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Substantive

AMENDMENTS TO SENATE BILL NO. 829 AS AMENDED IN SENATE APRIL 25, 2018

Amendment 1

In the heading, below line 1, insert:

(Principal coauthor: Assembly Member Wood)

Amendment 2

In the title, strike out lines 2 and 3 and insert:

An act to amend Sections 26001, 26012, 26050, 26070, 26070.1, 26090, 26100, 26104, 26110, 26120, and 26200 of, the Business and Professions Code, and to amend Sections 34010, 34011, and 34012 of the Revenue and Taxation Code, relating to cannabis, and declaring the urgency thereof, to take effect immediately.

Amendment 3

On page 3, before line 1, insert:

SECTION 1. Section 26001 of the Business and Professions Code is amended to read:

26001. For purposes of this division, the following definitions shall apply:

(a) "A-license" means a state license issued under this division for cannabis or cannabis products that are intended for adults who are 21 years of age and older and who do not possess a physician's recommendation.

(b) "A-licensee" means any person holding a license under this division for cannabis or cannabis products that are intended for adults who are 21 years of age and older and who do not possess a physician's recommendation.

(c) "Applicant" means an owner applying for a state license pursuant to this division.

(d) "Batch" means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:

(1) Harvest batch. "Harvest batch" means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals, and harvested at the same time.

(2) Manufactured cannabis batch. "Manufactured cannabis batch" means either of the following:

(A) An amount of cannabis concentrate or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.

(B) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.



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(e) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

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

(g) "Cannabis accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.

(h) "Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(i) "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.

(j) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

(k) "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this division. Commercial cannabis activity does not include a transaction for no consideration.

(l) "Compassion care license" means a state license issued under this division to an M-licensee for the donation, for no consideration, of medicinal cannabis, or medicinal cannabis products, to compassion care patients for their personal use.

(m) "Compassion care licensee" means any person holding a license under this division for the donation, for no consideration, of medicinal cannabis, or medicinal cannabis products, to compassion care patients.

(n) "Compassion care patient" means a qualified medicinal cannabis patient, as defined by the Compassionate Use Act of 1996 (Proposition 215), commencing with Section 11362.5 of the Health and Safety Code, who possesses a physician's recommendation.

(o)

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

(m)

(p) "Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

(n)
(q) "Customer" means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician's recommendation, or a primary caregiver.

(o)
(r) "Day care center" has the same meaning as in Section 1596.76 of the Health and Safety Code.

(p)
(s) "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform.

(q)
(t) "Director" means the Director of Consumer Affairs.

(r)
(u) "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(s)
(v) "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(t)
(w) "Edible cannabis product" means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(u)
(x) "Fund" means the Cannabis Control Fund established pursuant to Section 26210.

(v)
(y) "Kind" means applicable type or designation regarding a particular cannabis variant or cannabis product type, including, but not limited to, strain name or other grower trademark, or growing area designation.

(w)
(z) "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.

(x)
(aa) "Labor peace agreement" means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization

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

(y)

(ab) "License" means a state license issued under this division, and includes both an A-license and an M-license, as well as a testing laboratory license.

(z)

(ac) "Licensee" means any person holding a license under this division, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

(aa)

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

(ab)

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

(ae)

(af) "Local jurisdiction" means a city, county, or city and county.

(ad)

(ag) "Lot" means a batch or a specifically identified portion of a batch.

(ae)

(ah) "M-license" means a state license issued under this division for commercial cannabis activity involving medicinal cannabis.

(af)

(ai) "M-licensee" means any person holding a license under this division for commercial cannabis activity involving medicinal cannabis.

(ag)

(aj) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(ah)

(ak) "Manufacturer" means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

(ai)

(al) "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation, or intended to be donated to, and used by, a compassion care patient.

(aj)

~~(am)~~ (am) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

~~(ak)~~ (an) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of cannabis or cannabis products.

~~(al)~~

~~(ao)~~ (ao) "Owner" means any of the following:

(1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.

(2) The chief executive officer of a nonprofit or other entity.

(3) A member of the board of directors of a nonprofit.

(4) An individual who will be participating in the direction, control, or management of the person applying for a license.

~~(am)~~

~~(ap)~~ (ap) "Package" means any container or receptacle used for holding cannabis or cannabis products.

~~(an)~~

~~(aq)~~ (aq) "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

~~(ao)~~

~~(ar)~~ (ar) "Physician's recommendation" means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

~~(ap)~~

~~(as)~~ (as) "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

~~(aq)~~

~~(at)~~ (at) "Primary caregiver" has the same meaning as in Section 11362.7 of the Health and Safety Code.

~~(ar)~~

~~(au)~~ (au) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.

~~(as)~~

~~(av)~~ (av) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

~~(at)~~

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

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

(2) Licensed by the bureau.

(au)

(ax) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

(av)

(ay) "Youth center" has the same meaning as in Section 11353.1 of the Health and Safety Code.

SEC. 2. Section 26012 of the Business and Professions Code is amended to read:

26012. (a) It being a matter of statewide concern, except as otherwise authorized in this division:

(1) The bureau shall have the sole authority to create, issue, deny, renew, discipline, suspend, or revoke licenses for microbusinesses, transportation, storage unrelated to manufacturing activities, distribution, testing, and sale or donation of cannabis and cannabis products within the state.

(2) The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of cannabis. The Department of Food and Agriculture shall have the authority to create, issue, deny, and suspend or revoke cultivation licenses for violations of this division.

(3) The State Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing of cannabis products. The State Department of Public Health shall have the authority to create, issue, deny, and suspend or revoke manufacturing licenses for violations of this division.

(b) The licensing authorities shall have the authority to collect fees in connection with activities they regulate concerning cannabis. The licensing authorities may create licenses in addition to those identified in this division that the licensing authorities deem necessary to effectuate their duties under this division.

(c) For the performance of its duties, each licensing authority has the power conferred by Sections 11180 to 11191, inclusive, of the Government Code.

(d) Licensing authorities shall begin issuing licenses under this division by January 1, 2018.

SEC. 3. Section 26050 of the Business and Professions Code is amended to read:

26050. (a) The license classification pursuant to this division shall, at a minimum, be as follows:

- (1) Type 1—Cultivation; Specialty outdoor; Small.
- (2) Type 1A—Cultivation; Specialty indoor; Small.
- (3) Type 1B—Cultivation; Specialty mixed-light; Small.
- (4) Type 1C—Cultivation; Specialty cottage; Small.
- (5) Type 2—Cultivation; Outdoor; Small.
- (6) Type 2A—Cultivation; Indoor; Small.

- (7) Type 2B—Cultivation; Mixed-light; Small.
- (8) Type 3—Cultivation; Outdoor; Medium.
- (9) Type 3A—Cultivation; Indoor; Medium.
- (10) Type 3B—Cultivation; Mixed-light; Medium.
- (11) Type 4—Cultivation; Nursery.
- (12) Type 5—Cultivation; Outdoor; Large.
- (13) Type 5A—Cultivation; Indoor; Large.
- (14) Type 5B—Cultivation; Mixed-light; Large.
- (15) Type 6—Manufacturer 1.
- (16) Type 7—Manufacturer 2.
- (17) Type 8—Testing laboratory.
- (18) Type 10—Retailer.
- (19) Type 11—Distributor.
- (20) Type 12—Microbusiness.
- (21) Type 13—Compassion Care.

(b) With the exception of testing laboratory licenses, which may be used to test cannabis and cannabis products regardless of whether they are intended for use by individuals who possesses a physician's recommendation, all licenses issued under this division shall bear a clear designation indicating whether the license is for commercial adult-use cannabis activity as distinct from commercial medicinal cannabis activity by prominently affixing an "A" or "M," respectively. Examples of such a designation include, but are not limited to, "A-Type 1" or "M-Type 1." Except as specifically specified in this division, the requirements for A-licenses and M-licenses shall be the same. For testing laboratories, the bureau shall create a license that indicates a testing laboratory may test both adult-use and medicinal cannabis.

(c) A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.

(d) Each licensing authority shall establish procedures for the issuance and renewal of licenses.

(e) Notwithstanding subdivision (b), a compassion care license shall only be issued to an M-licensee.

SEC. 4. Section 26070 of the Business and Professions Code is amended to read:

26070. Retailers and Distributors.

(a) State licenses to be issued by the bureau related to the sale and distribution of cannabis and cannabis products are as follows:

(1) "Retailer," for the retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. A retailer's premises may be closed to the public. A retailer may conduct sales exclusively by delivery.

(2) "Distributor," for the distribution of cannabis and cannabis products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

(3) (A) "Microbusiness," for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1

manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of cannabis shall include the license conditions described in subdivision (b) of Section 26060.1.

(4) "Compassion care licensee," for the donation, for no consideration, of medicinal cannabis, or medicinal cannabis products, to compassion care patients.

(B) In coordination with each other, the licensing authorities shall establish a process by which an applicant for a microbusiness license can demonstrate compliance with all the requirements under this division for the activities that will be conducted under the license.

(C) The bureau may enter into interagency agreements with licensing authorities to implement and enforce the provisions of this division related to microbusinesses. The costs of activities carried out by the licensing authorities as requested by the bureau pursuant to the interagency agreement shall be calculated into the application and licensing fees collected pursuant to this division, and shall provide for reimbursement to state agencies for associated costs as provided for in the interagency agreement.

(b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of cannabis and cannabis products. Except as provided in subdivision (d) of Section 26110, the transportation of cannabis and cannabis products shall only be conducted by persons holding a distributor license under this division or employees of those persons. Transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which cannabis and cannabis products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

(c) The driver of a vehicle transporting or transferring cannabis or cannabis products shall be directly employed by a licensee authorized to transport or transfer cannabis or cannabis products.

(d) Notwithstanding any other law, all vehicles transporting cannabis and cannabis products for hire shall be required to have a valid motor carrier permit pursuant to Chapter 2 (commencing with Section 34620) of Division 14.85 of the Vehicle Code. The Department of the California Highway Patrol shall have authority over the safe operation of these vehicles, including, but not limited to, requiring licensees engaged in the transportation of cannabis or cannabis products to participate in the Basic Inspection of Terminals (BIT) program pursuant to Section 34501.12 of the Vehicle Code.

(e) Prior to transporting cannabis or cannabis products, a licensed distributor shall do both of the following:

(1) Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest shall include the unique identifier, pursuant to Section 26069, issued by the Department of Food and Agriculture for the original cannabis product.

(2) Securely transmit the manifest to the bureau and the licensee that will receive the cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 26067.

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

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

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

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

(j) Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products from the premises. These security measures shall include, but not be limited to, all of the following:

(1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the retailer.

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

(3) Other than limited amounts of cannabis used for display purposes, samples, or immediate sale, storing all finished cannabis and cannabis products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

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

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

(2) Diversion, theft, loss, or any criminal activity pertaining to the operation of the retailer.

(3) Diversion, theft, loss, or any criminal activity by any agent or employee of the retailer pertaining to the operation of the retailer.

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

(5) Any other breach of security.

(l) Beginning January 1, 2018, a licensee may sell cannabis or cannabis products that have not been tested for a limited and finite time as determined by the bureau. The cannabis or cannabis products must have a label affixed to each package containing the cannabis or cannabis products that clearly states "This product has not been tested as required by the Medicinal and Adult-Use Cannabis Regulation and Safety Act" and must comply with any other requirement as determined by the bureau.

SEC. 5. Section 26070.1 of the Business and Professions Code is amended to read:

26070.1. (a) Cannabis or cannabis products purchased by a customer shall not leave a licensed retail premises unless they are placed in an opaque package.

(b) Medicinal cannabis or medicinal cannabis products donated to a compassion care patient shall not leave a licensed compassion care premises unless they are placed in an opaque package.

SEC. 6. Section 26090 of the Business and Professions Code is amended to read:

26090. (a) Deliveries, as defined in this division, may only be made by a licensed ~~retailer or retailer~~, microbusiness, or compassion care licensee, or a licensed nonprofit under Section 26070.5.

(b) All employees of a retailer, microbusiness, compassion care licensee, or nonprofit delivering cannabis or cannabis products shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this division.

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

(d) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.

(e) A local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

SEC. 7. Section 26100 of the Business and Professions Code is amended to read:

26100. (a) Except as otherwise provided by law, cannabis or cannabis products shall not be sold or donated pursuant to a license provided for under this division unless a representative sample of the cannabis or cannabis products has been tested by a licensed testing laboratory.

(b) The bureau shall develop criteria to determine which batches shall be tested. All testing of the samples shall be performed on the final form in which the cannabis or cannabis product will be consumed or used.

(c) Testing of batches to meet the requirements of this division shall only be conducted by a licensed testing laboratory.

(d) For each batch tested, the testing laboratory shall issue a certificate of analysis for selected lots at a frequency determined by the bureau with supporting data, to report both of the following:

(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following, unless limited through regulation by the bureau:

- (A) Tetrahydrocannabinol (THC).
- (B) Tetrahydrocannabinolic Acid (THCA).
- (C) Cannabidiol (CBD).
- (D) Cannabidiolic Acid (CBDA).
- (E) The terpenes required by the bureau in regulation.
- (F) Cannabigerol (CBG).

(G) ~~Cannabinol-Cannavino~~ (CBN).

(H) Any other compounds or contaminants required by the bureau.

(2) That the presence of contaminants does not exceed the levels established by the bureau. In establishing the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (d) of Section 26060, and any other relevant sources. For purposes of this paragraph, "contaminants" includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals.

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

(C) Microbiological impurities as identified by the bureau in regulation.

(e) Standards for residual levels of volatile organic compounds shall be established by the bureau.

(f) The testing laboratory shall conduct all testing required by this section in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling and using verified methods.

(g) All testing laboratories performing tests pursuant to this section shall obtain and maintain ISO/IEC 17025 accreditation as required by the bureau in regulation.

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

(i) A testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis, as determined by the bureau through regulations.

(j) Any presale inspection, testing transfer, or transportation of cannabis products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

(k) This division does not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. This division also does not prohibit a licensee from performing testing on the licensee's premises of cannabis or cannabis products obtained from another licensee. Onsite testing by the licensee shall not be certified by the bureau and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

SEC. 8. Section 26104 of the Business and Professions Code is amended to read:

26104. (a) A licensed testing laboratory shall, in performing activities concerning cannabis and cannabis products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The bureau shall develop procedures to do all of the following:

(1) Ensure that testing of cannabis and cannabis products occurs prior to distribution to retailers, microbusinesses, compassion care licensees, or nonprofits licensed under Section 26070.5.

(2) Specify how often licensees shall test cannabis and cannabis products, and that the cost of testing cannabis shall be borne by the licensed cultivators and the cost of testing cannabis products shall be borne by the licensed manufacturer, and that the

costs of testing cannabis and cannabis products shall be borne by a nonprofit licensed under Section 26070.5.

(3) Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by the bureau, unless remedial measures can bring the cannabis or cannabis products into compliance with quality assurance standards as specified by law and implemented by the bureau.

(4) Ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by this division and that the testing laboratory employee transports the sample to the testing laboratory.

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

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

SEC. 9. Section 26110 of the Business and Professions Code is amended to read:

26110. (a) Cannabis batches are subject to quality assurance and testing prior to sale at a retailer, microbusiness, or nonprofit licensed under Section 26070.5, or prior to donation by a compassion care licensee, except for immature cannabis plants and seeds, as provided for in this division.

(b) A licensee that holds a valid distributor license may act as the distributor for the licensee's cannabis and cannabis products.

(c) The distributor shall store, as determined by the bureau, the cannabis batches on the premises of the distributor before testing and continuously until either of the following occurs:

(1) The cannabis batch passes the testing requirements pursuant to this division and is transported to a licensed retailer.

(2) The cannabis batch fails the testing requirements pursuant to this division and is destroyed or transported to a manufacturer for remediation as allowed by the bureau or the Department of Public Health.

(d) The distributor shall arrange for a testing laboratory to obtain a representative sample of each cannabis batch at the distributor's licensed premises. After obtaining the sample, the testing laboratory representative shall maintain custody of the sample and transport it to the testing laboratory.

(e) Upon issuance of a certificate of analysis by the testing laboratory that the cannabis batch has passed the testing requirements pursuant to this division, the distributor shall conduct a quality assurance review before distribution to ensure the

labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.

(f) (1) There shall be a quality assurance compliance monitor who is an employee or contractor of the bureau and who shall not hold a license in any category or own or have an ownership interest in a licensee or the premises of a licensee.

(2) The quality assurance compliance monitor shall conduct random quality assurance reviews at a distributor's licensed premises before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.

(3) The quality assurance compliance monitor shall have access to all records and test results required of a licensee by law in order to conduct quality assurance analysis and to confirm test results. All records of inspection and verification by the quality assurance compliance monitor shall be provided to the bureau. Failure to comply shall be noted by the quality assurance compliance monitor for further investigation. Violations shall be reported to the bureau. The quality assurance compliance monitor shall also verify the tax payments collected and paid under Sections 34011 and 34012 of the Revenue and Tax Code are accurate. The monitor shall also have access to the inputs and assumptions in the track and trace system and shall be able to verify the accuracy of those and that they are commensurate with the tax payments.

(g) After testing, all cannabis and cannabis products fit for sale may be transported only from the distributor's premises to the premises of a licensed retailer, microbusiness, or nonprofit.

(h) A licensee is not required to sell cannabis or cannabis products to a distributor and may directly contract for sale with a licensee authorized to sell cannabis and cannabis products to purchasers.

(i) A distributor performing services pursuant to this section may collect a fee from the licensee for the services provided. The fee may include, but is not limited to, the costs incurred for laboratory testing. A distributor may also collect applicable state or local taxes and fees.

(j) This section does not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. The testing conducted on the licensee's premises by the licensee does not meet the testing requirements pursuant to this division.

SEC. 10. Section 26120 of the Business and Professions Code is amended to read:

26120. (a) Prior to delivery or sale at a ~~retailer~~, retailer or compassion care licensee, cannabis and cannabis products shall be labeled and placed in a resealable, tamper-evident, child-resistant package and shall include a unique identifier for the purposes of identifying and tracking cannabis and cannabis products.

(b) Packages and labels shall not be made to be attractive to children.

(c) All cannabis and cannabis product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the State Department of Public Health:

(1) The following statements, in bold print:

(A) For cannabis: **"GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF**

REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

(B) For cannabis products: "GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

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

(3) Identification of the source and date of cultivation, the type of cannabis or cannabis product and the date of manufacturing and packaging.

(4) The appellation of origin, if any.

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

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

(7) Information associated with the unique identifier issued by the Department of Food and Agriculture.

(8) For a medicinal cannabis product sold at a ~~retailer~~, retailer or donated by a compassion care licensee, the statement "FOR MEDICAL USE ONLY."

(9) Any other requirement set by the bureau or the State Department of Public Health.

(d) Only generic food names may be used to describe the ingredients in edible cannabis products.

(e) In the event the Attorney General determines that cannabis is no longer a Schedule I controlled substance under federal law, the label prescribed in subdivision (c) shall no longer require a statement that cannabis is a Schedule I controlled substance.

SEC. 11. Section 26200 of the Business and Professions Code is amended to read:

26200. (a) (1) This division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) This division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(b) This division shall not be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 60 days of being so informed by the bureau, the relevant licensing authorities shall begin the process to determine whether a license issued to the licensee should be suspended or revoked pursuant to Chapter 3 (commencing with Section 26030).

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

(e) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that the activities, at a minimum, comply with the requirements of paragraphs (1) to (3), inclusive, of subdivision (g), that all participants are licensed under this division, and that the activities are otherwise consistent with regulations promulgated and adopted by the bureau governing state temporary event licenses. These temporary event licenses shall only be issued in local jurisdictions that authorize such events.

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

(g) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a ~~retailer~~ retailer, microbusiness, or microbusiness compassion care licensee licensed under this division if all of the following are met:

(1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older.

(2) Cannabis consumption is not visible from any public place or nonage-restricted area.

(3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

SEC. 12. Section 34010 of the Revenue and Taxation Code is amended to read: 34010. For purposes of this part:

(a) "Arm's length transaction" shall mean a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

(b) "Average market price" shall mean:

(1) In an arm's length transaction, the average market price means the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the department on a biannual basis in six-month intervals.

(2) In a nonarm's length transaction, the average market price means the cannabis retailer's gross receipts from the retail sale of the cannabis or cannabis products.

(c) "Department" shall mean the California Department of Tax and Fee Administration or its successor agency.

(d) "Bureau" shall mean the Bureau of Cannabis Control within the Department of Consumer Affairs.

(e) "Tax Fund" means the California Cannabis Tax Fund created by Section 34018.

(f) "Cannabis" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medicinal cannabis.

(g) "Cannabis products" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medicinal concentrates and medicinal cannabis products.

(h) "Cannabis flowers" shall mean the dried flowers of the cannabis plant as defined by the board.

(i) "Cannabis leaves" shall mean all parts of the cannabis plant other than cannabis flowers that are sold or consumed.

(j) "Cannabis retailer" shall mean a person required to be licensed as a retailer, microbusiness, or nonprofit pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(k) "Compassion care license" shall have the same meaning as set forth in Section 26001 of the Business and Professions Code.

(l) "Compassion care licensee" shall have the same meaning as set forth in Section 26001 of the Business and Professions Code.

(m) "Compassion care patient" shall have the same meaning as set forth in Section 26001 of the Business and Professions Code.

~~(k)~~
(n) "Cultivator" shall mean all persons required to be licensed to cultivate cannabis pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

~~(l)~~
(o) "Distributor" shall mean a person required to be licensed as a distributor pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

~~(m)~~
(p) "Enters the commercial market" shall mean cannabis or cannabis ~~product~~, products, except for immature cannabis plants and seeds, intended for sale and that

complete and comply with a quality assurance review and testing, as described in Section 26110 of the Business and Professions Code.

(n)

(q) "Gross receipts" shall have the same meaning as set forth in Section 6012.

(o)

(r) "Microbusiness" shall have the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.

(p)

(s) "Nonprofit" shall have the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

(q)

(t) "Person" shall have the same meaning as set forth in Section 6005.

(r)

(u) "Retail sale" shall have the same meaning as set forth in Section 6007.

(s)

(v) "Sale" and "purchase" shall mean any change of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

(t)

(w) "Transfer" shall mean to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration.

(u)

(x) "Unprocessed cannabis" shall include cannabis flowers, cannabis leaves, or other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers.

(v)

(y) "Manufacturer" shall mean a person required to be licensed as a manufacturer pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

SEC. 13. Section 34011 of the Revenue and Taxation Code is amended to read:
34011. (a) (1) Effective January 1, 2018, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. A purchaser's liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

(2) Each cannabis retailer shall provide a purchaser with an invoice, receipt, or other document that includes a statement that reads: "The cannabis excise taxes are included in the total amount of this invoice."

(3) The department may prescribe other means to display the cannabis excise tax on an invoice, receipt, or other document from a cannabis retailer given to the purchaser.

(b) (1) A distributor in an arm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer. A distributor in a nonarm's length

transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer, or at the time of retail sale by the cannabis retailer, whichever is earlier. A distributor shall report and remit the cannabis excise tax to the department pursuant to Section 34015. A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting the cannabis excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the department.

(2) A distributor shall provide an invoice, receipt, or other similar document to the cannabis retailer that identifies the licensee receiving the product, the distributor from which the product originates, including the associated unique identifier, the amount of cannabis excise tax, and any other information deemed necessary by the department. The department may authorize other forms of documentation under this paragraph.

(c) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(d) Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use tax under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

(e) Cannabis or cannabis products shall not be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(f) The sales and use taxes imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical cannabis as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

(g) Nothing in this section shall be construed to impose an excise tax upon medicinal cannabis, or medicinal cannabis products, donated for no consideration by a compassion care licensee to a compassion care patient.

SEC. 14. Section 34012 of the Revenue and Taxation Code is amended to read:

34012. (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested cannabis that enters the commercial market upon all cultivators. The tax shall be due after the cannabis is harvested and enters the commercial market.

(1) The tax for cannabis flowers shall be nine dollars and twenty-five cents (\$9.25) per dry-weight ounce.

(2) The tax for cannabis leaves shall be set at two dollars and seventy-five cents (\$2.75) per dry-weight ounce.

(b) The department may adjust the tax rate for cannabis leaves annually to reflect fluctuations in the relative price of cannabis flowers to cannabis leaves.

(c) The department may from time to time establish other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with cannabis flowers.

(d) The department may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that

indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the cannabis is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications, and denominations as may be prescribed by the department and may be purchased by any licensee under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the department may by regulation provide that cannabis shall not be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26068 of the Business and Professions Code.

(h) Cultivators shall be responsible for payment of the tax pursuant to regulations adopted by the department. A cultivator's liability for the tax is not extinguished until the tax has been paid to this state except that an invoice, receipt, or other document from a distributor or manufacturer given to the cultivator pursuant to paragraph (3) is sufficient to relieve the cultivator from further liability for the tax to which the invoice, receipt, or other document refers. Cannabis shall not be sold unless the tax has been paid as provided in this part.

(1) A distributor shall collect the cultivation tax from a cultivator on all harvested cannabis that enters the commercial market. This paragraph shall not apply where a cultivator is not required to send, and does not send, the harvested cannabis to a distributor.

(2) (A) A manufacturer shall collect the cultivation tax from a cultivator on the first sale or transfer of unprocessed cannabis by a cultivator to a manufacturer. The manufacturer shall remit the cultivation tax collected on the cannabis product sold or transferred to a distributor for quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code. This paragraph shall not apply where a distributor collects the cultivation tax from a cultivator pursuant to paragraph (1).

(B) Notwithstanding subparagraph (A), the department may prescribe a substitute method and manner for collection and remittance of the cultivation tax under this paragraph, including a method and manner for collection of the cultivation tax by a distributor.

(3) A distributor or manufacturer shall provide to the cultivator, and a distributor that collects the cultivation tax from a manufacturer pursuant to paragraph (2) shall provide to the manufacturer, an invoice, receipt, or other similar document that identifies the licensee receiving the product, the cultivator from which the product originates, including the associated unique identifier, the amount of cultivation tax, and any other information deemed necessary by the department. The department may authorize other forms of documentation under this paragraph.

(4) The department may adopt regulations prescribing procedures for the refund of cultivation tax collected on cannabis or cannabis product that fails quality assurance, inspection, and testing as described in Section 26110 of the Business and Professions Code.

(i) All cannabis removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all cannabis cultivated in the state pursuant to rules and regulations promulgated by the department, but shall not apply to cannabis cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code).

(k) Nothing in this section shall be construed to impose a cultivation tax upon medicinal cannabis, or medicinal cannabis products, donated for no consideration by a cultivator to a compassion care licensee.

~~(k)~~

(l) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the department annually thereafter for inflation.

~~(l)~~

(m) The Department of Food and Agriculture is not responsible for enforcing any provisions of the cultivation tax.

SEC. 15. The Legislature finds and declares that this act is consistent with, and furthers the purposes and intent of, the Control, Regulate and Tax Adult Use of Marijuana Act, as stated in Section 3 of that act, by providing for indigent medicinal cannabis patients may continue to receive donated, noncommercial cannabis for medicinal personal use.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the terminally ill patients who relied on compassion care programs can again begin to receive the cannabis they need to manage their debilitating symptoms, it is necessary that this bill go into immediate effect.

Amendment 4

On page 3, strike out lines 1 to 10, inclusive