate any activity that is related to the conduct of cannabis cultivation, processing, transportation and sales of cannabis, consistent with the purposes of this division.
- (15) Prohibit cannabis establishments from cashing checks drawn against any federal, state, or county fund, including, but not limited to, social security, unemployment insurance, disability payments, or public assistance payments. However, a cannabis establishment shall not be prohibited from cashing any payroll checks or checks for the delivery of goods or services that are drawn against a federal, state, or county fund.

**§ 27223. Administrative Adjudication.**

The commission may require that any matter that the commission is authorized or required to consider in a hearing or meeting of an adjudicative nature regarding the denial, suspension, or revocation of a business certificate be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

**§ 27224. Mandamus.**

(a) A decision of the commission denying a certificate, or imposing any condition or restriction on the grant of a certificate, may be reviewed by petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure shall

not apply to any judicial proceeding described in the foregoing sentence, and the court may grant the petition only if the court finds that the action of the commission was arbitrary and capricious, or exceeded the commission's jurisdiction.

(b) Any person aggrieved by a final decision or order of the commission that limits, conditions, suspends, or revokes any previously granted certificate, made after hearing by the commission, may petition the Superior Court for the County of Sacramento for judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and Section 11523 of the Government Code. Notwithstanding any other provision of law, the standard set forth in paragraph (1) of subdivision (h) of Section 1094.5 of the Code of Civil Procedure shall apply for obtaining a stay of the operation of a final decision or order of the commission.

### **§ 27225. Executive Director; Responsibilities.**

The Executive Director shall perform all investigatory functions required by this division, as well as auditing functions, and shall have all of the following responsibilities:

(a) To receive and process applications for any certificate, and to collect all related fees. The Executive Director shall investigate the qualifications of applicants before any certificate is issued, and investigate any request to the commission for any approval that may be required pursuant to this division. The Executive Director may recommend the denial or the limitation, conditioning, or restriction of any certificate.

(b) To monitor the conduct of all registrants and other persons having a material involvement, directly or indirectly, with a cannabis operation or its holding company, for the purpose of ensuring that certificates are not issued or held by, and that there is no direct or indirect material involvement with, a cannabis operation or holding company by ineligible or unsuitable persons, or persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(c) To investigate suspected violations of this division or laws of this state relating to cannabis, including any activity prohibited by the Penal Code.

(d) To investigate complaints that are lodged against certificate holders, or other persons associated with a cannabis operation, by members of the public.

(e) To initiate, where appropriate, a restriction, limitation, suspension, or revocation of any certificate, or the imposition of any fine upon any person certificated.

(f) To adopt any other regulations reasonably related to its functions and duties as specified in this division.

### **§ 27226. Investigations.**

(a) The Executive Director has all powers necessary and proper to carry out fully and effectually the duties and responsibilities specified in this section. The investigatory powers of the Executive Director include, but are not limited to, the following:

(1) Without notice or warrant, the Executive Director may take any of the following actions:

(A) Visit, investigate, and place accountants, technicians, and any other person, as it may deem necessary, in all areas of the premises wherein cannabis operations are conducted for the purpose of determining compliance with the rules and regulations adopted pursuant to this division.

(B) Visit, inspect, and examine all premises where cannabis is cultivated, manufactured, sold, or distributed.

(C) Inspect all equipment and supplies in any cannabis establishment or in any premises where cannabis equipment is cultivated, manufactured, sold, or distributed.

(D) Summarily seize, remove, and impound any equipment, supplies, documents, or records from any certificated premises for the purpose of examination and inspection. However, upon reasonable demand by the certificate holder, a copy of all documents and records seized shall be made and left on the premises.

(E) Demand access to, and inspect, examine, photocopy, and audit all papers, books, and records of a certificate holder on the cannabis premises in the presence of the certificate holder or agent.

(2) Upon obtaining an inspection warrant pursuant to Section 1822.60 of the Code of Civil Procedure, the Executive Director may inspect and seize for inspection, examination, or photocopying any property possessed, controlled, bailed, or otherwise held by any applicant, certificate holder, or any intermediary company, or holding company.

(3) The Executive Director may investigate any suspected violation of this division.

(4) The Executive Director may do both of the following:

(A) Issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials.

(B) Administer oaths, examine witnesses under oath, take evidence, and take depositions and affidavits or declarations. Notwithstanding Section 11189 of the Government Code, the Executive Director, without leave of court, may take the deposition of any applicant or any certificate holder. Sections 11185 and 11191 of the Government Code shall not apply to a witness who is an applicant or a certificate holder.

(b) (1) Subdivision (a) shall not be construed to limit warrantless inspections except as required by the California Constitution or the United States Constitution.

(2) Subdivision (a) shall not be construed to prevent entries and administrative inspections, including seizures of property, without a warrant in the following circumstances:

(A) With the consent of the owner, operator, or agent in charge of the premises;

(B) In situations presenting imminent danger to health and safety;

(C) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impractical to obtain a warrant, or in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

(D) In accordance with this division; and

(E) In all other situations where a warrant is not constitutionally required.

#### **§ 27227. Applicants.**

(a) Without limiting any privilege that is otherwise available under law, any communication or publication from, or concerning, an applicant or certificate holder, in oral, written, or any other form, is absolutely privileged and shall not form a basis for imposing liability for defamation or constitute a ground for recovery in any civil action, under any of the following circumstances:

(1) It was made or published by an agent or employee of the commission in the proper discharge of official duties or in the course of any proceeding under this division.

(2) It was required to be made or published to the commission, or any of its agents or employees, by law, regulation, or subpoena of the commission.

(3) It was, in good faith, made or published to the commission for the purpose of causing, assisting, or aiding an investigation conducted pursuant to this division.

(b) If any document or communication provided to the commission contains any information that is privileged pursuant to Division 8 (commencing with Section 900) of the Evidence Code, or any other provision of law, that privilege is not waived or lost because the document or communication is disclosed to the commission or to any of its agents or employees.

(c) The commission, and their agents and employees shall not release or disclose any information, documents, or communications provided by an applicant, registrant, or other person, that are privileged pursuant to Division 8 (commencing with Section 900) of the Evidence Code, or any other provision of law, without the prior written consent of the holder of the privilege, or pursuant to lawful court order after timely notice of the proceedings has been given to the holder of the privilege. An application to a court for an order requiring the commission to release any information declared by law to be confidential shall be made only upon motion made in writing on not less than 10-business days' notice to the commission, and to all persons who may be affected by entry of the order.

#### **§ 27228. District Attorneys and State and Local Law Enforcement Agencies.**

Every district attorney, and every state and local law enforcement agency, shall furnish to the commission, on forms prepared by the commission, all information obtained during the course of any substantial investigation or prosecution of any person, as determined by the commission, if it appears that a violation of any law related to cannabis has occurred, including any violation of the Penal Code.

### **Chapter 6. Business Regulation.**

#### **§ 27230. Types of Registered Businesses.**

The following registration types shall be introduced for the retail sale, distribution, and manufacture of cannabis and cannabis-containing products. Nothing shall prevent any business from simultaneously registering as multiple types of registered businesses.

(a) Cannabis Manufacturer. A cannabis manufacturer is any registered business exclusively dedicated to the germination, cultivation, production, processing, conversion, extraction, in-vitro testing, distribution, or wholesale of cannabis. The registration fee for a cannabis manufacturer shall be an annual fee of five thousand dollars (\$5,000), plus one hundred and fifty dollars (\$150) per 100 square feet of cannabis plant canopy. This fee may be waived or refunded if a crop fails to yield its expected harvest. A cannabis manufacturer may:

(1) Cultivate, process, convert, distribute, receive, provide, purchase, extract, germinate, possess, produce, test, and destroy cannabis and cannabis-containing products;

(2) Conduct in-vitro testing necessary to assay the content of cannabinoids in its products; and

(3) Sell, ship, deliver, and transport cannabis and cannabis-containing products to another cannabis manufacturer, a cannabis distributor, a cannabis retailer, an analytical

cannabis laboratory, a medical cannabis retailer, a medical cannabis collective, a medical cannabis cooperative, a medical cannabis dispensary or a regulatory Department.

(b) Cannabis Distributor. A cannabis distributor is any registered business exclusively dedicated to the processing, conversion, testing, distribution, or wholesale sales of cannabis. The registration fee for a cannabis distributor shall be an annual fee of one thousand dollars (\$1,000). A cannabis distributor may:

- (1) Process, convert, distribute, combine, receive, provide, purchase, possess, test, and destroy cannabis and cannabis-containing products;
- (2) Sell cannabis and cannabis-containing products to distributors and retailers; and
- (3) Ship, deliver, and transport cannabis and cannabis-containing products to another cannabis distributor, a cannabis manufacturer, a cannabis retailer, a medical cannabis retailer, a medical cannabis collective, a medical cannabis cooperative, a medical cannabis dispensary or a regulatory department.

(c) Cannabis Retailer. A cannabis retailer is any registered business exclusively dedicated to adult cannabis sales. The registration fee for a cannabis retailer shall be an annual fee of five thousand dollars (\$5,000). A cannabis retailer may:

- (1) Process, convert, distribute, receive, provide, purchase, combine, possess, test, and destroy cannabis and cannabis-containing products;
- (2) Sell cannabis and cannabis-containing products to an individual for his or her personal use; and
- (3) Ship, deliver, and transport cannabis and cannabis-containing products to an individual for his or her personal use, a cannabis distributor, a cannabis manufacturer or a regulatory department.

(4) Engage in on-premises retail sales of cannabis and cannabis-containing products.

(d) Analytical Cannabis Laboratory. An analytical cannabis laboratory is any registered business exclusively dedicated to the quality control and testing of cannabis and cannabis-containing products. The registration fee for a cannabis lab shall be an annual fee of one thousand dollars (\$1,000). A cannabis lab may:

- (1) Process, distribute, receive, transport, possess, test, and destroy cannabis and cannabis-containing products;
- (2) Test cannabis and cannabis-containing products submitted by any person, whether an unlicensed individual or a entity;
- (3) Provide testimony or sworn affidavit in regards to the chemical composition and quality of cannabis tested to the courts of the State of California;
- (4) Ship, deliver, and transport cannabis and cannabis-containing products to a cannabis manufacturer, a cannabis distributor, a cannabis retailer, a medical cannabis retailer, a medical cannabis collective, a medical cannabis cooperative, a medical cannabis dispensary or a regulatory department; and
- (5) Engage in analytical testing of cannabis and cannabis-containing products, and the sales of on-site or mobile testing services for cannabis and cannabis-containing products.

(e) Medical Cannabis Retailer. A medical cannabis retailer is any registered collective, cooperative, dispensary or other business exclusively dedicated to medical cannabis use and sales as well as to any bona fide eating or drinking establishment seeking to permit medical cannabis consumption on premises. The registration fee for a cannabis retailer shall be an annual fee of five hundred dollars (\$500). Medical cannabis collectives and cooperatives that exist as storefront dispensaries, collectives, or cooperatives, as of the



date this Section is enacted, that are at least 600 feet from schools K-12, shall be exempt from any enforcement actions with respect to local zoning ordinances, and shall automatically qualify as a medical cannabis retailer, and may be without any fee or regulations imposed by this division. Medical cannabis retailers shall verify medical cannabis patients using the voluntary medical marijuana identification card issued by the State of California. A medical cannabis retailer may:

(1) Purchase, possess, process, combine, convert, cultivate, distribute, extract, germinate, produce, provide, receive, test, and destroy cannabis and cannabis-containing products;

(2) Sell cannabis and cannabis-containing products to an individual for his or her medical use;

(3) Accept donations, contributions, or reimbursements for any expenses related to producing or providing cannabis and cannabis-containing products for an individual for his or her medical use;

(4) Allow the medical use of cannabis and cannabis-containing products on his or her property;

(5) Ship, deliver, and transport cannabis and cannabis-containing products inside California to an individual for his or her medical use, another medical cannabis retailer or any collective, cooperative, dispensary not in accordance to this division; and

(6) Engage in the retail sales of cannabis and cannabis-containing products, or on-premises consumption of cannabis and cannabis-containing products.

(f) Compassionate Use Provider. A compassionate-use provider is any registered collective, co-operative, dispensary, person, or other business exclusively dedicated to providing weekly or daily cannabis and cannabis-containing products at no cost to individuals who have a low income or severe medical condition, or are disabled, elderly, terminally ill, or veterans of the Armed Forces of the United States of America. No registration fee shall be charged to a compassionate-use provider. If a compassionate-use provider fails to comply with this section, any and all fees associated with a cannabis retailer shall apply.

(1) To qualify as a compassion-provider, of the total cannabis and cannabis-containing products produced or provided:

(A) One-quarter must be provided at no cost to individuals who have a low-income or severe medical condition, or are disabled, elderly, terminally ill, or veterans of the Armed Forces of the United States of America.

(B) One-quarter must be provided at a rate no higher than the cost of production to individuals who qualify as very low income for purposes of the Medi-Cal program. The cost of production may include any overhead expense in providing the cannabis and cannabis-containing products, as well as any cost associated with the production of any products provided at no cost.

(C) All products provided by a compassionate-use provider pursuant to Section 27230(f)(1)(A) and (B) must be of an equivalent quality, as tested by a registered and qualified cannabis laboratory, to cannabis and cannabis-containing products produced or provided for regular retail.

(2) A compassion provider may:

(A) Register as a cannabis manufacturer, cannabis distributor, or medical cannabis retailer at no cost; and

(B) Engage in the same activities as a cannabis retailer without a separate registration for a cannabis retailer.

(g) On-site Consumption Provider. An on-site consumption provider is any registered business, collective, cooperative, dispensary, farmers market, festival or any other event, as well as to any bona fide eating or drinking establishment seeking to permit cannabis consumption on premises. The registration fee for an on-site consumption provider shall be an annual fee of five hundred dollars (\$500). An on-site consumption provider may:

(1) Allow the use of or smoking of cannabis and cannabis-containing products, indoors and/or outdoors on his or her property or location of the event;

(2) Allow the sales of cannabis and cannabis-containing products by businesses registered under this Division as well as individual's not registered under this Division, on his or her property;

(3) Engage in on-premises or off-premises consumption of cannabis and cannabis-containing products.

(h) Each dollar amount of five hundred dollars (\$500) or greater in this section shall be adjusted by the Division for changes in the Consumer Price Index to the nearest \$100 in January of each odd-numbered year.

## **Chapter 7. Finance and Insurance.**

### **§ 27290. Cannabis Insurance and Financial Cooperatives.**

(a) A financial cooperative may be established pursuant to this section for, and limited to, an exclusive organization, ownership, and membership by collectives, cooperatives, and cannabis or hemp related business.

(1) A financial cooperative established pursuant to this section shall be subject to the California Commissioner of Financial Institutions. A financial cooperative established pursuant to this section shall not refer to itself as a "Credit Union" nor use the term "Credit Union" to describe itself in any documents related to the financial cooperative. The Commissioner shall promulgate rules for a notice that shall be provided to each prospective member and member of a financial cooperative pursuant to this section regarding the differences between the financial cooperative and other financial institutions.

(2) Pursuant to this section any state chartered credit union, or other financial entity regulated by the California Commissioner of Financial Institutions, which provides non-federally insured deposit insurance, shall not be penalized for providing commercial banking services to state licensed or registered cannabis or hemp businesses, medical marijuana collectives or cooperatives.

(b) An insurance cooperative may be established pursuant to this section for, and limited to, an exclusive organization, ownership, and membership by collectives, cooperatives, and cannabis or hemp related business.

(1) An insurance cooperative established pursuant to this section shall be subject to the California Commissioner of Insurance. The Commissioner shall promulgate rules for a notice that shall be provided to each prospective member and member of an insurance cooperative pursuant to this section regarding the differences between the insurance cooperative and other insurance agencies.

(2) Pursuant to this section any state chartered insurance agency, or other insurance entity regulated by the California Commissioner of Insurance which provides non-federally insured, insurance services, shall not be penalized for providing insurance

services to state licensed or registered cannabis or hemp businesses, medical marijuana collectives or cooperatives.

### **§ 27300. Limitations.**

(a) Any taxes, regulations, fines and fees imposed pursuant to this section shall not be imposed on the possession of personal amounts of cannabis below three pounds of processed cannabis. Individuals twenty-one (21) years of age or older may cultivate no more than 100 square feet of cannabis plant canopy outdoor per acre, per *individual*, and 100 square feet of cannabis plant canopy indoor, per *individual*, on his or her purchased or rented property. No more than ten (10) adults may aggregate together for the purpose of forming a non-medical, non-commercial, unregulated cannabis garden. Exceeding these limits shall be deemed:

(1) An offense and punishable by a fine of one hundred dollars (\$100), an infraction as defined in Penal Code Section 19.6, or a requirement to attend the county cannabis diversion program; and

(2) A commercial/agricultural operation and regulated under local zoning ordinances.

(b) Except as authorized by law, every individual twenty-one (21) years of age or older who furnishes cannabis to an individual under the age of eighteen (18) shall be guilty of a misdemeanor. Except as authorized by law, every individual twenty-one (21) years of age or older who furnishes cannabis to an individual under the age of twenty-one (21), but eighteen (18) years of age or older, shall be guilty of an infraction. Cannabis related conduct that contributes to the delinquency of a minor may also be punishable by Penal Code section 272.

(c) Individuals shall be responsible for the consequences of their own use of cannabis. Sellers or providers of cannabis shall not be responsible for the consequences or claimed damages due to the use of cannabis by any party or any third party claimant, except where the seller or provider knowingly or negligently:

(1) Supplies cannabis to a minor, without the consent of his or her parent or legal guardian;

(2) Supplies cannabis or a cannabis-containing product to an adult without his or her knowledge or consent; or

(3) Supplies cannabis which is contaminated, adulterated, or polluted without the full disclosure of the type of contaminating substance to the individual.

(d) Nothing in this division shall protect anyone from California's Arson Laws, Penal Code's 451 and 452.

(e) It is a misdemeanor to be impaired by cannabis while operating a vehicle, boat, aircraft, or school or public bus in any manner that endangers others, or upon objection by the property owner or resident; nothing in this section shall restrict the application of Vehicle Code Sections 23103, 23152(a) or 23153.

(f) Punishments for violations in actions against persons registered under this division that would be applicable to the regulation of alcohol sales, including penalties for permitting individuals under twenty-one (21) years of age to purchase any product specified in this division, and other appropriate regulatory provisions concerning such matters as the time of sale, deliveries, and signage, shall be consistent with the statutory guidance regarding alcohol sales in Chapter 16 (commencing with Section 25600), to the extent that consistency is feasible.

(g) Any solvent-based extraction:

(1) May use any of the following solvents: water, carbon dioxide, oxygen, nitrogen, or any other asphyxiant gas; n-butane, propane, pentane, hexanes, or n-heptane; isopropyl or ethyl alcohols; naphtha; or any solvent approved by the Department of Food and Agriculture;

(2) Must be done in a safe environment in order to prevent bodily harm;

(3) Must ensure that the final product is free of any harmful pesticides;

(4) Must ensure that the final product has less than ten parts per million (10ppm) of any residual solvents;

(5) Must ensure that the final product is labeled with its intended mode of administration (including, but not limited to, topical, inhalation, or oral);

(6) Must follow any additional regulations created by the Department of Food and Agriculture.

(h) No business registered per this division shall employ any individual under the age of twenty-one (21) years or permit any individual under the age of twenty-one (21) years, without the consent of his or her parent or legal guardian, to enter or remain upon, the site where cannabis is manufactured, distributed, or sold at retail, with the exception of medical cannabis patients accessing the site solely in accordance with his or her medical treatment program.

(j) A city or county may mandate that air filtration equipment be used for premises seeking to permit indoor Cannabis smoking in their jurisdiction.

(i) The following activities may be punished as either a misdemeanor, felony, or by a requirement to attend the county cannabis diversion program:

(1) The diversion of marijuana to states where it is not legal.

(2) Cannabis related activity that is being used as a cover or pretext for the trafficking of illegal drugs or other illegal activity.

(3) The use of violence, coercion, or duress in the unlawful cultivation and unlawful distribution of marijuana.

(4) Gross pollution or environmental destruction caused by the unlawful cultivation of marijuana.

## **Chapter 8. Enforcement.**

### **§ 27400. Penalties; Cannabis Education Diversion Program.**

(a) Drug diversion programs created by Penal Code Section 1211, shall no longer apply to cannabis. In order to ensure a quality cannabis diversion program, in each county, the County Sheriff shall appoint a cannabis education program administrator, who shall establish minimum requirements, criteria, and fees for the successful completion of cannabis diversion programs. These minimum requirements shall include, but not be limited to, all of the following:

(1) An initial assessment of each participant, which may include all of the following:

(A) Social, economic, and family background;

(B) Education;

(C) Professional history;

(D) Criminal history;

(E) Medical history; and

- (F) Drug history and previous treatment.
- (2) A minimum of ten hours of either effective education or counseling or any combination of both for each participant.
- (3) An exit conference which shall reflect the participant's progress during his or her participation in the program.
- (4) Fee exemptions for individuals who cannot afford to pay.
- (b) The county cannabis education program administrator shall implement a certification procedure for cannabis diversion programs.
- (c) The county cannabis education program administrator shall recommend for approval by the county board of supervisors programs pursuant to this division. No program, regardless of how it is funded, may be approved unless it meets the standards established by the administrator, which shall include, but not be limited to, all of the following:
  - (1) Guidelines and criteria for education and treatment services, including standards of services which may include lectures, classes, group discussions, and individual counseling. However, any class or group discussion other than lectures, shall not exceed fifteen (15) individuals at any one meeting.
  - (2) Established and approved supervision, either on a regular or irregular basis, of the individual for the purpose of evaluating the individual's progress.
  - (3) A schedule of fees to be charged for services rendered to each individual under a county cannabis program plan in accordance with the following provisions:
    - (A) Fees shall be used only for the purposes set forth in this division.
    - (B) Fees for the treatment or rehabilitation of each participant receiving services under a certified cannabis diversion program shall not exceed the dual cost thereof, as determined by the county cannabis education program administrator according to standard accounting practices.
    - (C) Actual costs shall include both of the following:
      - (i) All costs incurred by the providers of diversion programs.
      - (ii) All expenses incurred by the county for administration, certification, or management of the cannabis diversion program in compliance with this division.
    - (d) The county shall require, as a condition of certification, that the cannabis diversion program pay to the county cannabis education program administrator all expenses incurred by the county for administration, certification, or management of the cannabis diversion program in compliance with this division. No fee shall be required by any county other than that county where the program is located.
    - (e) Driving while impaired by cannabis shall remain punishable by Vehicle Code Sections 23103, 23152(a) and 23153, with the exception that in all cases cannabis impairment must be proven by admissible evidence of observations, and no presumptions shall arise from any chemical test of blood, breath, or urine. Cannabis related impairment is a function of familiarity and dose and has little if anything to do with the number of nanograms of delta-9-tetrahydrocannabinol (THC) and/or other psycho-active cannabinoid compounds found in the blood, saliva, or hair sample. Cannabis impairment occurs when an individual's physical abilities are so impaired that he or she is no longer able to drive a vehicle with the same degree of caution, care, and attention as he would have had, had he or she been sober.
    - (f) The use, cultivation, or sales of cannabis by individuals under the age of twenty-one (21) for any purpose, other than medical use, may be prohibited, but punishment shall not exceed a civil infraction as defined in Penal Code § 19.6, or, in the alternative, a

requirement to attend the county cannabis diversion program. Upon satisfactory completion of a county cannabis diversion program, any infraction conviction shall be automatically expunged.

**§ 27500. Prohibition.**

The use of any state or local resources, including, but not limited to, County, City and County, City or District, to arrest, prosecute, enact, enforce, or fund the prohibition of possession, use, cultivation, transportation or sale of cannabis or hemp, whether under state or federal law, is expressly prohibited.

**SEC. 5.** *Section 11014.5 of the Health and Safety Code is amended to read:*

(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 ~~marijuana, 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 marijuana 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. 6.** *Section 11054 of the Health and Safety Code is amended to read:*

(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) Norpipanone.
- (34) Phenadoxone.
- (35) Phenampromide.
- (36) Phenomorphan.
- (37) Phenoperidine.
- (38) Pir tramide.
- (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) Hydromorphanol.
  - (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) Marijuana.~~
- (13 4) Mescaline.
- (154) 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)).
- (156) N-ethyl-3-piperidyl benzilate.
- (167) N-methyl-3-piperidyl benzilate.
- (178) Psilocybin.
- (189) 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.~~

(201) Ethylamine analog of phencyclidine--Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

(212) Pyrrolidine analog of phencyclidine--Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCP, PHP.

(223) 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. 7.** *Section 11357 of the Health and Safety Code is repealed.*

**SEC. 8.** *Section 11358 of the Health and Safety Code is repealed.*

**SEC. 9.** *Section 11359 of the Health and Safety Code is repealed.*

**SEC. 10.** *Section 11360 of the Health and Safety Code is repealed.*

**SEC. 11.** *Section 11361 of the Health and Safety Code is repealed.*

**SEC. 12.** *Section 11361.5 is amended to read:*

(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 ~~subdivision (b), (c), (d), or (e) of Section 11357, 11358, 11359, 11360, or 11361, or any cannabis related~~ violation of Section 11365, 11366, 11366.5, 11379.6, or any violation of subdivision (b) of

Section 23222 of the Vehicle ~~or subdivision (b) of Section 11360~~, 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 (e) of Section 11357 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 shall provide for the timely destruction of the records in accordance with subdivision (c). 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.

(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 marijuana, 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 marijuana 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 marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(c) 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.

(d) 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).

(e) 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.

(f) 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.

(g) 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. 13.** *Section 11364.5 of the Health and Safety Code is amended to read:*

(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 such 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, marijuana.~~

~~(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 marijuana, 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 marijuana 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. 14.** *Section 11365 of the Health and Safety Code is amended to read:*

(a) It is unlawful to visit or to be in any room or place where any controlled substances which are specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (4413) or (15), ~~or (20)~~ of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) or paragraph (2) of subdivision (d) of Section 11055, or which are narcotic drugs classified in Schedule III, IV, or V, are being unlawfully smoked or used with knowledge that such activity is occurring.

(b) This section shall apply only where the defendant aids, assists, or abets the perpetration of the unlawful smoking or use of a controlled substance specified in subdivision (a). This subdivision is declaratory of existing law as expressed in *People v. Cressey* (1970) 2 Cal. 3d 836.

**SEC. 15.** *Section 11366 of the Health and Safety Code is amended to read:*

Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13) or (14), ~~(15)~~, ~~or (20)~~ of subdivision (d) of Section 11054, or specified in subdivision (b), (c), paragraph (1) or (2) of subdivision (d), or paragraph (3) of subdivision (e) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

**SEC. 16.** *Section 11470 of the Health and Safety Code is amended to read:*

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 cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or a substance containing 14.25 grams or more of heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or 14.25 grams or more of a substance containing heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or 28.5 grams or more of Schedule I controlled substances except ~~marijuana~~, peyote, or psilocybin; 10 pounds dry weight or more of ~~marijuana~~, peyote, or psilocybin; or 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, or methamphetamine; or a substance containing 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, or methamphetamine; or 57 grams or more of a substance containing cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, or methamphetamine; or 28.5 grams or more of Schedule II controlled substances. No 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, may 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 division, 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) 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 division, if the state or local governmental entity proves a violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves the manufacture, sale, possession for sale, offer for sale, offer to manufacture, or conspiracy to commit at least one of those offenses, in accordance with the burden of proof set forth in paragraph (1) of subdivision (i) of Section 11488.4 or, in the case of cash or negotiable instruments in excess of twenty-five thousand dollars (\$25,000), paragraph (4) of subdivision (i) of Section 11488.4.

The operation of the special vesting rule established by this subdivision shall be limited to circumstances where its application will not defeat the claim of any person, including a bona fide purchaser or encumbrancer who, pursuant to Section 11488.5, 11488.6, or 11489, claims an interest in the property seized, notwithstanding that the interest in the property being claimed was acquired from a defendant whose property interest would otherwise have been subject to divestment pursuant to this subdivision.

**SEC. 17.** *Section 11485 of the Health and Safety Code is repealed.*

**SEC. 18.** *Section 11488 of the Health and Safety Code is amended to read:*

(a) Any peace officer of this state, subsequent to making or attempting to make an arrest for a violation of Section 11351, 11351.5, 11352, 11355, ~~11359, 11360,~~ 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 of this code, or Section 182 of the Penal Code insofar as the offense involves manufacture, sale, purchase for the purpose of sale, possession for sale or offer to manufacture or sell, or conspiracy to commit one of those offenses, may seize any item subject to forfeiture under subdivisions (a) to (f), inclusive, of Section 11470. The peace officer shall also notify the Franchise Tax Board of a seizure where there is reasonable cause to believe that the value of the seized property exceeds five thousand dollars (\$5,000).

(b) Receipts for property seized pursuant to this section shall be delivered to any person out of whose possession such property was seized, in accordance with Section 1412 of the Penal Code. In the event property seized was not seized out of anyone's possession,



receipt for the property shall be delivered to the individual in possession of the premises at which the property was seized.

(c) There shall be a presumption affecting the burden of proof that the person to whom a receipt for property was issued is the owner thereof. This presumption may, however, be rebutted at the forfeiture hearing specified in Section 11488.5

**SEC. 19.** *Section 23222 of the Vehicle Code is amended to read:*

No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

~~————(b) Except as authorized by law, every person who possesses, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, not more than one avoirdupois ounce of marijuana, other than concentrated cannabis as defined by Section 11006.5 of the Health and Safety Code, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).~~

**SEC. 20.** *Section 81007 of the Food and Agricultural Code is repealed.*

**SEC. 21.** *Section 81008 of the Food and Agricultural Code is repealed.*

**SEC. 22.** *Section 81009 of the Food and Agricultural Code is repealed.*

**SEC. 23.** *Section 81010 of the Food and Agricultural Code is amended to read:*

~~This division shall not become operative unless authorized under federal law~~ become operative **on** July 10, 2015.

**SEC. 24. No Federal Enforcement by State Officials.**

(a) This Act is an exercise of California's right under the 10th Amendment to the United States Constitution to enact laws not expressly delegated to the federal government. The People of the State of California should not be conscripted to enforce federal law regarding marijuana. It is the exclusive right of the People of California to determine the legality of reasonable marijuana use inside its borders.

(b) Nothing in this Division shall prohibit the State of California from preventing the diversion of marijuana to jurisdictions where it is illegal or cooperating with the federal government to control the importation and exportation of cannabis from California.

**SEC. 25. Liberal Construction.**

This Act is an exercise of the police power of the people of the State of California for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate those purposes the purposes and intents expressed herein.

## **SEC. 26. Limited Immunity.**

In the event this Act is determined to be invalid for any reason under federal law, then this Act shall be deemed to confer limited immunity such that any person charged with any marijuana-related conduct shall be immune from prosecution under state law.

## **SEC. 27. Severability.**

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. 28. Conflicting Measures.**

(a) The provisions and intent of this Act shall be given precedence over any state law, statute, regulation or policy that conflicts with this section, and the policy and intent of this Act shall prevail over any such contrary law, statute, regulation or policy.

(b) If this measure is approved by the voters, but superseded by any other conflicting ballot measure approved by more voters at the same election, and the conflicting ballot measure is later held invalid, it is the intent of the voters that this Act shall be given the full force of law.

(c) If any rival or conflicting initiative regulating any matter addressed by this Act receives the higher affirmative vote, then all non-conflicting parts shall become operative.

## **SEC. 29. State Reimbursement.**

No reimbursement is required by this Act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this Act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XLL1 B of the California Constitution.

## **SEC. 30. Amendment.**

The provisions of this Act shall not be amended by the Legislature except to further its purposes by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring.

## **SEC. 32. Defense by the State.**

State authorities, including, but not limited to, the California Department of Justice, shall protect and defend this Act from any and all challenges in the courts to final judgment.