

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

TITLE: Cannabis Regulation Act of 2012.

SECTION 1. Section 11018 of the Health and Safety Code is amended to read:

11018. "Marijuana" ~~means and~~ "cannabis" are terms to be used interchangeably, meaning all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; *concentrated cannabis*; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include ~~the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination~~ *industrial hemp*, as defined in Section 11018.5, except where the plant is cultivated or processed for purposes not expressly allowed for by Division 24 (commencing with Section 81000) of the Food and Agricultural Code.

SEC. 2. Section 11018.5 is added to the Health and Safety Code, to read:

11018.5. "Industrial hemp" means a fiber or oilseed crop that is limited to nonpsychoactive types of the plant *Cannabis sativa* L. and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin or flowering tops extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

SEC. 3. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) The controlled substances listed in this section are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol.
- (2) Allylprodine.
- (3) Alphacetylmethadol (except levoalphacetylmethadol, also known as levomethadyl acetate, or LAAM).
- (4) Alphameprodine.
- (5) Alphamethadol.
- (6) Benzethidine.
- (7) Betacetylmethadol.
- (8) Betameprodine.
- (9) Betamethadol.
- (10) Betaprodine.
- (11) Clonitazene.
- (12) Dextromoramide.
- (13) Diampromide.
- (14) Diethylthiambutene.
- (15) Difenoxin.
- (16) Dimenoxadol.
- (17) Dimepheptanol.
- (18) Dimethylthiambutene.
- (19) Dioxaphetyl butyrate.
- (20) Dipipanone.
- (21) Ethylmethylthiambutene.
- (22) Etonitazene.
- (23) Etoxeridine.
- (24) Furethidine.
- (25) Hydroxypethidine.
- (26) Ketobemidone.
- (27) Levomoramide.
- (28) Levophenacymorphan.
- (29) Morpheridine.
- (30) Noracetylmethadol.
- (31) Norlevorphanol.
- (32) Normethadone.
- (33) Norpipanone.
- (34) Phenadoxone.
- (35) Phenampromide.
- (36) Phenomorphan.
- (37) Phenoperidine.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

- (38) Piriramide.
- (39) Proheptazine.
- (40) Properidine.
- (41) Propiram.
- (42) Racemoramide.
- (43) Tilidine.
- (44) Trimeperidine.
- (45) Any substance which contains any quantity of acetylfentanyl (N-[1-phenethyl-4-piperidiny] acetanilide) or a derivative thereof.
- (46) Any substance which contains any quantity of the thiophene analog of acetylfentanyl (N-[1-[2-(2-thienyl)ethyl]-4-piperidiny] acetanilide) or a derivative thereof.
- (47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
- (48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).
- (c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (1) Acetorphine.
 - (2) Acetyldihydrocodeine.
 - (3) Benzylmorphine.
 - (4) Codeine methylbromide.
 - (5) Codeine-N-Oxide.
 - (6) Cyprenorphine.
 - (7) Desomorphine.
 - (8) Dihydromorphine.
 - (9) Drotebanol.
 - (10) Etorphine (except hydrochloride salt).
 - (11) Heroin.
 - (12) Hydromorphanol.
 - (13) Methyldesorphine.
 - (14) Methyldihydromorphine.
 - (15) Morphine methylbromide.
 - (16) Morphine methylsulfonate.
 - (17) Morphine-N-Oxide.
 - (18) Myrophine.
 - (19) Nicocodeine.
 - (20) Nicomorphine.
 - (21) Normorphine.
 - (22) Pholcodine.
 - (23) Thebacon.
- (d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):
 - (1) 4-bromo-2,5-dimethoxy-amphetamine--Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.
 - (2) 2,5-dimethoxyamphetamine--Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.
 - (3) 4-methoxyamphetamine--Some trade or other names: 4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.
 - (4) 5-methoxy-3,4-methylenedioxy-amphetamine.
 - (5) 4-methyl-2,5-dimethoxy-amphetamine--Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP."
 - (6) 3,4-methylenedioxy amphetamine.
 - (7) 3,4,5-trimethoxy amphetamine.
 - (8) Bufotenine--Some trade or other names: 3-(beta-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserolonin, 5-hydroxy-N, Ndimethyltryptamine; mappine.
 - (9) Diethyltryptamine--Some trade or other names: N,N-Diethyltryptamine; DET.
 - (10) Dimethyltryptamine--Some trade or other names: DMT.
 - (11) Ibogaine--Some trade or other names: 7-Ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernantheiboga.
 - (12) Lysergic acid diethylamide.
 - ~~(13) Marijuana.~~

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(14) Mescaline.

(15) Peyote--Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule I(c)(12)).

(16) N-ethyl-3-piperidyl benzilate.

(17) N-methyl-3-piperidyl benzilate.

(18) Psilocybin.

(19) Psilocyn.

(20) ~~Tetrahydrocannabinols--Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers~~ *tetrahydrocannabinols not derived from cannabis plants* with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

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

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

(23) Thiophene analog of phencyclidine--Some trade or other names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone.

(2) Methaqualone.

(3) Gamma hydroxybutyric acid (also known by other names such as GHB; gamma hydroxy butyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate), including its immediate precursors, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, including, but not limited to, gammabutyrolactone, for which an application has not been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its isomers:

(1) Cocaine base.

(2) Fenethylamine, including its salts.

(3) N-Ethylamphetamine, including its salts.

SEC. 4. Section 11357 of the Health and Safety Code is repealed:

~~11357. (a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment, or shall be punished by imprisonment in the state prison.~~

~~(b) Except as authorized by law, every person who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).~~

~~(c) Except as authorized by law, every person who possesses more than 28.5 grams of marijuana, other than concentrated cannabis, shall be punished by imprisonment in the county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.~~

~~(d) Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500), or by imprisonment in the county jail for a period of not more than 10 days, or both.~~

~~(e) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be subject to the following dispositions:~~

~~(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.~~

~~(2) A fine of not more than five hundred dollars (\$500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.~~

SEC. 5. Section 11358 of the Health and Safety Code is repealed:

~~11358. Every person who plants, cultivates, harvests, dries, or processes any marijuana or any part thereof, except as otherwise provided by law, shall be punished by imprisonment in the state prison.~~

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

SEC.6. Section 11359 of the Health and Safety Code is repealed:

~~11359. Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished by imprisonment in the state prison.~~

SEC. 7. Section 11360 of the Health and Safety Code is repealed:

~~11360. (a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished by imprisonment in the state prison for a period of two, three or four years.~~

~~(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.~~

SEC. 8. Section 11361 of the Health and Safety Code is repealed:

~~11361. (a) Every person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any marijuana, who unlawfully sells, or offers to sell, any marijuana to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any marijuana to a minor under 14 years of age, or who induces a minor to use marijuana in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.~~

~~(b) Every person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any marijuana to a minor 14 years of age or older shall be punished by imprisonment in the state prison for a period of three, four, or five years.~~

SEC. 9. Section 11361.5 of the Health and Safety Code is amended to read:

(a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a *misdemeanor marijuana* violation of subdivision (b), (c), (d), or (e) of Section 11357 or subdivision (b) of Section 11360, under Chapter 6.8 (commencing with Section 11420) shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (e) of Section 11357 committed by a minor, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records shall provide for the timely destruction of the records in accordance with subdivision (c). The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking marijuana, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents (\$37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars (\$10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a), ~~(b)~~, or (f), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

(e) *Records of any court of this state, of any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a marijuana infraction shall not be kept beyond one year from the date of the conviction, or from the date of the arrest if there was no conviction, or from the date of the arrest upon receipt of the fine in-hand by the court, whichever amount is least. Any court or agency having custody of the records shall provide for the timely destruction of the records in accordance with subdivision (c).*

(f) *Any person subject to an arrest or conviction for a marijuana offense described in Section 11357, 11358, 11359, 11360 or 11361 of the Health and Safety Code, or subdivision (b) of Section 23222 of the Vehicle Code, as they existed prior to November 7, 2012, may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents (\$37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.*

(g) *Records pertaining to marijuana offenses held or maintained by any court of this state or of any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, shall not be shared, transferred, attempt to be transferred, sold, attempted to be sold, utilized, attempt to be utilized, or otherwise disseminated to any other public or private agency.*

SEC. 10. Section 11362.5 of the Health and Safety Code is amended to read:

11362.5. (a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b) (1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section ~~11357~~, 11436, relating to the possession of marijuana, and Section ~~11358~~, 11437, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

SEC. 11. Section 11362.71 of the Health and Safety Code is amended to read:

11362.71. (a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.

(2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.

(b) Every county health department, or the county's designee, shall do all of the following:

(1) Provide applications upon request to individuals seeking to join the identification card program.

(2) Receive and process completed applications in accordance with Section 11362.72.

(3) Maintain records of identification card programs.

(4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).

(5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.

(c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes marijuana.

(d) The department shall develop all of the following:

(1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.

(2) Application forms that shall be issued to requesting applicants.

(3) An identification card that identifies a person authorized to engage in the medical use of marijuana and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.

(e) No person or designated primary caregiver in possession of a valid identification card *issued by a governmental agency, or an administrative agency on its behalf, to persons for whom that medical use is deemed appropriate and has been recommended by a physician from any state or territory under the jurisdiction of the United States of America who has determined that the person's health would benefit from the use of marijuana* shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in an amount established pursuant to this article, unless there is reasonable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.

(f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

(g) *A peace officer must make a reasonable investigation into the fact that a person is not prohibited under California law to possess, share, transport, or cultivate marijuana pursuant to Health and Safety Code 11362.5 or Article 2.5 (commencing with Section 11362.7) of this Code prior to citation or arrest of that person, only if such individual raises a medical defense to such actions under Health and Safety Code 11362.5.*

(h) *A person who is found to be recommended by a physician, in good standing, within the jurisdiction of the United States shall, unless proof beyond a reasonable doubt exists, not be subject to arrest or prosecution for possession, transportation, delivery, or cultivation of medical marijuana in an amount and manner established pursuant to this article, and subdivision (d) of Section 11362.5 shall satisfy the condition that such marijuana is "for the personal medical purposes of the patient."*

SEC. 12. Section 11362.72 of the Health and Safety Code is amended to read:

11362.72. (a) Within ~~30~~ 10 working days of receipt of an application for an identification card, a county health department or the county's designee shall do all of the following:

(1) For purposes of processing the application, verify that the information contained in the application is accurate. If the person is *an unemancipated minor* less than 18 years of age, the county health department or its designee shall also contact the parent with legal authority to make medical decisions, legal guardian, or other person or entity with legal authority to make medical decisions, to verify the information.

(2) Verify with the Medical Board of California or the Osteopathic Medical Board of California that the attending physician has a license in good standing to practice medicine or osteopathy in the state.

(3) Contact the attending physician by facsimile, telephone, or mail to confirm that the medical records submitted by the patient are a true and correct copy of those contained in the physician's office records. When contacted by a county health department or the county's designee, the attending physician shall confirm or deny that the contents of the medical records are accurate.

(4) Take a photograph or otherwise obtain an electronically transmissible image of the applicant and of the designated primary caregiver, if any.

(5) Approve or deny the application. If an applicant who meets the requirements of Section 11362.715 can establish that an identification card is needed on an emergency basis, the county or its designee shall issue a temporary identification card that shall be valid for 30 days from the date of issuance. The county, or its designee, may extend the temporary identification card for no more than 30 days at a time, so long as the applicant continues to meet the requirements of this paragraph.

SEC. 13. Section 11362.755 of the Health and Safety Code is amended to read:

11362.755. (a) The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number. Each county health department or the county's

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

designee may charge an additional fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.

(b) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.

(c) *Notwithstanding subdivision (a), the total fee established for persons seeking to obtain identification cards shall not exceed one hundred dollars (\$100), or fifty dollars (\$50) for a person eligible pursuant to subdivision (b).*

SEC. 14. Section 11362.765 of the Health and Safety Code is amended to read:

11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to *civil or* criminal liability under Section ~~11357, 11358, 11359, 11360,~~ 11366, 11366.5, ~~or 11570, 11433, 11435, 11436, 11437 or 11570.~~ However, nothing in this section shall authorize the individual to smoke or otherwise consume marijuana unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit.

(b) Subdivision (a) shall apply to all of the following:

(1) A qualified patient or a person with an identification card who transports or processes marijuana for his or her own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away marijuana for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

(3) Any individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section ~~11359 or 11360, 11433 or 11435.~~

SEC. 15. Section 11362.77 of the Health and Safety Code is amended to read:

~~11362.77. (a) A qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 marijuana plants per qualified patient.~~

11362.77. (a) Except as authorized by law, a qualified patient or primary caregiver possessing written documentation recommending the medical use of marijuana pursuant to Health and Safety Code 11362.5 or this article shall not be subject to arrest for possessing no more than twenty-four ounces of dried marijuana per qualified patient. In addition, a qualified patient or primary caregiver possessing written documentation recommending the medical use of marijuana pursuant to Health and Safety Code 11362.5 or this article shall also not be subject to arrest for maintaining no more than a total of twenty-four marijuana plants (mature or immature) per qualified patient.

(b) If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver ~~may possess~~ shall not be prohibited from possessing or maintaining an amount of marijuana consistent with the patient's needs.

(c) Counties and cities may retain or enact medical marijuana guidelines ~~allowing~~ protecting qualified patients or primary caregivers ~~to that exceed the state limits amounts~~ set forth in subdivision (a).

(d) Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of marijuana under this section.

~~(e) The Attorney General may recommend modifications to the possession or cultivation limits set forth in this section. These recommendations, if any, shall be made to the Legislature no later than December 1, 2005, and may be made only after public comment and consultation with interested organizations, including, but not limited to, patients, health care professionals, researchers, law enforcement, and local governments. Any recommended modification shall be consistent with the intent of this article and shall be based on currently available scientific research.~~

~~(f)~~ (e) A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, *persons for whom that medical use is deemed appropriate and has been recommended by a physician from any other state or territory under the jurisdiction of the United States of America who has determined that the person's health would benefit from the use of marijuana,* may ~~possess~~ possess, cultivate, transport and share amounts of marijuana consistent with this ~~article.~~ article or Section 11362.5, notwithstanding any other provision of law.

(f) A person holding a valid identification card shall not be subject to arrest for possessing, maintaining, cultivating, manufacturing, transporting, transferring or using marijuana consistent with Section 11362.5, or this article.

SEC. 16. Section 11362.78 of the Health and Safety Code is amended to read:

11362.78. (a) A state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(b) A state or local law enforcement agency or officer shall not refuse to accept a license issued by the department pursuant to Section 26056 of the Business and Professions Code or documentation substantially arguing the possession, transportation, cultivation, sale or delivery of marijuana for commercial purposes is or was not unlawful under California law unless the state or local law enforcement agency or officer has reasonable cause to believe that the information obtained is false or fraudulent, or the license is being used fraudulently.

SEC. 17. Section 11362.79 of the Health and Safety Code is amended to read:

11362.79. Nothing in this article shall authorize a qualified patient or person with an identification card to engage in the smoking of medical marijuana under any of the following circumstances:

(a) In any place where smoking is prohibited by ~~law~~, law, *except as provided by subdivision (e) of Section 11432.*

(b) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence.

(c) On a ~~schoolbus~~, schoolbus or on public transportation.

(d) While in a motor vehicle that is being operated, operating a boat or motor vehicle.

~~(e) While operating a boat.~~

SEC. 18. Section 11362.825 is added to Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code, to read:

11362.825. Notwithstanding any other provision of law, state or local funds shall not be expended on, nor state or local law enforcement or other personnel shall not assist in, the enforcement of any federal or other laws that are inconsistent with this article, or provide for greater sanctions for conduct prohibited by this article.

SEC. 19. Section 11364.5 of the Health and Safety Code is amended to read:

11364.5. (a) Except as authorized by law, no person shall maintain or operate any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away unless such drug paraphernalia is completely and wholly kept, displayed or offered within a separate room or enclosure to which persons under the age of 18 years not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably

visible and legible words to the effect that drug paraphernalia is kept, displayed or offered in such room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

(b) Except as authorized by law, no owner, manager, proprietor or other person in charge of any room or enclosure, within any place of business, in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away shall permit or allow any person under the age of 18 years to enter, be in, remain in or visit such room or enclosure unless such minor person is accompanied by one of his or her parents or by his or her legal guardian.

(c) Unless authorized by law, no person under the age of 18 years shall enter, be in, remain in or visit any room or enclosure in any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away unless accompanied by one of his or her parents or by his or her legal guardian.

(d) As used in this section, "drug paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following:

(1) Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.

~~(7) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.~~

~~(8)~~

(7) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.

~~(9)~~

(8) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

~~(10)~~

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(9) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

~~(11)~~

(10) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.

~~(12)~~

(11) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine, hashish, or hashish oil~~ cocaine into the human body, such as the following:

(A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(B) Water pipes.

(C) Carburetion tubes and devices.

(D) Smoking and carburetion masks.

(E) Roach clips, meaning objects used to hold burning ~~material, such as a marijuana cigarette~~ material that has become too small or too short to be held in the hand.

(F) Miniature cocaine spoons, and cocaine vials.

(G) Chamber pipes.

(H) Carburetor pipes.

(I) Electric pipes.

(J) Air-driven pipes.

(K) Chillums.

~~(L) Bongs.~~

(M) Ice pipes or chillers.

(e) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

(3) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

(4) Instructions, oral or written, provided with the object concerning its use.

(5) Descriptive materials, accompanying the object which explain or depict its use.

(6) National and local advertising concerning its use.

(7) The manner in which the object is displayed for sale.

(8) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco ~~products~~, or marijuana products.

(9) The existence and scope of legitimate uses for the object in the community.

(10) Expert testimony concerning its use.

(f) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes drug paraphernalia described in paragraph (11) of subdivision (d) upon the prescription of a physician, dentist, podiatrist or veterinarian.

(2) Any physician, dentist, podiatrist or veterinarian who furnishes or prescribes drug paraphernalia described in paragraph (11) of subdivision (d) to his or her patients.

(3) Any manufacturer, wholesaler or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in paragraph (11) of subdivision (d).

(g) Notwithstanding any other provision of law, including Section 11374, violation of this section shall not constitute a criminal offense, but operation of a business in violation of the provisions of this section shall be grounds for revocation or nonrenewal of any license, permit, or other entitlement previously issued by a city, county, or city and county for the privilege of engaging in such business and shall be grounds for denial of any future license, permit, or other entitlement authorizing the conduct of such business or any other business, if the business includes the sale of drug paraphernalia.

SEC. 20. Section 11366 of the Health and Safety Code is amended to read:

11366. Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph ~~(13), (14), (15), or (20)~~ (14) or (15) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), paragraph (1) or (2) of subdivision (d), or paragraph (3) of subdivision (e) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

SEC. 21. Section 11370 of the Health and Safety code is amended to read:

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

11370. (a) Any person convicted of violating Section 11350, 11351, 11351.5, 11352, 11353, 11355, ~~11357, 11359, 11360, 11361~~, 11363, 11366, or 11368, or of committing any offense referred to in those sections, shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him or her suspended by the court, if he or she has been previously convicted of any offense described in subdivision (c).

(b) Any person who was 18 years of age or over at the time of the commission of the offense and is convicted for the first time of selling, furnishing, administering, or giving a controlled substance which is (1) specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph ~~(14), (15), or (20)~~ (14) or (15) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, to a minor or inducing a minor to use such a controlled substance in violation of law shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him or her suspended by the court.

(c) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall render a person ineligible for probation or suspension of sentence pursuant to subdivision (a) of this section:

(1) Any felony offense described in this division involving a controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph ~~(13), (14), (15), or (20)~~ (14) or (15) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(2) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

(d) The existence of any previous conviction or fact which would make a person ineligible for suspension of sentence or probation under this section shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 22. Section 11372 of the Health and Safety Code is amended to read:

11372. (a) In addition to the term of imprisonment provided by law for persons convicted of violating Section 11350, 11351, 11351.5, 11352, ~~11353~~, 11353 or 11355, ~~11359, 11360, or 11361~~, the trial court may impose a fine not exceeding twenty thousand dollars (\$20,000) for each offense. In no event shall a fine be levied in lieu of or in substitution for the term of imprisonment provided by law for any of these offenses.

(b) Any person receiving an additional term pursuant to paragraph (1) of subdivision (a) of Section 11370.4, may, in addition, be fined by an amount not exceeding one million dollars (\$1,000,000) for each offense.

(c) Any person receiving an additional term pursuant to paragraph (2) of subdivision (a) of Section 11370.4, may, in addition, be fined by an amount not to exceed four million dollars (\$4,000,000) for each offense.

(d) Any person receiving an additional term pursuant to paragraph (3) of subdivision (a) of Section 11370.4, may, in addition, be fined by an amount not to exceed eight million dollars (\$8,000,000) for each offense.

(e) The court shall make a finding, prior to the imposition of the fines authorized by subdivisions (b) to (e), inclusive, that there is a reasonable expectation that the fine, or a substantial portion thereof, could be collected within a reasonable period of time, taking into consideration the defendant's income, earning capacity, and financial resources.

SEC. 23. Section 11372.5 of the Health and Safety Code is amended to read:

11372.5. (a) Every person who is convicted of a violation of Section 11350, 11351, 11351.5, 11352, 11355, ~~11358, 11359, 11361~~, 11363, 11364, 11368, 11375, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, 11390, 11391, or ~~11550 or subdivision (a) or (e) of Section 11357~~, 11550, or subdivision (a) of Section 11360 of this code, or Section 4230 of the Business and Professions Code shall pay a criminal laboratory analysis fee in the amount of fifty dollars (\$50) for each separate offense. The court shall increase the total fine necessary to include this increment.

With respect to those offenses specified in this subdivision for which a fine is not authorized by other provisions of law, the court shall, upon conviction, impose a fine in an amount not to exceed fifty dollars (\$50), which shall constitute the increment prescribed by this section and which shall be in addition to any other penalty prescribed by law.

(b) The county treasurer shall maintain a criminalistics laboratories fund. The sum of fifty dollars (\$50) shall be deposited into the fund for every conviction under Section 11350, 11351, 11351.5, 11352, 11355, ~~11358, 11359, 11361~~, 11363, 11364, 11368, 11375, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, 11390, 11391, or ~~11550, subdivision (a) or (e) of Section 11357~~, or subdivision (a) of Section 11360 of this code, or Section 4230 of the Business and Professions Code, in addition to fines, forfeitures, and other moneys which are transmitted by the courts to the county treasurer pursuant to Section 11502. The deposits shall be made prior to any transfer pursuant to Section 11502. The county may retain an amount of this money equal to its administrative cost incurred pursuant to this section. Moneys in the criminalistics laboratories fund shall, except as otherwise provided in this section, be used exclusively to fund (1) costs incurred by criminalistics laboratories providing microscopic and chemical analyses for controlled substances, in connection with criminal investigations conducted within both the incorporated or unincorporated portions of the county, (2) the purchase and maintenance of equipment for use by these laboratories in performing the analyses, and (3) for continuing education, training, and scientific development of forensic scientists regularly employed by these laboratories. Moneys in the criminalistics laboratory fund shall be in addition to any allocations pursuant to existing law. As used in this section, "criminalistics laboratory" means a laboratory operated by, or under contract with, a city, county, or other public agency, including a criminalistics laboratory of the Department of Justice, (1) which has not less than one regularly employed forensic scientist engaged in the analysis of solid-dose controlled substances, and (2) which is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

Justice for the possession of all scheduled controlled substances. In counties served by criminalistics laboratories of the Department of Justice, amounts deposited in the criminalistics laboratories fund, after deduction of appropriate and reasonable county overhead charges not to exceed 5 percent attributable to the collection thereof, shall be paid by the county treasurer once a month to the Controller for deposit into the state General Fund, and shall be excepted from the expenditure requirements otherwise prescribed by this subdivision.

(c) The county treasurer shall, at the conclusion of each fiscal year, determine the amount of any funds remaining in the special fund established pursuant to this section after expenditures for that fiscal year have been made for the purposes herein specified. The board of supervisors may, by resolution, assign the treasurer's duty to determine the amount of remaining funds to the auditor or another county officer. The county treasurer shall annually distribute those surplus funds in accordance with the allocation scheme for distribution of fines and forfeitures set forth in Section 11502.

SEC. 24. Section 11372.7 of the Health and Safety Code is amended to read:

11372.7. (a) Except as otherwise provided in subdivision (b) or (e), each person who is convicted of a violation of this chapter shall pay a drug program fee in an amount not to exceed one hundred fifty dollars (\$150) for each separate offense. The court shall increase the total fine, if necessary, to include this increment, which shall be in addition to any other penalty prescribed by law.

(b) The court shall determine whether or not the person who is convicted of a violation of this chapter has the ability to pay a drug program fee. If the court determines that the person has the ability to pay, the court may set the amount to be paid and order the person to pay that sum to the county in a manner that the court believes is reasonable and compatible with the person's financial ability. In its determination of whether a person has the ability to pay, the court shall take into account the amount of any fine imposed upon that person and any amount that person has been ordered to pay in restitution. If the court determines that the person does not have the ability to pay a drug program fee, the person shall not be required to pay a drug program fee.

(c) The county treasurer shall maintain a drug program fund. For every drug program fee assessed and collected pursuant to subdivisions (a) and (b), an amount equal to this assessment shall be deposited into the fund for every conviction pursuant to this chapter, in addition to fines, forfeitures, and other moneys which are transmitted by the courts to the county treasurer pursuant to Sections 11372.5 and 11502. These deposits shall be made prior to any transfer pursuant to Section 11502. Amounts deposited in the drug program fund shall be allocated by the administrator of the county's drug program to drug abuse programs in the schools and the community, subject to the approval of the board of supervisors, as follows:

(1) The moneys in the fund shall be allocated through the planning process established pursuant to Sections 11983, 11983.1, 11983.2, and 11983.3.

(2) A minimum of 33 percent of the fund shall be allocated to primary prevention programs in the schools and the community. Primary prevention programs developed and implemented under this article shall emphasize cooperation in planning and program implementation among schools and community drug abuse agencies, and shall demonstrate coordination through an interagency agreement among county offices of education, school districts, and the county drug program administrator. These primary prevention programs may include:

(A) School- and classroom-oriented programs, including, but not limited to, programs designed to encourage sound decisionmaking, an awareness of values, an awareness of drugs and their effects, enhanced self esteem, social and practical skills that will assist students toward maturity, enhanced or improved school climate and relationships among all school personnel and students, and furtherance of cooperative efforts of school- and community-based personnel.

(B) School- or community-based nonclassroom alternative programs, or both, including, but not limited to, positive peer group programs, programs involving youth and adults in constructive activities designed as alternatives to drug use, and programs for special target groups, such as women, ethnic minorities, and other high-risk, high-need populations.

(C) Family-oriented programs, including, but not limited to, programs aimed at improving family relationships and involving parents constructively in the education and nurturing of their children, as well as in specific activities aimed at preventing drug abuse.

(d) Moneys deposited into a county drug program fund pursuant to this section shall supplement, and shall not supplant, any local funds made available to support the county's drug abuse prevention and treatment efforts.

(e) This section shall not apply to any person convicted of a violation of subdivision (b) of Section ~~11357~~ *marijuana-related violation*.

SEC. 25. Section 11379.6 of the Health and Safety Code is amended to read:

(a) Except as otherwise provided by law, every person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, any controlled substance specified in Section 11054, 11055, 11056, 11057, or ~~11058~~ 11058, *except for concentrated cannabis as defined in Section 11006.5*, shall be punished by imprisonment in the state prison for three, five, or seven years and by a fine not exceeding fifty thousand dollars (\$50,000).

(b) Except when an enhancement pursuant to Section 11379.7 is pled and proved, the fact that a person under 16 years of age resided in a structure in which a violation of this section involving methamphetamine occurred shall be considered a factor in aggravation by the sentencing court.

(c) Except as otherwise provided by law, every person who offers to perform an act which is punishable under subdivision (a) shall be punished by imprisonment in the state prison for three, four, or five years.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(d) All fines collected pursuant to subdivision (a) shall be transferred to the State Treasury for deposit in the Clandestine Drug Lab Clean-up Account, as established by Section 5 of Chapter 1295 of the Statutes of 1987. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by the county.

SEC. 26. Sections 11425-11439.95, inclusive, are added to Chapter 6.8 of Division 10 (commencing with Section 11420) of the Health and Safety Code, notwithstanding any other provision of law, to read:

CHAPTER 6.8. MARIJUANA

11425. (a) This chapter shall be known and may be cited as the Cannabis Regulation Act of 2012.

(b) The people of the State of California hereby find and declare that the intents of the Cannabis Regulation Act are as follows:

(1) To implement the Regulate Marijuana Like Wine Act of 2012, and to decriminalize marijuana and its derivatives, and various related activity, under California law.

(2) To implement the repeal of all civil and criminal penalties for adults who cultivate, possess, transport, sell, or use marijuana, as they existed prior to November 7, 2012, without impacting the enforcement or application of existing laws proscribing dangerous activities while under the influence of marijuana, or certain conduct that exposes younger persons to marijuana.

(3) To ensure that medical marijuana patients and caregivers retain their fundamental rights as provided under the Compassionate Use Act of 1996, or Health and Safety Code 11362.5, and obtain enhanced rights and recognition under California law.

(4) To ensure that California has an equitable and proper laws and regulations governing marijuana sale and cultivation, and to implement those laws and regulations in a manner prescribed by California law.

(5) To permit local governments to adopt reasonable ordinances, rules and regulations regarding licensed cannabis-related businesses consistent with the guidelines of the Regulate Marijuana Like Wine Act, and this chapter, including safety and environmental laws to protect the general health and welfare of the public.

(6) To prevent state and local agencies from supporting any prosecution for federal or other crimes relating to marijuana that are inconsistent with those provided in this Act.

(7) To prevent state and local agencies from enacting prohibitive or excessive taxation or inconsistent zoning laws or other conflicting regulations for commercial cannabis activities.

(8) To prevent state and local agencies from taxing the personal or medical possession, use, cultivation or transportation of marijuana.

(9) To exclude from the fees and regulations imposed by this act marijuana that is for uses other than smoking or ingestion.

(10) To not prohibit under California law the possession, use, sharing, cultivation, transportation, and other activities related to cannabis, by adults, except as provided.

(11) To not prohibit the possession, cultivation, processing, sales, transportation and distribution of industrial hemp.

(12) To mandate that the State of California ensure the rights and privacy of individuals who possess or consume marijuana in the privacy of their own home or on their property.

(13) To punish those who violate this Act and prevent any state or local agency from prohibiting or obstructing the terms or spirit of this chapter.

(14) To impose a set of regulations and laws concerning marijuana comparable to those currently imposed on the grape wine industry.

(15) To impose substantial civil fines for commercial violations of the laws and regulations concerning marijuana.

(16) To encourage the federal government to reconsider its policies concerning marijuana, and to change its laws accordingly.

(17) To permit the State of California to fulfill obligations under the United States Constitution to enact laws concerning health, morals, public welfare and safety.

(18) To continue to enforce all laws relating to driving under the influence of marijuana and contributing to the delinquency of a minor.

(19) To not prohibit scientific, medical, industrial and any other research regarding marijuana, industrial hemp, and tetrahydrocannabinols.

(20) To encourage, and not prohibit, state and local agencies to study or research the effects of cannabis use on driving and workplace safety.

(21) To encourage the federal and state governments to implement and maintain a plan to prohibit discrimination of marijuana use as a factor in maintaining or applying for employment or education.

(22) To repeal all California state laws that prohibit marijuana possession, sales, distribution, storage, transportation, production, processing, and cultivation by adults, except as provided within this act;

(23) To remove marijuana, THC, and its referenced paraphernalia, explicitly and/or by inference, from all other statutes pertaining to the prohibition and regulation of controlled substances, by adults, whether now existing or enacted in the future, except for:

(A) Those statutes pertaining to driving a motor vehicle under the influence of marijuana;

(B) Those statutes pertaining to using or being under the influence of marijuana in the workplace;

(C) Those statutes pertaining to providing, transferring or selling marijuana to minors; and

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(D) Those statutes pertaining to marijuana use, possession, cultivation, processing, sales, distribution, transporting, or storing on premises by minors;

(24) The cultivation of industrial hemp will be tightly controlled by requiring the following:

(A) Farmers shall not cultivate industrial hemp for commercial purposes in acreages smaller than five acres, and no acreage of industrial hemp shall be comprised of plots smaller than one acre. The ornamental and clandestine cultivation of industrial hemp is expressly prohibited.

(B) Farmers are required, prior to harvest, to obtain a laboratory test report from a federally registered laboratory documenting that the THC content of their crop is within the legal limit and farmers must destroy crops that fail the THC test.

(C) Farmers must retain an original copy of the THC test report for the planting seed and the harvested crop for one year, make original copies available to law enforcement officials upon request, and are required to provide an original copy to each person purchasing, transporting, or otherwise obtaining the fiber, oil, cake, or seed of the plant from the farmer.

(D) Although they have no psychoactive effect, any resin, flowering tops, or leaves of the industrial hemp plant that are removed from the lawful field of cultivation shall be, by definition, marijuana. Farmers should take care to ensure that all flowering tops and leaves remain in the lawful field of cultivation after the harvest of seed or fiber.

(E) Possession of the flowering tops or leaves of industrial hemp outside of the field of cultivation and the flowering tops or leaves shall be considered marijuana regardless of whether they are in fact industrial hemp. Therefore, no testing of the flowering tops or leaves of any type of cannabis found outside the lawful field of industrial hemp cultivation need be tested by law enforcement for THC content to determine if the cannabis in question is marijuana or industrial hemp.

(F) In addition to plant structure, height, and method of planting, the horticultural tending of cannabis plants indicates to law enforcement that it is marijuana and not industrial hemp. Signs of horticultural tending include, but are not limited to, pathways or rows within the field to provide access to each plant, the pruning of individual plants, or the culling of male plants from the field.

(25) Adults may cultivate industrial hemp for non-commercial horticultural purposes without a license pursuant to this Act, and hemp plants shall be considered a marijuana plant for the purposes of enforcing personal cultivation.

(c) Nothing in this chapter shall require the accommodation of marijuana use in the workplace, nor prohibit employers from prohibiting or restricting marijuana intoxication, consumption or use in the workplace.

(d) This chapter expressly enjoins and prohibits the search, arrest, prosecution, and imposition of any criminal or civil penalties for adults acting within the provisions of this chapter.

(e) If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid portion or application, and to this end the provisions of this chapter are severable. It is the intent of the People that this chapter would have been adopted regardless if such invalid provision had not been included or any invalid application had not been made.

*11430. (a) For purposes of this chapter, "marijuana" and "cannabis" are terms to be used interchangeably, meaning all parts of the plant *Cannabis sativa L.*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; concentrated cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include industrial hemp, as defined in Section 11018.5, except where the plant is cultivated or processed for purposes not expressly allowed for by Division 24 (commencing with Section 81000) of the Food and Agricultural Code.*

*(b) For the purposes of this chapter, "industrial hemp" means a fiber or oilseed crop that is limited to nonpsychoactive types of the plant *Cannabis sativa L.* and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin or flowering tops extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.*

(c) For the purposes of this chapter, "adult" means any person 21 years of age or older.

(d) For the purposes of this chapter, "minor" means any person under the age of 21.

11431. (a) Notwithstanding any other provision of law, it is not a violation of California law for an adult to possess, transport, manufacture, process, share, or purchase marijuana for personal use.

(b)(1) Except as provided by subdivision (d), an adult shall not be restricted or prohibited from producing up to 24 mature outdoor flowering marijuana plants, or up to 24 mature indoor flowering marijuana plants per adult; provided that the total number of mature flowering outdoor or indoor marijuana plants cultivated per household is not to exceed 48 mature outdoor or indoor flowering marijuana plants. The cultivation shall take place in an indoor or outdoor space, or area not visible to the public. These plants and their produce may not be made available for sale.

(2) Counties and cities may retain or enact laws, ordinances or guidelines not prohibiting a person from cultivating amounts of marijuana greater than statewide floor limits provided by subdivision (b); however, no taxes or fees shall be levied on the personal possession, cultivation, consumption, transportation, or not-for-profit transfer of marijuana.

(c) Notwithstanding any other provision of law, it is not a violation of California law to possess objects, items, tools, equipment, products and materials associated with the consumption, cultivation, possession, purchase or sale of marijuana.

(d) The landlord or landlords of any leased property shall retain the right to prohibit or restrict tenants from cultivating marijuana in the household, apartment, yard or anywhere else on the leased property.

(e) An adult shall not be restricted in the amount of marijuana possessed for personal use, provided that such marijuana is not directly involved in an unlawful sale.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(f) In a criminal or civil proceeding, a person accused of a marijuana violation shall have the right to an affirmative defense that the cannabis was reasonably related to his or her personal consumption, or the activity was otherwise not unlawful under state or local law.

11432. (a) It is not a violation of California law for an adult to possess, smoke, ingest or otherwise consume marijuana in one's home, or in any private residence, or upon the grounds of that home or residence.

(b) Except as provided by the Department of Public Health, it is not a violation of state law for an adult or qualified patient to smoke marijuana in a public place.

(c) Counties and cities may retain or enact laws, ordinances or guidelines prohibiting a person from smoking marijuana in a public place only in places where tobacco smoking bans are present; however, the right of a person to smoke or ingest marijuana in one's home, or in any private residence, or upon the grounds of that home or residence, shall not be infringed.

(d) A violation of a law, ordinance or guideline, or any other act that has the force of law, of the offense described in subdivision (a) of Section 11436, relating to the possession of marijuana by minors, shall preclude the offender from prosecution of any city or county ordinance pursuant to subdivision (c) only if the violation or violations occurred concurrently.

(e) No person in possession of a valid identification card pursuant to Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code shall be subject to arrest, citation, or prosecution for smoking or otherwise using marijuana in a public place, unless there is reasonable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code; provided that nothing in this subsection shall require any accommodation of any medical use of marijuana on the property or premises of any place of employment or during the hours of employment or on the property or premises of any jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

(f) Notwithstanding any other subdivision in this section, no law, ordinance or guideline, or any other act that has the force of law, enacted or retained pursuant to subdivision (c) shall provide for a punishment more severe than an infraction that carries a fine of one hundred dollars (\$100). Such offense shall not result in the forfeiture or seizure of the marijuana, unless such physical possession is unlawful under California law.

(g) Notwithstanding any other provision of law, the landlord or landlords of any leased property shall retain the right to prohibit or restrict tenants from smoking marijuana inside any home, apartment, or in any other indoor area on the leased property.

11433. (a) Except as authorized or otherwise provided by law, any person who sells marijuana is guilty of an infraction, punishable by a fine of not more than two thousand five hundred dollars (\$2,500).

(b) Except as authorized by law, any adult who sells not more than two avoirdupois ounces of marijuana to an adult, and has never been convicted of an offense described in this section, is guilty of an infraction, punishable by a fine of not more than two hundred fifty dollars (\$250).

(c) It is not a violation of California law to possess, transport, use or sell marijuana seeds, or to possess, cultivate, transport or sell immature marijuana plants.

(d) Every person who sells genetically-modified (GMO) marijuana is guilty of an infraction punishable by a fine of not more than two thousand five hundred dollars (\$2,500).

(e) Notwithstanding any other provision of law, unless statewide regulations to regulate marijuana in a similar manner to the regulation of the wine industry have been adopted, implemented, executed, and are in force, it shall not be a violation of California law to sell marijuana to an adult, or to a patient or caregiver authorized under Health and Safety Code 11362.5.

11434. It is not a violation of California law, except as provided in subdivision (f) of Section 647 of the Penal Code, or in subdivision (b) of Section 11439, for a person to be under the influence of marijuana. This section shall not preclude such activity from being introduced as evidence in a civil or criminal proceeding alleging a violation of California law.

11435. (a) Except as authorized or otherwise provided by law, every adult who purchases marijuana for, or on behalf of, a minor is guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than six months, or by a fine of up to two thousand five hundred dollars (\$2,500), or both. However, this chapter is not intended to preclude prosecution under Section 272 of the Penal Code, or any similar provision, where appropriate.

(b) Except as authorized or otherwise provided by law, every adult who sells, provides, or gives away marijuana to a minor is guilty of an infraction and shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500).

(c) Except as authorized by law, every adult who shares, provides, or gives away not more than 28.5 grams (avoirdupois) of marijuana to a minor at least 18 years of age, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).

(d) Except as provided by subdivision (e) and (f), or as authorized by law, every person who transports marijuana with the intent to sell, provide, or transport that marijuana in a state or territory in which the transportation, distribution or sale of marijuana would violate the laws of that state or territory, is guilty of a misdemeanor or felony.

(e) Except as authorized by law, every person who transports not more than three avoirdupois pounds of dried marijuana per person in the vehicle, or transports not more than twelve marijuana plants per person in the vehicle, with the intent to sell, provide, or transport that marijuana into a state or territory in which the transportation, distribution or sale of marijuana would violate the laws of that state or territory, is of a misdemeanor punishable by imprisonment in the county jail for a period of not more than 10 days, or by a fine of not more than two hundred fifty dollars (\$250), or by both such fine and imprisonment.

(f) Adults, and qualified patients and their primary caregivers, traveling through an airport within the state of California, in possession of not more than three avoirdupois pounds of marijuana, or not more than twelve marijuana plants, per adult or qualified patient, shall not be detained longer than necessary to verify the age of the passenger, or the status of the passenger as

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

an qualified patient or caregiver, nor shall their marijuana, in non-liquid form, be confiscated, regardless of the lawfulness of the activity at the destination.

11436. (a) *Except authorized by law, it is unlawful for a minor to have in his or her possession, or to smoke or otherwise consume, on any street or highway or in any public place, in any place open to the public, or while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220 of the Vehicle Code, a usable amount of marijuana. This shall not apply to the possession of marijuana for medicinal purposes pursuant to Health and Safety Code Section 11362.5 and Sections 11362.7 through 11362.9.*

(b) (1) *For the purposes of this section, "usable amount of marijuana" means at least 0.2 grams of dried marijuana, or any food, drink, or item intended for consumption by means other than smoking, that contains marijuana or tetrahydrocannabinols as an ingredient, or is otherwise infused with marijuana.*

(2) *A peace officer may impound any marijuana in the possession of, or provided to, a minor, and shall impound that marijuana for a period not to exceed ten working days pending a request for the release of those products by an adult who is the lawful owner or resident of the property upon which the marijuana was seized. If no one requests release of the seized marijuana within that period, those products may be destroyed.*

(c) *A violation of subdivision (a) is an infraction punishable by a fine of not more than one hundred dollars (\$100).*

(d) *Except as authorized by law, every person 18 years of age or over who smokes or otherwise uses marijuana upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500), or by imprisonment in the county jail for a period of not more than 10 days, or both.*

(e) *Except as authorized by law, every person under the age of 18 who smokes or otherwise uses marijuana upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be subject to the following dispositions:*

(1) *A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.*

(2) *A fine of not more than five hundred dollars (\$500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.*

(f) *It is not a violation of law for a minor, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220 of the Vehicle Code, to possess marijuana when accompanied by a parent or legal guardian.*

11436.25. *Nothing in this chapter shall authorize any person to engage in the smoking of marijuana under any of the following circumstances:*

(a) *In any place where smoking is prohibited by law, except as provided by subdivision (e) of Section 11432.*

(b) *In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the use occurs within a residence.*

(c) *On a schoolbus or on public transportation.*

(d) *While operating a boat or motor vehicle.*

11436.5. *Nothing that is done or maintained under the express authority, or any activity that is not a violation of law, contained in a statute within this chapter or Chapter 19 (commencing with Section 26000) of Division 9 of the Business and Professions Code can be deemed a nuisance.*

11437. (a) *Except as authorized by law, a minor who has in cultivation any mature flowering marijuana plants, or manufactures marijuana, is guilty of an infraction punishable by a fine of not more than five hundred dollars (\$500). In enforcing this subdivision, a peace officer may delicately seize, for evidentiary purposes, not more than three random and representative mature flowering marijuana plants per alleged unlawful cultivation site, and shall impound those mature flowering marijuana plants for a period not to exceed ten working days pending a request for the release of those plants by an adult, qualified patient or caregiver who is the lawful owner or resident of the property upon which the marijuana was cultivated, or pending a verdict. Upon a conviction, the remainder of the mature flowering marijuana plants shall, by court order, be destroyed by a peace officer. Failure to allow a peace officer to comply within five business days of issuance of such order, unless further determined by the court, shall result in a fine of one hundred dollars (\$100) per each mature flowering marijuana plant involved in the commission of the violation that have not been given up for destruction, or a total fine imposed for the violation not to exceed more than two thousand five hundred dollars (\$2,500). No minor convicted for unlawful cultivation of marijuana pursuant to this subdivision shall be subject to arrest or prosecution for any marijuana violation committed in the pursuit of compliance with a citation or court order issued pursuant to this subdivision. Upon a finding that a violation has not occurred, all seized mature flowering marijuana plants, and all parts of the plant thereof, shall be released to the lawful owner of the cultivation site, or to the cultivator.*

(b) *Except as authorized or otherwise provided by law, any person who has in cultivation or transports more than 24 mature outdoor or indoor flowering marijuana plants per adult, or maintains more than 48 mature flowering marijuana plants per household, is guilty of a misdemeanor, punishable by imprisonment in the county jail for up to six months, or by a fine of not more than two thousand five hundred dollars (\$2,500), or both. This shall not preclude prosecution of any law that prohibits unauthorized cultivation of marijuana within a state park or on public lands.*

(c) *A city, county, or city and county, may enact marijuana plant or cultivation ordinances or regulations that are broader and more liberal than provided by this chapter; however, the amounts prescribed by subdivision (b) shall be statewide floor amounts.*

(d) *All persons arrested for an alleged violation of this section, or a similar ordinance enacted by any city, county, or city and county, shall have right to demand the civil or criminal proceedings for such violation(s) commence within three working days*

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

after an arrest or seizure conducted pursuant to this section.

11437.25. (a) This chapter enjoins the search, arrest, prosecution, property seizure, asset forfeiture, eradication costs, and/or any criminal or civil penalty, or sanction, for activity authorized, or expressly not prohibited, herein.

(b) With respect to any investigation by a peace officer into a potential violation of this chapter, and with respect to a civil or criminal proceeding alleging such violation, the People shall bear the burden of proof that such activity is unlawful under California law.

11437.5. Any other violation of this chapter is an infraction, punishable by a fine of up to one hundred dollars (\$100).

11437.75 (a) Any prosecution for a violation of any of the penal provisions of this chapter shall be instituted within one year after the commission of the offense.

(b) Cities and counties may enact local ordinances that provide for lesser penalties to any of the provisions of this chapter.

11438. (a) Notwithstanding any other provision of law, it is not a violation of California law for a person to possess, cultivate, manufacture, transport, or share industrial hemp for personal use. For the purposes of this section, "personal use" with respect to cultivation means that no person shall be prohibited from the cultivation, sharing or transportation of not more than 99 industrial hemp plants.

(b) It is not a violation of law to sell industrial hemp, or the mature stalks of the plant *Cannabis sativa* L., 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, which is regulated as marijuana), fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination in accordance with Division 24 (commencing with Section 81000) of the Food and Agricultural Code.

(c) Any person or entity that sells industrial hemp in violation of law is guilty of an infraction punishable by a fine of not more than two thousand five hundred dollars (\$2,500).

11439. (a) Notwithstanding any other provision of law, state or local funds may not be expended on, and state or local law enforcement or other personnel may not assist in, the enforcement of any federal or other laws that are inconsistent with this chapter, or provide for greater sanctions for conduct prohibited by this chapter.

(b) Notwithstanding any other provision of law, this chapter may not be construed to affect or limit any criminal statute that forbids impairment while engaging in dangerous activities like driving, or that penalizes bringing marijuana to a school enrolling pupils in kindergarten or any of grades 1 to 12, inclusive.

(c) Except as otherwise provided by state or local law, no state or local law enforcement or other personnel shall serve as an obstacle to the enforcement and implementation of federal law concerning marijuana-related activities by federal officials.

11439.95. (a) This chapter shall mandate the immediate and timely destruction of records of the arrest and conviction for such offenses which are now not unlawful or provide for lesser punishment under California law. With respect to current trials, upon judgment, the conviction and arrest shall immediately be expunged.

(b) Subdivision (a) shall apply to an arrest or conviction of any marijuana-related offense(s) as existed prior to November 7, 2012, but shall not be limited to: Health and Safety Code Sections 11014.5 and 11364 [relating to drug paraphernalia], but only if a violation would not have existed under revised statute(s); 11357 [relating to possession]; 11358 [relating to cultivation], with exception to offenses involving marijuana cultivated on public lands; 11359 [relating to possession for sale]; 11360 [relating to transportation and sales]; 11361 [related to minors]; 11366 and 11366.5 [related to maintaining a building or structure for cultivation, sales]; Vehicle Code Sections 23222(b) and 40000.15 [relating to possession].

(c) No records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) of Section 11361.5 of the Health and Safety Code.

(d) All persons on probation or parole, and all persons currently imprisoned in the county jail or the state prison for a non-violent offense described in Section 11357, 11358, 11359, or 11360, as they existed prior to November 7, 2012, shall be immediately released from prison, jail, parole and probation.

SEC. 27. Section 11470 of the Health and Safety Code is amended to read:

11470. The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

(c) All property except real property or a boat, airplane, or any vehicle which is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

(e) The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an instrument to facilitate the manufacture of, or possession for sale or sale of 14.25 grams or more of heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or a substance containing 14.25 grams or more of heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or 14.25 grams or more of a substance containing heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or 28.5 grams or more of Schedule I controlled substances except ~~marijuana, peyote, peyote~~ or psilocybin; 10

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

pounds dry weight or more of ~~marijuana, peyote, peyote~~, *peyote* or psilocybin; or 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, or methamphetamine; or a substance containing 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, or methamphetamine; or 57 grams or more of a substance containing cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, or methamphetamine; or 28.5 grams or more of Schedule II controlled substances. No interest in a vehicle which may be lawfully driven on the highway with a class C, class M1, or class M2 license, as prescribed in Section 12804 of the Vehicle Code, may be forfeited under this subdivision if there is a community property interest in the vehicle by a person other than the defendant and the vehicle is the sole class C, class M1, or class M2 vehicle available to the defendant's immediate family.

(f) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, or securities used or intended to be used to facilitate any violation of Section 11351, 11351.5, 11352, 11355, ~~11359, 11360~~, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property, or the filing of a petition under this chapter, or the issuance of an order of forfeiture of the property, whichever comes first.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

(h) Subject to the requirements of Section 11488.5 and except as further limited by this subdivision to protect innocent parties who claim a property interest acquired from a defendant, all right, title, and interest in any personal property described in this section shall vest in the state upon commission of the act giving rise to forfeiture under this chapter, if the state or local governmental entity proves a violation of Section 11351, 11351.5, 11352, 11355, ~~11359, 11360~~, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves the manufacture, sale, possession for sale, offer for sale, offer to manufacture, or conspiracy to commit at least one of those offenses, in accordance with the burden of proof set forth in paragraph (1) of subdivision (i) of Section 11488.4 or, in the case of cash or negotiable instruments in excess of twenty-five thousand dollars (\$25,000), paragraph (4) of subdivision (i) of Section 11488.4.

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

SEC. 28. Section 11479 of the Health and Safety Code is amended to read:

11479. Notwithstanding Sections 11473 and 11473.5, at any time after seizure by a law enforcement agency of a suspected controlled substance, that amount in excess of 10 pounds in gross weight may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. These samples shall be in addition to the 10 pounds required above. ~~When the suspected controlled substance consists of growing or harvested marijuana plants, at least one 10 pound sample (which may include stalks, branches, or leaves) and five representative samples consisting of leaves or buds shall be retained for evidentiary purposes from the total amount of suspected controlled substances to be destroyed.~~

(b) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance to be destroyed.

(c) The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating that weight after dimensional measurement of the total suspected controlled substance.

(d) The chief of the law enforcement agency has determined that it is not reasonably possible to preserve the suspected controlled substance in place, or to remove the suspected controlled substance to another location. In making this determination, the difficulty of transporting and storing the suspected controlled substance to another site and the storage facilities may be taken into consideration.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which has jurisdiction over any pending criminal proceedings pertaining to that suspected controlled substance, reciting the applicable information required by subdivisions (a), (b), (c), and (d) together with information establishing the location of the suspected controlled substance, and specifying the date and time of the destruction. In the event that there are no criminal proceedings pending which pertain to that suspected controlled substance, the affidavit may be filed in any court within the county which would have jurisdiction over a person against whom those criminal charges might be filed.

SEC. 29. Section 11479.2 of the Health and Safety Code is amended to read:

11479.2. Notwithstanding the provisions of Sections 11473, 11473.5, 11474, 11479, and 11479.1, at any time after seizure by a law enforcement agency of a suspected controlled substance, ~~except marijuana~~, any amount, as determined by the court, in excess of 57 grams may, by court order, be destroyed by the chief of a law enforcement agency or a designated subordinate. Destruction

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

shall not take place pursuant to this section until all of the following requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. Those samples shall be in addition to the 57 grams required above and each sample shall weigh not less than one gram at the time the sample is collected.

(b) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance to be destroyed.

(c) The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating such weight after dimensional measurement of the total suspected controlled substance.

(d) In cases involving controlled substances suspected of containing cocaine or methamphetamine, an analysis has determined the qualitative and quantitative nature of the suspected controlled substance.

(e) The law enforcement agency with custody of the controlled substance sought to be destroyed has filed a written motion for the order of destruction in the court which has jurisdiction over any pending criminal proceeding in which a defendant is charged by accusatory pleading with a crime specifically involving the suspected controlled substance sought to be destroyed. The motion shall, by affidavit of the chief of the law enforcement agency or designated subordinate, recite the applicable information required by subdivisions (a), (b), (c), and (d), together with information establishing the location of the suspected controlled substance and the title of any pending criminal proceeding as defined in this subdivision. The motion shall bear proof of service upon all parties to any pending criminal proceeding. No motion shall be made when a defendant is without counsel until the defendant has entered his or her plea to the charges.

(f) The order for destruction shall issue pursuant to this section upon the motion and affidavit in support of the order, unless within 20 days after application for the order, a defendant has requested, in writing, a hearing on the motion. Within 10 days after the filing of that request, or a longer period of time upon good cause shown by either party, the court shall conduct a hearing on the motion in which each party to the motion for destruction shall be permitted to call and examine witnesses. The hearing shall be recorded. Upon conclusion of the hearing, if the court finds that the defendant would not be prejudiced by the destruction, it shall grant the motion and make an order for destruction. In making the order, the court shall ensure that the representative samples to be retained are of sufficient quantities to allow for qualitative analyses by both the prosecution and the defense. Any order for destruction pursuant to this section shall include the applicable information required by subdivisions (a), (b), (c), (d), and (e) and the name of the agency responsible for the destruction. Unless waived, the order shall provide for a 10-day delay prior to destruction in order to allow expert analysis of the controlled substance by the defense.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which ordered destruction stating the location of the retained, suspected controlled substance and specifying the date and time of destruction.

This section does not apply to seizures involving hazardous chemicals or controlled substances in mixture or combination with hazardous chemicals.

SEC. 30. Section 11480 of the Health and Safety Code is amended to read:

11480. The Legislature finds that there is a need to encourage further research into the nature and effects of ~~marijuana~~ and hallucinogenic drugs and to coordinate research efforts on such subjects.

There is a Research Advisory Panel which consists of a representative of the State Department of Health Services, a representative of the California State Board of Pharmacy, a representative of the Attorney General, a representative of the University of California who shall be a pharmacologist, a physician, or a person holding a doctorate degree in the health sciences, a representative of a private university in this state who shall be a pharmacologist, a physician, or a person holding a doctorate degree in the health sciences, a representative of a statewide professional medical society in this state who shall be engaged in the private practice of medicine and shall be experienced in treating controlled substance dependency, a representative appointed by and serving at the pleasure of the Governor who shall have experience in drug abuse, cancer, or controlled substance research and who is either a registered nurse, licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, or other health professional. The Governor shall annually designate the private university and the professional medical society represented on the panel. Members of the panel shall be appointed by the heads of the entities to be represented, and they shall serve at the pleasure of the appointing power.

The Research Advisory Panel shall appoint two special members to the Research Advisory Panel, who shall serve at the pleasure of the Research Advisory Panel only during the period Article 6 (commencing with Section 11260) of Chapter 5 remains effective. The additional members shall be physicians and surgeons, and who are board certified in oncology, ophthalmology, or psychiatry.

The panel shall annually select a chairman from among its members.

The panel may hold hearings on, and in other ways study, research projects concerning ~~marijuana~~ or hallucinogenic drugs in this state. Members of the panel shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties.

The panel may approve research projects, which have been registered by the Attorney General, into the nature and effects of ~~marijuana~~ or hallucinogenic drugs, and shall inform the Attorney General of the head of the approved research projects which are entitled to receive quantities of marijuana pursuant to Section 11478.

The panel may withdraw approval of a research project at any time, and when approval is withdrawn shall notify the head of the research project to return any quantities of marijuana to the Attorney General. ~~time.~~

The panel shall report annually to the Legislature and the Governor those research projects approved by the panel, the nature of

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

each research project, and, where available, the conclusions of the research project.

SEC. 31. Section 11485 of the Health and Safety Code is repealed.

~~11485. Any peace officer of this state who, incident to a search under a search warrant issued for a violation of Section 11358 with respect to which no prosecution of a defendant results, seizes personal property suspected of being used in the planting, cultivation, harvesting, drying, processing, or transporting of marijuana, shall, if the seized personal property is not being held for evidence or destroyed as contraband, and if the owner of the property is unknown or has not claimed the property, provide notice regarding the seizure and manner of reclamation of the property to any owner or tenant of real property on which the property was seized. In addition, this notice shall be posted at the location of seizure and shall be published at least once in a newspaper of general circulation in the county in which the property was seized. If, after 90 days following the first aition of the notice, no owner appears and proves his or her ownership, the seized personal property shall be deemed to be abandoned and may be disposed of by sale to the public at public auction as set forth in Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code, or may be disposed of by transfer to a government agency or community service organization. Any profit from the sale or transfer of the property shall be expended for investigative services with respect to crimes involving marijuana.~~

SEC. 32. Section 11488 of the Health and Safety Code is amended to read:

11488. (a) Any peace officer of this state, subsequent to making or attempting to make an arrest for a violation of Section 11351, 11351.5, 11352, 11355, ~~11359, 11360~~, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 of this code, or Section 182 of the Penal Code insofar as the offense involves manufacture, sale, purchase for the purpose of sale, possession for sale or offer to manufacture or sell, or conspiracy to commit one of those offenses, may seize any item subject to forfeiture under subdivisions (a) to (f), inclusive, of Section 11470. The peace officer shall also notify the Franchise Tax Board of a seizure where there is reasonable cause to believe that the value of the seized property exceeds five thousand dollars (\$5,000).

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

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

SEC. 33. Section 11532 of the Health and Safety Code is amended to read:

11532. (a) It is unlawful for any person to loiter in any public place in a manner and under circumstances manifesting the purpose and with the intent to commit an offense specified in Chapter 6 (commencing with Section 11350) and Chapter 6.5 (commencing with Section 11400).

(b) Among circumstances that may be considered in determining whether a person has the requisite intent to engage in drug-related activity are that the person:

- (1) Acts as a "look-out."
- (2) Transfers small objects or packages for currency in a furtive fashion.
- (3) Tries to conceal himself or herself or any object that reasonably could be involved in an unlawful drug-related activity.
- (4) Uses signals or language indicative of summoning purchasers of illegal drugs.
- (5) Repeatedly beckons to, stops, attempts to stop, or engages in conversations with passersby, whether on foot or in a motor vehicle, indicative of summoning purchasers of illegal drugs.
- (6) Repeatedly passes to or receives from passersby, whether on foot or in a motor vehicle, money or small objects.
- (7) Is under the influence of a controlled substance or possesses narcotic or drug paraphernalia. For the purposes of this paragraph, "narcotic or drug paraphernalia" means any device, contrivance, instrument, or apparatus designed or marketed for the use of smoking, injecting, ingesting, or consuming ~~marijuana~~, hashish, PCP, or any controlled substance, including, but not limited to, roach clips, cigarette papers, and rollers designed or marketed for use in smoking a controlled substance.
- (8) Has been convicted in any court within this state, within five years prior to the arrest under this chapter, of any violation involving the use, possession, or sale of any of the substances referred to in Chapter 6 (commencing with Section 11350) or Chapter 6.5 (commencing with Section 11400), or has been convicted of any violation of those provisions or substantially similar laws of any political subdivision of this state or of any other state.
- (9) Is currently subject to any order prohibiting his or her presence in any high drug activity geographic area.
- (10) Has engaged, within six months prior to the date of arrest under this section, in any behavior described in this subdivision, with the exception of paragraph (8), or in any other behavior indicative of illegal drug-related activity.

(c) The list of circumstances set forth in subdivision (b) is not exclusive. The circumstances set forth in subdivision (b) should be considered particularly salient if they occur in an area that is known for unlawful drug use and trafficking, or if they occur on or in premises that have been reported to law enforcement as a place suspected of unlawful drug activity. Any other relevant circumstances may be considered in determining whether a person has the requisite intent. Moreover, no one circumstance or combination of circumstances is in itself determinative of intent. Intent must be determined based on an evaluation of the particular circumstances of each case.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

SEC. 34. Section 11590 of the Health and Safety Code is amended to read:

11590. (a) Except as provided in subdivisions (c) and (d), any person who is convicted in the State of California of any offense defined in Section 11350, 11351, 11351.5, 11352, 11353, 11353.5, 11353.7, 11354, 11355, ~~11357, 11358, 11359, 11360, 11361, 11363, 11366, 11366.5, 11366.6, 11368, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11383, or 11550, or subdivision (a) of Section 11377, or any person who is discharged or paroled from a penal institution where he or she was confined because of the commission of any such offense, or any person who is convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall within 30 days of his or her coming~~

into any county or city, or city and county in which he or she resides or is temporarily domiciled for that length of time, register with the chief of police of the city in which he or she resides or the sheriff of the county if he or she resides in an unincorporated area.

For persons convicted of an offense defined in Section 11377, 11378, 11379, or 11380, this subdivision shall apply only to offenses involving controlled substances specified in paragraph (12) of subdivision (d) of Section 11054 and paragraph (2) of subdivision (d) of Section 11055, and to analogs of these substances, as defined in Section 11401. For persons convicted of an offense defined in Section 11379 or 11379.5, this subdivision shall not apply if the conviction was for transporting, offering to transport, or attempting to transport a controlled substance.

(b) Any person who is convicted in any federal court of any offense which, if committed or attempted in this state would have been punishable as one or more of the offenses enumerated in subdivision (a) shall within 30 days of his or her coming into any county or city, or city and county in which he or she resides or is temporarily domiciled for that length of time, register with the chief of police of the city in which he or she resides or the sheriff of the county if he or she resides in an unincorporated area.

(c) This section does not apply to a conviction of a misdemeanor under Section 11357, 11360, or 11377.

(d) The registration requirements imposed by this section for the conviction of offenses defined in Section 11353.7, 11366.5, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or 11383, shall apply to any person who commits any of those offenses on and after January 1, 1990.

SEC. 35. Section 11703 of the Health and Safety Code is amended to read:

11703. As used in this division:

(a) "Marketing of illegal controlled substances" means the possession for sale, sale, or distribution of a specified illegal controlled substance, and shall include all aspects of making such a controlled substance available, including, but not limited to, its manufacture.

(b) "Individual user of an illegal controlled substance" means the individual whose use of a specified illegal controlled substance is the basis of an action brought under this division.

(c) "Level 1 offense" means the possession for sale of less than four ounces or the sale or furnishing of less than one ounce of a specified illegal controlled substance, ~~or the cultivation of at least 25 plants but less than 50 plants, the furnishing of more than 28.5 grams, or the possession for sale or sale of up to four pounds, of marijuana substance.~~

(d) "Level 2 offense" means the possession for sale of four ounces or more but less than eight ounces of, or the sale or furnishing of one ounce or more but less than two ounces of, a specified illegal controlled substance, ~~or the cultivation of at least 50 but less than 75 plants, the possession for sale of four pounds or more but less than eight pounds, or the sale or furnishing of more than one pound but less than five pounds, of marijuana substance.~~

(e) "Level 3 offense" means the possession for sale of eight ounces or more but less than 16 ounces of, or the sale or furnishing of two ounces or more but less than four ounces of, a specified illegal controlled substance, ~~or the cultivation of at least 75 but less than 100 plants, the possession for sale of eight pounds or more but less than 16 pounds, or the sale or furnishing of more than five pounds but less than 10 pounds, of marijuana substance.~~

(f) "Level 4 offense" means the possession for sale of 16 ounces or more of, or the sale or furnishing of four ounces or more of, a specified illegal controlled substance, ~~or the cultivation of 100 plants or more of, the possession for sale of 16 pounds of, or the sale or furnishing of more than 10 pounds of, marijuana substance.~~

(g) "Participate in the marketing of illegal controlled substances" means to transport, import into this state, sell, possess with intent to sell, furnish, administer, or give away, or offer to transport, import into this state, sell, furnish, administer, or give away a specified illegal controlled substance. "Participate in the marketing of illegal controlled substances" shall include the manufacturing of an illegal controlled substance, but shall not include the purchase or receipt of an illegal controlled substance for personal use only.

(h) "Person" means an individual, governmental entity, corporation, firm, trust, partnership, or incorporated or unincorporated association, existing under or authorized by the laws of this state, another state, or a foreign country.

(i) "Period of illegal use" means, in relation to the individual user of an illegal controlled substance, the time of the individual's first illegal use of an illegal controlled substance to the accrual of the cause of action.

(j) "Place of illegal activity" means, in relation to the individual user of an illegal controlled substance, each county in which the individual illegally possesses or uses an illegal controlled substance during the period of the individual's use of an illegal controlled substance.

(k) "Place of participation" means, in relation to a defendant in an action brought under this division, each county in which the person participates in the marketing of illegal controlled substances during the period of the person's participation in the marketing of illegal controlled substances.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(l) "Specified illegal controlled substance" means cocaine, phencyclidine, heroin, or methamphetamine and any other illegal controlled substance the manufacture, cultivation, importation into this state, transportation, possession for sale, sale, furnishing, administering, or giving away of which is a violation of Section 11351, 11351.5, 11352, ~~11358, 11359, 11360~~, 11378.5, 11379.5, or 11383.

SEC. 32. Section 11705 of the Health and Safety Code is amended to read:

11705. (a) Any one or more of the following persons may bring an action for damages caused by an individual's use of an illegal controlled substance:

- (1) A parent, legal guardian, child, spouse, or sibling of the individual controlled substance user.
- (2) An individual who was exposed to an illegal controlled substance in utero.
- (3) An employer of the individual user of an illegal controlled substance.
- (4) A medical facility, insurer, employer, or other nongovernmental entity that funds a drug treatment program or employee assistance program for the individual user of an illegal controlled substance or that otherwise expended money on behalf of the individual user of an illegal controlled substance. No public agency other than a public agency medical facility shall have a cause of action under this division.
- (5) A person injured as a result of the willful, reckless, or negligent actions of an individual user of an illegal controlled substance.

(b) A person entitled to bring an action under this section may seek damages from one or more of the following:

(1) A person who sold, administered, or furnished an illegal controlled substance to the individual user of the illegal controlled substance.

(2) A person who knowingly participated in the marketing of illegal controlled substances, if all of the following apply:

(A) The place of illegal activity by the individual user of an illegal controlled substance is within the city, city and county, or unincorporated area of the county in which the defendant's place of participation is situated.

(B) The defendant's participation in the marketing of illegal controlled substances was connected with the same type of specified illegal controlled substance used by the individual user of an illegal controlled substance, and the defendant has been convicted of an offense for that type of specified illegal controlled substance.

(C) The defendant participated in the marketing of illegal controlled substances at any time during the period the individual user of an illegal controlled substance illegally used the controlled substance.

(D) The underlying offense for the conviction of the specified illegal controlled substance occurred in the same county as the individual user's place of use.

(c) As used in subdivision (b), ~~knowingly~~ "knowingly participated in the marketing of illegal controlled substances" means a conviction for transporting, importing into this state, selling, possessing with intent to sell, furnishing, administering, or giving away, or offering to transport, import into this state, sell, furnish, administer, or give away a specified illegal controlled substance ~~or a quantity of marijuana specified in subdivision (e), (f), (g), or (h)~~ (c), (d), (e) or (f) of Section 11703, which are separate in time.

(d) A person entitled to bring an action under this section may recover all of the following damages:

(1) Economic damages, including, but not limited to, the cost of treatment and rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, support expenses, accidents or injury, and any other pecuniary loss proximately caused by the use of an illegal controlled substance.

(2) Noneconomic damages, including, but not limited to, physical and emotional pain, suffering, physical impairment, emotional distress, medical anguish, disfigurement, loss of enjoyment, loss of companionship, services and consortium, and other nonpecuniary losses proximately caused by an individual's use of an illegal controlled substance.

(3) Exemplary damages.

(4) Reasonable attorney fees.

(5) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

SEC. 36. Section 11999 of the Health and Safety code is amended to read:

The Legislature finds and declares all of the following:

(a) The Legislature has established various drug- and alcohol-related programs which provide for education, prevention, intervention, treatment, or enforcement.

(b) The Legislature has classified certain substances as controlled substances and has defined the lawful and unlawful use of controlled substances which are commonly referred to as, but not limited to, anabolic ~~steroids, marijuana,~~ *steroids* and cocaine.

(c) The Legislature has classified certain substances as imitation controlled substances which are commonly referred to as, but not limited to, designer drugs.

(d) The Legislature has determined that the possession with the intent to be under the influence, or being under the influence of toluene, or any substance or material containing toluene, or any substance with similar toxic qualities, is unlawful. Some substances or materials containing toluene, or substances with similar toxic qualities are commonly referred to, but not limited to, inhalants such as cement, glue, and paint thinner.

(e) The Legislature has determined that the purchase, possession, or use of alcohol by persons under 21 years of age is unlawful.

(f) Public and private agencies that provide information pertaining to the drug- and alcohol-related programs provide mixed messages and misinformation relating to the unlawful use of drugs and alcohol. It is the intent of the Legislature that the

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

messages and information provided by the drug and alcohol programs promote no unlawful use of any drugs or alcohol. Mixed messages mean communications discussing how to use or when to use unlawful drugs or alcohol.

(g) Any material, curricula, teachings, or promotion of responsible use, if the use is unlawful, of drugs or alcohol is inconsistent with the law.

(h) The "no unlawful use" message applies to all drug and alcohol programs for the people of the State of California. These materials are to teach and promote that any unlawful use of drugs and alcohol is illegal and dangerous.

(i) This section shall not be construed to prohibit any material, curricula, teachings, discussion or promotion of the responsible use of marijuana; however, drug and alcohol programs shall not encourage the violation of California law with respect to marijuana possession or use.

SEC. 37. Section 13202 of the Vehicle Code is amended to read:

13202. (a) A court may suspend or order that the department revoke in which case the department shall revoke the privilege of any person to operate a motor vehicle upon conviction of any offense related to controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code when the use of a motor vehicle was involved in, or incidental to, the commission of the offense.

(b) A court shall order that the department revoke and the department shall revoke the privilege of any person to operate a motor vehicle upon conviction of a violation of Section 11350, 11351, 11352, ~~11353, 11357, 11359, 11360, or 11361~~ or 11353 of the Health and Safety Code when a motor vehicle was involved in, or incidental to, the commission of such offense.

(c) The period of time for suspension or the period after revocation during which the person may not apply for a license shall be determined by the court, but in no event shall such period exceed three years from the date of conviction.

SEC. 38. Section 13202.5 of the Vehicle Code is amended to read:

(a) For each conviction of a person for any offense specified in subdivision (d), committed while the person was under the age of 21 years, but 13 years of age or older, the court shall suspend the person's driving privilege for one year. If the person convicted does not yet have the privilege to drive, the court shall order the department to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. However, if there is no further conviction for any offense specified in subdivision (d) in a 12-month period after the conviction, the court, upon petition of the person affected, may modify the order imposing the delay of the privilege. For each successive offense, the court shall suspend the person's driving privilege for those possessing a license or delay the eligibility for those not in possession of a license at the time of their conviction for one additional year.

As used in this section, the term "conviction" includes the findings in juvenile proceedings specified in Section 13105.

(b) Whenever the court suspends driving privileges pursuant to subdivision (a), the court in which the conviction is had shall require all driver's licenses held by the person to be surrendered to the court. The court shall within 10 days following the conviction transmit certified abstract of the conviction, together with any driver's licenses surrendered, to the department.

(c) (1) After a court has issued an order suspending or delaying driving privileges pursuant to subdivision (a), the court, upon petition of the person affected, may review the order and may impose restrictions on the person's privilege to drive based upon a showing of a critical need to drive.

(2) As used in this section, "critical need to drive" means the circumstances which are required to be shown for the issuance of a junior permit pursuant to Section 12513.

(3) The restriction shall remain in effect for the balance of the period of suspension or restriction in this section. The court shall notify the department of any modification within 10 days of the order of modification.

(d) This section applies to violations involving controlled substances or alcohol contained in the following provisions:

(1) Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of, and Sections 25658, 25658.5, 25661, and 25662 of, the Business and Professions Code.

(2) Division 10 (commencing with Section 11000) of the Health and Safety ~~Code. Code, except for Chapter 9 (commencing with Section 11362.7), of Chapter 6 of Division 10 of the Health and Safety Code.~~

(3) Section 191.5, paragraph (3) of subdivision (c) of Section 192, subdivision (c) or (d) of Section 192.5, and subdivision (f) of Section 647 of the Penal Code.

(4) Section 23103 when subject to Section 23103.5, Section 23140, and Article 2 (commencing with Section 23152) of Chapter 12 of Division 11 of this code.

(e) Suspension, restriction, or delay of driving privileges pursuant to this section shall be in addition to any penalty imposed upon conviction of any violation specified in subdivision (d).

SEC. 39. Section 23222 of the Vehicle Code is amended to read:

23222. (a) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can or receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

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

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

SEC. 40. Section 40000.15 of the Vehicle Code is amended to read:

40000.15. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Sections 23103 and 23104, relating to reckless driving.

Section 23109, relating to speed contests or exhibitions.

Subdivision (a) of Section 23110, relating to throwing at vehicles.

Section 23152, relating to driving under the influence.

~~Subdivision (b) of Section 23222, relating to possession of marijuana.~~

Subdivision (a) or (b) of Section 23224, relating to persons under 21 years of age knowingly driving, or being a passenger in, a motor vehicle carrying any alcoholic beverage.

Section 23253, relating to officers on vehicular crossings.

Section 23332, relating to trespassing.

Section 24002.5, relating to unlawful operation of a farm vehicle.

Section 24011.3, relating to vehicle bumper strength notices.

Section 27150.1, relating to sale of exhaust systems.

Section 27362, relating to child passenger seat restraints.

Section 28050, relating to true mileage driven.

Section 28050.5, relating to nonfunctional odometers.

Section 28051, relating to resetting odometers.

Section 28051.5, relating to devices to reset odometers.

Subdivision (d) of Section 28150, relating to possessing four or more jamming devices.

SEC 41. Section 1000 of the Penal Code is amended to read:

1000. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for a violation of Section 11350, ~~11357~~, 11364, 11365, 11377, or 11550 of the Health and Safety Code, ~~or subdivision (b) of Section 23222 of the Vehicle Code,~~ or ~~subdivision (b) Section 11358~~ 11437 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 11368 of the Health and Safety Code if the narcotic drug was secured by a fictitious prescription and is for the personal use of the defendant and was not sold or furnished to another, or subdivision (d) of Section 653f if the solicitation was for acts directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4060 of the Business and Professions Code, and it appears to the prosecuting attorney ~~that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code,~~ *that* all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged offense.

(2) The offense charged did not involve a crime of violence or threatened violence.

(3) There is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of the sections listed in this subdivision.

(4) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(5) The defendant's record does not indicate that he or she has successfully completed or been terminated from diversion or deferred entry of judgment pursuant to this chapter within five years prior to the alleged commission of the charged offense.

(6) The defendant has no prior felony conviction within five years prior to the alleged commission of the charged offense.

(b) The prosecuting attorney shall review his or her file to determine whether or not paragraphs (1) to (6), inclusive, of subdivision (a) apply to the defendant. Upon the agreement of the prosecuting attorney, law enforcement, the public defender, and the presiding judge of the criminal division of the superior court, or a judge designated by the presiding judge, this procedure shall be completed as soon as possible after the initial filing of the charges. If the defendant is found eligible, the prosecuting attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. This procedure is intended to allow the court to set the hearing for deferred entry of judgment at the arraignment. If the defendant is found ineligible for deferred entry of judgment, the prosecuting attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. The sole remedy of a defendant who is found ineligible for deferred entry of judgment is a postconviction appeal.

(c) All referrals for deferred entry of judgment granted by the court pursuant to this chapter shall be made only to programs that have been certified by the county drug program administrator pursuant to Chapter 1.5 (commencing with Section 1211) of Title 8, or to programs that provide services at no cost to the participant and have been deemed by the court and the county drug program administrator to be credible and effective. The defendant may request to be referred to a program in any county, as long as that program meets the criteria set forth in this subdivision.

(d) Deferred entry of judgment for a violation of Section 11368 of the Health and Safety Code shall not prohibit any administrative agency from taking disciplinary action against a licensee or from denying a license. Nothing in this subdivision shall be construed to expand or restrict the provisions of Section 1000.4.

(e) Any defendant who is participating in a program referred to in this section may be required to undergo analysis of his or her urine for the purpose of testing for the presence of any drug as part of the program. However, urine analysis results shall not be admissible as a basis for any new criminal prosecution or proceeding.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(f) "Personal use" as it applies to marijuana cultivation in subdivision (a) of this section shall include at least twenty-four plants per person.

SEC. 42. Section 3486 of the Civil Code is amended to read:

3486. (a) To abate the nuisance caused by illegal conduct involving a controlled substance purpose on real property, the city prosecutor or city attorney may file, in the name of the people, an action for unlawful detainer against any person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure, with respect to that controlled substance purpose. In filing this action, which shall be based upon an arrest report or other report by a law enforcement agency, reporting an offense committed on the property and documented by the observations of a police officer, the city prosecutor or city attorney shall utilize the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that in cases filed under this section, the following also shall apply:

(1) (A) Prior to filing an action pursuant to this section, the city prosecutor or city attorney shall give 30 calendar days' written notice to the owner, requiring the owner to file an action for the removal of the person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure with respect to a controlled substance purpose.

(B) This notice shall include sufficient documentation establishing a violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure and an advisement to the owner of the assignment provision contained in subparagraph (D). The notice shall be served upon the owner and the tenant in accordance with subdivision (e).

(C) The notice to the tenant shall, in at least 14-point bold type, meet the following requirements:

(i) The notice shall contain the following language:

"(Date)

(Name of tenant)

(Address of tenant)

Re: Civil Code Section 3486

Dear (name of tenant):

This letter is to inform you that an eviction action may soon be filed in court against you for suspected drug activity. According to state law, Civil Code Section 3486 provides for eviction of persons engaging in such conduct, as described below.

(Name of police department) records indicate that you, (name of arrestee), were arrested on (date) for violations of (list violations) on (address of property).

A letter has been sent to the property owner(s) advising of your arrest and the requirements of state law, as well as the landlord's option to assign the unlawful detainer action to the (name of city attorney or prosecutor's office).

A list of legal assistance providers is provided below. Please note, this list is not exclusive and is provided for your information only; the (name of city attorney or prosecutor's office) does not endorse or recommend any of the listed agencies.

Sincerely,

(Name of deputy city attorney or city prosecutor)

Deputy City (Attorney or Prosecutor)

Notice to Tenant: This notice is not a notice of eviction. You should call (name of the city attorney or prosecutor pursuing the action) at (telephone number) or a legal assistance provider to stop the eviction action if any of the following is applicable:

- (1) You are not the person named in this notice.
 - (2) The person named in the notice does not live with you.
 - (3) The person named in the notice has permanently moved.
 - (4) You do not know the person named in the notice.
 - (5) You want to request that only the person involved in the nuisance be evicted, allowing the other residents to stay.
 - (6) You have any other legal defense or legal reason to stop the eviction action.
- A list of legal assistance providers is attached to this notice. Some provide free legal assistance if you are eligible."

(ii) The notice shall be provided to the tenant in English and, as translated, in all of the languages identified in subdivision (a) of Section 1632 of the Civil Code.

(D) The owner shall, within 30 calendar days of the mailing of the written notice, either provide the city prosecutor or city attorney with all relevant information pertaining to the unlawful detainer case, or provide a written explanation setting forth any safety-related reasons for noncompliance, and an assignment to the city

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

prosecutor or city attorney of the right to bring an unlawful detainer action against the tenant.

(E) The assignment shall be on a form provided by the city prosecutor or city attorney and may contain a provision for costs of investigation, discovery, and reasonable attorney's fees, in an amount not to exceed six hundred dollars (\$600).

(F) If the city prosecutor or city attorney accepts the assignment of the right of the owner to bring the unlawful detainer action, the owner shall retain all other rights and duties, including the handling of the tenant's personal property, following issuance of the writ of possession and its delivery to and execution by the appropriate agency.

(2) Upon the failure of the owner to file an action pursuant to this section, or to respond to the city prosecutor or city attorney as provided in paragraph (1), or having filed an action, if the owner fails to prosecute it diligently and in good faith, the city prosecutor or city attorney may file and prosecute the action, and join the owner as a defendant in the action. This action shall have precedence over any similar proceeding thereafter brought by the owner, or to one previously brought by the owner and not prosecuted diligently and in good faith. Service of the summons and complaint upon the defendant owner shall be in accordance with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the Code of Civil Procedure.

(3) If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to paragraph (2), the city prosecutor or city attorney may be awarded costs, including the costs of investigation and discovery and reasonable attorney's fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to paragraph (1), and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

(4) Nothing in this section shall prevent a local governing body from adopting and enforcing laws, consistent with this section, relating to drug abatement. Where local laws duplicate or supplement this section, this section shall be construed as providing alternative remedies and not preempting the field.

(5) Nothing in this section shall prevent a tenant from receiving relief against a forfeiture of a lease pursuant to Section 1179 of the Code of Civil Procedure.

(b) In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household if the court finds that the person has engaged in the activities described in subdivision (a). Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subdivision to return to or reenter any portion of the entire premises.

(c) For the purposes of this section, "controlled substance purpose" means the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, cocaine, phencyclidine, heroin, methamphetamine, or any other controlled substance, in a violation of subdivision (a) of Section 11350, Section 11351, 11351.5, or 11352, ~~or 11359, subdivision (a) of Section 11360,~~ or Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11383 of the Health and Safety Code.

(d) Notwithstanding subdivision (b) of Section 68097.2 of the Government Code, a public entity may waive all or part of the costs incurred in furnishing the testimony of a peace officer in an unlawful detainer action brought pursuant to this section.

(e) The notice and documentation described in paragraph (1) of subdivision (a) shall be given in writing and may be given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the owner at the address known to the public entity giving the notice, or as shown on the last equalized assessment roll, if not known. Separate notice of not less than 30 calendar days and documentation shall be provided to the tenant in accordance with this subdivision. Service by mail shall be deemed to be completed at the time of deposit in the United States mail. Proof of giving the notice may be made by a declaration signed under penalty of perjury by any employee of the public entity which shows service in conformity with this section.

(f) This section shall apply only to the following courts:

(1) In the County of Los Angeles, any court having jurisdiction over unlawful detainer cases involving real property situated in the City of Los Angeles, the City of Long Beach, or the City of Palmdale.

(2) In the County of San Diego, any court having jurisdiction over unlawful detainer cases involving real property situated in the City of San Diego.

(3) In the County of Alameda, any court with jurisdiction over unlawful detainer cases involving real property situated in the City of Oakland.

(4) In the County of Sacramento, any court with jurisdiction over unlawful detainer cases involving real property situated in the City of Sacramento.

(g) (1) The city attorney and city prosecutor of each participating jurisdiction shall provide to the California Research Bureau the following information:

(A) The number of notices provided pursuant to paragraph (1) of subdivision (a).

(B) For each notice provided pursuant to paragraph (1) of subdivision (a), the following information:

(i) The name and age, as provided by the landlord, of each person residing at the noticed address.

(ii) Whether the person has previously received a notice pursuant to this section from the reporting city attorney or prosecutor, and if so, whether the tenant vacated or was evicted as a result.

(C) For the tenant receiving the notice, whether the tenant has previously been arrested (other than an arrest that is the basis of this notice) for any of the offenses specified in subdivision (c).

(D) The number of cases filed by an owner, upon notice.

(E) The number of assignments executed by owners to the city attorney or prosecutor.

(F) The number of three-day, 30-day, or 60-day notices issued by the city attorney or city prosecutor.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

- (G) The number of cases filed by the city attorney or city prosecutor.
- (H) The number of times that an owner is joined as a defendant pursuant to this section.
- (I) For the subtotal of cases filed by an owner, the city attorney, or the city prosecutor, the following information:
- (i) The number of judgments ordering an eviction or partial eviction specifying whether each was a default judgment, stipulated judgment, or judgment following trial.
 - (ii) The number of cases, listed by separate categories, in which the case was withdrawn or in which the tenant prevailed.
 - (iii) The number of other dispositions and specifying the disposition.
 - (iv) The number of defendants represented by counsel.
 - (v) Whether the case was a trial by the court or a trial by jury.
 - (vi) Whether an appeal was taken, and, if so, the result of the appeal.
 - (vii) The number of cases in which partial eviction was requested, and the number of cases in which the court ordered a partial eviction.
- (J) For the subtotal of cases in which a notice was provided pursuant to subdivision (a), but no case was filed, the following information:
- (i) The number of instances in which a tenant voluntarily vacated subsequent to receiving the notice.
 - (ii) The number of instances in which a tenant vacated a unit prior to the providing of the notice.
 - (iii) The number of cases in which the notice provided pursuant to subdivision (a) was erroneously sent to the tenant. This shall include a list of the reasons, if known, for the erroneously sent notice, such as reliance on information on the suspected violator's name or address that was incorrect, a clerical error, or other reason.
 - (iv) The number of other resolutions.
- (K) For each case in which a notice was issued and the tenants either vacated the premises before a judgment in the unlawful detainer action or were evicted, the street address, city, and ZIP Code of residence where the tenants relocated, to the extent known.
- (2) (A) Information compiled pursuant to this section shall be reported annually to the California Research Bureau on or before January 20.
- (B) The California Research Bureau shall thereafter submit a brief report to the Senate and Assembly Committees on Judiciary once on or before March 20, 2011, and once on or before March 20, 2013, summarizing the information collected pursuant to this section and evaluating the merits of the pilot programs established by this section. The report for this section may be combined with the California Research Bureau report submitted for the pilot program established by Section 3485 of the Civil Code. The 2013 report shall indicate whether the City of Los Angeles has regularly reported to the bureau.
- (3) Personally identifiable information submitted to the California Research Bureau pursuant to this section shall be confidential and shall not be publicly disclosed.
- (h) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 43. Section 432.8 of the Labor Code is amended to read:

432.8. The limitations on employers and the penalties provided for in Section 432.7 shall apply to a conviction for violation of ~~subdivision (b) or (c) of Section 11357 of the Health and Safety Code or a statutory predecessor thereof, or subdivision (b) of Section 11358 11437 or subdivision (c) of Section 11360 (a) of Section 11433 of the Health and Safety Code, or Section 11364, 11365, or 11550 of the Health and Safety Code as they related to marijuana prior to January 1, 1976, Code, or a statutory predecessor thereof, two years from the date of such a conviction.~~ *conviction, or subdivision (a) of Section 11436 or subdivision (a) of Section 11437, or any other infraction alleging a marijuana violation, or a statutory predecessor thereof, from the date of such a conviction.*

SEC. 44. Section 18901.3 of the Welfare and Institutions Code is amended to read:

18901.3. (a) Subject to the limitations of subdivision (b), pursuant to Section 115(d)(1)(A) of Public Law 104-193 (21 U.S.C. Sec. 862a(d)(1)(A)), California opts out of the provisions of Section 115(a)(2) of Public Law 104-193 (21 U.S.C. Sec. 862a(a)(2)). A convicted drug felon shall be eligible to receive food stamps under this section.

(b) Subdivision (a) does not apply to a person who has been convicted of unlawfully transporting, importing into this state, selling, furnishing, administering, giving away, possessing for sale, purchasing for purposes of sale, manufacturing a controlled substance, or possessing precursors with the intent to manufacture a controlled substance, ~~or cultivating, harvesting, or processing marijuana or any part thereof pursuant to Section 11358 of the Health and Safety Code.~~ *substance.*

(c) Subdivision (a) does not apply to a person who has been convicted of unlawfully soliciting, inducing, encouraging, or intimidating a minor to participate in any activity listed in subdivision (b).

(d) As a condition of eligibility to receive food stamps pursuant to subdivision (a), an applicant convicted of a felony drug offense that is not excluded under subdivision (b) or (c) shall be required to provide proof of one of the following subsequent to the most recent drug-related conviction:

- (1) Completion of a government-recognized drug treatment program.
- (2) Participation in a government-recognized drug treatment program.
- (3) Enrollment in a government-recognized drug treatment program.
- (4) Placement on a waiting list for a government-recognized drug treatment program.
- (5) Other evidence that the illegal use of controlled substances has ceased, as established by State Department of Social Services

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

regulations.

(e) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement this section through an all-county letter or similar instructions from the director no later than January 1, 2005.

(f) The department shall adopt regulations as otherwise necessary to implement this section no later than July 1, 2005. Emergency regulations adopted for implementation of this section may be adopted by the director in accordance with the Administrative Procedure Act. The adoption of emergency regulations shall be deemed to be an emergency and necessary for immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

SEC. 45. Section 68152 of the Government Code is amended to read:

68152. The trial court clerk may destroy court records under Section 68153 after notice of destruction and if there is no request and order for transfer of the records, except the comprehensive historical and sample superior court records preserved for research under the California Rules of Court, when the following times have expired after final disposition of the case in the categories listed:

- (a) Adoption: retain permanently.
- (b) Change of name: retain permanently.
- (c) Other civil actions and proceedings, as follows:
 - (1) Except as otherwise specified: 10 years.
 - (2) Where a party appears by a guardian ad litem: 10 years after termination of the court's jurisdiction.
 - (3) Domestic violence: same period as duration of the restraining or other orders and renewals, then retain the restraining or other orders as a judgment; 60 days after expiration of the temporary protective or temporary restraining order.
 - (4) Eminent domain: retain permanently.
 - (5) Family law, except as otherwise specified: 30 years.
 - (6) Harassment: same period as duration of the injunction and renewals, then retain the injunction as a judgment; 60 days after expiration of the temporary restraining order.
 - (7) Mental health (Lanterman Developmental Disabilities Services Act and Lanterman-Petris-Short Act): 30 years.
 - (8) Paternity: retain permanently.
 - (9) Petition, except as otherwise specified: 10 years.
 - (10) Real property other than unlawful detainer: retain permanently if the action affects title or an interest in real property.
 - (11) Small claims: 10 years.
 - (12) Unlawful detainer: one year if judgment is for possession of the premises; 10 years if judgment is for money.
- (d) Notwithstanding subdivision (c), any civil or small claims case in the trial court:
 - (1) Involuntarily dismissed by the court for delay in prosecution or failure to comply with state or local rules: one year.
 - (2) Voluntarily dismissed by a party without entry of judgment: one year.Notation of the dismissal shall be made on the civil index of cases or on a separate dismissal index.
- (e) Criminal.
 - (1) Capital felony (murder with special circumstances where the prosecution seeks the death penalty): retain permanently. If the charge is disposed of by acquittal or a sentence less than death, the case shall be reclassified.
 - (2) Felony, except as otherwise specified: 75 years.
 - (3) Felony, except capital felony, with court records from the initial complaint through the preliminary hearing or plea and for which the case file does not include final sentencing or other final disposition of the case because the case was bound over to the superior court: five years.
 - (4) Misdemeanor, except as otherwise specified: five years.
 - (5) Misdemeanor alleging a violation of the Vehicle Code, except as otherwise specified: three years.
 - (6) Misdemeanor alleging a violation of Section 23103, 23152, or 23153 of the Vehicle Code: 10 years.
 - (7) Misdemeanor alleging a violation of Section 14601, 14601.1, 20002, 23104, 23105, 23109, or 23109.1 of the Vehicle Code: five years.
 - (8) Misdemeanor alleging a marijuana violation ~~under subdivision (b), (c), (d), or (e) of Section 11357 of the Health and Safety Code, or under subdivision (b) of Section 11360 of the Health and Safety Code~~ in accordance with the procedure set forth in Section 11361.5 of the Health and Safety Code: records shall be destroyed two years from the date of conviction or from the date of arrest if no conviction.
 - (9) Misdemeanor, infraction, or civil action alleging a violation of the regulation and licensing of dogs under Sections 30951 to 30956, inclusive, of the Food and Agricultural Code or violation of any other local ordinance: three years.
 - (10) Misdemeanor action resulting in a requirement that the defendant register as a sex offender pursuant to Section 290 of the Penal Code: 75 years. This paragraph shall apply to records relating to a person convicted on or after September 20, 2006.
 - (11) Infraction, except as otherwise specified: three years.
 - (12) Parking infractions, including alleged violations under the stopping, standing, and parking provisions set forth in Chapter 9 (commencing with Section 22500) of Division 11 of the Vehicle Code: two years.
- (f) Habeas corpus: same period as period for retention of the records in the underlying case category.
- (g) Juvenile.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(1) Dependent (Section 300 of the Welfare and Institutions Code): upon reaching age 28 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed pursuant to subdivision (c) of Section 389 of the Welfare and Institutions Code.

(2) Ward (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed under subdivision (d) of Section 781 of the Welfare and Institutions Code.

(3) Ward (Section 602 of the Welfare and Institutions Code): upon reaching age 38 under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order when the subject of the record reaches the age of 38 under subdivision (d) of Section 781 of the Welfare and Institutions Code.

(4) Traffic and some nontraffic misdemeanors and infractions (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or five years after jurisdiction over the person has terminated under subdivision (c) of Section 826 of the Welfare and Institutions Code. May be microfilmed or photocopied.

(5) Marijuana misdemeanor *or infraction within Chapter 6.8 of Division 10 (commencing with Section 11420) of the Health and Safety Code* ~~under subdivision (e) of Section 11357 of the Health and Safety Code~~ in accordance with procedures specified in subdivision (a) of Section 11361.5 of the Health and Safety Code: upon reaching age 18 the records shall be destroyed.

(h) Probate.

(1) Conservatorship: 10 years after decree of termination.

(2) Guardianship: 10 years after the age of 18.

(3) Probate, including probated wills, except as otherwise specified: retain permanently.

(i) Court records of the appellate division of the superior court: five years.

(j) Other records.

(1) Applications in forma pauperis: any time after the disposition of the underlying case.

(2) Arrest warrant: same period as period for retention of the records in the underlying case category.

(3) Bench warrant: same period as period for retention of the records in the underlying case category.

(4) Bond: three years after exoneration and release.

(5) Coroner's inquest report: same period as period for retention of the records in the underlying case category; if no case, then permanent.

(6) Court orders not associated with an underlying case, such as orders for destruction of court records for telephone taps, or to destroy drugs, and other miscellaneous court orders: three years.

(7) Court reporter notes: 10 years after the notes have been taken in criminal and juvenile proceedings and five years after the notes have been taken in all other proceedings, except notes reporting proceedings in capital felony cases (murder with special circumstances where the prosecution seeks the death penalty and the sentence is death), including notes reporting the preliminary hearing, which shall be retained permanently, unless the Supreme Court on request of the court clerk authorizes the destruction.

(8) Electronic recordings made as the official record of the oral proceedings under the California Rules of Court: any time after final disposition of the case in infraction and misdemeanor proceedings, 10 years in all other criminal proceedings, and five years in all other proceedings.

(9) Electronic recordings not made as the official record of the oral proceedings under the California Rules of Court: any time either before or after final disposition of the case.

(10) Index, except as otherwise specified: retain permanently.

(11) Index for cases alleging traffic violations: same period as period for retention of the records in the underlying case category.

(12) Judgments within the jurisdiction of the superior court other than in a limited civil case, misdemeanor case, or infraction case: retain permanently.

(13) Judgments in misdemeanor cases, infraction cases, and limited civil cases: same period as period for retention of the records in the underlying case category.

(14) Minutes: same period as period for retention of the records in the underlying case category.

(15) Naturalization index: retain permanently.

(16) Ninety-day evaluation (under Section 1203.03 of the Penal Code): same period as period for retention of the records in the underlying case category, or period for completion or termination of probation, whichever is longer.

(17) Register of actions or docket: same period as period for retention of the records in the underlying case category, but in no event less than 10 years for civil and small claims cases.

(18) Search warrant: 10 years, except search warrants issued in connection with a capital felony case defined in paragraph (7), which shall be retained permanently.

(k) Retention of the court records under this section shall be extended as follows:

(1) By order of the court on its own motion, or on application of a party or an interested member of the public for good cause shown and on those terms as are just. A fee shall not be charged for making the application.

(2) Upon application and order for renewal of the judgment to the extended time for enforcing the judgment.

SEC. 46. Section 23958 of the Businesses and Professions Code is amended to read:

23958. Upon receipt of an application for a license or for a transfer of a license and the applicable fee, the department shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

and whether the provisions of this division have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The department shall deny an application for a license or for a transfer of a license if either the applicant or the premises for which a license is applied do not qualify for a license under this division.

The department further shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4. *This section shall not be construed to affect the denial or issuance of applications for licenses provided within Chapter 19 (commencing with Section 26000) of Division 9 of the Business and Professions Code based solely on the fact that their establishment offers for sale or will offer for sale marijuana, or conduct transactions related to marijuana, pursuant to laws and regulations adopted within Chapter 19 (commencing with Section 26000) of Division 9 of the Business and Professions Code, regardless of federal statutes governing marijuana activities.*

SEC. 47. Section 25632.5 of the Businesses and Professions Code is added to read:

25632.5. Section 25631, relating to the hours of operation, and Section 25632, relating to the consumption on licensed premises outside the hours of operation, shall not apply to the possession, consumption, sale, transfer, purchase, or attempt to purchase marijuana.

SEC. 48. Chapter 19 (commencing with Section 26000) is added to Division 9 of the Business and Professions Code, to read:

Chapter 19. Commercial Marijuana Production and Sale

26000. (a) This chapter is an exercise of the police powers of the state for the protection of the safety, welfare, health, peace, and morals of the people of the state, to eliminate the evils of unlicensed and unlawful production, selling, and disposing of marijuana, and to promote temperance in the use and consumption of marijuana. It is hereby declared that the subject matter of this chapter involves in the highest degree the economic, social, and moral well-being and the safety of the state and of all its people. All provisions of this chapter shall be liberally construed for the accomplishment of these purposes.

(b) It is the intention of the People in enacting this chapter to ensure the strict, honest, impartial, and uniform administration and enforcement of marijuana laws throughout the state governing the production, sale, disposal, and promotion of temperance in the use and consumption of marijuana.

(c) The Department of Public Health shall supervise, but not administer, regulations governing aspects related to the public health of marijuana use, consumption, and cultivation of marijuana by or upon the premises of the property of a commercial entity, including, but not limited to, marijuana smoking in public, medical marijuana, marijuana cultivation for non personal use, marijuana use, purchase, and sale by minors, and prohibiting herbicides, pesticides, and other dangerous chemicals other than the generally accepted chemicals used in the cultivation, manufacture or production of marijuana sold, transacted, or delivered by licensed establishments pursuant to this chapter. The Department of Public Health shall be permitted to enforce all regulations of this chapter, but it is not a required function of that department under this subdivision.

(d) The Department of Alcoholic Beverage Control, herein referred to as the "department," shall adopt and maintain regulations, and otherwise administer and enforce this chapter, except as authorized by subdivision (c). The department shall make and prescribe those reasonable rules as may be necessary or proper to carry out the purposes and intent of, and to enable it to exercise the powers and perform the duties conferred upon it by, this chapter. The Department of Public Health may also delegate the responsibilities of not prohibiting activities by licensees through regulations and administering and enforcing this chapter currently held by the department to another agency or governmental entity, thereby absolving the department of its duties and responsibilities under this chapter.

26005. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid portion or application, and to this end the provisions of this chapter are severable. It is the intent of the People that this chapter would have been adopted regardless if such invalid provision had not been included or any invalid application had not been made.

*26010. For purposes of this chapter, "marijuana" and "cannabis" are terms to be used interchangeably, meaning all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; concentrated cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include industrial hemp, as defined in Section 11018.5, except where the plant is cultivated or processed for purposes expressly not authorized by Division 24 (commencing with Section 81000) of the Food and Agricultural Code. In addition, "marijuana" and "cannabis" shall be broadly interpreted to include the species *Cannabis Indica*, *Cannabis Ruderalis*, *Cannabis Americana*, as well as any interspecies hybrids or cross-breeds of the *Cannabis* genus and plant. For purposes of this chapter, unless otherwise specified, "marijuana" does not include "medical marijuana" that is regulated under Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code, except as provided in Sections 26056-26059, inclusive.*

26011. (a) The department may create a Marijuana Products Compliance Task Force for the purpose of advising the department on marijuana products health, risk, safety and tax compliance issues that may include, but not be limited to:

- (1) The office of the Attorney General, which shall appoint one representative as the chairperson of the commission;*
- (2) The Department of Alcoholic Beverage Control, which shall appoint one representative as a vice chairperson of the commission;*
- (3) The Department of Public Health, which shall appoint one representative as a vice chairperson of the commission;*
- (4) The Board of Equalization, which shall appoint one representative as a vice chairperson of the commission;*

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(5) Medical Marijuana licensees, collectives, cooperatives, growing operations or small businesses that involve marijuana acting lawfully under California law, from which the office of the Attorney General shall appoint not more than two representatives;

(6) The Medical Board of California, which shall appoint two licensed physicians in good standing to the commission;

(7) State and local law enforcement agencies, from which the office of the Attorney General shall appoint not more than two representatives to the commission;

(8) Elected state and local government officials, from which the office of the Attorney General shall appoint not more than two representatives to the commission.

(b) The commission shall not consist of more than a total of twelve members, with one representative acting as chairperson, and three representatives acting as vice chairpersons. No agency shall have more than two representatives acting on their behalf; however, all members may authorize persons or entities to assist the commission or to conduct activity reasonably related to the responsibilities of the commission.

26012. Commencing no earlier than February 1, 2014, the Bureau of State Audits, in conjunction with the Marijuana Products Compliance Task Force, shall conduct a performance audit of the licensing and enforcement provisions of this chapter, and shall report its findings to the department and the Legislature by February 1, 2015. The report shall include, but not be limited to:

(a) The actual costs of the program.

(b) The level of additional revenue generated by the program compared to the period before its implementation.

(c) Tax compliance rates.

(d) The costs of enforcement at the varying levels.

(e) The appropriateness of penalties assessed in this chapter.

(f) The overall effectiveness of enforcement programs.

(g) Recommendations for the creation of an independent regulatory commission to regulate commercial marijuana activities.

(h) Recommendations to modifications to any of the laws, regulations or punishments for commercial marijuana activities.

26013. Any notice required by this chapter shall be served personally or by mail. If by mail, the notice shall be placed in a sealed envelope, with postage paid, addressed to the licensee at the address as it appears in the records of the department. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation, or mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaints in a civil action.

26014. (a) The department shall, upon request, provide to the Department of Public Health, the office of the Attorney General, any law enforcement agency or any agency enforcing local marijuana control ordinances in operation consistent with state law, access to the department's database of licenses issued to retailers within the jurisdiction of that agency or law enforcement agency. The agencies authorized by this section to access the department's database shall only access and use the department's database for purposes of enforcing marijuana control laws and shall adhere to all state laws, policies, and regulations pertaining to the protection of personal information and individual privacy.

(b) Any person that violates subdivision (a) by providing such information to federal authorities, except as authorized by this chapter, is guilty of a misdemeanor.

26015. (a) (1) Any peace officer, or department employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

(2) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(3) Inspections may be at any place at which marijuana products are sold, produced, cultivated or stored or at any site where evidence of activities involving evasion of marijuana products tax and violations of Part 14.6 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code may be discovered.

(4) Inspections shall be requested or conducted no more than once in a 24-hour period.

(b) Any licensee, or agent of the licensee, that refuses to allow an inspection of the licensed premises by any state or local officials enforcing solely the laws of this state, or any other official expressly prohibited by law from enforcing federal marijuana laws inconsistent with state law, may result in the suspension or termination of the license as determined by the department.

26016. (a) Except as authorized by law, a person or entity that engages in the business of selling or producing marijuana or marijuana products in this state either without a valid license or after a license has been suspended or revoked, and each officer of any corporation that so engages in this business, shall constitute a violation punishable as provided in Section 26096.

(b) Each day after notification by the department or by a law enforcement agency that a manufacturer, wholesaler, distributor, importer, retailer, or any other person or entity required to be licensed under this chapter in order to receive the protections from arrest or prosecution in cases involving commercial marijuana activities, offers marijuana products for sale or exchange without a valid license for the location from which they are offered for sale shall constitute a separate violation.

(c) Continued sales or gifting of marijuana products either without a valid license or after a notification of suspension or revocation shall constitute a violation punishable as provided in Section 26096, and shall result in the seizure of all marijuana products in the possession of the person or entity by the department or a law enforcement agency. Any marijuana products seized

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

by the department or by a law enforcement agency shall be deemed forfeited.

26017. (a) Licenses issued pursuant to this chapter shall be subject to suspension or revocation for violations of this chapter or the Revenue and Taxation Code as provided in this section.

(1) In addition to any applicable fines or penalties for a violation, upon first conviction of a violation, a licensee shall receive a written notice from the department detailing the suspension and revocation provisions of this chapter. At its discretion, the department may also suspend a license following a violation for up to 90 days.

(2) In addition to any applicable fines or penalties for a violation, upon a second conviction of a violation within four years of a previous violation, the license shall be revoked.

(b) The date of the occurrence of a violation shall be used to calculate the duration between subsequent violations. A violation shall be noted in the license record at the department only after judicial conviction or final adjudication of a violation.

(c) Upon updating a record for a violation triggering a suspension, the department shall serve the licensee with a notice of suspension and shall order the licensee to cease the sale, gifting, or displaying for sale of marijuana products for the period of the suspension. The notice of suspension shall inform the licensee of the effective dates of the suspension.

(d) Continued sales or gifting of marijuana products after the effective date of the suspension shall constitute a violation of this chapter and result in the revocation of a license.

(e) Upon completion of a suspension period, a license shall be reinstated by the department.

(f) Upon updating a record for a violation triggering a revocation, the department shall serve the licensee with a notice of revocation and shall order the licensee to cease the sale, gifting, or displaying for sale of marijuana products on and after the effective date of the revocation. The notice of revocation shall inform the licensee of the effective date of the revocation.

(g) After a revocation, a previously licensed applicant may apply for a new license after one year; however, the department may, at its discretion, accept new applications or issue a new license at any time.

(h) Upon updating a license record for a violation, suspension, or revocation of a license of a person or entity that owns or controls more than one location, the department shall send notice in writing of the violations, suspensions, or revocations within 15 days of the department's action to the address included in the application and listed on the license for receipt of correspondence or notices from the department.

(i) Upon suspension or revocation of a license pursuant to this section, the department shall notify all licensed distributors and wholesalers by electronic mail within 48 hours of the suspension or revocation of that license. All licensed distributors and wholesalers shall provide the department and shall update, as necessary, an electronic mail address that the department can use for purposes of making the notifications required by this subdivision.

(j) Violations by a licensee at one location may not be accumulated against other locations of that same licensee. Violations accumulated against a prior owner at a licensed location may not be accumulated against a new owner at the same licensed location.

(k) For purposes of this section, a violation includes violations of the Revenue and Taxation Code relating to the sale or transaction of marijuana products, and described in this chapter. Only one violation per discrete action shall be counted toward a suspension or revocation of a license.

26018. A person who, after receiving a notice of suspension or revocation, continues to display for sale marijuana products shall be subject to a civil penalty of one thousand dollars (\$1,000) for each offense, and shall not be subject to Section 26096.

26019. Notwithstanding any other provision of law, having in place or maintaining a valid license to engage in the cultivation, processing, production, sale or distribution of marijuana pursuant to this chapter or California law shall not mandate the license holder to engage in activities that are in violation of federal law, nor be used as evidence in a court of competent jurisdiction that the license holder or agents of such licensees are acting in violation of federal law, regardless of its legal status under California law. It shall not be unlawful under California law for any person or entity holding a valid license pursuant to this chapter to engage in various conduct in pursuance of the laws and regulations of this chapter.

26020. The department shall license commercial cultivators of marijuana. The fee for the "Commercial Marijuana Grower" license shall be set at one hundred dollars (\$100) for an initial application or per year for each annual renewal.

26030. The department shall, with consideration for the risks posed by cultivation of a valuable crop with public health implications, issue and enforce regulations concerning commercial cultivators of marijuana that provide for all of the following:

(a) Adequate security to reasonably protect against unauthorized access to the marijuana crop at all stages of cultivation, harvesting, drying, processing, packing, and delivery to licensed sales outlets or wholesalers. Each licensee shall be required to provide a detailed crop security plan, along with satisfactory proof of the financial ability of the licensee to provide for that security.

(b) Appropriate employment rules, including the rule that a minor may not have access to marijuana during cultivation, storage, drying, or packing, or at any other time.

(c) Safeguards to ensure that a minor may not transport marijuana on behalf of a commercial buyer or commercial seller.

(d) Restrictions to ensure that marijuana is not used or consumed by minors on the premises of a commercial cultivator.

(e) An inspection and tracking system to reasonably ensure that all marijuana produced by the cultivator that is eventually sold is assessed pursuant to Part 14.6 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code.

(f) Recordkeeping consistent with the regulatory needs of the department, but with an effort to maximize confidentiality where possible.

(g) Ensure that all applicable statutory environmental and agricultural requirements are followed in the cultivation of marijuana.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

26035. A "Commercial Marijuana Grower" license shall prohibit the arrest or prosecution of any licensee, and its agents, for the following activities under California law:

- (a) Cultivate marijuana for commercial purposes on or within the property of the licensed premises, and possess, cultivate, and transport any amount of marijuana plants;
- (b) Sale, distribution, providing, cooking, preparation, serving, sharing or offering marijuana, and items infused with marijuana, for sale or transfer at retail to adults, qualified patients or their caregivers intended for use, possession, or consumption on-premises or off-premises; provided that all marijuana sold at retail intended for consumption off-premises includes adequate labeling affixed to the product that describes the purity, potency, processing, and any adulteration of the product;
- (c) Sell or distribute marijuana or marijuana-infused products to a wholesaler, licensed pursuant to Section 26040, to a retailer, licensed pursuant to Section 26060, to a person or entity licensed pursuant to Section 26050, or to another licensee that is not prohibited from selling or distributing such items under California law;
- (d) Distribute, provide, share, or offer marijuana, or products, foods, drinks, or other items infused with marijuana, without remuneration to adults, intended for use, possession, or consumption off-premises;
- (e) Any other activity as directed or not prohibited by the department, the Department of Public Health, or by state or local law.

26040. (a) The department shall license marijuana wholesalers, who shall not be prohibited from packaging and preparing marijuana for sale, and who shall not be prohibited from transporting, distributing, delivering or selling marijuana to licensed sales outlets. The fee for the license shall be set at five hundred dollars (\$500) for an initial application or for each annual renewal.

(b) The department shall issue regulations that include a requirement that all applicants for licensure under this section receive background checks. At the request of the department, the Attorney General or any local agency shall provide summary criminal history information to the department as provided in Sections 11105 and 13300 of the Penal Code.

26045. The department shall, with consideration for the risks posed by a valuable commodity with public health implications that is subject to significant fees, issue and enforce regulations concerning the sale, packaging, and labeling of marijuana by wholesale licensees. Those regulations shall provide for all of the following:

- (a) Adequate security to reasonably protect against unauthorized access to marijuana at all stages of the wholesaler's possession of the marijuana, including receiving, processing, packing, storage, and delivery to licensed sales outlets. Each wholesaler shall be required to provide a detailed product security plan, along with satisfactory proof of the financial ability of the licensee to provide for that security.
- (b) Appropriate employment rules, including the rule that a minor may not have access to marijuana during receiving, processing, packing, storage, and delivery or at any other time, except for medical purposes.
- (c) Safeguards to ensure that a minor may not transport marijuana on behalf of a commercial buyer or commercial seller.
- (d) Restrictions to ensure that marijuana is not used or consumed on the premises of a wholesaler, except for medical purposes.
- (e) An inspection and tracking system to reasonably ensure that all marijuana received by the wholesaler that is eventually sold is assessed pursuant to Part 14.6 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code.
- (f) Recordkeeping consistent with the regulatory needs of the department, but with an effort to maximize confidentiality where possible.
- (g) Adequate labeling of packages of marijuana to describe the purity, potency, processing, and any adulteration of the product.

26048. A wholesale license issued pursuant to Section 26040 shall prohibit the arrest or prosecution of any licensee, and its agents, for the following activities under California law:

- (a) Possession and transportation of quantities of marijuana in excess of those amounts for personal use as provided in Chapter 6.8 (commencing with Section 11420) of the Health and Safety Code;
- (b) Sale, distribution, providing, manufacturing, cooking, preparation, serving, sharing or offering marijuana products, including items infused with marijuana, for sale or transfer to licensees licensed pursuant to this chapter; provided that all marijuana sold includes adequate labeling affixed to the product that describes the purity, potency, processing, and any adulteration of the product;
- (c) Purchasing of marijuana, or products, foods, drinks, or other items infused with marijuana, at any time;
- (d) Any other activity as directed by the department, the Department of Public Health, or by state or local law.

26050. The department shall administer a statewide program to license marijuana specialty establishments. The fee for a marijuana specialty establishment, hereby referred to as a "Cannabusiness," license shall be set at an amount that will reasonably cover the costs of assuring compliance with the regulations to be issued, but may not exceed one thousand dollars (\$1,000) for an initial application or per year for each annual renewal.

26051. The department shall issue and enforce regulations concerning the sale and use of marijuana on-premises by marijuana specialty establishments. Those regulations shall provide for all of the following:

- (a) An inspection and tracking system to ensure that marijuana may not be sold by a licensee if that marijuana has not been made subject to an assessment provided for in Part 14.6 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code.
- (b) Marijuana shall be kept in an area not directly accessible to any customer, and shall be stored in a locked area during non-business hours.
- (c) Marijuana may not be sold to minors.
- (d) Recordkeeping consistent with the regulatory needs of the department, but with an effort to maximize confidentiality where

possible.

26052. A marijuana specialty establishment license issued pursuant to Section 26050 shall prohibit the arrest or prosecution of any licensee, and its agents, for the following activities under California law:

- (a) Cultivation, manufacturing and transportation of any amount of marijuana plants;
- (b) Sale, distribution, providing, manufacturing, cooking, preparation, serving, sharing or offering marijuana products, including items infused with marijuana, for sale or transfer to adults or qualified patients or their caregivers intended for use, possession, or consumption on-premises or off-premises; provided that all marijuana sold at retail intended for consumption off-premises includes adequate labeling affixed to the product that describes the purity, potency, processing, and any adulteration of the product;
- (c) Purchasing of marijuana, or products, foods, drinks, or other items infused with marijuana, at any time;
- (d) Any other activity as directed by the department, the Department of Public Health, or by state or local law.

26052.5. With the exception of commercial cultivation under subdivision (a) of Section 26052, the provisions of Section 26052 shall apply to licensees, or the employees acting under such licensees, holding one or more of the following licenses: daily on-sale general, daily wine, daily beer and wine, on-sale beer for fishing party boat, on-sale beer and wine for boat, on-sale general for seasonal business, on-sale general for club, club, veteran's club, on-sale general for boat, on-sale general for vessel of more than 1,000 tons burden, special on-sale general, caterer's permit, on-sale beer and wine for seasonal business, on-sale beer for seasonal business, special on-sale general theatre, controlled access cabinet permit, bed and breakfast inn, portable bar, special on-sale beer & wine theater, event permit, special on-sale general bed and breakfast inn, or on-sale general caterer's license.

26053. The department shall administer a statewide program to license cooking establishments that use marijuana as an ingredient in foods. The fee for a marijuana cooking establishment license shall be set at an amount that will reasonably cover the costs of assuring compliance with the regulations to be issued, but may not exceed five hundred dollars (\$500) for an initial application or per year for each annual renewal.

26054. The department shall issue and enforce regulations concerning the sale and use of marijuana on-premises by marijuana specialty establishments. Those regulations shall provide for all of the following:

- (a) Marijuana shall be kept in an area not directly accessible to any customer, and shall be stored in a locked area during non-business hours.
- (b) Marijuana, and products, foods or drinks that contain marijuana, may not be sold to minors.
- (c) Recordkeeping consistent with the regulatory needs of the department, but with an effort to maximize confidentiality where possible.

26055. A marijuana cooking establishment license issued pursuant to Section 26053 shall prohibit the arrest or prosecution of any licensee, and its agents, for the following activities under California law:

- (a) Purchase marijuana, or products, foods, drinks, or other items infused with marijuana, at any time;
- (b) Sell, manufacture, distribute, provide, cook, prepare, serve, share or offer products, foods, drinks, or other items infused with marijuana, intended for tasting, possession or consumption on-premises or off-premises;
- (c) Any other activity as directed by the department, the Department of Public Health, or by state or local law.

26055.5. Sections 26054 and 26055 shall apply to licensees, or the employees or agents acting under such licensees, of one, or more, of the following: on-sale beer and wine for bona fide public eating place, on-sale beer and wine for public premises, on-sale beer and wine for train, on-sale beer and wine for airplane, on-sale general for a bona fide public eating place, on-sale general for public premises, on-sale general for train, on-sale general for airplane, on-sale general bona fide eating place intermittent dockside vessel, on-sale beer and wine for hospital, special on-sale general theatre, special on-sale beer and wine, symphony, on-sale general restrictive service, or on-sale general wine, food and art cultural museum.

26056. (a) The department shall administer a statewide program to license and regulate commercial medical marijuana operations. The fee for a license shall be set at an amount that will reasonably cover the costs of ensuring compliance with the regulations to be issued, but may not exceed one thousand dollars (\$1,000) for an initial application or per year for each annual renewal.

(b) No city, county, or city and county, shall, by ordinance or resolution, legislatively prohibit an applicant, a licensee, or his or her employees or agents, the operation of, or the request for operation of, a state-licensed medical marijuana business in a zoning district approved for commercial winegrowers, pharmacies, or liquor stores, on the basis of its physical location within such zoning district, except as authorized by Section 11362.768 of the Health and Safety Code.

(c) A licensee, and its agents, shall not be subject to citation, arrest or prosecution for possession, consumption, possession for sale, sale, transportation, delivery, sharing, manufacturing or cultivation of medical marijuana in an amount or manner established by this chapter, unless there is reasonable cause to believe that the information obtained is false or falsified.

(d) Apparent authority on behalf of a licensee, issued pursuant to Section 26056, shall exist if the person:

(1) is a patient or caregiver in possession a valid identification card issued pursuant to Section 11362.71 of the Health and Safety Code, except for private security personnel that have no direct responsibilities handling the medical marijuana;

(2) has documentation that he or she is currently employed by, or is otherwise acting as an agent of, the licensee.

(e) If apparent authority is established pursuant to subdivision (d), then the possession, transportation, cultivation, manufacture, sale or delivery of marijuana by agents shall not be prohibited under California law, unless there is reasonable cause to believe that the information obtained is false or falsified, or that the person is otherwise in violation of state or local law.

26057. The department shall, with consideration for the risks posed by a valuable commodity with public health implications, issue and enforce regulations concerning the cultivation, processing, manufacturing, and sale or transaction of

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

medical marijuana by persons licensed pursuant to Section 26056. Those regulations shall provide for all of the following:

(a) Adequate security to reasonably protect against unauthorized access to marijuana at all stages of the cultivator's possession of the marijuana, including receiving, processing, packing, storage, and delivery to licensed outlets. Each applicant or licensee shall be required to provide a detailed product security plan, along with satisfactory proof of the financial ability of the applicant or licensee to provide for that security.

(b) Safeguards to ensure that a minor may not transport marijuana on behalf of the licensee.

(c) Recordkeeping consistent with the regulatory needs of the department, but with an effort to maximize confidentiality where possible.

(d) Adequate labeling of packages of marijuana to describe the purity, potency, processing, and any adulteration of the product.

(e) Regulations that require all employees or agents to possess a valid identification card issued pursuant to this chapter.

26057.5. (a) Any regulations issued by the Department of Public Health concerning the purity, potency, labeling and adulteration of medical marijuana shall be enforced by the department.

(b) It is unlawful to knowingly misrepresent the purity, the potency, or the adulteration of any marijuana product. A violation of this subdivision is a misdemeanor, punishable by imprisonment in the county jail for a period of not more than six months, or by a fine of not more than two thousand five hundred dollars (\$2,500).

26058. (a) The department shall issue and enforce regulations concerning the cultivation, processing, packaging, sale, and transfer of marijuana on-premises or off-premises by licensees licensed pursuant to Section 26056. Those regulations shall provide for all of the following:

(1) Marijuana shall be kept in an area not directly accessible to any person other than the licensee or its employees without an employee or agent of the licensee present, and shall be stored in a locked area during non-business hours.

(2) Recordkeeping consistent with the regulatory needs of the department, but with a reasonable effort to maximize confidentiality.

(3) A licensee operating in a zone designated for wineries shall not be prohibited or restricted from maintaining not more than nine hundred ninety-nine plants in any area upon the real property.

(4) A licensee operating in a zone designated for liquor stores and pharmacies may not maintain more than 99 marijuana plants intended for cultivation upon the premises, except as further not prohibited by a city, county, or city and county. This shall not include possession or cultivation of immature marijuana plants or seedlings intended for sale or delivery to a patient or caregiver.

(c) Notwithstanding any other provisions in this chapter, a license may be suspended or revoked by the department for violation of state or local law, provided that:

(1) for all violations that do not involve unlawful sale to minors, the license shall be suspended for 45 days upon a finding that a first offense has been committed.

(2) for all violations that do not involve unlawful sale to minors, the license shall be suspended for 90 days upon a finding that a second offense has been committed.

(3) for all violations that do not involve unlawful sale to minors, the the license shall be revoked upon finding that a third or subsequent offense has been committed, and the licensee shall be prohibited from owning or operating a marijuana selling, cultivation or manufacturing business within the state of California for a period of not less than one year.

(4) for all violations that involve the unlawful sale to minors, the license shall be revoked, and the licensee shall be prohibited from owning or operating a marijuana selling, cultivation or manufacturing business within the state of California for a period of not less than one year.

(5) for all violations that involve unlawful sales, it shall be an affirmative defense that the buyer presented a valid identification card or sufficient documentation recommending the medical use of marijuana consistent with Health and Safety Code 11362.5 or Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.

(6) for all violations, the local law governing marijuana is consistent with state law and department regulations.

26059. (a) A licensee and its agents operating pursuant to Section 26056 or this chapter shall not be prohibited from the following activities, conducted explicitly for medical purposes only, under California law:

(1) The cultivation, maintaining, manufacturing, and transportation of marijuana plants in any amount, except as provided in Section 26058(a)(4).

(2) Operating in a zone where wineries, pharmacies and liquor stores can locate, except as provided in Section 11362.768 of the Health and Safety Code or Section 26058(a)(4).

(3) The sale, distribution, providing, cooking, preparation, serving, sharing or offering of marijuana, including foods, drinks and other items infused with marijuana, and marijuana plants, for sale or transfer to patients and caregivers operating pursuant to Section 11362.5 of the Health and Safety Code, intended for use, possession, cultivation or consumption on-premises or off-premises; provided that all marijuana sold or transferred intended for off-premises use includes adequate labeling affixed to the product as well as available to the patient or caregiver upon the premises that describes the purity, potency, processing, and any adulteration of the medicine, as well as any other information deemed reasonably necessary by the department.

(4) The purchase of dried marijuana or marijuana plants, or foods, drinks, or other items infused with marijuana, at any time.

(5) Any other activity as directed by the department, or by state or local law.

(b) With respect to sales and distribution to a qualified patients under 18 years of age, that is unemancipated, a licensee or its employees must require that such person present a valid identification card at the time of purchase or transfer.

(c) Notwithstanding any other provision of law, a licensee or its employees that knowingly fails to require a qualified patient under 18 years of age, who is unemancipated, to present a valid identification card at the time of the purchase or

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

transaction, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period of not more than one year, or by a fine of two thousand five hundred dollars (\$2,500), or by both such fine and imprisonment. This section shall not apply if a parent or legal guardian accompanies the qualified patient, or if the qualified patient is emancipated.

26060. The department shall administer a statewide program to license retailers of marijuana and marijuana-infused products as an alternative to holding an off-sale general or off-sale beer and wine license. The fee for a retail license shall be set at one hundred dollars (\$100) per each location for an initial application or for each annual renewal.

26061. The department shall issue and enforce regulations concerning the sale of marijuana by licensees expressly not prohibited to do so under this chapter, and off-sale general licensees. Those regulations shall provide for all of the following:

(a) An inspection and tracking system to ensure that marijuana may not be sold by a licensee if that marijuana has not been made subject to an assessment provided for in Part 14.6 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code.

(b) Marijuana shall be kept behind a counter, in a shelf, or in any other area not directly accessible to any customer, and shall be stored in a locked area during non-business hours.

(c) Marijuana may not be sold to minors.

(d) Recordkeeping consistent with the regulatory needs of the department, but with an effort to maximize confidentiality where possible.

26061.5. A retailer license issued pursuant to Section 26060, and an off-sale general license, shall prohibit the arrest or prosecution of any licensee, and its agents, for the following activities:

(a) Possession and transportation of quantities of marijuana in excess of those amounts for personal use as provided in Chapter 6.8 (commencing with Section 11420) of the Health and Safety Code.

(b) Sale, distribution, providing, cooking, preparation, serving, sharing or offering marijuana products, including items infused with marijuana, for sale or transfer at retail to adults or qualified patients or their caregivers intended for use, possession, or consumption off-premises; provided that all marijuana sold intended for consumption off-premises includes adequate labeling affixed to the product that describes the purity, potency, processing, and any adulteration of the product;

(c) Purchasing of marijuana, or products, foods, drinks, or other items infused with marijuana, at any time.

(d) Any other activities as directed by the department or the Department of Public Health, or by state or local law.

26062. (a) Commencing April 1, 2013, a person or entity who conducts in the commercial cultivation, production, distribution, or sale of marijuana shall have in place and maintain a license pursuant to this chapter in order to not be arrested or prosecuted for conducting such activity under California law. A person or entity that owns or controls more than one location must obtain a separate license for each location, but may submit a single application for those licenses.

(b) The licensee shall conspicuously display the license at each location in a manner visible to the public.

(c) A license is not assignable or transferable. A person or entity that obtains a license who ceases to do business as specified in the license, or whose license is suspended or revoked, shall immediately surrender the license to the department.

(d) A license shall be valid for a 12-month period, and shall be renewed annually.

(e) Notwithstanding any other provision of law, if the department fails to implement any part of this chapter by June 1, 2013, it shall not be a violation of California law to sell or distribute marijuana to adults, or to patients or their caregivers operating pursuant to Section 11362.5 of the Health and Safety Code; provided that all marijuana sold is subject to an assessment provided for in Part 14.6 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code, and other taxes as not unlawfully adopted, if they apply, or are collected in a manner prescribed by law.

26063. (a) Notwithstanding Section 26062 or Section 26065, the department may issue a temporary license with a scheduled expiration date, as determined by the department, that occurs on or before January 1, 2014.

(b) A temporary license issued pursuant to this section shall be automatically terminated upon the department's issuance of a license pursuant to Section 26065.

(c) A temporary license issued pursuant to this section is subject to the same suspension, revocation, and forfeiture provisions that apply to licenses issued by the department pursuant to Section 26065.

26064. (a) An application for a license shall be filed on a form prescribed by the department and shall include the following:

(1) The name, address, and telephone number of the applicant.

(2) The business name, address, and telephone number of each establishment or cultivation location. For applicants who control more than one establishment or cultivation location, an address for receipt of correspondence or notices from the department, such as a headquarters or corporate office of the retailer, shall also be included on the application and listed on the license. Citations issued to licensees shall be forwarded to all addressees on the license.

(3) A statement by the applicant affirming that the applicant has not been convicted of a felony that is currently maintained as a felony under California law and has not violated and will not violate or cause or permit to be violated any of the provisions of this chapter or any rule of the department applicable to the applicant or pertaining to the manufacture, sale, or distribution of marijuana products. If the applicant is unable to affirm this statement, the application shall contain a statement by the applicant of the nature of any violation or the reasons that will prevent the applicant from complying with the requirements with respect to the statement.

(4) If any other licenses or permits have been issued by the department or the department to the applicant, the license or permit number of those licenses or permits then in effect.

(5) A statement by the applicant that the contents of the application are complete, true, and correct. Any person who signs a

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

statement pursuant to this subdivision that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in the county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and the fine.

(6) The signature of the applicant.

(7) Any other information the department may require.

(b) The department may investigate to determine the truthfulness and completeness of the information provided in the application. The department may issue a license without further investigation to an applicant for a location if the applicant holds a valid license from the department for that same location.

(c) The department shall provide electronic means for applicants to download and submit applications.

(d) (1) A one-time license fee of one thousand dollars (\$1000) shall be submitted with each application. An applicant that owns or controls more than one location shall obtain a separate license for each location, but may submit a single application for those licenses with a one-time license fee of one hundred dollars (\$100) per location.

(2) The one-time fee required by this subdivision does not apply to an application for renewal of a license for a location for which the one-time license fee has already been paid. If a license is reinstated after its expiration, the entity, as a condition precedent to its reinstatement, shall pay a reinstatement fee of one thousand dollars (\$1000).

26065. (a) The department shall issue a license to a qualified applicant within 30 days of receipt of a completed application and payment of the fees prescribed in Section 26064, unless any of the following apply:

(1) The person or entity has previously been issued a license that is suspended or revoked by the department for violation of any of the provisions of this chapter.

(2) The application is for a license or renewal of a license for the same location as that of a previous person or entity that had its license revoked or is subject to revocation proceedings for violation of any of the provisions of this chapter, unless:

(A) It has been more than five years since a previous license for the location was revoked.

(B) The person or entity applying for the license provides the department with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction. For purposes of this section, an "arm's length transaction" is defined as a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this chapter that occurred at the retail location, is presumed not to be made at "arm's length."

(3) The person or entity applying for the license has been convicted of a felony pursuant to Section 30473 or 30480 of the Revenue and Taxation Code.

(4) The zoning laws of the city, county, or city and county, prohibit persons or entities from operating such establishments, except as provided by subdivision (b) of Section 26056, or Section 26070.

(b) (1) Any person who is denied a license may petition for a redetermination of the department's denial of the license within 30 days after service upon that person of the notice of the denial of the license. If a petition for redetermination is not filed within the 30-day period, the determination of denial becomes final at the expiration of the 30-day period.

(2) Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at anytime prior to the date on which the department issues its order or decision upon the petition for redetermination.

(3) If the petition for redetermination is filed within the 30-day period, the department shall reconsider the determination of the denial and, if the entity has so requested in the petition, shall grant the entity an oral hearing and shall give the entity at least 10 days' notice of the time and place of the hearing. The department may continue the hearing from time to time as may be necessary.

(4) The order or decision of the department upon a petition for redetermination becomes final 30 days after mailing of notice thereof.

26066. (a) A person or entity whose license has been suspended or revoked by order of the department shall conspicuously post a notice at both of the following locations:

(1) Each public entrance to the location. The notice shall directly face any person who enters the location and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.

(2) Each cash register and other point of sale. The notice shall be posted so as to be readily viewable by a person standing at or approaching the cash register or other point of sale. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.

(b) The notices described in this section shall be in the size and form prescribed by the department. The notice shall be provided by the department and may be reproduced in the same size and form in order to comply with subdivision (a).

(c) A person or business whose license was suspended shall post the notice at the location that was the subject of the suspension for the duration of the suspension.

(d) A person or business whose license was revoked shall post the notice at the location that was the subject of the revocation for a 30-day period from the effective date of the revocation.

(e) Every person or entity who fails to post the notices as required by this section, that alters the notice provided by the department, or that removes the notice before the posting period required in subdivision (c) or (d), as appropriate, expires, shall be subject, notwithstanding Section 26096, to a civil penalty of one thousand dollars (\$1,000) for each offense.

26067. The department shall administer a statewide program to license temporary commercial activity related to marijuana products. The fee for a temporary license shall be set at an amount that will reasonably cover the costs of assuring

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

compliance with the regulations to be issued, but may not exceed four hundred twenty dollars (\$420). Each license shall be valid for not more than twenty-one days.

26068. A temporary license issued pursuant to Section 26067 shall not prohibit the licensee, and its agents, the right to:

- (e) Possession and transportation of quantities of marijuana in excess of those amounts for personal use as provided in Chapter 6.8 (commencing with Section 11420) of the Health and Safety Code.
- (b) Sale, distribution, or offering marijuana products, including items infused with marijuana, for sale or transfer to customers for personal use; provided that all packaged marijuana sold or transferred includes adequate labeling affixed to the product that describes the purity, potency, processing, and any adulteration of the product.
- (c) Sell, distribute, provide, cook, prepare, serve, share or offer marijuana, or products, foods, drinks, or other items infused with marijuana, intended for tasting, possession or consumption on-premises or off-premises;
- (d) Purchasing of marijuana, or products, foods, drinks, or other items infused with marijuana, at any time.
- (e) Any other activity as directed by the department, the Department of Public Health, or by state or local law.

26069. The department shall issue and enforce regulations concerning the transportation and sale of marijuana by licensees not prohibited to do so under this chapter. Those regulations shall provide for all of the following:

(a) An inspection and tracking system to ensure that marijuana may not be sold by a licensee if that marijuana has not been made subject to an assessment provided for in Part 14.6 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code.

(b) Marijuana shall be kept in an area not directly accessible to any customer, and shall be stored in a locked area during non-business hours.

(c) Marijuana may not be sold to minors, except as not prohibited by this chapter.

(d) Recordkeeping consistent with the regulatory needs of the department, but with an effort to maximize confidentiality where possible.

26069.5. Any licensee, or person acting on behalf of the licensee, shall not be arrested, prosecuted for transporting dried marijuana or marijuana plants in any amount within the state of California.

26070. (a) No city, county, or city and county, shall prohibit a qualified business entity the operation of, or the request for operation of, a business operating with a "Commercial Marijuana Growers" license, issued pursuant to Section 26020, located in a zoning district approved for commercial winegrowers on the basis of its physical location within such zoning district, except as provided by Section 26071.

(b) No city, county, or city and county, shall prohibit a qualified business entity the operation of, or the request for operation of, an establishment operating with a "Cannabusiness" license, issued pursuant to Section 26050, located in a zoning district approved for any business entity that lawfully sells or dispenses alcohol, on the basis of its physical location within such zoning district, except as provided by Section 26071.

(c) No city, county, or city and county, shall, by ordinance or resolution, legislatively prohibit an applicant, a licensee, or his or her employees or agents, the operation of, or the request for operation of, an establishment with a state-licensed medical marijuana business license located in a zoning district approved for commercial winegrowers, pharmacies, or liquor stores, on the basis of its physical location within such zoning district, except as provided by Section 26071.

(d) No city, county, or city and county, shall prohibit a qualified business entity the operation of, or the request for operation of, a business with a retailer's license, issued pursuant to Section 26060, located in a zoning district approved for any business entity that lawfully sells tobacco or alcohol at retail, or in a zoning district approved for retail establishments, liquor stores, pharmacies, convenient stores or general markets, on the basis of its physical location within such zoning district, except as provided by Section 26071.

26071. (a) This section shall apply to all qualified business entities applying for a license or renewal under this chapter, and to all qualified business entities engaging in commercial marijuana activity prior to the adoption of regulations pursuant to this chapter.

(b) No qualified business entity shall be permitted to locate within a 600-foot radius of a school.

(c) The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the qualified business entity is to be located without regard to intervening structures.

(d) This section shall not apply to a qualified business entity that is also a licensed residential medical or elder care facility.

(e) This section shall apply only to a qualified business entity not prohibited by law to possess, cultivate, or distribute marijuana.

(f) Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider.

(g) Nothing in this section shall preempt local ordinances, adopted prior to November 7, 2012, that regulate the location or establishment of a qualified business entity.

(h) For the purposes of this section, "school" means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

(i) A violation of this section is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period of not more than six months, or by a fine of not more than two thousand five hundred dollars (\$2,500), or by both such fine and imprisonment.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

26072. *Once a person or entity is issued a license, the city or county may not prohibit the establishment from operating based solely on its location as long as the establishment operates in accordance with all rules and provisions of this chapter. A city may add or remove locations where certain license holders, and their agents, may apply and renew to operate their establishment, except as provided by subdivision (b) of Section 26056, or Section 26070, and shall communicate all local ordinances to the department within five working days of taking effect.*

26073. *A city, county, or city and county, may confer with the department or the Department of Public Health to have such department or departments administer and/or enforce additional licenses for commercial activities involving marijuana cultivation, production, sales or distribution. This license shall not prohibit the licensee, and its employees or agents, to conduct those activities under state law pursuant to the rules and regulations set forth by the department or the Department of Public Health and such license shall be recognized by all state and local government officials. The adoption of new licenses shall not abridge the provisions of this chapter as they pertain to other license types.*

26074. (a) *Unless otherwise prohibited by California law, cities and counties may retain or enact appropriate environmental and public health controls to ensure that any licensed premises or licensed cultivators of marijuana minimizes any harm to the environment, adjoining and nearby landowners, and persons passing by.*

(b) *A city, county, or city and county, may block any temporary license governed by Section 26067 or 26068 from being issued or renewed.*

26075. (a) *No city, county, or city and county, shall prohibit the transportation, sale or possession of marijuana in any amount by any licensee, or its agents or employees, not prohibited from commercial marijuana activity under this chapter.*

(b) *No person shall be arrested, cited, sanctioned or prosecuted for engaging in conduct expressly not prohibited by this chapter.*

26076. (a) *Any on-sale licensee, or agent or employee of that licensee, who sells, gives, or delivers to any persons any marijuana to any person between the hours of 2 o'clock a.m. and 6 o'clock a.m. of the same day is guilty of an infraction, punishable by a fine of not more than two thousand five hundred dollars (\$2,500).*

(b) *For the purposes of this section, on the day that a time change occurs from Pacific standard time to Pacific daylight saving time, or back again to Pacific standard time, "2 o'clock a.m." means two hours after midnight of the day preceding the day such change occurs.*

(c) *This section shall not apply to the sale of marijuana for commercial purposes to licensed persons or entities, or agents acting on their behalf, or the sale of marijuana by an off-sale licensee, or a licensee selling packaged marijuana not intended for consumption upon the licensed premises.*

26077. (a) *It shall not be a violation of California law for any on-sale licensee, or agent or employee of such licensee, to not prohibit marijuana from being consumed by any person on the licensee's licensed premises during any hours in which it is unlawful to sell, give, or deliver any alcoholic beverage for consumption on the premises under California law.*

(b) *It shall unlawful under California law for a licensee to prohibit a person from taking marijuana purchased from the licensee, or any other marijuana, off the premises, so long as the marijuana is not in public view.*

26080. (a) *Notwithstanding any other provision of law, no person, entity or government agency, or agency working on their behalf, may collect, attempt to collect, sell, attempt to sell, give away, attempt to give away, furnish, attempt to furnish, allow the distribution of, include in a database, or create a database with, any thumbprint or other biometric data, from any person or entity who applies, attempts to apply, renews, attempts to renew, possesses, uses or attempts to use any commercial cultivation or wholesale license, or any license that specifically deals with marijuana-related activities.*

(b) *Notwithstanding any other provision of law, any records of a person or qualified business entity that applies, attempts to apply, renews, attempts to renew, possesses, uses or attempts to use a marijuana license issued pursuant to this chapter which specifically deals only with marijuana-related activities, shall remain confidential. This subdivision shall not restrict or prohibit the Department from collecting and sharing information that is necessary for its essential regulatory operations.*

26090. *Beginning April 1, 2013, the department shall begin to enforce the regulations and other provisions of this chapter; provided that Sections 26075 and 26080 shall take effect immediately.*

26095. (a) *The department shall adopt regulations as otherwise necessary to implement this chapter no later than February 1, 2013. The department may, from time to time, adopt regulations as needed for the continued everyday operation of the regulatory and enforcement provisions of the program in a manner that promotes the spirit of this chapter.*

(b) *The department shall develop protocols to implement the responsibilities described in subdivision (a), including, but not limited to:*

(1) *protocols to complete the application process, and either prohibit or not prohibit an applicant pursuant to California law, within 30 days from the date of application;*

(2) *protocols to deny or prohibit an application or renewal if the licensee operates or intends to operate its facilities within a zone prohibited by California law, or otherwise in violation of California law;*

(3) *protocols for inspections, investigations, searches, seizures and such additional activities as may become necessary from time to time;*

(4) *protocols for peace officers and employees of the department to efficiently, effectively and appropriately enforce the regulations of this chapter.*

(c) *No licenses shall be deemed valid until the operative date of these regulations. With respect to licenses issued prior to April 1, 2013, such licenses shall be valid for one year, beginning April 1, 2013.*

(d) *If the department fails to adopt regulations to implement this chapter on or by the end of the evening of February 1, 2013, any citizen may commence a mandamus action in Superior Court to compel the department to perform the actions mandated under this chapter.*

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

(e) If the department fails to issue or deny a license within thirty days of the submission of a valid application or renewal pursuant to the regulations adopted by this chapter, the license shall be deemed issued, and a copy of the license application or renewal shall be deemed a valid license, except as provided by subdivision (d) or otherwise provided by this chapter. Such licensee shall be governed by the appropriate regulations and provisions set forth in this chapter.

26096. Any violation of this chapter by any person, except as otherwise provided, is an infraction. Each offense shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500). The court shall order any fines assessed be deposited in the Statewide Marijuana Tax Collection Account specified in Section 34031 of the Revenue and Taxation Code.

26097. Any prosecution for a violation of any of the penal provisions of this chapter shall be instituted within one year after the commission of the offense.

SEC. 49. Part 14.6 (commencing with Section 34001) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 14.6. MARIJUANA EXCISE TAX

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

34001. It is the intent of the people in enacting this part to raise revenue for the State by enacting an excise tax on commercial transactions involving marijuana, in addition to the taxes imposed by Section 6051 and any other provision of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

34002. This part shall be known and may be cited as the "Marijuana Excise Tax Law."

34003. Except where the context otherwise requires, the definitions set forth in Part 1 (commencing with Section 6001) govern the construction of this part.

34004. For purposes of this part:

(a) "Marijuana" and "Cannabis" are terms to be used interchangeably, meaning all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; concentrated cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination. In addition, "marijuana" and "cannabis" shall be broadly interpreted to include the species *Cannabis Indica*, *Cannabis Ruderalis*, *Cannabis* and *Americana*, as well as any interspecies hybrids or cross-breeds of the *Cannabis* genus and plant; except that marijuana containing less than one-half of 1 percent tetrahydrocannabinol by weight is not subject to this excise tax.

(b) "Retailer" means any retailer licensed pursuant to Chapter 19 (commencing with Section 26000) of Division 9 of the Business and Professions Code who sells marijuana at retail.

CHAPTER 2. IMPOSITION OF TAX

34011. An excise tax is imposed upon all marijuana sold or transferred intended for sale or redistribution in this State pursuant to Chapter 19 (commencing with Section 26000) of Division 9 of the Business and Professions Code by a manufacturer, grower, or importer, or seller of marijuana with respect to which no tax has been paid within areas over which the United States Government exercises jurisdiction, at the following rates:

(a) On all dried marijuana, two cents (\$0.02) per avoirdupois gram;

(b) On all marijuana plants, two cents (\$0.02) per immature plant, and twenty cents (\$0.20) per mature plant;

(c) On all marijuana-infused products, two cents (\$0.02) per package;

(d) On all concentrated cannabis, as defined in Section 11006.5 of the Health and Safety Code, twenty cents (\$0.20) per avoirdupois gram.

34012. All qualified business entities, collectives, cooperatives, and dispensaries and other entities not unlawfully engaged in the marijuana trade under California law shall conspicuously display on all menus, boards, or in any advertisement, the total price or amount that includes all applicable state, local, or other taxes and fees applied to or assessed within the transaction or transfer, if any apply.

34013. A qualified business entity that fails to pay the excise tax provided in Section 34011, pursuant to the rules and regulations adopted by the board, is of a misdemeanor, punishable by not more than six months in county jail or by a fine of not more than five thousand dollars (\$5000), or both.

34014. A violation of Section 34012 is an infraction, punishable by a fine of not more than one thousand dollars (\$1,000).

CHAPTER 3. COLLECTION AND ADMINISTRATION

34021. To the extent feasible or practicable, the provisions of Chapter 5 (commencing with Section 6451), Chapter 6 (commencing with Section 6701), Chapter 7 (commencing with Section 6901), and Chapter 8 (commencing with Section 7051) of Part 1 shall govern returns and payments, determinations, collections of fees and taxes, overpayments and refunds, and administration under this part.

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

34022. *The board shall enforce this part and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The board may prescribe the extent to which any ruling and regulation shall be applied without retroactive effect.*

34023. *Fees and taxes shall not apply to unlawful transactions of marijuana under California law involving less than 28.5 grams of marijuana.*

CHAPTER 4. DISPOSITION OF PROCEEDS AND ADJUSTMENT OF THE FEE

34031. *Any amount required to be paid to the state under this part shall be paid to the board in the form of a remittance payable to the State Board of Equalization. The board shall transmit the payments to the Treasurer to be deposited in the Statewide Marijuana Tax Collection Account, which is hereby created in the General Fund. Upon appropriation, the moneys in the fund shall be expended exclusively for the everyday operations of state and local law enforcement agencies, the Department of Alcoholic Beverage Control, and any other agency that enforces marijuana regulations to ensure the public safety and welfare and compliance with marijuana laws and regulations, as well as for drug education, awareness, and rehabilitation programs under the jurisdiction of the State Department of Alcohol and Drug Programs; provided that the aforementioned agencies comply with the duties set forth in Chapter 19 (commencing with Section 26000) of Division 9 of the Business and Professions Code.*

34032. *Notwithstanding Section 34031, no moneys from the Statewide Marijuana Tax Collection Account shall be appropriated for, nor expended on, any governmental agency that fails to comply with any law, regulation, duty or responsibility in implementing and enforcing state law set forth in Chapter 6.8 of Division 10 (commencing with Section 11420) of the Health and Safety Code or Chapter 19 (commencing with Section 26000) of Division 9 of the Business and Professions Code.*

SEC. 50. Division 24 (commencing with Section 81000) is added to the Food and Agricultural Code, to read:

DIVISION 24. Industrial Hemp

81000. *For purposes of this division, "industrial hemp for commercial purposes" means the sale or non-personal cultivation of industrial hemp, as defined in Section 11018.5 of the Health and Safety Code.*

81001. (a) *Except when grown by an established agricultural research institution, or pursuant to Chapter 6.8 (commencing with 11420) of the Health and Safety Code, industrial hemp for commercial purposes shall be grown only as a densely planted fiber or oilseed crop in acreages of not less than five acres, and no portion of an acreage of industrial hemp for commercial purposes shall include plots of less than one contiguous acre.*

(b) *Industrial hemp for commercial purposes shall include products imported under the first revision of the 2007 Harmonized Tariff Schedule of the United States, Section 1202 et seq. of Title 19 of the United States Code, including "hemp seed" per subheading 1207.99.02.20, "hemp oil" per subheading 1515.90.80.10, "true hemp" per subheadings 5302.10.00.00 and 5302.90.00.00, "true hemp yarn" per subheading 5308.20.00.00, and "woven fabrics of true hemp fibers" per subheading 5311.00.40.10.*

(c) *For the purposes of this section, "established agricultural research institution" means a public or private institution or organization that maintains land for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers.*

(d) *A person who grows industrial hemp for commercial purposes under this section shall, prior to the harvest of each crop and as provided below, obtain a laboratory test report indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.*

(1) *Sampling shall occur as soon as practicable when the THC content of the leaves surrounding the seeds is at its peak and shall commence as the seeds begin to mature, when the first seeds of approximately 50 percent of the plants are resistant to compression.*

(2) *The entire fruit-bearing part of the plant including the seeds shall be used as a sample. The sample cut shall be made directly underneath the inflorescence found in the top one-third of the plant.*

(3) *Samples to perform the testing pursuant to this section shall be collected and transported only by an employee or agent of a laboratory that is registered with the federal Drug Enforcement Administration.*

(4) *The laboratory test report shall be issued by a laboratory registered with the federal Drug Enforcement Administration, shall state the percentage content of THC, shall indicate the date and location of samples taken, and shall state the Global Positioning System coordinates and total acreage of the crop. If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report. If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report.*

(5) *If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the person who requested the testing not less than 10 original copies signed by an employee authorized by the laboratory and shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.*

(6) *If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not*

Cannabis Regulation Act of 2012 -- CA2012.COM: Version 2.1, November 29, 2011

exceed 1 percent, the person who grows industrial hemp for commercial purposes shall submit additional samples for testing of the industrial hemp grown.

(7) A person who grows industrial hemp for commercial purposes shall destroy the industrial hemp grown upon receipt of a first laboratory test report indicating a percentage content of THC that exceeds 1 percent or a second laboratory test report pursuant to paragraph (6) indicating a percentage content of THC that exceeds three-tenths of 1 percent, unless authorized by law. The destruction shall take place as soon as practicable but no later than 45 days after receipt of a laboratory test report that requires crop destruction pursuant to this section.

(8) Paragraph (7) does not apply to industrial hemp grown by an established agricultural research institution if the destruction of the industrial hemp grown will impede the development of types of industrial hemp that will comply with the three-tenths of 1 percent THC limit established in this section.

(9) A person who intends to grow industrial hemp for commercial purposes and who complies with this section shall not be prosecuted for the unlawful cultivation or possession of marijuana as a result of a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent but does not exceed 1 percent.

(10) Paragraph (9) does not apply to industrial hemp grown by an established agricultural research institution. Established agricultural research institutions shall not be prohibited to cultivate or possess industrial hemp with a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent if that cultivation or possession contributes to the development of types of industrial hemp that will comply with the three-tenths of 1 percent THC limit established in this section.

(11) The person who grows industrial hemp shall retain an original signed copy of the laboratory test report for one year from its date of sampling, make an original signed copy of the laboratory test report available to law enforcement officials upon request, and shall provide an original copy of the laboratory test report to each person purchasing, transporting, or otherwise obtaining from the person who grows industrial hemp the fiber, oil, cake, or seed of the plant.

SEC. 51. SEVERABILITY

If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

SEC. 52. This act shall become operative and take effect on November 7, 2012 only if Proposition [# of qualifying initiative] is adopted at the November 6, 2012, statewide general election.