

CITY OF OAKLAND

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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Greg Minor
Assistant to the City Administrator

SUBJECT: Update on State Medical
Cannabis Law and Local Proposals

DATE: December 21, 2015

City Administrator Approval

Date:

12/30/15

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff Recommends That The Public Safety Committee Receive This Informational Report And Provide Feedback Regarding The New State Medical Cannabis Law And Proposals To Align The City Of Oakland's Medical Cannabis Ordinances With New State Law.

EXECUTIVE SUMMARY

This informational report provides an update on new state and federal regulations which allow Oakland to address longstanding medical cannabis issues. These changes allowed staff to craft proposed amendments which will be presented in a forthcoming legislative proposal to the City Council for adoption.

The State of California established, through the passage of the Medical Marijuana Regulation and Safety Act (MMRSA), a comprehensive regulatory system for California's medical cannabis industry, replacing roughly 20 years of legal ambiguity with a dual state and local licensing system for all commercial medical cannabis activity from "seed to sale." This legislative development is extremely significant to Oakland. The lack of regulation of non-dispensary medical cannabis facilities has negatively impacted the City in a number of ways, including burglaries, fires, and lost revenue.

At the December 2014 Public Safety Committee and in the City Council Policy Directive number 14 of the Fiscal Year (FY) 2015-2017 Adopted Policy Budget, the City Council asked staff to work with the City's Cannabis Regulatory Commission on addressing this lack of local regulation through amendments to the City's medical cannabis ordinances. The proposed amendments align Oakland's ordinances with the MMRSA and allow the City to finally put public health and safety measures in place for the full spectrum of medical cannabis activities, including cultivation, manufacturing, distributing, testing, and dispensing of medical cannabis. Altogether, these updates should reduce electrical fires and burglaries, ensure that medical cannabis activities situate in appropriate locations, provide clarity to law enforcement and the medical cannabis industry, and allow for appropriate revenue collection from existing and new medical

Item: _____
Public Safety Committee
January 12, 2016

cannabis businesses. The proposed amendments, which will come as proposed legislation in an upcoming City Council meeting, will present changes which reflect the state and federal law changes and address these concerns.

BACKGROUND/LEGISLATIVE HISTORY

Federal Government Guidance

Cannabis remains a Schedule I controlled substance under federal law; however, 35 states have enacted laws allowing medical cannabis to some extent and several jurisdictions have legalized recreational or adult non-medical cannabis use.¹ These state laws legalizing cannabis are valid, yet the federal government may also prohibit cannabis activities under its own laws.

Consequently, the Obama administration has outlined an enforcement compromise, and in 2013, the Department of Justice (DOJ) issued formal guidance from Deputy Attorney General James M. Cole that the DOJ will not prioritize federal marijuana prohibition enforcement in states with robust regulatory systems that comply with eight "guidelines" intended to address federal concerns, with the following goals:

1. Prevent the distribution of marijuana to minors;
2. Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
3. Prevent the diversion of marijuana from states where it is legal under state law in some form to other states;
4. Prevent state-authorized marijuana activity from being used as a cover or pretext for trafficking of other illegal drugs or other illegal activity;
5. Prevent violence and the use of firearms in marijuana cultivation and distribution;
6. Prevent drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
7. Prevent marijuana growing on public lands due to the public safety and environmental dangers posed by marijuana production on public lands; and
8. Prevent marijuana possession or use on federal property.²

In the FY 2015-2016 Federal budget, Congress went a step further with the Fahr-Rohrbacher amendment, which prohibits the use of federal funds to prevent states from implementing their

¹ Blue Ribbon Commission on Marijuana Policy, Progress Report, March 2015, p.3, available at: <https://www.safeandsmartpolicy.org/wp-content/uploads/2015/03/Blue-Ribbon-Commission-report-March-20-2015-FINAL.pdf>.

² Cole, James M., Guidance Regarding Marijuana Enforcement, U. S. Department of Justice, August 29, 2013 ("Cole Memorandum").

own state laws that authorize the use, distribution, possession, or cultivation of medical marijuana.³ This restriction would have to be specifically renewed in the next federal budget.

Although the DOJ initially scoffed at the Fahr-Rohrbacher amendment limiting its authority, in U.S. v. Marin Alliance for Medical Marijuana, the United States District Court for the Northern District of California held otherwise. The court forbade the DOJ from continuing to enforce an injunction against one of California's oldest permitted medical cannabis operators in light of Congress' new spending restrictions. Judge Breyer found that the DOJ's interpretation of the Fahr-Rohrbacher amendment "defies language and logic" and that the plain language and intent of Fahr-Rohrbacher shields state-licensed medical cannabis facilities from federal prosecutions.

While this area of the law and policy remains in flux, the steps taken in California and the City of Oakland occur within this national context.

Medical Cannabis in California

Medical cannabis has been legal in California longer than anywhere else in the country. However, until the recent MMRSA passage, California's system of medical cannabis was one of the least structured regulatory frameworks in the United States.⁴

In 1996, California voters legalized medical cannabis through Proposition 215, the Compassionate Use Act. The Compassionate Use Act provided criminal immunity for patients and their designated primary caregivers to possess and cultivate cannabis for their personal medical use if a licensed physician has recommended cannabis for medical use (see California Health & Safety Code, § 11362.5).

California legislators then expanded on this concept with the adoption of Senate Bill (SB) 420 in 2003. SB 420 created a voluntary state identification card system operated through county health departments, allowed patients to form medical collectives or cooperatives, and established guidelines as to how much marijuana patients can possess and cultivate without resulting in an arrest (see California Health & Safety Code, § 11362.7 et seq).

Nonetheless, neither the Compassionate Use Act nor SB 420 provided an effective statewide system for regulating and controlling medical cannabis, leaving cities and counties on their own to create a patchwork of different rules. This lack of uniform regulation created uncertainty about the legality of medical cannabis activities and endangered the safety of end users, who

³ Section 538 of the Consolidated and Further Continuing Appropriations Act of 2015, Pub. L. 113-235, 128 Stat. 2130 (2014) ("2015 Appropriations Act").

⁴ Blue Ribbon Commission on Marijuana Policy, Progress Report, March 2015, p.5, available at: <https://www.safeandmartpolicy.org/wp-content/uploads/2015/03/Blue-Ribbon-Commission-report-March-20-2015-FINAL.pdf>.

have not had the benefit of a monitored supply chain for medical cannabis, quality control, testing or labeling requirements.⁵

On October 9, 2015, Governor Brown and the state legislature filled this longstanding legislative void by enacting a comprehensive regulatory framework for the cultivation, production, transportation and sale of medical cannabis in California through MMRSA. MMRSA consists of SB 643 (McGuire), Assembly Bill (AB) 266 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood) and AB 243 (Wood). It is codified in the California Business and Professions Code sections 19300 – 19360. MMRSA requires all applicants engaging in commercial cannabis activity to obtain both a state and a local license to operate legally in California. State licenses will consist of the classification types listed below.

State License Types:

- Type 1 = Cultivation; Specialty outdoor; Small.
- Type 1A = Cultivation; Specialty indoor; Small.
- Type 1B = Cultivation; Specialty mixed-light; Small.
- Type 2 = Cultivation; Outdoor; Small.
- Type 2A = Cultivation; Indoor; Small.
- Type 2B = Cultivation; Mixed-light; Small.
- Type 3 = Cultivation; Outdoor; Medium.
- Type 3A = Cultivation; Indoor; Medium.
- Type 3B = Cultivation; Mixed-light; Medium.⁶
- Type 4 = Cultivation; Nursery.
- Type 6 = Manufacturer 1.
- Type 7 = Manufacturer 2.
- Type 8 = Testing.
- Type 10 = Dispensary; General.
- Type 10A = Dispensary; No more than three retail sites.
- Type 11 = Distribution.
- Type 12 = Transporter.

MMRSA breaks up the current “vertical integration” model of a closed loop of patient members from seed to sale and in its place mandates a detailed supply chain between licensed entities. Specifically, MMRSA requires licensed cultivators and manufacturers to send all their medical cannabis and medical cannabis products to licensed distributors who will verify quality assurance and that the cannabis is tested by a licensed laboratory before it is finally sold to the public at licensed dispensaries. Transporters are those licensed to transport medical cannabis and medical cannabis products between licensees. Throughout this process, MMRSA requires

⁵ California Assembly Committee on Business and Professions Bill Analysis, AB 266, April 27, 2015, p. 14.

⁶ MMRSA caps indoor cultivation using exclusively artificial lighting at 22,000 square feet of total canopy size per premises and outdoor cultivation using no artificial lighting at one acre of total canopy per premises. Consequently, cultivation sites in Oakland may not exceed these thresholds.

that medical cannabis and medical cannabis products be tracked via unique identifiers, similar to tracking methods currently utilized in the states of Colorado and Washington.

The Department of Food and Agriculture will oversee state licenses for cultivators, the Department of Public Health will oversee manufacturers and testing laboratories, and the newly created Bureau of Medical Marijuana Regulation in the State Department of Consumer Affairs will oversee distributors, dispensaries and transporters. While these agencies will establish baseline statewide standards, MMRSA maintains California's existing framework of local control by establishing a dual licensing structure mandating that all state license applicants obtain local approval as a pre-requisite to obtaining a state license.

Medical Cannabis in Oakland

The City of Oakland has been a leader in regulating medical cannabis dispensaries. In 1998 the City authorized the Oakland Cannabis Buyer's Cooperative (OCBC) as the administrator of the City's Medical Cannabis Distribution Program under the Oakland Municipal Code (OMC) Chapter 8.46. After the United States Supreme Court upheld a federal injunction against OCBC, the City enacted OMC Chapter 5.80, authorizing four medical cannabis dispensaries in 2004 before adding four more in 2011 via Ordinance No. 12585 C.M.S.

While the City of Oakland's process for administering medical cannabis dispensary permits and monitoring dispensaries has been considered successful, Oakland has fallen behind other jurisdictions, namely those outside of California, by not regulating other medical cannabis activities. Unregulated non-dispensary activities have resulted in electrical fires (stemming from flawed indoor cannabis cultivation), violent crime (such as robberies, burglaries and even homicides), and the use of pesticides and fertilizers that run counter to the crop's medical purpose.

This lack of local regulation is not due to a lack of effort on the City's part, but rather federal intervention, absence of clear state law, and different local interests as seen in the City's pre-MMRSA attempts at regulating cultivation in 2010, 2011 and 2014. In 2010, the City enacted OMC Chapter 5.81 to allow four industrial cultivation facilities unaffiliated with Oakland dispensaries; U.S. Attorney Melinda Haag responded by threatening to prosecute if the law was implemented, thus the legality of the proposal was brought into question. Additional proposals in 2011 and 2014, tailored to then existing state law, attempted to limit licenses to Oakland dispensaries but those also failed to move forward.

ANALYSIS AND POLICY ALTERNATIVES

In response to the aforementioned issues and legislative developments, as well as the direction of the December 2014 City Council Public Safety Committee and City Council Policy Directive number 14 of the FY 2015-2017 Adopted Policy Budget, staff developed amendments to the existing citywide medical cannabis regulations, OMC Chapters 5.80 and 5.81, in consultation with the City's Cannabis Regulatory Commission. Staff will present legislation for those amendments at a future City Council meeting upon direction from the City Council through this

informational report. The following overview outlines the proposed amendments and related policy issues which the future legislation will address.

OMC Chapter 5.81 Medical Cannabis Cultivation, Manufacturing and Other Facility Permits

In conjunction with MMRSA's licensing categories, staff proposes to amend both the title and the text of OMC Chapter 5.81 to create local permitting processes for medical cannabis cultivation, distribution, laboratory, manufacturing and transporting facilities. Under MMRSA, medical cannabis operators must obtain local approval before applying for a state license. By aligning with state law, the City will minimize bureaucratic obstacles for medical cannabis businesses seeking to comply with MMRSA's licensing categories. This will encourage unregulated medical cannabis operators in Oakland to come into the light.

Rather than restrict the number of these facilities, the proposed amendments require that these uses situate in appropriate zones within the city, namely industrial areas, and meet applicable performance and operating standards promulgated by the City Administrator. This application of administrative standards parallels the structure of OMC Chapter 5.80, which has successfully allowed staff to update its standards for medical cannabis dispensaries over time. The intent of these performance operating standards is to minimize the effects of any permitted medical cannabis facility on nearby properties. Consequently, the City Administrator will require security plans, inspections to verify building and fire code compliance, odor mitigation measures, as well as quarterly reports to demonstrate compliance with MMRSA. Further, the City Administrator will impose economic justice requirements, such as local hiring and professional development opportunities, to ensure that Oakland residents play a role both as facility operators and employees.

Overall, establishing these public health and safety requirements for additional medical cannabis activities will only improve the City's ability to monitor and address federal government concerns, as articulated in the Cole Memorandum.

OMC Chapter 5.80 Medical Cannabis Dispensary Permits

In response to new state law and recommendations from the City's Cannabis Regulatory Commission, staff also developed amendments to the City's medical cannabis dispensary ordinance. A number of these amendments are substantive, while others are more minor in nature.

In terms of substantive amendments, staff's proposal updates the definition of "dispensary," establishes a distinction between brick and mortar and delivery-only dispensaries, allows for non-smoking onsite consumption, eliminates superfluous location restrictions and increases the number of dispensaries allowed within the City.

- A. Replace definition of "dispensary" with new state definition

As mentioned above, staff's intent in aligning local and state definitions is to facilitate medical cannabis businesses seeking to work within the state's new regulatory framework. Consequently, City staff adopted MMRSA's definition of a "dispensary." This amendment also cures a concern that the existing definition of "dispensary" is so broad that it unintentionally prohibits activities that the City would like to permit, such as cultivation and manufacturing.

B. Establish permitting process for delivery-only dispensaries

Medical cannabis delivery services unaffiliated with licensed brick and mortar dispensaries have operated in and out of Oakland for several years, largely in a clandestine fashion. Medical cannabis publications and other sources indicate that more than a dozen delivery services already operate in Oakland. Further, that number could rise as smart phone app delivery services continue to develop and satisfy the consumer demand for convenience. Delivery services also serve an important function for elderly and handicapped individuals who cannot easily travel to brick and mortar facilities.

While delivery services may not pose the same nuisance issues as brick and mortar dispensaries open to the public, unregulated deliveries raise public health and safety concerns of their own, particularly regarding the source of their medicine and their method of delivery. Accordingly, staff proposes establishing a permitting process for these "delivery only dispensaries" to ensure they situate in appropriate locations, comply with the provisions of MMRSA and follow security protocols to minimize robberies upon delivery..

C. Allow non-smoking consumption of medical cannabis on the premises of a dispensary

Advocates have long requested that the City of Oakland allow patients to consume cannabis at the site of licensed dispensaries in order to establish safe places of consumption, particularly for patients residing in federally subsidized housing, and allow for communal experiences. While Oakland has maintained a strict ban of onsite consumption, nearby jurisdictions such as Berkeley and San Francisco have allowed onsite consumption and their regulators report receiving no complaints from this approach. Continuing to prohibit onsite consumption will also have the predictable outcome of encouraging patients to consume in public or other inappropriate places, such as their cars.

As a result, staff proposes allowing certain forms of onsite consumption, namely vaporizing, in order for dispensaries to provide a communal consumption space while still minimizing the concerns of neighbors and public health officials. Dispensaries interested in allowing onsite consumption will have to meet the City Administrator's performance standards and operating guidelines for onsite consumption, which will be centered on avoiding drugged driving and disturbing neighboring properties.

D. Eliminate dispensary location restrictions other than distance separation requirements from schools and youth centers

Since neighbors of proposed dispensaries will always have an opportunity to express themselves at public hearings before any dispensary is permitted, most current location

restrictions are superfluous. Additionally, allowing dispensaries to locate near each other will allow dispensaries to situate closer to downtown transit facilities, which should mitigate any issues created by patients consuming at dispensaries. Additionally, the close proximity of multiple dispensaries might help with public safety concerns.

E. Increase the number of permitted dispensaries

There are pros and cons to maintaining and increasing the existing number of dispensaries and removing any numeric limitation on dispensaries altogether.

The City's current structure of limiting the total number of dispensaries and requiring applicants to undergo a scrutinized Request for Proposals (RFP) process has resulted in well run dispensaries that produce virtually no complaints. This is likely due in part to the high value of holding one of the City's limited number of permits, which encourages operators to police themselves and ensure their businesses remain in compliance with the City Administrator's operating standards. In contrast, adding too many dispensaries runs the risk of both creating a monoculture of cannabis retail in certain areas and oversaturating a more limited economic market than that of non-dispensary medical cannabis operators who serve the entire Bay Area or state. This could lead to dispensaries cutting corners and falling out of compliance with required operating standards, which in turn would burden staff resources with revocation proceedings and additional compliance inspections. Also, reducing the number of dispensaries via revocation would likely be more difficult than adding dispensaries in the future, given the controversial nature of the industry and analogous examples like liquor stores that persist despite countless community complaints. Finally, staff has not received any complaints from patients claiming they cannot access medical cannabis in Oakland with only eight permitted dispensaries.

That said there are several factors in support of increasing the current number of eight dispensary permits. First, there appears to be a continued increase in patient demand as revealed by a steady increase in business and sales tax from the City's eight licensed dispensaries with 2015 tax revenue projected to increase 28 percent over the year prior. Second, allowing onsite consumption offers a new economic opportunity for dispensaries and likely will further increase consumer demand. Third, more dispensaries may result in more employment opportunities in the City. Lastly, increasing the number of competing businesses generally benefits consumers by lowering prices and providing more options.

One possible compromise in this regard would be to substitute the cap on the total number of dispensaries with a limitation on the number of new dispensaries each year in conjunction with additional administrative restrictions. For example, the following findings required for new alcohol establishments could be added to the existing dispensary application process:

- a. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;

- b. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;
- c. That the proposal will not interfere with the movement of people along an important pedestrian street;
- d. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;
- e. That the design will avoid unduly large or obtrusive signs, bleak un-landscaped parking areas, and an overall garish impression;
- f. That adequate litter receptacles will be provided where appropriate; and
- g. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of 10:00 p.m. and 7:00 a.m.

Adding these policy considerations to the application process should address the concerns regarding an uncapped number of dispensaries, while an annual growth limitation would provide staff and policymakers with time to ensure that this new approach maintains the City's successful track record of permitting well run dispensaries.

Staff also proposes a number of non-substantive amendments to OMC Chapter 5.80, including eliminating outdated references, unused definitions and unnecessary language. These and the other amendments discussed will be included in the forthcoming legislative proposal to the City Council for adoption.

FISCAL IMPACT

While difficult to predict, the proposed amendments could have considerable fiscal impacts.

As a result of Oakland voters' passage of Measure F in 2009, codified in OMC Chapter 5.04.480, medical cannabis businesses in Oakland are taxed at elevated rates compared to other businesses. Creating a permitting process for previously unpermitted commercial medical cannabis activities, such as cultivation, distribution and manufacturing, should result in new revenue for the City from these new businesses paying taxes at elevated rates. Delivery only dispensaries similarly offer an opportunity for new revenue, though depending on the business location and the individual transaction locations, the City may not receive all sales tax revenue. While staff cannot specify exactly how many new medical cannabis businesses will take advantage of this new permitting process, staff estimates issuing approximately 60 permits in 2016 based on inquiries from interested businesses, attendance at public meetings and industry trends. To put in perspective, the City's eight licensed medical cannabis dispensaries contributed over four million dollars in taxes in 2015.

The proposed amendments will require staff time to cover both the application process and ongoing monitoring. Staff time will include the City Administrator's Office reviewing and processing applications, conducting site inspections, and issuing findings and a determination, as well as inspections and reviews by police, fire and building departments. Thus, staff proposes to update the annual regulatory fee and initial application fee in conjunction with proposed ordinance amendments to ensure full cost recovery and compliance with Proposition 26.

Establishing a permitting process for industrial medical cannabis activities may also have fiscal impacts on industrial businesses in the City as medical cannabis businesses will likely lead to an increase in industrial rents based on anecdotal information gathered from Oakland thus far and the experience of jurisdictions like Denver, Colorado that authorized cannabis production and manufacturing. Staff is working with Economic and Workforce Development staff on proposals to mitigate any deleterious impacts in this regard.

PUBLIC OUTREACH

The proposed amendments are the product of extensive public outreach that included three public presentations to the City's Cannabis Regulatory Commission over the course of 2015. Specifically, staff met with the Commission in February, July and October 2015, at which point staff offered proposed amendments to the City's medical cannabis ordinances and received feedback from commissioners and the public alike.

Staff proposes to implement essentially all of the recommendations from the Cannabis Regulatory Commission with the exception of increasing the personal and small collective cultivation exemptions to the maximum possible under MMRSA. Staff recommends maintaining the City's existing personal and small scale cultivation exemptions, which allow 32 and 96 square feet of cultivation area, respectively, rather than expand to 100 and 500 square feet of exempt cultivation permitted under MMRSA as more than 96 square feet of cultivation resembles commercial activity that ought to be located in appropriate non-residential areas. Under MMRSA, the City may establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity, but not less than the state standard. Maintaining the 96 square foot threshold will also help to discourage diversion to inappropriate markets. This recommendation is consistent with jurisdictions like Denver, Colorado, which only exempts cultivation of 36 total plants from its cultivation regulations.

COORDINATION

Several City departments were consulted in the preparation of this report, including Building Services, Planning Bureau, the Fire Department, the Police Department, the Revenue Management Bureau, the Office of the City Attorney, and the Controller's Bureau. Likewise, staff consulted with outside agencies as well, including the City and County of San Francisco, the City of Berkeley, the City of Richmond, Alameda County and the Port of Oakland

SUSTAINABLE OPPORTUNITIES

Economic: The proposed amendments that will come in the future proposed legislation should positively affect the local economy by generating new employment opportunities for Oakland residents and generating revenue to support City services.

Environmental: The proposed amendments and forthcoming performance and operating standards that will come in the future proposed legislation will promote the cultivation, manufacturing and distribution of medical cannabis in an environmentally sound manner.

Social Equity: The amendments that will come in the future proposed legislation will both provide employment opportunities as well as safe access to medical cannabis.

CEQA

The adoption of amendments to existing citywide medical cannabis regulations is exempt from CEQA review pursuant to CEQA Guidelines sections 15061(b)(3) (general rule), 15183 (projects consistent with a community plan, general plan, or zoning), 15301 (existing facilities), 15307 (actions by regulatory agencies for protection of natural resources), 15308 (actions by regulatory agencies for protection of the environment), and 15309 (inspections). Each of these exemptions provides a separate and independent basis for CEQA exemption and when viewed collectively provide an overall basis for CEQA exemption.

Staff believes that the modifications to the existing regulations will enable the City to legalize existing unregulated medical cannabis businesses that are currently operating within the City. The City Administrator will develop operating and performance standards that will apply to these businesses, which will require inspections and review and approval by the City's Fire Department and Building Department before issuance of a permit. The purpose of the amendments is to license and regulate largely unregulated medical cannabis businesses in the interest of public health, safety and general welfare, and staff believes they will result in increased safety and protective measures, fewer safety hazards and more code enforcement.

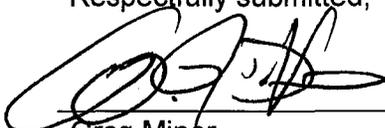
These regulations will also apply to new small scale operations and other medical cannabis businesses, including cultivation and manufacturing, which will not be open to the public or generate large amounts of traffic. The purpose of the amendments is to align with MMRSA, which sets minimum statewide standards for pesticides in marijuana cultivation, maximum tolerances for pesticides and other foreign object residue, production and labeling of all edible cannabis products, requires establishment of uniform health and safety standards, testing standards, and security requirements at dispensaries and during transport of the product, and specifies minimum testing requirements. The new state regulatory scheme also specifically directs expanded enforcement efforts to reduce adverse impacts of marijuana cultivation, including environmental impacts such as illegal discharge into waterways and poisoning of marine life and habitats. These new minimum standards promote the public's health, safety and/or general welfare.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive this informational report and provide feedback regarding new state medical cannabis law and proposals to align the City of Oakland's medical cannabis ordinances with new state law.

For questions regarding this report, please contact Greg Minor, Assistant to the City Administrator, at (510) 238-6370.

Respectfully submitted,

 on behalf of:

Greg Minor
Assistant to the City Administrator

Reviewed by:

Joe Devries, Assistant to the City Administrator
Christine Daniel, Assistant City Administrator

Attachments:

- A. California Assembly Bill 266 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood)
- B. California Assembly Bill 243 (Wood)
- C. California Senate Bill 643 (McGuire)
- D. City Council Policy Directive for Fiscal Year 2015-2017 Budget



Assembly Bill No. 266

CHAPTER 689

An act to amend Sections 27 and 101 of, to add Section 205.1 to, and to add Chapter 3.5 (commencing with Section 19300) to Division 8 of, the Business and Professions Code, to amend Section 9147.7 of the Government Code, to amend Section 11362.775 of the Health and Safety Code, to add Section 147.5 to the Labor Code, and to add Section 31020 to the Revenue and Taxation Code, relating to medical marijuana.

[Approved by Governor October 9, 2015. Filed with Secretary of State October 9, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 266, Bonta. Medical marijuana.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by boards or bureaus within the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill, among other things, would enact the Medical Marijuana Regulation and Safety Act for the licensure and regulation of medical marijuana and would establish within the Department of Consumer Affairs the Bureau of Medical Marijuana Regulation, under the supervision and control of the Director of Consumer Affairs. The bill would require the director to administer and enforce the provisions of the act.

This bill would also require the Board of Equalization, in consultation with the Department of Food and Agriculture, to adopt a system for reporting the movement of commercial cannabis and cannabis products.

This bill would impose certain fines and civil penalties for specified violations of the act, and would require moneys collected as a result of these fines and civil penalties to be deposited into the Medical Cannabis Fines and Penalties Account.

(2) Under existing law, certain persons with identification cards, who associate within the state in order collectively or cooperatively to cultivate marijuana for medical purposes, are not solely on the basis of that fact subject to specified state criminal sanctions.

This bill would repeal these provisions upon the issuance of licenses by licensing authorities pursuant to the Medical Marijuana Regulation and Safety Act, as specified, and would instead provide that actions of licensees with the relevant local permits, in accordance with the act and applicable local ordinances, are not offenses subject to arrest, prosecution, or other sanction under state law.

(3) This bill would provide that its provisions are severable.

(4) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(6) The bill would provide that it shall become operative only if SB 643 and AB 243 of the 2015–16 Regular Session are also enacted and become operative.

The people of the State of California do enact as follows:

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a

physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical

social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Medical Marijuana Regulation shall disclose information on its licensees.

(g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 2. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of the following:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.
- (u) The Landscape Architects Technical Committee.
- (v) The Division of Investigation.

- (w) The Bureau of Automotive Repair.
- (x) The Respiratory Care Board of California.
- (y) The Acupuncture Board.
- (z) The Board of Psychology.
- (aa) The California Board of Podiatric Medicine.
- (ab) The Physical Therapy Board of California.
- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.
- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) The Professional Fiduciaries Bureau.
- (ak) The State Board of Chiropractic Examiners.
- (al) The Bureau of Real Estate.
- (am) The Bureau of Real Estate Appraisers.
- (an) The Structural Pest Control Board.
- (ao) The Bureau of Medical Marijuana Regulation.
- (ap) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 3. Section 205.1 is added to the Business and Professions Code, to read:

205.1. Notwithstanding subdivision (a) of Section 205, the Medical Marijuana Regulation and Safety Act Fund is a special fund within the Professions and Vocations Fund, and is subject to subdivision (b) of Section 205.

SEC. 4. Chapter 3.5 (commencing with Section 19300) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 3.5. MEDICAL MARIJUANA REGULATION AND SAFETY ACT

Article 1. Definitions

19300. This act shall be known and may be cited as the Medical Marijuana Regulation and Safety Act.

19300.5. For purposes of this chapter, the following definitions shall apply:

(a) "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.

(b) "Applicant," for purposes of Article 4 (commencing with Section 19319), means the following:

(1) ~~Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.~~

(2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.

(3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

(c) "Batch" means a specific quantity of medical cannabis or medical cannabis products that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

(d) "Bureau" means the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

(e) "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.

(f) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(g) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(h) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

(i) "Certificate of accreditation" means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

(j) "Chief" means Chief of the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

(k) “Commercial cannabis activity” includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.

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

(m) “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. “Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(n) “Dispensary” means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.

(o) “Dispensing” means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(p) “Distribution” means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.

(q) “Distributor” means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

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

(s) “Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

(t) “Fund” means the Medical Marijuana Regulation and Safety Act Fund established pursuant to Section 19351.

(u) “Identification program” means the universal identification certificate program for commercial medical cannabis activity authorized by this chapter.

(v) “Labor peace agreement” means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state’s proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant’s business. This agreement means that the

applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(w) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the license.

(x) "Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

(y) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

(z) "Testing laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.

(2) Registered with the State Department of Public Health.

(aa) "Transporter" means a person issued a state license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between facilities that have been issued a state license pursuant to this chapter.

(ab) "Licensee" means a person issued a state license under this chapter to engage in commercial cannabis activity.

(ac) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(ad) "Lot" means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, "lot" means a specifically identified amount produced in a unit of time or a quantity in a manner that ensures its having uniform character and quality within specified limits.

(ae) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(af) “Manufacturing site” means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

(ag) “Medical cannabis,” “medical cannabis product,” or “cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, “medical cannabis” does not include “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

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

(ai) “Permit,” “local license,” or “local permit” means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

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

(ak) “State license,” “license,” or “registration” means a state license issued pursuant to this chapter.

(al) “Topical cannabis” means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.

(am) “Transport” means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

19300.7. License classifications pursuant to this chapter are as follows:

- (a) Type 1 = Cultivation; Specialty outdoor; Small.
- (b) Type 1A = Cultivation; Specialty indoor; Small.
- (c) Type 1B = Cultivation; Specialty mixed-light; Small.
- (d) Type 2 = Cultivation; Outdoor; Small.
- (e) Type 2A = Cultivation; Indoor; Small.
- (f) Type 2B = Cultivation; Mixed-light; Small.
- (g) Type 3 = Cultivation; Outdoor; Medium.
- (h) Type 3A = Cultivation; Indoor; Medium.
- (i) Type 3B = Cultivation; Mixed-light; Medium.
- (j) Type 4 = Cultivation; Nursery.
- (k) Type 6 = Manufacturer 1.
- (l) Type 7 = Manufacturer 2.
- (m) Type 8 = Testing.

- (n) Type 10 = Dispensary; General.
 - (o) Type 10A = Dispensary; No more than three retail sites.
 - (p) Type 11 = Distribution.
 - (q) Type 12 = Transporter.
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Article 2. Administration

19302. There is in the Department of Consumer Affairs the Bureau of Medical Marijuana Regulation, under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

19303. Protection of the public shall be the highest priority for the bureau in exercising its licensing, regulatory, and disciplinary functions under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

19304. The bureau shall make and prescribe reasonable rules as may be necessary or proper to carry out the purposes and intent of this chapter and to enable it to exercise the powers and duties conferred upon it by this chapter, not inconsistent with any statute of this state, including particularly this chapter and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the performance of its duties, the bureau has the power conferred by Sections 11180 to 11191, inclusive, of the Government Code.

19305. Notice of any action of the licensing authority required by this chapter to be given may be signed and given by the director or an authorized employee of the department and may be made personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure.

19306. (a) The bureau may convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this chapter, including best practices and guidelines to ensure qualified patients have adequate access to medical cannabis and medical cannabis products. The advisory committee members shall be determined by the chief.

(b) The advisory committee members may include, but not be limited to, representatives of the medical marijuana industry, representatives of medical marijuana cultivators, appropriate local and state agencies, appropriate local and state law enforcement, physicians, environmental and public health experts, and medical marijuana patient advocates.

19307. A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this chapter.

19308. For any hearing held pursuant to this chapter, the director, or a licensing authority, may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in

~~Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

19309. In any hearing before a licensing authority pursuant to this chapter, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

19310. The department may on its own motion at any time before a penalty assessment is placed into effect and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

Article 3. Enforcement

19311. Grounds for disciplinary action include:

(a) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.

(b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.

(c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this chapter.

(d) Failure to comply with any state law, except as provided for in this chapter or other California law.

19312. Each licensing authority may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

19313. Each licensing authority may take disciplinary action against a licensee for any violation of this chapter when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial cannabis activity.

19313.5. Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities and the Department of Food and Agriculture.

19314. All accusations against licensees shall be filed by the licensing authority within five years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the licensing authority, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within five years after such discovery.

~~19315. (a) Nothing in this chapter shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements.~~

(b) Nothing in this chapter shall be interpreted to require the Department of Consumer Affairs to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

(c) Nothing in this chapter shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority under the Fish and Game Code, the Water Code, the Food and Agricultural Code, or the Health and Safety Code.

19316. (a) Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, security, and worker protections established by the state shall be the minimum standards for all licensees statewide.

(b) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this chapter and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall further assume complete responsibility for any regulatory function relating to those licensees within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(c) Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

19317. (a) The actions of a licensee, its employees, and its agents that are (1) permitted pursuant to both a state license and a license or permit issued by the local jurisdiction following the requirements of the applicable local ordinances, and (2) conducted in accordance with the requirements of this chapter and regulations adopted pursuant to this chapter, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

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

19318. (a) A person engaging in commercial cannabis activity without a license required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the court may order the destruction of medical cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the Medical Cannabis Fines and Penalties Account established pursuant to Section 19351.

(b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General on behalf of the people, the penalty collected shall be deposited into the Medical Cannabis Fines and Penalties Account established pursuant to Section 19351. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city or city and county in which the judgment was entered. If the action is brought by a city attorney and is adjudicated in a superior court located in the unincorporated area or another city in the same county, the penalty shall be paid one-half to the treasurer of the city in which the complaining attorney has jurisdiction and one-half to the treasurer of the county in which the judgment is entered.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under Section 11362.7 of the Health and Safety Code.

Article 4. Licensing

19320. (a) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(b) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other required authorization. Local authorities shall notify the bureau upon revocation of a local license. The bureau shall inform relevant licensing authorities.

~~(c) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license. Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport, or any equipment that is not currently transporting medical cannabis or medical cannabis products, permanently resides.~~

(d) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(e) Nothing in this chapter shall be construed to supersede or limit state agencies, including the State Water Resources Control Board and Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

19321. (a) The Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health shall promulgate regulations for implementation of their respective responsibilities in the administration of this chapter.

(b) A license issued pursuant to this section shall be valid for 12 months from the date of issuance. The license shall be renewed annually. Each licensing authority shall establish procedures for the renewal of a license.

(c) Notwithstanding subdivision (a) of Section 19320, a facility or entity that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter. In issuing licenses, the licensing authority shall prioritize any facility or entity that can demonstrate to the authority's satisfaction that it was in operation and in good standing with the local jurisdiction by January 1, 2016.

(d) Issuance of a state license or a determination of compliance with local law by the licensing authority shall in no way limit the ability of the City of Los Angeles to prosecute any person or entity for a violation of, or otherwise enforce, Proposition D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, or the city's zoning laws. Nor may issuance of a license or determination of compliance with local law by the licensing authority be deemed to establish, or be relied upon, in determining satisfaction with the immunity requirements of Proposition D or local zoning law, in court or in any other context or forum.

Article 5. Medical Marijuana Regulation

19326. (a) A person other than a licensed transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.

(b) All licensees holding cultivation or manufacturing licenses shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in Section 19300.5, for quality assurance and inspection by the Type 11 licensee and for a batch testing by a Type 8 licensee prior to distribution to a dispensary. Those licensees holding a Type 10A license in addition to a cultivation license or a manufacturing license shall send all medical cannabis and medical cannabis products to a Type 11 licensee for presale inspection and for a batch testing by a Type 8 licensee prior to dispensing any product. The licensing authority shall fine a licensee who violates this subdivision in an amount determined by the licensing authority to be reasonable.

(c) (1) Upon receipt of medical cannabis or medical cannabis products by a holder of a cultivation or manufacturing license, the Type 11 licensee shall first inspect the product to ensure the identity and quantity of the product and then ensure a random sample of the medical cannabis or medical cannabis product is tested by a Type 8 licensee prior to distributing the batch of medical cannabis or medical cannabis products.

(2) Upon issuance of a certificate of analysis by the Type 8 licensee that the product is fit for manufacturing or retail, all medical cannabis and medical cannabis products shall undergo a quality assurance review by the Type 11 licensee prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state. Licensed cultivators and manufacturers shall package or seal all medical cannabis and medical cannabis products in tamper-evident packaging and use a unique identifier, as prescribed by the Department of Food and Agriculture, for the purpose of identifying and tracking medical cannabis or medical cannabis products. Medical cannabis and medical cannabis products shall be labeled as required by Section 19347. All packaging and sealing shall be completed prior to medical cannabis or medical cannabis products being transported or delivered to a licensee, qualified patient, or caregiver.

(3) This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed. However, a Type 11 licensee responsible for executing the contract is authorized to collect a fee for the services rendered, including, but not limited to, costs incurred by a Type 8 licensee, as well as applicable state or local taxes and fees.

(d) Medical cannabis and medical cannabis products shall be tested by a registered testing laboratory, prior to retail sale or dispensing, as follows:

(1) Medical cannabis from dried flower shall, at a minimum, be tested for concentration, pesticides, mold, and other contaminants.

(2) Medical cannabis extracts shall, at a minimum, be tested for concentration and purity of the product.

(3) This chapter shall not prohibit a licensee from performing on-site testing for the purposes of quality assurance of the product in conjunction

with reasonable business operations. On-site testing by the licensee shall not be certified by the State Department of Public Health.

(e) All commercial cannabis activity shall be conducted between licensees, when these are available.

19327. (a) A licensee shall keep accurate records of commercial cannabis activity.

(b) All records related to commercial cannabis activity as defined by the licensing authorities shall be maintained for a minimum of seven years.

(c) The bureau may examine the books and records of a licensee and inspect the premises of a licensee as the licensing authority or a state or local agency deems necessary to perform its duties under this chapter. All inspections shall be conducted during standard business hours of the licensed facility or at any other reasonable time.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing agency upon request.

(e) A licensee or its agent, or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section has engaged in a violation of this chapter.

(f) If a licensee or an employee of a licensee fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of thirty thousand dollars (\$30,000) per individual violation.

19328. (a) A licensee may only hold a state license in up to two separate license categories, as follows:

(1) Type 1, 1A, 1B, 2, 2A, or 2B licensees may also hold either a Type 6 or 7 state license.

(2) Type 6 or 7 licensees, or a combination thereof, may also hold either a Type 1, 1A, 1B, 2, 2A, or 2B state license.

(3) Type 6 or 7 licensees, or a combination thereof, may also hold a Type 10A state license.

(4) Type 10A licensees may also hold either a Type 6 or 7 state license, or a combination thereof.

(5) Type 1, 1A, 1B, 2, 2A, or 2B licensees, or a combination thereof, may also hold a Type 10A state license.

(6) Type 10A licensees may apply for Type 1, 1A, 1B, 2, 2A, or 2B state license, or a combination thereof.

(7) Type 11 licensees shall apply for a Type 12 state license, but shall not apply for any other type of state license.

(8) Type 12 licensees may apply for a Type 11 state license.

(9) A Type 10A licensee may apply for a Type 6 or 7 state license and hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses

~~are valid. All cultivation pursuant to this section shall comply with local ordinances. This paragraph shall become inoperative on January 1, 2026.~~

(b) Except as provided in subdivision (a), a person or entity that holds a state license is prohibited from licensure for any other activity authorized under this chapter, and is prohibited from holding an ownership interest in real property, personal property, or other assets associated with or used in any other license category.

(c) (1) In a jurisdiction that adopted a local ordinance, prior to July 1, 2015, allowing or requiring qualified businesses to cultivate, manufacture, and dispense medical cannabis or medical cannabis products, with all commercial cannabis activity being conducted by a single qualified business, upon licensure that business shall not be subject to subdivision (a) if it meets all of the following conditions:

(A) The business was cultivating, manufacturing, and dispensing medical cannabis or medical cannabis products on July 1, 2015, and has continuously done so since that date.

(B) The business has been in full compliance with all applicable local ordinances at all times prior to licensure.

(C) The business is registered with the State Board of Equalization.

(2) A business licensed pursuant to paragraph (1) is not required to conduct all cultivation or manufacturing within the bounds of a local jurisdiction, but all cultivation and manufacturing shall have commenced prior to July 1, 2015, and have been in full compliance with applicable local ordinances.

(d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

19329. A licensee shall not also be licensed as a retailer of alcoholic beverages pursuant to Division 9 (commencing with Section 23000).

19330. This chapter and Article 2 (commencing with Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

Article 7. Licensed Distributors, Dispensaries, and Transporters

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

(1) "Dispensary," as defined in this chapter. This license shall allow for delivery pursuant to Section 19340.

(2) "Distributor," for the distribution of medical cannabis and medical cannabis products from manufacturer to dispensary. A Type 11 licensee

~~shall hold a Type 12, or transporter, license and register each location where product is stored for the purposes of distribution. A Type 11 licensee shall not hold a license in a cultivation, manufacturing, dispensing, or testing license category and shall not own, or have an ownership interest in, a facility licensed in those categories other than a security interest, lien, or encumbrance on property that is used by a licensee. A Type 11 licensee shall be bonded and insured at a minimum level established by the licensing authority.~~

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

(4) "Special dispensary status" for dispensers who have no more than three licensed dispensary facilities. This license shall allow for delivery where expressly authorized by local ordinance.

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

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

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

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

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

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

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

(2) Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary.

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

(4) Any other breach of security.

Article 9. Delivery

19340. (a) Deliveries, as defined in this chapter, can only be made by a dispensary and in a city, county, or city and county that does not explicitly prohibit it by local ordinance.

(b) Upon approval of the licensing authority, a licensed dispensary that delivers medical cannabis or medical cannabis products shall comply with both of the following:

(1) The city, county, or city and county in which the licensed dispensary is located, and in which each delivery is made, do not explicitly by ordinance prohibit delivery, as defined in Section 19300.5.

(2) All employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current license authorizing those services with them during deliveries and the employee's government-issued identification, and shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.

(c) A county shall have the authority to impose a tax, pursuant to Article 11 (commencing with Section 19348), on each delivery transaction completed by a licensee.

(d) During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

(e) The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the licensing authority and law enforcement officers.

(f) A local jurisdiction shall not prevent carriage of medical cannabis or medical cannabis products on public roads by a licensee acting in compliance with this chapter.

Article 10. Licensed Manufacturers and Licensed Laboratories

19341. The State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers and testing laboratories. Licenses to be issued are as follows:

(a) "Manufacturing level 1," for manufacturing sites that produce medical cannabis products using nonvolatile solvents.

(b) "Manufacturing level 2," for manufacturing sites that produce medical cannabis products using volatile solvents. The State Department of Public Health shall limit the number of licenses of this type.

(c) "Testing," for testing of medical cannabis and medical cannabis products. Testing licensees shall have their facilities licensed according to regulations set forth by the division. A testing licensee shall not hold a

license in another license category of this chapter and shall not own or have ownership interest in a facility licensed pursuant to this chapter.

19342. (a) For the purposes of testing medical cannabis or medical cannabis products, licensees shall use a licensed testing laboratory that has adopted a standard operating procedure using methods consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test medical cannabis and medical cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.

(b) An agent of a licensed testing laboratory shall obtain samples according to a statistically valid sampling method for each lot.

(c) A licensed testing laboratory shall analyze samples according to either of the following:

(1) The most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(2) Scientifically valid methodology that is demonstrably equal or superior to paragraph (1), in the opinion of the accrediting body.

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

(e) A licensed testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis.

19343. A licensed testing laboratory shall not handle, test, or analyze medical cannabis or medical cannabis products unless the licensed testing laboratory meets all of the following:

(a) Is registered by the State Department of Public Health.

(b) Is independent from all other persons and entities involved in the medical cannabis industry.

(c) Follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis or medical cannabis products. The testing lab shall also comply with any other requirements specified by the State Department of Public Health.

(d) Notifies the State Department of Public Health within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

(e) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the licensed testing laboratory for testing.

19344. (a) A licensed testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:

(1) Whether the chemical profile of the lot conforms to the specifications of the lot for compounds, including, but not limited to, all of the following:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

- (C) Cannabidiol (CBD).
- (D) Cannabidiolic Acid (CBDA).
- (E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.
- (F) Cannabigerol (CBG).
- (G) Cannabinol (CBN).
- (H) Any other compounds required by the State Department of Public Health.

(2) That the presence of contaminants does not exceed the levels that are the lesser of either the most current version of the American Herbal Pharmacopoeia monograph or the State Department of Public Health. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

- (A) Residual solvent or processing chemicals.
- (B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.
- (C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.
- (D) Whether the batch is within specification for odor and appearance.

(b) Residual levels of volatile organic compounds shall be below the lesser of either the specifications set by the United States Pharmacopeia (U.S.P. Chapter 467) or those set by the State Department of Public Health.

19345. (a) Except as provided in this chapter, a licensed testing laboratory shall not acquire or receive medical cannabis or medical cannabis products except from a licensed facility in accordance with this chapter, and shall not distribute, sell, deliver, transfer, transport, or dispense medical cannabis or medical cannabis products, from which the medical cannabis or medical cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(b) A licensed testing laboratory may receive and test samples of medical cannabis or medical cannabis products from a qualified patient or primary caregiver only if he or she presents his or her valid recommendation for cannabis for medical purposes from a physician. A licensed testing laboratory shall not certify samples from a qualified patient or caregiver for resale or transfer to another party or licensee. All tests performed by a licensed testing laboratory for a qualified patient or caregiver shall be recorded with the name of the qualified patient or caregiver and the amount of medical cannabis or medical cannabis product received.

(c) The State Department of Public Health shall develop procedures to ensure that testing of cannabis occurs prior to delivery to dispensaries or any other business, specify how often licensees shall test cannabis and that the cost of testing shall be borne by the licensed cultivators, and require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the State Department of Public Health, unless remedial measures can bring the

~~cannabis-into-compliance-with-quality-assurance-standards-as-promulgated~~
by the State Department of Public Health.

(d) The State Department of Public Health shall establish a licensing fee, and laboratories shall pay a fee to be licensed. Licensing fees shall not exceed the reasonable regulatory cost of the licensing activities.

19347. (a) Prior to delivery or sale at a dispensary, medical cannabis products shall be labeled and in a tamper-evident package. Labels and packages of medical cannabis products shall meet the following requirements:

(1) Medical cannabis packages and labels shall not be made to be attractive to children.

(2) All medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:

(A) Manufacture date and source.

(B) The statement “SCHEDULE I CONTROLLED SUBSTANCE.”

(C) The statement “KEEP OUT OF REACH OF CHILDREN AND ANIMALS” in bold print.

(D) The statement “FOR MEDICAL USE ONLY.”

(E) The statement “THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS.”

(F) The statement “THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

(G) For packages containing only dried flower, the net weight of medical cannabis in the package.

(H) A warning if nuts or other known allergens are used.

(I) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total.

(J) Clear indication, in bold type, that the product contains medical cannabis.

(K) Identification of the source and date of cultivation and manufacture.

(L) Any other requirement set by the bureau.

(M) Information associated with the unique identifier issued by the Department of Food and Agriculture pursuant to Section 11362.777 of the Health and Safety Code.

(b) Only generic food names may be used to describe edible medical cannabis products.

Article 14. Reporting

19353. Beginning on March 1, 2023, and on or before March 1 of each following year, each licensing authority shall prepare and submit to the Legislature an annual report on the authority’s activities and post the report

on the authority's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

(a) The amount of funds allocated and spent by the licensing authority for medical cannabis licensing, enforcement, and administration.

(b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.

(c) The average time for processing state license applications, by state license category.

(d) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the bureau.

(e) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

19354. The bureau shall contract with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, to develop a study that identifies the impact that cannabis has on motor skills.

Article 15. Privacy

19355. (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

(b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, and other state and federal laws relating to confidential patient information.

(c) Nothing in this section precludes the following:

(1) Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

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

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

(4) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.

(d) Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

SEC. 5. Section 9147.7 of the Government Code is amended to read:

9147.7. (a) For the purpose of this section, "eligible agency" means any agency, authority, board, bureau, commission, conservancy, council, department, division, or office of state government, however denominated, excluding an agency that is constitutionally created or an agency related to postsecondary education, for which a date for repeal has been established by statute on or after January 1, 2011.

(b) The Joint Sunset Review Committee is hereby created to identify and eliminate waste, duplication, and inefficiency in government agencies. The purpose of the committee is to conduct a comprehensive analysis over 15 years, and on a periodic basis thereafter, of every eligible agency to determine if the agency is still necessary and cost effective.

(c) Each eligible agency scheduled for repeal shall submit to the committee, on or before December 1 prior to the year it is set to be repealed, a complete agency report covering the entire period since last reviewed, including, but not limited to, the following:

(1) The purpose and necessity of the agency.

(2) A description of the agency budget, priorities, and job descriptions of employees of the agency.

(3) Any programs and projects under the direction of the agency.

(4) Measures of the success or failures of the agency and justifications for the metrics used to evaluate successes and failures.

(5) Any recommendations of the agency for changes or reorganization in order to better fulfill its purpose.

(d) The committee shall take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency shall be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency. No eligible agency shall be extended in perpetuity unless specifically exempted from the provisions of this section. The committee may recommend that the Legislature extend the statutory sunset date for no more than one year to allow the committee more time to evaluate the eligible agency.

(e) The committee shall be comprised of 10 members of the Legislature. The Senate Committee on Rules shall appoint five members of the Senate to the committee, not more than three of whom shall be members of the same political party. The Speaker of the Assembly shall appoint five members of the Assembly to the committee, not more than three of whom shall be members of the same political party. Members shall be appointed within 15 days after the commencement of the regular session. Each member of the committee who is appointed by the Senate Committee on Rules or the Speaker of the Assembly shall serve during that committee member's

term of office or until that committee member no longer is a Member of the Senate or the Assembly, whichever is applicable. A vacancy on the committee shall be filled in the same manner as the original appointment. Three Assembly Members and three Senators who are members of the committee shall constitute a quorum for the conduct of committee business. Members of the committee shall receive no compensation for their work with the committee.

(f) The committee shall meet not later than 30 days after the first day of the regular session to choose a chairperson and to establish the schedule for eligible agency review provided for in the statutes governing the eligible agencies. The chairperson of the committee shall alternate every two years between a Member of the Senate and a Member of the Assembly, and the vice chairperson of the committee shall be a member of the opposite house as the chairperson.

(g) This section shall not be construed to change the existing jurisdiction of the budget or policy committees of the Legislature.

(h) This section shall not apply to the Bureau of Medical Marijuana Regulation.

SEC. 6. Section 11362.775 of the Health and Safety Code is amended to read:

11362.775. (a) Subject to subdivision (b), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

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

SEC. 7. Section 147.5 is added to the Labor Code, to read:

147.5. (a) By January 1, 2017, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of facilities issued a license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(b) By July 1, 2017, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By July 1, 2017, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

SEC. 8. Section 31020 is added to the Revenue and Taxation Code, to read:

31020. The board, in consultation with the Department of Food and Agriculture, shall adopt a system for reporting the movement of commercial

cannabis and cannabis products throughout the distribution chain. The system shall not be duplicative of the electronic database administered by the Department of Food and Agriculture specified in Section 19335 of the Business and Professions Code. The system shall also employ secure packaging and be capable of providing information to the board. This system shall capture, at a minimum, all of the following:

- (a) The amount of tax due by the designated entity.
- (b) The name, address, and license number of the designated entity that remitted the tax.
- (c) The name, address, and license number of the succeeding entity receiving the product.
- (d) The transaction date.
- (e) Any other information deemed necessary by the board for the taxation and regulation of marijuana and marijuana products.

SEC. 9. 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. 10. The Legislature finds and declares that Section 4 of this act, which adds Section 19355 to the Business and Professions Code, thereby imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The limitation imposed under this act is necessary for purposes of compliance with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code).

SEC. 11. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 12. This act shall become operative only if Senate Bill 643 and Assembly Bill 243 of the 2015–16 Regular Session are also enacted and become operative.

Assembly Bill No. 243

CHAPTER 688

An act to add Article 6 (commencing with Section 19331), Article 13 (commencing with Section 19350), and Article 17 (commencing with Section 19360) to Chapter 3.5 of Division 8 of the Business and Professions Code, to add Section 12029 to the Fish and Game Code, to add Sections 11362.769 and 11362.777 to the Health and Safety Code, and to add Section 13276 to the Water Code, relating to medical marijuana, and making an appropriation therefor.

[Approved by Governor October 9, 2015. Filed with
Secretary of State October 9, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 243, Wood. Medical marijuana.

Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by boards or bureaus within the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would require the Department of Food and Agriculture, the Department of Pesticide Regulation, the State Department of Public Health, the Department of Fish and Wildlife, and the State Water Resources Control Board to promulgate regulations or standards relating to medical marijuana and its cultivation, as specified. The bill would also require various state agencies to take specified actions to mitigate the impact that marijuana cultivation has on the environment. By requiring cities, counties, and their local law enforcement agencies to coordinate with state agencies to enforce laws addressing the environmental impacts of medical marijuana cultivation, and by including medical marijuana within the Sherman Act, the bill would impose a state-mandated local program.

This bill would require a state licensing authority to charge each licensee under the act a licensure and renewal fee, as applicable, and would further require the deposit of those collected fees into an account specific to that licensing authority in the Medical Marijuana Regulation and Safety Act Fund, which this bill would establish. This bill would impose certain fines

and civil penalties for specified violations of the Medical Marijuana Regulation and Safety Act, and would require moneys collected as a result of these fines and civil penalties to be deposited into the Medical Cannabis Fines and Penalties Account, which this bill would establish within the fund. Moneys in the fund and each account of the fund would be available upon appropriation of the Legislature.

This bill would authorize the Director of Finance to provide an initial operating loan from the General Fund to the Medical Marijuana Regulation and Safety Act Fund of up to \$10,000,000, and would appropriate \$10,000,000 from the Medical Marijuana Regulation and Safety Act Fund to the Department of Consumer Affairs to begin the activities of the bureau.

This bill would provide that its provisions are severable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would become operative only if AB 266 and SB 643 of the 2015–16 Regular Session are enacted and take effect on or before January 1, 2016.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 6 (commencing with Section 19331) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 6. Licensed Cultivation Sites

19331. The Legislature finds and declares all of the following:

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

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

(c) Lawful California medical cannabis growers and caregivers urge the Department of Pesticide Regulation to provide guidance, in absence of federal guidance, on whether the pesticides currently used at most cannabis

cultivation sites are actually safe for use on cannabis intended for human consumption.

19332. (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor cultivation sites.

(b) The Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, shall develop standards for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis.

(c) The State Department of Public Health shall develop standards for the production and labeling of all edible medical cannabis products.

(d) The Department of Food and Agriculture, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, shall ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

(e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).

(2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters. Nothing in this chapter, and no regulation adopted by the department, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Article 8 (commencing with Section 19337). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

(4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to Article 8 (commencing with Section 19337).

(f) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

(g) State cultivator license types issued by the Department of Food and Agriculture include:

(1) Type 1, or “specialty outdoor,” for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) Type 1A, or “specialty indoor,” for indoor cultivation using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises.

(3) Type 1B, or “specialty mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than or equal to 5,000 square feet of total canopy size on one premises.

(4) Type 2, or “small outdoor,” for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(5) Type 2A, or “small indoor,” for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(6) Type 2B, or “small mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(7) Type 3, or “outdoor,” for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(8) Type 3A, or “indoor,” for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(9) Type 3B, or “mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(10) Type 4, or “nursery,” for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

19333. An employee engaged in commercial cannabis cultivation activity shall be subject to Wage Order 4-2001 of the Industrial Welfare Commission.

SEC. 2. Article 13 (commencing with Section 19350) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 13. Funding

19350. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this chapter. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this chapter as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 19335, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this chapter shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this chapter.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Medical Marijuana Regulation and Safety Act Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation of the Legislature, by the designated licensing authority for the administration of this chapter.

19351. (a) The Medical Marijuana Regulation and Safety Act Fund is hereby established within the State Treasury. Moneys in the fund shall be available upon appropriation by the Legislature. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the moneys in the fund.

(b) (1) Funds for the establishment and support of the regulatory activities pursuant to this chapter shall be advanced as a General Fund or special fund loan, and shall be repaid by the initial proceeds from fees collected pursuant to this chapter or any rule or regulation adopted pursuant to this chapter, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Medical Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

(2) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this chapter.

(3) The Director of Finance may provide an initial operating loan from the General Fund to the Medical Marijuana Regulation and Safety Act Fund that does not exceed ten million dollars (\$10,000,000).

(c) Except as otherwise provided, all moneys collected pursuant to this chapter as a result of fines or penalties imposed under this chapter shall be deposited directly into the Medical Marijuana Fines and Penalties Account, which is hereby established within the fund, and shall be available, upon appropriation by the Legislature to the bureau, for the purposes of funding the enforcement grant program pursuant to subdivision (d).

(d) (1) The bureau shall establish a grant program to allocate moneys from the Medical Cannabis Fines and Penalties Account to state and local entities for the following purposes:

(A) To assist with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to cannabis activities.

(B) For allocation to state and local agencies and law enforcement to remedy the environmental impacts of cannabis cultivation.

(2) The costs of the grant program under this subdivision shall, upon appropriation by the Legislature, be paid for with moneys in the Medical Cannabis Fines and Penalties Account.

(3) The grant program established by this subdivision shall only be implemented after the loan specified in this section is repaid.

19352. The sum of ten million dollars (\$10,000,000) is hereby appropriated from the Medical Marijuana Regulation and Safety Act Fund to the Department of Consumer Affairs to begin the activities of the Bureau of Medical Marijuana Regulation. Funds appropriated pursuant to this section shall not include moneys received from fines or penalties.

SEC. 3. Article 17 (commencing with Section 19360) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 17. Penalties and Violations

19360. (a) A person engaging in cannabis activity without a license and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the department, state or local authority, or court may order the destruction of medical cannabis associated with that violation. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section shall be deposited into the Marijuana Production and Environment Mitigation Fund established pursuant to Section 31013 of the Revenue and Taxation Code.

(b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city or city and county in which the judgment was entered. If the action is brought by a city attorney and is adjudicated in a superior court located in the unincorporated area or another city in the same county, the penalty shall be paid one-half to the treasurer of the city in which the complaining attorney has jurisdiction and one-half to the treasurer of the county in which the judgment is entered.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person or entity engaging in cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under Section 11362.7 of the Health and Safety Code.

SEC. 4. Section 12029 is added to the Fish and Game Code, to read:

12029. (a) The Legislature finds and declares all of the following:

(1) The environmental impacts associated with marijuana cultivation have increased, and unlawful water diversions for marijuana irrigation have a detrimental effect on fish and wildlife and their habitat, which are held in trust by the state for the benefit of the people of the state.

(2) The remediation of existing marijuana cultivation sites is often complex and the permitting of these sites requires greater department staff time and personnel expenditures. The potential for marijuana cultivation sites to significantly impact the state's fish and wildlife resources requires immediate action on the part of the department's lake and streambed alteration permitting staff.

(b) In order to address unlawful water diversions and other violations of the Fish and Game Code associated with marijuana cultivation, the department shall establish the watershed enforcement program to facilitate the investigation, enforcement, and prosecution of these offenses.

(c) The department, in coordination with the State Water Resources Control Board, shall establish a permanent multiagency task force to address the environmental impacts of marijuana cultivation. The multiagency task force, to the extent feasible and subject to available Resources, shall expand its enforcement efforts on a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on fish and wildlife and their habitats throughout the state.

(d) In order to facilitate the remediation and permitting of marijuana cultivation sites, the department shall adopt regulations to enhance the fees on any entity subject to Section 1602 for marijuana cultivation sites that require remediation. The fee schedule established pursuant to this subdivision shall not exceed the fee limits in Section 1609.

SEC. 5. Section 11362.769 is added to the Health and Safety Code, to read:

11362.769. Indoor and outdoor medical marijuana cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical marijuana cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

SEC. 6. Section 11362.777 is added to the Health and Safety Code, to read:

11362.777. (a) The Department of Food and Agriculture shall establish a Medical Cannabis Cultivation Program to be administered by the secretary, except as specified in subdivision (c), shall administer this section as it pertains to the cultivation of medical marijuana. For purposes of this section and Chapter 3.5 (commencing with Section 19300) of the Business and Professions Code, medical cannabis is an agricultural product.

(b) (1) A person or entity shall not cultivate medical marijuana without first obtaining both of the following:

(A) A license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(B) A state license issued by the department pursuant to this section.

(2) A person or entity shall not submit an application for a state license issued by the department pursuant to this section unless that person or entity has received a license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(3) A person or entity shall not submit an application for a state license issued by the department pursuant to this section if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.

(c) (1) Except as otherwise specified in this subdivision, and without limiting any other local regulation, a city, county, or city and county, through its current or future land use regulations or ordinance, may issue or deny a permit to cultivate medical marijuana pursuant to this section. A city, county, or city and county may inspect the intended cultivation site for suitability prior to issuing a permit. After the city, county, or city and county has approved a permit, the applicant shall apply for a state medical marijuana cultivation license from the department. A locally issued cultivation permit shall only become active upon licensing by the department and receiving final local approval. A person shall not cultivate medical marijuana prior to obtaining both a permit from the city, county, or city and county and a state medical marijuana cultivation license from the department.

(2) A city, county, or city and county that issues or denies conditional licenses to cultivate medical marijuana pursuant to this section shall notify the department in a manner prescribed by the secretary.

(3) A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the department's state licensing requirements.

(4) If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county.

(d) (1) The secretary may prescribe, adopt, and enforce regulations relating to the implementation, administration, and enforcement of this part, including, but not limited to, applicant requirements, collections, reporting, refunds, and appeals.

(2) ~~The secretary may prescribe, adopt, and enforce any emergency regulations as necessary to implement this part. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.~~

(3) The secretary may enter into a cooperative agreement with a county agricultural commissioner to carry out the provisions of this chapter, including, but not limited to, administration, investigations, inspections, licensing and assistance pertaining to the cultivation of medical marijuana. Compensation under the cooperative agreement shall be paid from assessments and fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner for associated costs.

(e) (1) The department, in consultation with, but not limited to, the Bureau of Medical Marijuana Regulation, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for medical marijuana. In implementing the program, the department shall consider issues, including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:

(A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

(B) Cultivation will not negatively impact springs, riparian wetlands, and aquatic habitats.

(2) The department shall establish a program for the identification of permitted medical marijuana plants at a cultivation site during the cultivation period. The unique identifier shall be attached at the base of each plant. A unique identifier, such as, but not limited to, a zip tie, shall be issued for each medical marijuana plant.

(A) Unique identifiers will only be issued to those persons appropriately licensed by this section.

(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 19335 of the Business and Professions Code.

(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each medical marijuana plant.

(D) The department may promulgate regulations to implement this section.

~~(3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.~~

(f) (1) A city, county, or city and county that issues or denies licenses to cultivate medical marijuana pursuant to this section shall notify the department in a manner prescribed by the secretary.

(2) Unique identifiers and associated identifying information administered by a city or county shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(g) This section does not apply to a qualified patient cultivating marijuana pursuant to Section 11362.5 if the area he or she uses to cultivate marijuana does not exceed 100 square feet and he or she cultivates marijuana for his or her personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity. This section does not apply to a primary caregiver cultivating marijuana pursuant to Section 11362.5 if the area he or she uses to cultivate marijuana does not exceed 500 square feet and he or she cultivates marijuana exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Section 11362.765. For purposes of this section, the area used to cultivate marijuana shall be measured by the aggregate area of vegetative growth of live marijuana plants on the premises. Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from regulating or banning the cultivation, storage, manufacture, transport, provision, or other activity by the exempt person, or impair the enforcement of that regulation or ban.

SEC. 7. Section 13276 is added to the Water Code, to read:

13276. (a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by marijuana cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on water quality and on fish and wildlife throughout the state.

(b) Each regional board shall, and the State Water Resources Control Board may, address discharges of waste resulting from medical marijuana cultivation and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, each regional board shall include conditions to address items that include, but are not limited to, all of the following:

(1) Site development and maintenance, erosion control, and drainage features.

(2) Stream crossing installation and maintenance.

(3) Riparian and wetland protection and management.

- (4) Soil disposal.
- (5) Water storage and use.
- (6) Irrigation runoff.
- (7) Fertilizers and soil.
- (8) Pesticides and herbicides.
- (9) Petroleum products and other chemicals.
- (10) Cultivation-related waste.
- (11) Refuse and human waste.
- (12) Cleanup, restoration, and mitigation.

SEC. 8. 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. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 10. This measure shall become operative only if both Assembly Bill 266 and Senate Bill 643 of the 2015–16 Regular Session are enacted and become operative.



Attachment C

Senate Bill No. 643

CHAPTER 719

An act to amend Sections 144, 2220.05, 2241.5, and 2242.1 of, to add Sections 19302.1, 19319, 19320, 19322, 19323, 19324, and 19325 to, to add Article 25 (commencing with Section 2525) to Chapter 5 of Division 2 of, and to add Article 6 (commencing with Section 19331), Article 7.5 (commencing with Section 19335), Article 8 (commencing with Section 19337), and Article 11 (commencing with Section 19348) to Chapter 3.5 of Division 8 of, the Business and Professions Code, relating to medical marijuana.

[Approved by Governor October 9, 2015. Filed with Secretary of State October 9, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 643, McGuire. Medical marijuana.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would, among other things, set forth standards for a physician and surgeon prescribing medical cannabis and require the Medical Board of California to prioritize its investigative and prosecutorial resources to identify and discipline physicians and surgeons that have repeatedly recommended excessive cannabis to patients for medical purposes or repeatedly recommended cannabis to patients for medical purposes without a good faith examination, as specified. The bill would require the Bureau of Medical Marijuana to require an applicant to furnish a full set of fingerprints for the purposes of conducting criminal history record checks. The bill would prohibit a physician and surgeon who recommends cannabis to a patient for a medical purpose from accepting, soliciting, or offering any form of remuneration from a facility licensed under the Medical Marijuana Regulation and Safety Act. The bill would make a violation of this prohibition a misdemeanor, and by creating a new crime, this bill would impose a state-mandated local program.

This bill would require the Governor, under the Medical Marijuana Regulation and Safety Act, to appoint, subject to confirmation by the Senate, a chief of the Bureau of Medical Marijuana Regulation. The act would require the Department of Consumer Affairs to have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation and storage, unrelated to manufacturing, of medical marijuana, and would authorize the department to collect fees for its regulatory activities and impose specified duties on this department in this regard. The act would require the Department of Food and Agriculture to administer the provisions of the act related to, and associated with, the cultivation, and transportation of, medical cannabis and would impose specified duties on this department in this regard. The act would require the State Department of Public Health to administer the provisions of the act related to, and associated with, the manufacturing and testing of medical cannabis and would impose specified duties on this department in this regard.

This bill would authorize counties to impose a tax upon specified cannabis-related activity.

This bill would require an applicant for a state license pursuant to the act to provide a statement signed by the applicant under penalty of perjury, thereby changing the scope of a crime and imposing a state-mandated local program.

This bill would set forth standards for the licensed cultivation of medical cannabis, including, but not limited to, establishing duties relating to the environmental impact of cannabis and cannabis products. The bill would also establish state cultivator license types, as specified.

(2) This bill would provide that its provisions are severable.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(4) Existing constitutional provisions require that a statute that limits the right of access to the meeting of public bodies or the writings of public bodies or the writings of public officials and agencies be adopted with finding demonstrating the interest protected by the limitation and the need for protecting that interest. The bill would make legislative findings to that effect.

(5) The bill would become operative only if AB 266 and AB 243 of the 2015–16 Regular Session are enacted and take effect on or before January 1, 2016.

The people of the State of California do enact as follows:

SECTION 1. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Committee of the Medical Board of California.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispenser Board.
- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Bureau of Medical Marijuana Regulation.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

SEC. 2. Section 2220.05 of the Business and Professions Code is amended to read:

2220.05. (a) In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California shall prioritize its

investigative and prosecutorial resources to ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in the first paragraph:

(1) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon represents a danger to the public.

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

(3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

(4) Repeated acts of clearly excessive recommending of cannabis to patients for medical purposes, or repeated acts of recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.

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

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

(b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

SEC. 3. Section 2241.5 of the Business and Professions Code is amended to read:

2241.5. (a) A physician and surgeon may prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.

(b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.

(c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:

(1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.

(2) Violates Section 2241 regarding treatment of an addict.

(3) Violates Section 2242 or 2525.3 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs or recommending medical cannabis.

(4) Violates Section 2242.1 regarding prescribing on the Internet.

(5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these controlled substances or dangerous drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.

(6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.

(d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.

(e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5.

SEC. 4. Section 2242.1 of the Business and Professions Code is amended to read:

2242.1. (a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state, without an appropriate prior examination and medical indication, except as authorized by Section 2242.

(b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either

a fine of up to twenty-five thousand dollars (\$25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars (\$25,000) per occurrence.

(c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).

(d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Contingent Fund of the Medical Board of California.

(e) If the person or entity that is the subject of an action brought pursuant to this section is not a resident of this state, a violation of this section shall, if applicable, be reported to the person's or entity's appropriate professional licensing authority.

(f) Nothing in this section shall prohibit the board from commencing a disciplinary action against a physician and surgeon pursuant to Section 2242 or 2525.3.

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

Article 25. Recommending Medical Cannabis

2525. (a) It is unlawful for a physician and surgeon who recommends cannabis to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a state license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8, if the physician and surgeon or his or her immediate family have a financial interest in that facility.

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

(c) A violation of this section shall be a misdemeanor punishable by up to one year in county jail and a fine of up to five thousand dollars (\$5,000) or by civil penalties of up to five thousand dollars (\$5,000) and shall constitute unprofessional conduct.

2525.1. The Medical Board of California shall consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, on developing and adopting medical guidelines for the appropriate administration and use of medical cannabis.

2525.2. An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California shall not recommend medical

~~cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.~~

2525.3. Recommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

2525.4. It is unprofessional conduct for any attending physician recommending medical cannabis to be employed by, or enter into any other agreement with, any person or entity dispensing medical cannabis.

2525.5. (a) A person shall not distribute any form of advertising for physician recommendations for medical cannabis in California unless the advertisement bears the following notice to consumers:

NOTICE TO CONSUMERS: The Compassionate Use Act of 1996 ensures that seriously ill Californians have the right to obtain and use cannabis for medical purposes where medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of medical cannabis. Recommendations must come from an attending physician as defined in Section 11362.7 of the Health and Safety Code. Cannabis is a Schedule I drug according to the federal Controlled Substances Act. Activity related to cannabis use is subject to federal prosecution, regardless of the protections provided by state law.

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

SEC. 6. Section 19302.1 is added to the Business and Professions Code, to read:

19302.1. (a) The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the director with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

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

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

(d) The Department of Consumer Affairs shall have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the

transportation, storage unrelated to manufacturing activities, distribution, and sale of medical marijuana within the state and to collect fees in connection with activities the bureau regulates. The bureau may create licenses in addition to those identified in this chapter that the bureau deems necessary to effectuate its duties under this chapter.

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

SEC. 7. Section 19319 is added to the Business and Professions Code, to read:

19319. (a) A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this chapter.

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

SEC. 8. Section 19320 is added to the Business and Professions Code, to read:

19320. (a) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(b) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other required authorization. Local authorities shall notify the bureau upon revocation of a local license. The bureau shall inform relevant licensing authorities.

(c) ~~Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license. Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport, or any equipment that is not currently transporting medical cannabis or medical cannabis products, permanently resides.~~

(d) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(e) Nothing in this chapter shall be construed to supersede or limit state agencies, including the State Water Resources Control Board and Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

SEC. 9. Section 19322 is added to the Business and Professions Code, to read:

19322. (a) A person or entity shall not submit an application for a state license issued by the department pursuant to this chapter unless that person or entity has received a license, permit, or authorization by a local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:

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

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

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

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

(2) Provide documentation issued by the local jurisdiction in which the proposed business is operating certifying that the applicant is or will be in compliance with all local ordinances and regulations.

(3) Provide evidence of the legal right to occupy and use the proposed location. For an applicant seeking a cultivator, distributor, manufacturing, or dispensary license, provide a statement from the owner of real property or their agent where the cultivation, distribution, manufacturing, or dispensing commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit

cultivation, distribution, manufacturing, or dispensary activities to be conducted on the property by the tenant applicant.

(4) If the application is for a cultivator or a dispensary, provide evidence that the proposed location is located beyond at least a 600-foot radius from a school, as required by Section 11362.768 of the Health and Safety Code.

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

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

(B) For the purposes of this paragraph, “employee” does not include a supervisor.

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

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

(8) Provide any other information required by the licensing authority.

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

(10) For an applicant seeking licensure as a testing laboratory, register with the State Department of Public Health and provide any information required by the State Department of Public Health.

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

(b) For applicants seeking licensure to cultivate, distribute, or manufacture medical cannabis, the application shall also include a detailed description of the applicant’s operating procedures for all of the following, as required by the licensing authority:

- (1) Cultivation.
- (2) Extraction and infusion methods.
- (3) The transportation process.
- (4) Inventory procedures.
- (5) Quality control procedures.

SEC. 10. Section 19323 is added to the Business and Professions Code, to read:

19323. (a) The licensing authority shall deny an application if either the applicant or the premises for which a state license is applied do not qualify for licensure under this chapter.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to subdivision (a) of Section 19332.

(2) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.

(3) A local agency has notified the licensing authority that a licensee or applicant within its jurisdiction is in violation of state rules and regulation relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for termination or revocation of the license. The licensing authority shall have the authority to collect reasonable costs, as determined by the licensing authority, for investigation from the licensee or applicant.

(4) The applicant has failed to provide information required by the licensing authority.

(5) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

(B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(D) A felony conviction involving fraud, deceit, or embezzlement.

(6) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code.

(7) The applicant or any of its officers, directors, or owners has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

(8) ~~The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed commercial medical cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.~~

(9) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

SEC. 11. Section 19324 is added to the Business and Professions Code, to read:

19324. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

SEC. 12. Section 19325 is added to the Business and Professions Code, to read:

19325. An applicant shall not be denied a state license if the denial is based solely on any of the following:

(a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(b) A conviction that was subsequently dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

SEC. 13. Article 6 (commencing with Section 19331) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 6. Licensed Cultivation Sites

19331. The Legislature finds and declares all of the following:

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

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

(c) Lawful California medical cannabis growers and caregivers urge the Department of Pesticide Regulation to provide guidance, in absence of federal guidance, on whether the pesticides currently used at most cannabis

cultivation sites are actually safe for use on cannabis intended for human consumption.

19332. (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor cultivation sites.

(b) The Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, shall develop standards for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis.

(c) The State Department of Public Health shall develop standards for the production and labeling of all edible medical cannabis products.

(d) The Department of Food and Agriculture, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, shall ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

(e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).

(2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters. Nothing in this chapter, and no regulation adopted by the department, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Article 8 (commencing with Section 19337). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

(4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to Article 8 (commencing with Section 19337).

(f) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

(g) State cultivator license types issued by the Department of Food and Agriculture include:

(1) Type 1, or “specialty outdoor,” for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) Type 1A, or “specialty indoor,” for indoor cultivation using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises.

(3) Type 1B, or “specialty mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than or equal to 5,000 square feet of total canopy size on one premises.

(4) Type 2, or “small outdoor,” for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(5) Type 2A, or “small indoor,” for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(6) Type 2B, or “small mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(7) Type 3, or “outdoor,” for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(8) Type 3A, or “indoor,” for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(9) Type 3B, or “mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(10) Type 4, or “nursery,” for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

19332.5. (a) Not later than January 1, 2020, the Department of Food and Agriculture in conjunction with the bureau, shall make available a certified organic designation and organic certification program for medical marijuana, if permitted under federal law and the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.

(b) The bureau may establish appellations of origin for marijuana grown in California.

(c) It is unlawful for medical marijuana to be marketed, labeled, or sold as grown in a California county when the medical marijuana was not grown in that county.

(d) It is unlawful to use the name of a California county in the labeling, marketing, or packaging of medical marijuana products unless the product was grown in that county.

19333. An employee engaged in commercial cannabis cultivation activity shall be subject to Wage Order 4-2001 of the Industrial Welfare Commission.

SEC. 14. Article 7.5 (commencing with Section 19335) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 7.5. Unique Identifier and Track and Trace Program

19335. (a) The Department of Food and Agriculture, in consultation with the bureau, shall establish a track and trace program for reporting the movement of medical marijuana items throughout the distribution chain that utilizes a unique identifier pursuant to Section 11362.777 of the Health and Safety Code and secure packaging and is capable of providing information that captures, at a minimum, all of the following:

- (1) The licensee receiving the product.
- (2) The transaction date.
- (3) The cultivator from which the product originates, including the associated unique identifier, pursuant to Section 11362.777 of the Health and Safety Code.

(b) (1) The Department of Food and Agriculture shall create an electronic database containing the electronic shipping manifests which shall include, but not be limited to, the following information:

- (A) The quantity, or weight, and variety of products shipped.
- (B) The estimated times of departure and arrival.
- (C) The quantity, or weight, and variety of products received.
- (D) The actual time of departure and arrival.
- (E) A categorization of the product.
- (F) The license number and the unique identifier pursuant to Section 11362.777 of the Health and Safety Code issued by the licensing authority for all licensees involved in the shipping process, including cultivators, transporters, distributors, and dispensaries.

(2) (A) The database shall be designed to flag irregularities for all licensing authorities in this chapter to investigate. All licensing authorities pursuant to this chapter may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.

(B) The Department of Food and Agriculture shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.

(3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.

(4) The bureau shall have 24-hour access to the electronic database administered by the Department of Food and Agriculture.

(5) The Department of Food and Agriculture shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the Department of Food and Agriculture.

(6) Information received and contained in records kept by the Department of Food and Agriculture or licensing authorities for the purposes of administering this section are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter or a local ordinance.

(7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this chapter.

19336. (a) Chapter 4 (commencing with Section 55121) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the bureau's collection of the fees, civil fines, and penalties imposed pursuant to this chapter.

(b) Chapter 8 (commencing with Section 55381) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the disclosure of information under this chapter.

SEC. 15. Article 8 (commencing with Section 19337) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 8. Licensed Transporters

19337. (a) A licensee authorized to transport medical cannabis and medical cannabis products between licenses shall do so only as set forth in this chapter.

(b) Prior to transporting medical cannabis or medical cannabis products, a licensed transporter of medical cannabis or medical cannabis products shall do both of the following:

(1) Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest must include the unique identifier, pursuant to Section 11362.777 of the Health and Safety Code, issued by the Department of Food and Agriculture for the original cannabis product.

(2) Securely transmit the manifest to the bureau and the licensee that will receive the medical cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 19335.

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

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

(e) Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing agency a record verifying receipt of the shipment and the details of the shipment.

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

19338. (a) This chapter shall not be construed to authorize or permit a licensee to transport or cause to be transported cannabis or cannabis products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of medical cannabis or medical cannabis products on public roads by a licensee transporting medical cannabis or medical cannabis products in compliance with this chapter.

SEC. 16. Article 11 (commencing with Section 19348) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 11. Taxation

19348. (a) (1) A county may impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by a licensee operating pursuant to this chapter.

(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

(3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.

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

(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.

(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

SEC. 17. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 18. The Legislature finds and declares that Section 14 of this act, which adds Section 19335 to the Business and Professions Code, thereby imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The limitation imposed under this act is necessary for purposes of compliance with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code).

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 20. This act shall become operative only if Assembly Bill 266 and Assembly Bill 243 of the 2015–16 Session are enacted and take effect on or before January 1, 2016.

Exhibit to Budget Resolution – Council Amendments

Council Policy Directives for FY 2015-17 Budget:

1. **Tracking Budget Implementation:** Require a quarterly budget implementation tracking report with a line-item matrix to come to the Finance & Management Committee. This report should commence in September 2015 and end only when agreed upon by the Committee or when all items have been implemented.

2. **Code Enforcement:** This department is critical to the health and safety of our tenants, the quality of life in our neighborhoods, and the safety of all residents. This entity of the Department of Building and Planning was provided 4 FTE's in the 2013-2015 budget, however, performance levels and revenues from fines have decreased over the last two years. According to Budget Questions #5 - Question #14, fines and penalties collected by Code Enforcement have decreased significantly, though blight is worsening. It is unclear how many Notices of Violation have been sent, if inspections are scheduled for follow up after issues are reported, and whether fines are collected or issues are ever abated.

City Administration will assist the Code Enforcement Office to develop administrative systems to streamline reporting, noticing, re-inspection, and fine collection. Such systems will send a clear message to property owners, who are responsible to keep their properties safe and blight-free. An informational report on these changes should be provided during the Quarterly Report of the Code Enforcement Office to the Public Works Committee.* (*Beginning October 2015, Code Enforcement will provide quarterly reports to the Community and Economic Development Committee, as approved by the Rules Committee in June 2015.)

The Code Enforcement Department altered their responses to question #14 (In the Budget Responses #5), stating that there had been inaccuracies in their accounting. They provided this chart to show corrected revenues. While this news is positive, it is critical that the City Administrator ensure that Code Enforcement has streamlined systems to deter blight.

3. **City-Wide "Paper Form Free" Policy:** In 2016, the City Council seeks an updated management plan from the City Administrator on her plan to maximize efficiency, reduce redundancies, and enhance customer service in every City agency. The Council believes that the inefficiencies can be reduced through the elimination of paper forms for simple transactions that our businesses and residents must make with the City of Oakland. Internally, the City relies on paper forms for many processes, including payroll. The City Administration will bring an informational report to the Finance Committee by March 2016 with proposed changes and will work with Council offices to promote new and improved City services to their constituents.

4. **Master Fee Schedule Noticing:** Master Fee Schedule must be noticed at least one month prior to consideration at committee, and be presented to Council for adoption in March of each year when there are proposed changes. (This gives the Council more time to consider fees prior to budget adoption.)

Exhibit to Budget Resolution – Council Amendments

5. Addressing Gaps in Revenue Collection: City Councilmembers have expressed concerns at many meetings about the lack of collections, particularly in Business License Tax and Rental Property Tax, and the lack of tracking systems to monitor this revenue. The City Administration will evaluate these concerns in their Quarterly Revenue and Expenditure Reports at the Finance and Management Committee, including but not limited to specific, department level information on revenue tracking systems, revenue projections and actuals by department, etc.

6. City-Wide Delinquent Revenue Collections:

- A. Require all departments and bureaus that do not have a Council-approved delinquent revenue collections program shall refer all delinquent revenues to Revenue Management Bureau and Controller's Bureau after 120 days. Effective as soon as possible.
- B. The Administration shall provide an informational report to Council about prompt implementation of this centralized delinquent revenue tracking and collection program, beginning October 2015.

7. Fine/fee Waiver Policies: All departments, divisions, bureaus, etc. in the City of Oakland who have fine or fee waiver policies must post such policies online as a permanent City practice. All City waivers, reductions, refunds, or reversal of issued fines/fees must be documented in writing in records maintained by the appropriate Department, which shall issue a report about them semiannually to the City Administrator. Effective as soon as possible.

8. Restore KTOP/Public Access to the Office of the City Clerk: To enhance efficiency and Brown Act Compliance, the City Administrator will realign KTOP under the Office of the City Clerk, and return to City Council with a report on the progress of this no later than January 2016.

9. Transparency & Accountability recommendations of Budget Advisory Committee: City Administration must follow up on Transparency & Accountability recommendations from Budget Advisory Committee and report back to Council during FY 15-16 on plans for implementation or reasons why a particular recommendation should not be implemented.

10. Implement Text-To-911: Text capabilities provide residents an additional way by which to report emergencies. The Oakland Police Department will bring a report to Public Safety Committee in October 2015 with:

- A. A thorough description of text features, needed staff training, and analysis of how it changes responsibilities for dispatch personnel
- B. Potential options for implementation with costs
- C. An implementation plan with timeline for such potential options

Exhibit to Budget Resolution – Council Amendments

11. Process Improvement for Small Grants: ~~City Administration will work with Cultural Arts Department, the City Attorney's Office, Risk Management, and Contract Compliance to determine new methods for processing Cultural Arts and other small grant programs, such as reducing demands unnecessary for such grants and re-creating grant management processes that are online and paperless in order to maximize efficiency. The City Administration will provide an informational report on the changes by January 2016.~~

12. Tree services, Maintenance, and Plantings: In September 2015. Staff will report to the Public Works Committee about the City of Oakland's Cal Fire Grant Application, including background information about existing and needed tree services, proposed use of grant funds, and status of grant application. (Grant applicants are expected to be notified in July 2015). The City of Oakland should apply for grants which provide funding for tree planting and tree maintenance.

13. Protecting Permitted Cannabis Facilities: Impose a ban on the use of City resources from being used to raid or assist in raids of permitted cannabis facilities. When the Federal government raided Oakland-permitted dispensaries, including Oaksterdam facilities, OPD was asked (at the last minute) to provide numerous additional police officers to help with the raid and the related logistics. This diverted crucial law enforcement resources away from vital safety needs. This should not be allowed to happen again.

14. Regulation and Taxation of Medical Cannabis Production, as approved by voters in 2010: Implement the system for taxing and regulating medical cannabis production, included in mid-cycle adjustment. This implements a tax which has already been authorized by Oakland voters (Measure V of 2010), and is already on the books, (which is 5% of gross receipts). It requires an implementation system and management by the City Administrator's office. The goal is to create that system during the first year, and incorporate the revenue in the second year of the budget.

15. Increasing Retention and Enhancing Recruitment for the Oakland Police Department: The City Administrator will send an informational memo in September 2015 on the formation of the Ad-Hoc Committee on Police Recruitment (as approved in April 2015).

16. Expand and improve business license tax collection effectiveness, including from those not currently paying. Pursue options for expanding collections from new technology industries such as transportation network companies, and the creation of an option to collect from those who do not declare a business category by authorizing collection at a the top rate for "undeclared" businesses, report back to Council by January 2016 on these efforts.

17. The Administration shall conduct a review of the tax payment status of all residential properties which have changed hands since 2007 and which do not have a homeowner exemption filed with the county. Any property which in prior years claimed no income due to renovations to be re-inquired. Property owners shall be informed of the various tax obligations and payment

Exhibit to Budget Resolution – Council Amendments

methods and requirements, and create follow-up system to ensure tax payments are not being improperly avoided. This will allow for a more robust and accurate collection of tax revenue to fill public service needs such as public safety, libraries, senior centers, etc.

18. Launch the previously Council-authorized online business tax payment system, and take action to insure that all aspects of revenue data tracking systems are functioning properly. (See Supplemental with Q&A regarding revenue for details on current problems with revenue computer system). Making revenue collection more customer friendly will enhance the City's ability to capture much needed revenue and provide a faster and less cumbersome process for residents. Report back to Council by October 2015 on progress on this issue.

19. Bring the Proposal to Reorganize the Revenue Department to the Finance & Management Committee and Council for approval.