

AMENDED IN ASSEMBLY AUGUST 31, 2010

AMENDED IN ASSEMBLY AUGUST 20, 2010

AMENDED IN SENATE APRIL 27, 2010

SENATE BILL

No. 1131

Introduced by Senator Calderon

February 18, 2010

An act to add Division 8.9 (commencing with Section 22992) to the Business and Professions Code, and to amend Sections 6592 and 6901 of, to add Section 6471.5 to, and to add Article 1.7 (commencing with Section 6480.50) to Chapter 5 of Part 1 of Division 2 of, the Revenue and Taxation Code, relating to cannabis.

LEGISLATIVE COUNSEL'S DIGEST

SB 1131, as amended, Calderon. Cannabis and cannabis products: ~~licensure~~ *certificate*: taxation.

Existing law provides for the licensure by the State Board of Equalization of manufacturers, distributors, wholesalers, importers, and retailers of cigarettes or tobacco products that are engaged in business in California, and prohibits retailers, manufacturers, distributors, and wholesalers from distributing or selling those cigarette and tobacco products unless they are licensed. Existing law also imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would create the ~~Cannabis Licensing Act Sales Tax Enforcement Act of 2010~~ and provide for the ~~licensure~~ *certification* by the State Board of Equalization of growers, ~~importers~~, wholesalers, retailers, and transporters of cannabis ~~and~~ *or* cannabis products that are

engaged in business in California. The bill would require these licensed *certificated* growers, ~~importers~~, wholesalers, retailers, and transporters to keep records of every sale, transfer, or delivery of cannabis or cannabis products, as specified. The bill would authorize any peace officer and specified employees of the board to conduct inspections, as provided. It would prohibit growers, ~~importers~~, wholesalers, retailers, and transporters from selling or purchasing cannabis or cannabis products without a *license certificate*.

The bill would provide for the seizure of cannabis or cannabis products that are sold or purchased in violation of ~~the act~~. ~~The bill would~~ *specified provisions and* impose specified penalties ~~for a violation of the act therefor~~, including ~~license certificate~~ revocation or suspension, civil penalties, and criminal penalties. By imposing criminal penalties, the bill would create a state-mandated local program. ~~The~~

The bill would require each wholesaler to prepay the retail sales tax on its gross receipts derived from the sale of cannabis and cannabis products, as specified. *This bill would create the Cannabis and Cannabis Products Compliance Fund, as specified.*

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

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Division 8.9 (commencing with Section 22992)
2 is added to the Business and Professions Code, to read:
3
4 DIVISION 8.9. SALES TAX ENFORCEMENT ACT OF 2010
5
6 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS
7
8 22992. This division shall be known, and may be cited, as the
9 Sales Tax Enforcement Act of 2010 (division).
10 22992.2. The Legislature finds and declares all of the
11 following:

1 (a) *The current controversies surrounding California’s medical*
2 *marijuana dispensaries authorized to sell medical marijuana under*
3 *the Compassionate Use Act, enacted by the voters in 1996, have*
4 *created problems for the patients, dispensaries, law enforcement,*
5 *and local governments. Many issues about the legal sale and*
6 *distribution of medical marijuana remain unaddressed.*

7 (b) *Although many dispensaries operate within the law, there*
8 *is clear evidence that some are intentionally evading taxes and*
9 *may be laundering illegally acquired money and illegally*
10 *distributing marijuana for other than medical purposes.*

11 (c) *The State Board of Equalization, under its sales tax authority,*
12 *has formally registered nearly 300 medical marijuana dispensaries*
13 *and issued seller’s permits. It has also identified over 500*
14 *unregistered dispensaries.*

15 (d) *Local governments, in allocating the number and location*
16 *of dispensaries, are rightly unwilling to authorize distribution*
17 *centers when current state laws are not clear on how to prevent*
18 *unlawful activities.*

19 (e) *Law enforcement authorities have legitimate concerns about*
20 *misuse of these dispensaries as sources of illegal distribution and*
21 *consumption.*

22 (f) *Dispensaries with the best intentions do not have a clearly*
23 *defined legal framework for acquiring and distributing medical*
24 *marijuana, and are put unnecessarily at risk in the act of acquiring*
25 *an illegal product for legal resale.*

26 (g) *In 2003 the Legislature enacted the California Cigarette*
27 *and Tobacco Products Licensing Act of 2003 (act) (Division 8.6*
28 *(commencing with Section 22970) of the Business and Professions*
29 *Code) to provide for the licensure by the State Board of*
30 *Equalization of manufacturers, distributors, and retailers of*
31 *cigarette and other tobacco products in California. For the first*
32 *time in California, the distribution and sale of cigarette and*
33 *tobacco products were prohibited pursuant to Division 8.6*
34 *(commencing with Section 22970) of the Business and Professions*
35 *Code unless those involved in every aspect of the trade were*
36 *licensed.*

37 (h) *That act authorized the state, through the State Board of*
38 *Equalization, to suspend or revoke the license of any licensee in*
39 *violation of the strict regulations governing the legal distribution*
40 *of tobacco products. The act established criminal penalties for*

1 *selling counterfeit cigarette and tobacco products, and imposed*
2 *finer or imprisonment for possessing, selling, or buying fraudulent*
3 *cigarette tax stamps.*

4 *(i) The primary purpose of the act was to prevent the unlawful*
5 *distribution of cigarettes and the loss of state tax revenue, which*
6 *had been declining by hundreds of millions of dollars due, in part,*
7 *to unlawful distributions and untaxed sales by well-organized*
8 *criminals.*

9 *(j) The act has been a success. According to a June 2006 report*
10 *by the State Auditor, cigarette tax compliance has improved, and*
11 *there was a positive effect on tax revenues from cigarettes and*
12 *tobacco products.*

13 *(k) It is the intention of the Legislature in enacting similar*
14 *legislation to license and control the distribution of medical*
15 *marijuana to do all of the following:*

16 *(1) Enable state and local governments to control sales and*
17 *distribution of marijuana in the same way the tobacco licensing*
18 *act has stemmed the flow of illegal tobacco products into the*
19 *market place.*

20 *(2) Increase revenue for the state and local governments.*

21 *(3) Provide assurances to the dispensaries that are now paying*
22 *sales tax that the state has an effective mechanism to collect tax*
23 *from their illegal competitors and shut them down if necessary.*

24 *(4) Enable the state to control the current legal distribution of*
25 *medical marijuana from the cultivator to the consumer and help*
26 *law enforcement authorities stop illegal sales in medical marijuana*
27 *dispensaries and elsewhere to minors and other individuals.*

28 *(5) Allow the state to prescribe secure packaging requirements*
29 *to carry out the intent of the division.*

30 *22992.4. The board shall administer a statewide program to*
31 *certificate sellers and transporters of cannabis or cannabis*
32 *products.*

33 *22992.6. For purposes of this division, the following terms*
34 *shall have the following meanings:*

35 *(a) "Board" means the State Board of Equalization.*

36 *(b) "Cannabis" means all parts of the plant Cannabis sativa*
37 *L., whether growing or not; the seeds thereof; the resin extracted*
38 *from any part of the plant; and every compound, manufacture,*
39 *salt, derivative, mixture, or preparation of the plant, or its seeds*
40 *or resin. It does not include the mature stalks of the plant, fiber*

1 *produced from the stalks, oil, or cake made from the seeds of the*
2 *plant, any other compound, manufacture, salt, derivative, mixture,*
3 *or preparation of the mature stalks (except the resin extracted*
4 *therefrom), fiber, oil, or cake, or the sterilized seed of the plant*
5 *which is incapable of germination.*

6 (c) *“Certificate” means a cannabis seller’s certificate or*
7 *cannabis transporter’s certificate issued by the board pursuant to*
8 *this division.*

9 (d) *“Certificate holder” means any person holding a certificate*
10 *issued by the board pursuant to this division.*

11 (e) *“Display for sale” means the placement of cannabis or*
12 *cannabis products in retail stock for the purpose of selling or*
13 *gifting the cannabis or cannabis products. For purposes of this*
14 *definition, the clear and easily visible display of cannabis or*
15 *cannabis products shall create a rebuttable presumption that either*
16 *were displayed for sale.*

17 (f) *“Gifting” means any transfer of title or possession without*
18 *consideration, exchange, or barter, in any manner or by any means,*
19 *of cannabis or cannabis products that have been purchased for*
20 *resale under a certificate issued pursuant to this division if the*
21 *transfer occurs while the certificate is suspended or after the*
22 *effective date of its revocation.*

23 (g) *“Grower” means every person that plants, cultivates,*
24 *harvests, dries, or processes any cannabis or cannabis products.*

25 (h) *“Location” means any premises in this state where cannabis*
26 *or cannabis products are sold or offered for sale, or grown,*
27 *processed, stored, held, or possessed for the purpose of sale.*

28 (i) *“Notice” or “notification” means, unless as otherwise*
29 *provided, the written notice or notification provided to a certificate*
30 *holder by the board by either actual delivery to the certificate*
31 *holder or by first-class mail addressed to the certificate holder at*
32 *the address on the certificate.*

33 (j) *“Person” means a person, as defined in Section 6005 of the*
34 *Revenue and Taxation Code.*

35 (k) *“Retailer” means a retailer, as defined in Section 6015 of*
36 *the Revenue and Taxation Code, that engages in this state in the*
37 *retail sale of cannabis or cannabis products from a retail location.*

38 (l) *“Retail location” means any building from which cannabis*
39 *or cannabis products are sold at retail, including, but not limited*
40 *to, a medical cannabis dispensary that is collectively or*

1 cooperatively cultivating and distributing marijuana for medical
2 purposes pursuant to Section 11362.775 of the Health and Safety
3 Code.

4 (m) “Retail sale” means a retail sale, as defined in Section 6007
5 of the Revenue and Taxation Code.

6 (n) “Sale” or “sold” means a sale, as defined in Section 6006
7 of the Revenue and Taxation Code.

8 (o) “Seller” means growers, wholesalers, and retailers of
9 cannabis or cannabis products in California, but does not mean
10 transporters of cannabis or cannabis products.

11 (p) “Transporter” means any person transporting within
12 California cannabis or cannabis products for delivery or use within
13 California.

14 (q) “Wholesaler” means every person, other than a grower,
15 that engages in this state in making sales for resale of cannabis
16 or cannabis products.

17 22992.8. The board shall administer and enforce this division
18 and may prescribe, adopt, and enforce rules and regulations
19 relating to the administration and enforcement of this division.

20 22992.10. The board may create a cannabis and cannabis
21 products certification fee compliance task force for the purpose
22 of reviewing the effects of this division and assisting in making
23 recommendations to improve tax compliance and in effectuating
24 the other purposes of the division that may include, but not be
25 limited to, representatives from the following:

26 (a) The board.

27 (b) The office of the Attorney General.

28 (c) State and local law enforcement agencies.

29 22992.12. Commencing January 1, 2013, the Bureau of State
30 Audits shall conduct a performance audit of the certification and
31 enforcement of this division, and shall report its findings to the
32 board and the Legislature by July 1, 2013. The report shall include,
33 but not be limited to, the following:

34 (a) The actual costs of the program.

35 (b) The overall effectiveness of enforcement programs.

36 (c) The appropriateness of the deposit of fines assessed pursuant
37 to this division.

38 (d) (1) A report to be submitted pursuant to this section shall
39 be submitted in compliance with Section 9795 of the Government
40 Code.

1 (2) Pursuant to Section 10231.5 of the Government Code, this
2 section is repealed on July 1, 2017.

3 22992.14. A person is not subject to the requirements of this
4 division if that person is exempt from regulation under the United
5 States Constitution, the laws of the United States, or the California
6 Constitution.

7 22992.16. Notwithstanding any other state or local law
8 governing the growing, processing, transportation, distribution,
9 or possession in this state of cannabis or cannabis products for
10 the purpose of sale, a person is prohibited from engaging in the
11 sale or transportation of cannabis or cannabis products in this
12 state without first obtaining a cannabis and cannabis products
13 seller's or transporter's certificate pursuant to this division.

14 22992.18. Any notice required by this division shall be served
15 personally or by mail. If by mail, the notice shall be placed in a
16 sealed envelope, with postage paid, addressed to the certificate
17 holder at the address as it appears in the records of the board.
18 The giving of notice shall be deemed complete at the time of deposit
19 of the notice in the United States Post Office, or a mailbox, subpost
20 office, substation or mail chute, or other facility regularly
21 maintained or provided by the United States Postal Service, without
22 extension of time for any reason. In lieu of mailing, a notice may
23 be served personally by delivering to the person to be served and
24 service shall be deemed complete at the time of delivery. Personal
25 service to a corporation may be made by delivery of a notice to
26 any person designated in the Code of Civil Procedure to be served
27 for the corporation with summons and complaints in a civil action.

28 22992.20. (a) All information and records provided to the
29 board pursuant to this division are confidential in nature and shall
30 not be disclosed by the board. Information required under this
31 division is not a public record under the California Public Records
32 Act, as described in Chapter 3.5 (commencing with Section 6250)
33 of Division 7 of Title 1 of the Government Code, and shall not be
34 open to public inspection.

35 (b) All information and records that are submitted to the board
36 by or on behalf of a grower, wholesaler, or retailer which contain
37 the name, address, or any other identifying information concerning
38 the grower, wholesaler, or retailer are confidential, and may only
39 be used by the board in the administration of board duties.

1 *headquarters or corporate office. Citations issued to certificate*
2 *holders shall be forwarded to all addresses on the certificate.*

3 *(3) If any other certificate, permit, or license has been issued*
4 *by the board or other state agency or local government to the*
5 *applicant, the certificate, permit, or license numbers for each*
6 *certificate, permit, or license in effect.*

7 *(4) A statement by the applicant affirming that the applicant*
8 *has not been convicted of a felony and has not violated and will*
9 *not violate or cause or permit to be violated any of the provisions*
10 *of this division or any rule of the board applicable to the applicant*
11 *or pertaining to the growing, sale, or distribution of cannabis or*
12 *cannabis products. If the applicant is unable to affirm this*
13 *statement, the application shall contain a statement by the*
14 *applicant of the nature of any violation or the reasons that prevent*
15 *the applicant from complying with the requirements with respect*
16 *to the statement.*

17 *(5) A statement by the applicant that the content of the*
18 *application is complete, true, and correct. Any person who signs*
19 *a statement pursuant to this subdivision that asserts the truth of*
20 *any material matter that he or she knows to be false is guilty of a*
21 *misdemeanor punishable by imprisonment of up to one year in a*
22 *county jail, or a fine of not more than one thousand dollars*
23 *(\$1,000), or both the imprisonment and fine.*

24 *(6) Signature of the applicant.*

25 *(7) Any other information the board may require.*

26 *(b) The board may investigate to determine the truthfulness and*
27 *completeness of the information provided in the application.*

28 *(c) The board shall provide electronic means for applicants to*
29 *submit applications for registration and renewal.*

30 *22993.4. (a) Each grower of cannabis or cannabis products*
31 *shall submit with each application or application for renewal a*
32 *certificate fee of one thousand three hundred dollars (\$1,300) per*
33 *location. The fee shall be for a calendar year and shall not be*
34 *prorated. An applicant that owns or controls more than one*
35 *location shall obtain a separate certificate for each location, but*
36 *may submit a single application for those certificates or renewal*
37 *of those certificates.*

38 *(b) A reasonable background check fee, as determined by the*
39 *board, shall be submitted by each applicant with each application*
40 *and, if deemed necessary, with each application for renewal.*

1 22993.6. (a) *The board shall issue a certificate to a grower*
2 *upon receipt of a completed application, payment of the fee*
3 *prescribed in Section 22993.4, a completed background check,*
4 *and a determination by the board that all other applicable*
5 *requirements of this division have been met. The board shall not*
6 *issue a certificate if any of the following applies:*

7 (1) *The grower or, if the grower is not an individual, any person*
8 *controlling the grower has previously been issued a certificate*
9 *that is suspended or revoked by the board for violation of any*
10 *provision of this division.*

11 (2) *The application is for a certificate or renewal of a certificate*
12 *for a grower whose certificate is revoked or for which revocation*
13 *is pending, unless either of the following occurs:*

14 (A) *It has been more than five years since the grower's previous*
15 *certificate was revoked.*

16 (B) *The person applying for the certificate provides the board*
17 *with documentation demonstrating that the applicant has acquired*
18 *or is acquiring the business in an arm's length transaction. For*
19 *purposes of this section, an "arm's length transaction" is defined*
20 *as a sale in good faith and for valuable consideration that reflects*
21 *the fair market value in the open market between two informed*
22 *and willing parties, neither under any compulsion to participate*
23 *in the transaction. A sale of the business between relatives, related*
24 *companies, or partners, or a sale for the primary purpose of*
25 *avoiding the effect of a violation or violations of state cannabis*
26 *or cannabis products control laws that were committed by the*
27 *grower is presumed not to be made at "arm's length."*

28 (3) *The grower or, if the grower is not an individual, any person*
29 *controlling the grower has been convicted of a felony.*

30 (b) (1) *Any grower that is denied a certificate may petition for*
31 *a redetermination of the board's denial of the certificate within*
32 *30 days after service upon that grower of the notice of the denial*
33 *of the certificate. If a petition for redetermination is not filed within*
34 *the 30-day period, the determination of denial becomes final at*
35 *the expiration of the 30-day period.*

36 (2) *Every petition for redetermination shall be in writing and*
37 *shall state the specific grounds upon which the petition is founded.*
38 *The petition may be amended to state additional grounds at any*
39 *time prior to the date on which the board issues its order or*
40 *decision upon the petition for redetermination.*

1 (3) *If the petition for redetermination is filed within the 30-day*
2 *period, the board shall reconsider the determination of the denial*
3 *and, if the grower has so requested in the petition, shall grant an*
4 *oral hearing and shall give the grower at least 10 days' notice of*
5 *the time and place of the hearing. The board may continue the*
6 *hearing as necessary.*

7 (4) *The order or decision of the board upon a petition for*
8 *redetermination shall become final 30 days after the mailing of*
9 *the notice.*

10 22993.8. (a) *Notwithstanding Sections 22993 and 22993.2,*
11 *the board may issue to a grower a temporary certificate with a*
12 *scheduled expiration date, as determined by the board.*

13 (b) *A temporary certificate issued pursuant to this section shall*
14 *be automatically terminated upon the board's issuance or denial*
15 *of a certificate pursuant to Section 22993.6.*

16 (c) *A temporary certificate issued pursuant to this section is*
17 *subject to the same suspension, revocation, and forfeiture*
18 *provisions that apply to certificates issued by the board pursuant*
19 *to Section 22993.6.*

20
21 *CHAPTER 3. CERTIFICATE FOR WHOLESALERS OF CANNABIS OR*
22 *CANNABIS PRODUCTS*

23
24 22994. (a) *Every wholesaler of cannabis or cannabis products*
25 *shall annually obtain and maintain a certificate to engage in the*
26 *sale of cannabis or cannabis products. A wholesaler of cannabis*
27 *or cannabis products that owns or controls more than one location*
28 *shall obtain a separate certificate for each location but may submit*
29 *a single application for all such certificates.*

30 (b) *Certificates shall be valid for one calendar year, unless*
31 *surrendered, suspended, or revoked prior to the end of the calendar*
32 *year, and may be renewed each year upon payment of a fee.*

33 (c) *The wholesaler shall conspicuously display the certificate*
34 *at each location in a manner visible to the public.*

35 (d) *A certificate issued to a wholesaler under this division is*
36 *only valid with respect to the wholesaler designated on the*
37 *certificate and may not be transferred or assigned to another*
38 *wholesaler. A person that obtains a certificate as a wholesaler*
39 *that ceases to do business as specified in the certificate, or that*
40 *never commenced business, or whose certificate is suspended,*

1 *revoked, or canceled shall immediately surrender the certificate*
2 *to the board.*

3 *22994.2. (a) An application for a certificate or certificate*
4 *renewal by a wholesaler shall be in a form prescribed by the board*
5 *and shall include the following:*

6 *(1) The name, address, electronic mail address, and telephone*
7 *number of the applicant. If the applicant is a firm, exchange,*
8 *association, or corporation, the full name, address, electronic mail*
9 *address, and telephone number of each member of the firm or the*
10 *names, addresses, electronic mail addresses, and telephone*
11 *numbers of the officers of the exchange, association, or*
12 *corporation.*

13 *(2) The business name, address, electronic mail address, and*
14 *telephone number of each location where cannabis or cannabis*
15 *products will be stored, held, or sold. For an applicant whose*
16 *headquarters or corporate office is at a location other than that*
17 *specified in the preceding sentence, the business name, address,*
18 *electronic mail address, and telephone number of the headquarters*
19 *or corporate office. Citations issued to certificate holders shall be*
20 *forwarded to all addresses on the certificate.*

21 *(3) If any other certificate, permit, or license has been issued*
22 *by the board or other state agency or local government to the*
23 *applicant, the certificate, permit, or license numbers for each*
24 *certificate, permit, or license in effect.*

25 *(4) A statement by the applicant affirming that the applicant*
26 *has not been convicted of a felony and has not violated and will*
27 *not violate or cause or permit to be violated any provision of this*
28 *division or any rule of the board applicable to the applicant or*
29 *pertaining to the growing, sale, or distribution of cannabis or*
30 *cannabis products. If the applicant is unable to affirm this*
31 *statement, the application shall contain a statement by the*
32 *applicant of the nature of any violation or the reason that prevents*
33 *the applicant from complying with the requirements with respect*
34 *to the statement.*

35 *(5) A statement by the applicant that the content of the*
36 *application is complete, true, and correct. Any person who signs*
37 *a statement pursuant to this subdivision that asserts the truth of*
38 *any material matter that he or she knows to be false is guilty of a*
39 *misdemeanor punishable by imprisonment of up to one year in a*

1 county jail, or a fine of not more than one thousand dollars
2 (\$1,000), or both the imprisonment and fine.

3 (6) Signature of the applicant.

4 (7) Any other information the board may require.

5 (b) The board may investigate to determine the truthfulness and
6 completeness of the information provided in the application.

7 (c) The board shall provide electronic means for applicants to
8 submit applications for registration and renewal.

9 22994.4. (a) Every wholesaler of cannabis or cannabis
10 products shall submit a certificate fee of one thousand three
11 hundred dollars (\$1,300) for each location with each application
12 and each application for renewal. An applicant that owns or
13 controls more than one location shall obtain a separate certificate
14 for each location but may submit a single application for those
15 certificates or renewal of those certificates. The fee shall be for a
16 calendar year and shall not be prorated.

17 (b) A reasonable background check fee, as determined by the
18 board, shall be submitted by each applicant with each application
19 and, if deemed necessary, with each application for renewal.

20 22994.6. (a) At the discretion of the board, a certificate may
21 be issued to a wholesaler upon receipt of a completed application,
22 payment of the fee prescribed in Section 22994.4, and a completed
23 background check. The board shall not issue a certificate if any
24 of the following applies:

25 (1) The wholesaler or, if the wholesaler is not an individual,
26 any person controlling the wholesaler has previously been issued
27 a certificate that is suspended or revoked by the board for violation
28 of any provision of this division.

29 (2) The application is for a certificate or renewal of a certificate
30 for a wholesaler whose certificate is revoked or for which
31 revocation is pending, unless either of the following occurs:

32 (A) It has been more than five years since the wholesaler's
33 previous certificate was revoked.

34 (B) The person applying for the certificate provides the board
35 with documentation demonstrating that the applicant has acquired
36 or is acquiring the business in an arm's length transaction. For
37 purposes of this section, an "arm's length transaction" is defined
38 as a sale in good faith and for valuable consideration that reflects
39 the fair market value in the open market between two informed
40 and willing parties, neither under any compulsion to participate

1 *in the transaction. A sale of the business between relatives, related*
2 *companies, or partners, or a sale for the primary purpose of*
3 *avoiding the effect of a violation or violations of state cannabis*
4 *or cannabis products control laws that were committed by the*
5 *wholesaler is presumed not to be made at “arm’s length.”*

6 *(3) The wholesaler or, if the wholesaler is not an individual,*
7 *any person controlling the wholesaler has been convicted of a*
8 *felony.*

9 *(b) (1) Any wholesaler that is denied a certificate may petition*
10 *for a redetermination of the board’s denial of the certificate within*
11 *30 days after service upon that wholesaler of the notice of the*
12 *denial of the certificate. If a petition for redetermination is not*
13 *filed within the 30-day period, the determination of denial becomes*
14 *final at the expiration of the 30-day period.*

15 *(2) Every petition for redetermination shall be in writing and*
16 *shall state the specific grounds upon which the petition is founded.*
17 *The petition may be amended to state additional grounds at any*
18 *time prior to the date on which the board issues its order or*
19 *decision upon the petition for redetermination.*

20 *(3) If the petition for redetermination is filed within the 30-day*
21 *period, the board shall reconsider the determination of the denial*
22 *and, if the wholesaler has so requested in the petition, shall grant*
23 *the wholesaler an oral hearing and shall give the wholesaler at*
24 *least 10 days’ notice of the time and place of the hearing. The*
25 *board may continue the hearing as necessary.*

26 *(4) The order or decision of the board upon a petition for*
27 *redetermination becomes final 30 days after the mailing of the*
28 *notice.*

29 *22994.8. (a) Notwithstanding Sections 22994 and 22994.2,*
30 *the board may issue to a wholesaler a temporary certificate with*
31 *a scheduled expiration date, as determined by the board.*

32 *(b) A temporary certificate issued pursuant to this section shall*
33 *be automatically terminated upon the board’s issuance or denial*
34 *of a certificate pursuant to Section 22994.6.*

35 *(c) A temporary certificate issued pursuant to this section is*
36 *subject to the same suspension, revocation, and forfeiture*
37 *provisions that apply to certificates issued by the board pursuant*
38 *to Section 22994.6.*

1 (3) If any other certificate, permit, or license has been issued
2 by the board or other state agency or local government to the
3 applicant, the certificate, permit, or license numbers for each
4 certificate, permit, or license in effect.

5 (4) A statement by the applicant affirming that the applicant
6 has not been convicted of a felony and has not violated and will
7 not violate or cause or permit to be violated any of the provisions
8 of this division or any rule of the board applicable to the applicant
9 or pertaining to the growing, sale, or distribution of cannabis or
10 cannabis products. If the applicant is unable to affirm this
11 statement, the application shall contain a statement by the
12 applicant of the nature of any violation or the reasons that prevent
13 the applicant from complying with the requirements with respect
14 to the statement.

15 (5) A statement by the applicant that the content of the
16 application is complete, true, and correct. Any person who signs
17 a statement pursuant to this subdivision that asserts the truth of
18 any material matter that he or she knows to be false is guilty of a
19 misdemeanor punishable by imprisonment of up to one year in a
20 county jail, or a fine of not more than one thousand dollars
21 (\$1,000), or both the imprisonment and fine.

22 (6) Signature of the applicant.

23 (7) Any other information the board may require.

24 (b) The board may investigate to determine the truthfulness and
25 completeness of the information provided in the application.

26 (c) The board shall provide electronic means for applicants to
27 submit applications for registration and renewal.

28 22995.4. (a) Every retailer of cannabis or cannabis products
29 shall submit a certificate fee of one thousand three hundred dollars
30 (\$1,300) for each location where cannabis or cannabis products
31 are stored or sold with each application and each application for
32 renewal. An applicant that owns or controls more than one location
33 shall obtain a separate certificate for each location, but may submit
34 a single application for those certificates or renewal of those
35 certificates.

36 (b) A reasonable background check fee, as determined by the
37 board, shall be submitted by each applicant with each application
38 and, if deemed necessary, with each application for renewal.

39 22995.6. (a) At the discretion of the board, a certificate may
40 be issued to a retailer upon receipt of a completed application,

1 *payment of the fee prescribed in Section 22995.4, and a completed*
2 *background check. The board shall not issue a certificate if any*
3 *of the following applies:*

4 *(1) The retailer or, if the retailer is not an individual, any person*
5 *controlling the retailer has previously been issued a certificate*
6 *that is suspended or revoked by the board for violation of any*
7 *provision of this division.*

8 *(2) The application is for a certificate or renewal of a certificate*
9 *for a location that is the same location as that of a retailer whose*
10 *certificate was revoked or for which revocation is pending, unless*
11 *either of the following occurs:*

12 *(A) It has been more than five years since a previous certificate*
13 *for the location was revoked.*

14 *(B) The person applying for the certificate provides the board*
15 *with documentation demonstrating that the applicant has acquired*
16 *or is acquiring the premises or business in an arm's length*
17 *transaction. For purposes of this section, an "arm's length*
18 *transaction" is defined as a sale in good faith and for valuable*
19 *consideration that reflects the fair market value in the open market*
20 *between two informed and willing parties, neither under any*
21 *compulsion to participate in the transaction. A sale between*
22 *relatives, related companies, or partners, or a sale for the primary*
23 *purpose of avoiding the effect of violations of this division that*
24 *were committed by the retailer or occurred at the retail location,*
25 *is presumed not to be made at "arm's length."*

26 *(3) The retailer or, if the retailer is not an individual, any person*
27 *controlling the retailer has been convicted of a felony.*

28 *(4) The retailer does not possess all required certificates or*
29 *permits required under the Revenue and Taxation Code or Division*
30 *8.6 (commencing with Section 22970) of the this code.*

31 *(b) (1) Any retailer that is denied a certificate may petition for*
32 *a redetermination of the board's denial of the certificate within*
33 *30 days after service upon that retailer of the notice of the denial*
34 *of the certificate. If a petition for redetermination is not filed within*
35 *the 30-day period, the determination of denial becomes final at*
36 *the expiration of the 30-day period.*

37 *(2) Every petition for redetermination shall be in writing and*
38 *shall state the specific grounds upon which the petition is founded.*
39 *The petition may be amended to state additional grounds at anytime*

1 prior to the date on which the board issues its order or decision
2 upon the petition for redetermination.

3 (3) If the petition for redetermination is filed within the 30-day
4 period, the board shall reconsider the determination of the denial
5 and, if the retailer has so requested in the petition, shall grant the
6 retailer an oral hearing and shall give the retailer at least 10 days'
7 notice of the time and place of the hearing. The board may continue
8 the hearing as necessary.

9 (4) The order or decision of the board upon a petition for
10 redetermination shall become final 30 days after the mailing of
11 the notice.

12 22995.8. (a) Notwithstanding Sections 22995 and 22995.2,
13 the board may issue to a retailer a temporary certificate with a
14 scheduled expiration date, as determined by the board.

15 (b) A temporary certificate issued pursuant to this section shall
16 be automatically terminated upon the board's issuance or denial
17 of a certificate pursuant to Section 22995.6.

18 (c) A temporary certificate issued pursuant to this section is
19 subject to the same suspension, revocation, and forfeiture
20 provisions that apply to certificates issued by the board pursuant
21 to Section 22995.6.

22 22995.10. Every retail sale of cannabis or cannabis products
23 shall be made from a retail location.

24

25 *CHAPTER 5. CERTIFICATE FOR TRANSPORTERS OF CANNABIS*
26 *OR CANNABIS PRODUCTS*

27

28 22996. (a) Every transporter that transports upon the
29 highways, roads, or streets of this state more than 28.5 grams (one
30 ounce) of cannabis in a single load or shipment, except a qualified
31 patient or a person holding a valid identification card, or the
32 designated primary caregiver of that qualified patient or person
33 under Sections 11362.7, 11362.765, and 11362.77 of the Health
34 and Safety Code, shall annually obtain and maintain a cannabis
35 transporter certificate authorizing the transport of cannabis and
36 cannabis products in this state. A transporter that owns or controls
37 more than one transport vehicle shall obtain a separate certificate
38 for each vehicle that is used to transport cannabis or cannabis
39 products, but may submit a single application for these certificates.

1 (b) A certificate issued to a transporter under this chapter is
2 only valid with respect to the transport vehicle designated on the
3 certificate and shall not be transferred or assigned to another
4 vehicle or person.

5 (c) Certificates shall be valid for one calendar year, unless
6 surrendered, suspended, revoked, or canceled prior to the end of
7 the calendar year, and may be renewed each year upon payment
8 of the fee.

9 (d) A person that obtains a certificate as a transporter that
10 ceases to do business as specified in the certificate, or that never
11 commenced business, or whose certificate is suspended, revoked,
12 or canceled shall immediately surrender the certificate to the
13 board.

14 22996.2. (a) An application for a certificate or certificate
15 renewal by a transporter shall be on a form prescribed by the
16 board and shall include the following:

17 (1) The name, address, telephone number, and electronic mail
18 address of the applicant. If the applicant is a firm, exchange,
19 association, or corporation, the full name, address, electronic mail
20 address, and telephone number of each member of the firm or the
21 names, addresses, electronic mail addresses, and telephone
22 numbers of the officers of the exchange, association, or
23 corporation.

24 (2) The business name, address, telephone number, and
25 electronic mail address. Citations issued to certificate holders
26 shall be forwarded to all addresses on the certificate.

27 (3) The vehicle identification number, license plate number,
28 vehicle description, and any other identifying vehicle information
29 deemed necessary by the board.

30 (4) If any other certificate, permit, or license has been issued
31 by the board or other state agency or local government to the
32 applicant, the certificate, permit, or license numbers for each
33 certificate, permit, or license in effect.

34 (5) A statement by the applicant affirming that the applicant
35 has not been convicted of a felony and has not violated and will
36 not violate or cause or permit to be violated any provision of this
37 division or any rule of the board applicable to the applicant or
38 pertaining to the growing, sale, or distribution of cannabis or
39 cannabis products. If the applicant is unable to affirm this
40 statement, the application shall contain a statement by the

1 applicant of the nature of any violation or the reasons that prevent
2 the applicant from complying with the requirements with respect
3 to the statement.

4 (6) A statement by the applicant that the content of the
5 application is complete, true, and correct. Any person who signs
6 a statement pursuant to this subdivision that asserts the truth of
7 any material matter that he or she knows to be false is guilty of a
8 misdemeanor punishable by imprisonment of up to one year in a
9 county jail, or a fine of not more than one thousand dollars
10 (\$1,000), or both the imprisonment and fine.

11 (7) Signature of the applicant.

12 (8) Any other information the board may require.

13 (b) The board may investigate to determine the truthfulness and
14 completeness of the information provided in the application.

15 (c) The board shall provide electronic means for applicants to
16 submit applications for registration and renewal.

17 22996.4. (a) Every transporter of cannabis or cannabis
18 products shall submit a certificate fee of one thousand three
19 hundred dollars (\$1,300) for each vehicle used to transport
20 cannabis or cannabis products with each application and each
21 application for renewal. An applicant that owns or controls more
22 than one transport vehicle shall obtain a separate certificate for
23 each transport vehicle, but may submit a single application for
24 those certificates or renewal of those certificates. The fee shall be
25 for a calendar year and shall not be prorated.

26 (b) A reasonable background check fee, as determined by the
27 board, shall be submitted by each applicant with each application
28 and, if deemed necessary, with each application for renewal.

29 22996.6. (a) At the discretion of the board, a certificate may
30 be issued to a transporter upon receipt of a completed application,
31 payment of the fee prescribed in Section 22996.4, and a completed
32 background check. The board shall not issue a certificate if any
33 of the following applies:

34 (1) The transporter or, if the transporter is not an individual,
35 any person controlling the transporter has previously been issued
36 a certificate that is suspended or revoked by the board for violation
37 of any provision of this division, unless it has been more than five
38 years since a previous certificate was revoked.

1 (2) *The transporter or, if the transporter is not an individual,*
2 *any person controlling the transporter has been convicted of a*
3 *felony.*

4 (b) (1) *Any transporter that is denied a certificate may petition*
5 *for a redetermination of the board's denial of the certificate within*
6 *30 days after service upon that transporter of the notice of the*
7 *denial of the certificate. If a petition for redetermination is not*
8 *filed within the 30-day period, the determination of denial becomes*
9 *final at the expiration of the 30-day period.*

10 (2) *Every petition for redetermination shall be in writing and*
11 *shall state the specific grounds upon which the petition is founded.*
12 *The petition may be amended to state additional grounds at any*
13 *time prior to the date on which the board issues its order or*
14 *decision upon the petition for redetermination.*

15 (3) *If the petition for redetermination is filed within the 30-day*
16 *period, the board shall reconsider the determination of the denial*
17 *and, if the transporter has so requested in the petition, shall grant*
18 *the transporter an oral hearing and shall give the transporter at*
19 *least 10 days' notice of the time and place of the hearing. The*
20 *board may continue the hearing as necessary.*

21 (4) *The order or decision of the board upon a petition for*
22 *redetermination shall become final 30 days after the mailing of*
23 *the notice.*

24 22996.8. *The certificate issued to the transporter shall be*
25 *placed in the transport vehicle for which the certificate is issued*
26 *and be made available upon request by an employee of the board*
27 *or a law enforcement agency.*

28 22996.10. (a) *Each transporter shall obtain from the certificate*
29 *holder from which the cannabis or cannabis products are received*
30 *a receipt or shipping document for the cannabis or cannabis*
31 *products transported and delivered. This receipt or shipping*
32 *document shall be carried with the load at all times and contain*
33 *the following information:*

34 (1) *Name and certificate number of shipper.*

35 (2) *Point of origin.*

36 (3) *Name of certificate holder to which delivery is made.*

37 (4) *Place of delivery.*

38 (5) *Name of transporter making delivery.*

39 (6) *A complete description of the shipment, including, but not*
40 *limited to, brand name, quantity, size, unit, and total weight.*

1 (7) *The number of the waybill covering the shipments.*

2 (8) *In the case of shipments by rail, the receipt shall also show*
3 *the car number; in the case of shipments by water, the receipt shall*
4 *also show the name of the vessel and the number of the steamship*
5 *bill of lading; and in the case of shipments by air, the receipt shall*
6 *also show the flight number and tail number.*

7 (b) *A receipt or shipping document containing all the*
8 *information described in subdivision (a) shall be deemed to be in*
9 *compliance with this requirement. A copy of the receipt or shipping*
10 *document must be delivered to the certificate holder to which*
11 *delivery is made. With respect to pool shipments in which more*
12 *than one certificate holder participates, the transporter shall obtain*
13 *a receipt or shipping document from each participating certificate*
14 *holder shipper and furnish a copy of the receipt or shipping*
15 *document to each participating certificate holder recipient.*

16 22996.12. (a) *Every transporter holding a certificate pursuant*
17 *this chapter shall file a monthly report to the board, in a manner*
18 *specified by the board, which may include, but is not limited to,*
19 *electronic media, as defined in Section 6066 of the Revenue and*
20 *Taxation Code. The monthly report shall include, but is not limited*
21 *to, the following:*

22 (1) *Name and certificate number of the consignor.*

23 (2) *Name of consignee to which delivery is made.*

24 (3) *A complete description of the shipment, including brand*
25 *name, quantity, size, unit, and total weight of the cannabis or*
26 *cannabis products transported.*

27 (4) *The date of transport.*

28 (5) *Bill of lading number, as defined in Section 1201 of the*
29 *Commercial Code.*

30 (5) *Any other information deemed necessary by the board.*

31 (b) *The board may suspend or revoke the certificate, pursuant*
32 *to the provisions applicable to the suspension and revocation of*
33 *a license set forth in Section 30148 of the Revenue and Taxation*
34 *Code, of any transporter that has failed to comply with the*
35 *requirements of this section.*

36 (c) *To facilitate the administration of this section, the board*
37 *may require the reports for periods other than monthly periods.*

38 22996.14. (a) *Notwithstanding Sections 22996 and 22996.2,*
39 *the board may issue to a transporter a temporary certificate with*
40 *a scheduled expiration date, as determined by the board.*

1 (b) A temporary certificate issued pursuant to this section shall
2 be automatically terminated upon the board's issuance or denial
3 of a certificate pursuant to Section 22996.6.

4 (c) A temporary certificate issued pursuant to this section is
5 subject to the same suspension, revocation, and forfeiture
6 provisions that apply to certificates issued by the board pursuant
7 to Section 22996.6.

8 22996.16. For purposes of this chapter "certificate" means a
9 cannabis transporter certificate.

10 22996.18. This chapter shall not apply to any certificate holder
11 that transports, in conveyances it owns, leases, or rents in the
12 course of its business, its own cannabis or cannabis products for
13 delivery to another certificated location, another certificate
14 holder's location, or a consumer's location. Any certificate holder
15 that transports its own cannabis or cannabis products shall carry,
16 at all times, a copy of its cannabis seller's certificate with the load
17 to be delivered.

18

19

CHAPTER 6. INVOICES

20

21 22997. (a) Every sale, transfer, or delivery of cannabis or
22 cannabis products from one certificate holder to another certificate
23 holder shall be recorded on a sales invoice, whether or not
24 consideration is involved. Invoices covering the sale or purchase
25 of cannabis or cannabis products shall be filed in a manner as to
26 be readily accessible for examination by employees of the board
27 and shall not be commingled with invoices covering commodities
28 other than cannabis or cannabis products.

29 (b) Each sales invoice shall have printed on it the name and
30 address of the seller and shall show all of the following
31 information:

32 (1) Name, address, and certificate number of the seller and the
33 purchaser.

34 (2) Board-issued certificate numbers of the seller and the
35 purchaser.

36 (3) Date of sale and invoice number.

37 (4) Kind, quantity, size, and capacity of packages of cannabis
38 or cannabis products sold.

1 (5) *The cost to the purchaser, together with any discount which*
 2 *at any time is to be given on or from the price as shown on the*
 3 *invoice.*

4 (6) *The place from which delivery of the cannabis or cannabis*
 5 *products was made.*

6 (c) *Invoices covering sales of cannabis or cannabis products*
 7 *between certificate holders shall show, in addition to the*
 8 *information in subdivision (b), the total weight covered by the*
 9 *invoice.*

10 (d) *Each invoice for the sale of cannabis or cannabis products*
 11 *shall be legible and readable.*

12 22997.2. *All growers, wholesalers, and retailers subject to*
 13 *certification under this division shall retain invoices that meet the*
 14 *requirements set forth in Section 22997 for all cannabis or*
 15 *cannabis products purchased and sold and any other records*
 16 *required by the board. The invoices and records shall be*
 17 *maintained for a period of one year from the date of the purchase*
 18 *or sale at the certificate holder’s location identified in the*
 19 *certificate, and thereafter, the invoices and records shall be made*
 20 *available for inspection by the board or a law enforcement agency*
 21 *for a period of four years.*

22

23 *CHAPTER 7. INSPECTIONS, PROHIBITIONS, AND PENALTIES*

24

25 *Article 1. Inspections, Seizures, and Forfeitures*

26

27 22998. (a) (1) *Any peace officer or board employee, upon*
 28 *presenting appropriate credentials, is authorized to enter any place*
 29 *as described in paragraph (3) and to conduct inspections in*
 30 *accordance with the requirements of this subdivision.*

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

34 (3) *Inspections may be conducted at any location or upon any*
 35 *vehicle, vessel, aircraft, or other conveyance at or upon which*
 36 *cannabis or cannabis products are sold, grown, stored, or*
 37 *transported.*

38 (4) *Inspections shall be requested or conducted no more than*
 39 *once in any 24-hour period.*

1 (b) Any person that refuses to allow an inspection shall be
2 subject to the penalties imposed pursuant to Section 22998.26.

3
4 Article 2. Prohibitions

5
6 22998.2. (a) A grower shall not sell cannabis or cannabis
7 products to a wholesaler, retailer, or any other person that is not
8 certificated pursuant to this division or whose certificate has been
9 suspended or revoked.

10 (b) A wholesaler shall not sell cannabis or cannabis products
11 to a retailer, wholesaler, or any other person that is not certificated
12 pursuant to this division or whose certificate has been suspended
13 or revoked.

14 (c) A retailer or wholesaler shall not purchase cannabis or
15 cannabis products from a grower that is not certificated pursuant
16 to this division or whose certificate has been suspended or revoked.

17 (d) A retailer or wholesaler shall not purchase cannabis or
18 cannabis products from any person that is not certificated pursuant
19 to this division or whose certificate has been suspended or revoked.

20 (e) Each separate sale to a retailer, or by a grower, or to or by
21 a wholesaler or any other person that is not certificated as required
22 pursuant to this division, shall constitute a separate violation.

23 (f) Failure to comply with this section shall be a misdemeanor
24 subject to penalties pursuant to Section 22998.26.

25
26 Article 3. Seizure for Violating Prohibitions

27
28 22998.4. (a) Notwithstanding any other provision of this
29 division, upon discovery by the board or a law enforcement agency
30 that a grower, wholesaler, retailer, or any other person has made
31 a purchase or sale of cannabis or cannabis products in violation
32 of Section 22998.2 or subdivision (d) of Section 22998.16, or an
33 uncertificated person is in possession of more than 28.5 grams
34 (one ounce), or in possession of products containing more than
35 28.5 grams (one ounce) of cannabis, or in possession of both
36 cannabis and products containing cannabis which together total
37 more than 28.5 grams (one ounce) of cannabis, except a person
38 holding a valid identification card, or the designated primary
39 caregiver of that qualified patient or person pursuant to Sections
40 11362.7, 11362.765, and 11362.77 of the Health and Safety Code,

1 *the board or the law enforcement agency shall be authorized to*
2 *seize all cannabis or cannabis products at the grower's,*
3 *wholesaler's, or retailer's location, or any other location it deems*
4 *necessary, or at any other person's location.*

5 *(b) Notwithstanding any other provision of this division, upon*
6 *discovery by the board or a law enforcement agency that a*
7 *transporter of cannabis or cannabis products is in violation of*
8 *Section 22996, the board or the law enforcement agency shall be*
9 *authorized to seize all cannabis or cannabis products in the*
10 *possession or control of the person or persons in the transport*
11 *vehicle, vessel, aircraft, or other conveyance.*

12 *(c) Notice of the seizure of the cannabis or cannabis products*
13 *as described in subdivision (a) shall be given by the board as*
14 *follows:*

15 *(1) Notice shall be given as set forth in Section 22992.18 to all*
16 *persons known by the board to have any right, title, or interest in*
17 *the property.*

18 *(2) The board shall include a notice of the seizure of 2,000*
19 *grams or more of cannabis or cannabis products on its Internet*
20 *Web site for a period of six months from the notice of seizure.*

21 *(3) Notice shall include a description of the cannabis, cannabis*
22 *products, or cannabis and cannabis products, the reason for the*
23 *seizure, and the time and place of the seizure.*

24 *(d) Within 30 days from the date of the mailing of the board's*
25 *notice of seizure or, if no notice was mailed to a person, 30 days*
26 *from the date of publication of the notice, any person owning or*
27 *claiming a right, title, or interest in the cannabis or cannabis*
28 *products seized may file an action against the board in the Superior*
29 *Court of the County of Sacramento for the release or recovery of*
30 *the cannabis or cannabis products on the ground that the cannabis*
31 *or cannabis products were erroneously or illegally seized. The*
32 *failure of the person to file a timely action shall constitute a bar*
33 *to that person's right to any interest in the cannabis or cannabis*
34 *products. The court shall determine whether the seizure of the*
35 *cannabis or cannabis products was in accordance with law and*
36 *shall enter an appropriate order for the disposition of the cannabis*
37 *or cannabis products.*

38 *22998.6. Any grower, wholesaler, or retailer that fails to*
39 *display a license as required by this division shall, in addition to*

1 *any other applicable penalty, be liable for a penalty of one*
2 *thousand dollars (\$1,000).*

3 22998.8. (a) *Any transporter that fails or refuses to make*
4 *available a cannabis transporter certificate or a receipt for the*
5 *cannabis or cannabis products being transported upon request by*
6 *the board or law enforcement agency shall be liable for a penalty*
7 *of ten thousand dollars (\$10,000).*

8 (b) *Any transporter that fails to retain a cannabis transporter*
9 *certificate in a vehicle so certificated, as required by Section*
10 *22996.8, shall be liable for a penalty of ten thousand dollars*
11 *(\$10,000).*

12
13 *Article 4. Invoicing Penalties*

14
15 22998.10. (a) *Failure of a certificate holder to comply with*
16 *Section 22997 or 22997.2 shall be a misdemeanor subject to*
17 *penalties pursuant to Section 22998.26.*

18 (b) *Any retailer found in violation of Section 22997 or 22997.2,*
19 *or any person that fails, refuses, or neglects to retain or make*
20 *available invoices for inspection and copying during normal*
21 *business hours in accordance with this section shall be subject to*
22 *penalties pursuant to Section 22998.26.*

23
24 *Article 5. Penalty for Sales by Persons Not Certificated*

25
26 22998.12. (a) *A person or entity that engages in the business*
27 *of selling or transporting cannabis or cannabis products in this*
28 *state either without a valid certificate or after a certificate has*
29 *been suspended or revoked, and each officer of any corporation*
30 *that engages in this business, is guilty of a misdemeanor punishable*
31 *as provided in Section 22998.26.*

32 (b) *Each day after notification by the board or by a law*
33 *enforcement agency that a grower, wholesaler, retailer, or any*
34 *other person required to be certificated under this division offers*
35 *cannabis or cannabis products for sale or exchange without a*
36 *valid certificate for the location from which they are offered for*
37 *sale shall constitute a separate violation.*

38 (c) *Continued sales or gifting of cannabis or cannabis products*
39 *either without a valid certificate or after a notification of*
40 *suspension or revocation shall constitute a violation punishable*

1 as provided in Section 22998.26, and shall result in the seizure of
2 all cannabis and cannabis products in the possession of the person
3 by the board or a law enforcement agency. Any cannabis or
4 cannabis products seized by the board or delivered to the board
5 by a law enforcement agency shall be deemed forfeited and
6 destroyed.

7
8
9

Article 6. Suspension or Revocation Penalty

10 22998.14. The board may suspend the certificate or revoke the
11 certificate, pursuant to the provisions applicable to the revocation
12 of a license set forth in Section 30148 of the Revenue and Taxation
13 Code, of any certificate holder that has failed to comply with the
14 requirements of this section.

15 22998.16. The board shall revoke the certificate, pursuant to
16 the provisions applicable to the revocation of a license as set forth
17 in Section 30148 of the Revenue and Taxation Code, of any
18 certificate holder if the certificate holder or any person controlling
19 the certificate holder has done either of the following:

- 20 (a) Been convicted of a felony.
- 21 (b) Allowed any license or permit to be revoked under any
- 22 provision of the Revenue and Taxation Code or Division 8.6
- 23 (commencing with Section 22970) of this code.

24 22998.18. In addition to any other civil or criminal penalty
25 provided by law, upon a finding that a certificate holder has
26 violated any provision of this division, the board may take the
27 following actions:

- 28 (a) In the case of any offense, the board may revoke or suspend
- 29 the certificate or certificates of the certificate holder pursuant to
- 30 the procedures applicable to the revocation of a certificate set
- 31 forth in Section 30148 of the Revenue and Taxation Code.
- 32 (b) In addition to the action authorized under subdivision (a),
- 33 the board may impose a civil penalty in an amount not to exceed
- 34 the greater of either of the following:
- 35 (1) Five times the retail value of the seized cannabis or cannabis
- 36 products.
- 37 (2) Ten thousand dollars (\$10,000).

38 22998.20. (a) Certificates issued pursuant to this division shall
39 be subject to suspension or revocation for violations of this division

1 *or Part 1 (commencing with Section 6001) of Division 2 of the*
2 *Revenue and Taxation Code.*

3 *(1) In addition to any applicable fines or penalties for a*
4 *violation, upon first conviction of a violation, a certificate holder*
5 *shall receive a written notice from the board detailing the*
6 *suspension and revocation provisions of this division. At its*
7 *discretion, the board may also suspend a certificate for up to 30*
8 *days.*

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

12 *(b) The date of the occurrence of a violation shall be used to*
13 *calculate the duration between subsequent violations. A violation*
14 *shall be noted in the certificate record at the board only after*
15 *judicial conviction or final adjudication of a violation.*

16 *(c) Upon updating a record for a violation triggering a*
17 *suspension, the board shall serve the certificate holder with a*
18 *notice of suspension and shall order the certificate holder to cease*
19 *the sale, gifting, or displaying for sale of cannabis or cannabis*
20 *products for the period of the suspension. The notice of suspension*
21 *shall inform the certificate holder of the effective dates of the*
22 *suspension.*

23 *(d) Continued sales, transportation, or gifting of cannabis or*
24 *cannabis products after the effective date of the suspension shall*
25 *constitute a violation of this division and result in the revocation*
26 *of a certificate.*

27 *(e) Upon updating a record for a violation triggering a*
28 *revocation, the board shall serve the certificate holder with a*
29 *notice of revocation and shall order the certificate holder to cease*
30 *the sale, gifting, or displaying for sale of cannabis or cannabis*
31 *products on and after the effective date of the revocation. The*
32 *notice of revocation shall inform the certificate holder of the*
33 *effective date of the revocation.*

34 *(f) After a revocation, a previously certificated applicant may*
35 *apply for a new certificate after six months. The board may, at its*
36 *discretion, issue a new certificate.*

37 *(g) Upon updating a certificate record for a violation,*
38 *suspension, or revocation of a certificate of a person or entity that*
39 *owns or controls more than one location, the board shall send*
40 *notice in writing of the violations, suspensions, or revocations*

1 within 15 days of the board's action to the address included in the
2 application and listed on the certificate for receipt of
3 correspondence or notices from the board.

4 (h) Upon suspension or revocation of a certificate pursuant to
5 this section, the board shall notify all certificate holders by
6 electronic mail within 48 hours of the suspension or revocation
7 of that certificate. All certificate holders shall provide the board
8 and shall update, as necessary, an electronic mail address that
9 the board can use for purposes of making the notifications required
10 by this subdivision.

11 (i) Violations by a certificate holder at one location may not be
12 accumulated against other locations of that same certificate holder.
13 Violations accumulated against a prior owner at a certificated
14 location may not be accumulated against a new owner at the same
15 certificated location.

16 (j) For purposes of this section, a violation includes violations
17 of Part 1 (commencing with Section 6001) of Division 2 of the
18 Revenue and Taxation Code relating to cannabis and cannabis
19 products, and violations of this division. Only one violation per
20 discrete action shall be counted toward a suspension or revocation
21 of a certificate.

22 22998.22. A person that, after receiving a notice of suspension
23 or revocation, continues to display for sale or transport cannabis
24 or cannabis products shall be subject to a civil penalty of
25 twenty-five thousand dollars (\$25,000) for each offense, and shall
26 not be subject to Section 22998.26.

27

28 *Article 7. Notice of Suspension or Revocation*

29

30 22998.24. (a) A retailer whose certificate has been suspended
31 or revoked by order of the board shall conspicuously post a notice
32 at both of the following locations:

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

37 (2) Each cash register and other point of retail sale. The notice
38 shall be posted to be readily viewable by a person standing at or
39 approaching the cash register or other point of retail sale. The
40 notice shall directly face the purchaser and shall not be obstructed

1 from view or placed at a height of less than four feet or greater
2 than nine feet from the floor.

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

7 (c) A retailer whose certificate was suspended shall post the
8 notice at the retail location that was the subject of the suspension
9 for the duration of the suspension.

10 (d) A retailer whose certificate was revoked shall post the notice
11 at the retail location that was the subject of the revocation for a
12 30-day period from the effective date of the revocation.

13 (e) Every retailer that fails to post the notices as required by
14 this section, that alters the notice provided by the board, or that
15 removes the notice before the posting period required in
16 subdivision (c) or (d), as appropriate, expires, shall be subject,
17 notwithstanding Section 22998.26, to a civil penalty of one
18 thousand dollars (\$1,000) for each offense.

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Article 8. Criminal Penalty

22 22998.26. Any violation of this division by any person, except
23 as otherwise provided, is a misdemeanor. Each offense shall be
24 punished by a fine not to exceed fifty thousand dollars (\$50,000),
25 or imprisonment not exceeding one year in a county jail, or both
26 the fine and imprisonment. The court shall order that fine assessed
27 be deposited in the Cannabis and Cannabis Products Compliance
28 Fund.

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Article 9. Miscellaneous

32 22998.28. (a) Every person that engages in the sale or
33 transportation for sale of cannabis or cannabis products in this
34 state shall obtain and maintain a cannabis and cannabis products
35 seller’s or transporter’s certificate pursuant to this division.

36 (b) It shall be rebuttably presumed that a person that is in
37 possession of more than 28.5 grams (one ounce) of cannabis, or
38 in possession of products containing more than 28.5 grams (one
39 ounce) of cannabis, or in possession of both cannabis and products
40 containing cannabis which together total more than 28.5 grams

1 (one ounce) of cannabis, except a person holding a valid
2 identification card, or the designated primary caregiver of that
3 qualified patient or person pursuant to Sections 11362.7,
4 11362.765, and 11362.77 of the Health and Safety Code, is
5 engaged in the sale or transportation for sale of cannabis or
6 cannabis products.

7 (c) The board or other law enforcement agency may, in its
8 discretion, also consider, with respect to the circumstances in
9 which the cannabis or cannabis products are discovered, the
10 equipment with which it is found, the place it is found, and the
11 manner of packaging in determining if the person in possession
12 of the cannabis or cannabis products is engaged in the sale or
13 transportation for sale of cannabis or cannabis products.

14 (d) Notwithstanding subdivision (b), a person who is discovered
15 at his or her private residence to be in possession of an amount
16 of cannabis in excess of 28.5 grams (one ounce) shall not be
17 presumed to be engaging in the sale or transportation for sale of
18 cannabis or cannabis products.

19 22998.30. Any prosecution for a violation of any of the penal
20 provisions of this division shall be instituted within four years after
21 the commission of the offense.

22 22998.32. The provisions of Chapter 4 (commencing with
23 Section 55121) of Part 30 of Division 2 of the Revenue and
24 Taxation Code shall apply with respect to the collection of the
25 fees, civil fines, and penalties imposed pursuant to this division.

26 22998.34. The board may cancel or revoke any certificate
27 which has been issued erroneously or issued based on erroneous
28 or false statements.

29 22998.36. (a) Any report, application, declaration, statement,
30 or other document required to be made under this division that is
31 filed using electronic media shall be filed and authenticated
32 pursuant to any method or form the board may prescribe.

33 (b) Notwithstanding any other law, any report, application,
34 declaration, statement, or other document otherwise required to
35 be signed that is filed by the taxpayer using electronic media in a
36 form as required by the board shall be deemed to be a signed,
37 valid original document, including upon reproduction to paper
38 form by the board.

1 (c) *Electronic media includes, but is not limited to, computer*
2 *modem, magnetic media, optical disk, facsimile machine, or*
3 *telephone.*

4
5 *CHAPTER 8. DISPOSITION OF FUNDS*
6

7 22999. (a) *All moneys collected pursuant to this division shall*
8 *be deposited in the Cannabis and Cannabis Products Compliance*
9 *Fund, which is hereby created in the State Treasury. Moneys in*
10 *the Cannabis and Cannabis Products Compliance Fund shall not*
11 *be used to supplant state or local general fund money for any*
12 *purpose.*

13 (b) *All moneys in the Cannabis and Cannabis Products*
14 *Compliance Fund are available for expenditure, upon*
15 *appropriation by the Legislature, solely for reimbursing the board*
16 *for its administrative costs to do the following:*

17 (1) *Implement, enforce, and administer this division.*

18 (2) *Administer and enforce Article 1.7 (commencing with Section*
19 *6480.50) of Chapter 5 of Part 1 of Division 2 of the Revenue and*
20 *Taxation Code.*

21 22999.2. *The board shall adjust the cannabis certificate fees*
22 *annually to ensure that the aggregate amount of fees is equal to*
23 *the amount necessary to fund the board's administration and*
24 *enforcement of this division and Article 1.7 (commencing with*
25 *Section 6480.50) of Chapter 5 of Part 1 of Division 2 of the*
26 *Revenue and Taxation Code.*

27 SEC. 2. *Section 6471.5 is added to the Revenue and Taxation*
28 *Code, to read:*

29 6471.5. *Any person required to make prepayment pursuant to*
30 *Article 1.7 (commencing with Section 6480.50) may not be required*
31 *to make additional prepayment pursuant to this article, provided*
32 *that more than 75 percent of the gross receipts of that person are*
33 *from the retail sale of cannabis or cannabis products.*

34 SEC. 3. *Article 1.7 (commencing with Section 6480.50) is added*
35 *to Chapter 5 of Part 1 of Division 2 of the Revenue and Taxation*
36 *Code, to read:*

1 *Article 1.7. Prepayment of Sales Tax on Cannabis and Cannabis*
2 *Products*

3
4 6480.50. (a) *For purposes of the imposition of the prepayment*
5 *of sales tax on cannabis and cannabis products pursuant to this*
6 *article, the term “cannabis” is defined pursuant to Chapter 1*
7 *(commencing with Section 22992) of Division 8.9 of the Business*
8 *and Professions Code.*

9 (b) *“Wholesaler” includes every person making sales, other*
10 *than retail sales, of cannabis or cannabis products. “Wholesaler”*
11 *does not include any person making sales of cannabis or cannabis*
12 *products at retail in the capacity of an operator of a medical*
13 *cannabis dispensary or any other retail establishment.*

14 (c) *With respect to cannabis and cannabis products, “sale”*
15 *means the transfer of title or possession, exchange, or barter,*
16 *conditional or otherwise, in any manner or by any means*
17 *whatsoever, of cannabis or cannabis products to a purchaser for*
18 *a consideration. If the board determines it necessary for the timely*
19 *and effective collection of sales tax, it may require growers,*
20 *wholesalers, transporters, and retailers to package medical*
21 *marijuana in a secure manner, as prescribed by the board.*

22 6480.51. (a) *At any time that cannabis or cannabis products*
23 *are sold in this state, the wholesaler shall prepay the retail sales*
24 *tax on its gross receipts derived from that sale of cannabis or those*
25 *cannabis products. Each wholesaler shall report and pay the*
26 *prepayment amounts to the board, in a form as prescribed by the*
27 *board, in the period in which the cannabis or cannabis products*
28 *are sold. The prepayment amounts shall be collected by the*
29 *wholesaler from the purchaser to which the cannabis or cannabis*
30 *products are sold. The prepayment amount constitutes a debt owed*
31 *by the wholesaler to this state until paid to the board, until*
32 *satisfactory proof has been submitted to prove that the retailer of*
33 *the cannabis or cannabis products has paid the retail sales tax to*
34 *the board, or until a wholesaler that has consumed the cannabis*
35 *or cannabis products has paid the use tax to the board on the sales*
36 *price of the amount consumed. On any subsequent sale of that*
37 *cannabis or cannabis product, each wholesaler shall collect from*
38 *its purchaser a prepayment computed using the combined rate*
39 *specified in subdivision (e) of the gross receipts from that sale.*

1 **(b) (1)** *Each wholesaler shall provide its purchaser with an*
2 *invoice for or other evidence of the collection of the prepayment*
3 *amounts, which shall be separately stated on the invoice.*

4 **(2)** *Each wholesaler shall report to the board, in a form as*
5 *prescribed by the board and for the period in which the cannabis*
6 *and cannabis products were sold, all of the following:*

7 **(A)** *The amount of cannabis and cannabis products sold, the*
8 *gross receipts derived from the sale, and the amount of sales tax*
9 *prepayments collected by the wholesaler.*

10 **(B)** *The amount of tax-paid cannabis and cannabis products*
11 *purchased, the sales price of that amount, and the amount of sales*
12 *tax prepayments made by the wholesaler.*

13 **(C)** *If the amount of sales tax prepayments collected by the*
14 *wholesaler is greater than the amount of sales tax prepayments*
15 *made by the wholesaler, then the excess constitutes a debt owed*
16 *by the wholesaler to the state until paid to the board, or until*
17 *satisfactory proof has been submitted that the retailer of the*
18 *cannabis or cannabis products has paid the tax to the board.*

19 **(c)** *A wholesaler that pays the prepayment and issues a resale*
20 *certificate to the seller, but subsequently consumes the cannabis*
21 *or cannabis product, shall be entitled to a credit against its sales*
22 *and use taxes due and payable for the period in which the*
23 *prepayment was made, provided that it reports and pays the use*
24 *tax to the board on the consumption of that cannabis or cannabis*
25 *product.*

26 **(d)** *The amount of a prepayment paid by the retailer or a*
27 *wholesaler that has consumed the cannabis and cannabis products*
28 *to the seller from which it acquired the cannabis and cannabis*
29 *products shall constitute a credit against its sales and use taxes*
30 *due and payable for the period in which the sale was made. Failure*
31 *of the wholesaler to report prepayments or a wholesaler's failure*
32 *to comply with any other duty under this article shall not constitute*
33 *grounds for denial of the credit to the retailer or wholesaler, either*
34 *on a temporary or permanent basis or otherwise. To be entitled*
35 *to the credit, the retailer or wholesaler shall retain for inspection*
36 *by the board any receipts, invoices, or other documents showing*
37 *the amount of sales tax prepaid to its wholesaler, together with*
38 *the evidence of payment.*

39 **(e)** *The rate of the prepayment required to be collected shall be*
40 *the combined rate of tax imposed pursuant to this part, Part 1.5*

1 (commencing with Section 7200) and Section 35 of Article XIII of
2 the California Constitution on all sales of cannabis or cannabis
3 products sold by wholesalers in this state.

4 6480.52. (a) If the board determines that it is necessary for
5 the efficient administration of this part, the board may require a
6 wholesaler to provide the board with a list of purchasers to which
7 the cannabis or cannabis products were sold.

8 (b) In addition to any other reports required under this article,
9 the board may, by rule and otherwise, require additional, other,
10 or supplemental reports, in any form which the board may require,
11 from wholesalers with respect to their sales of cannabis or
12 cannabis products, which shall include, but not be limited to, the
13 name of the purchaser, the number of the purchaser's certificate
14 issued pursuant to Division 8.9 (commencing with Section 22992)
15 of the Business and Professions Code, a description of the product
16 sold, including the weight of the cannabis included in each sale,
17 the date of each sale, and the gross receipts derived from each
18 sale of cannabis or cannabis product.

19 (c) Any wholesaler that fails to comply with this section is guilty
20 of a misdemeanor punishable as provided in Section 7153.

21 6480.53. The wholesaler shall file its prepayment form together
22 with a remittance of the prepayment amounts, if any, required to
23 be collected pursuant to Section 6480.51 payable to the State Board
24 of Equalization, on or before the last day of the month following
25 the monthly period to which the prepayment form or each
26 prepayment relates.

27 6480.54. (a) Any wholesaler that fails to make a timely
28 remittance to the board of the prepayment amounts, if any, required
29 pursuant to Sections 6480.51 and 6480.53 shall also pay a penalty
30 of 10 percent of the amount of the prepayment due but not paid,
31 plus interest at the modified adjusted rate per month, or fraction
32 thereof, established pursuant to Section 6591.5, from the date the
33 prepayment became due and payable to the state until the date of
34 payment.

35 (b) The penalty amount specified in subdivision (a) shall be 25
36 percent if the wholesaler knowingly or intentionally fails to make
37 a timely remittance.

38 6480.55. (a) The following persons that have paid prepayment
39 amounts either directly to the board or to the person from which

1 *the cannabis or cannabis products were purchased shall be*
2 *refunded those amounts:*

3 *(1) Any person that exports the cannabis or cannabis products*
4 *for subsequent sale outside this state.*

5 *(2) Any person that sells cannabis or cannabis products which*
6 *is exempt from the sales or use tax pursuant to Sections 6352,*
7 *6381, and 6396.*

8 *(3) Any person that has lost the cannabis or cannabis products*
9 *through fire, flood, theft, spillage, or accident, prior to any retail*
10 *sale.*

11 *(4) Any person that is unable to collect the prepayment from*
12 *the purchaser insofar as the sales of the cannabis and cannabis*
13 *products are represented by accounts which have been found to*
14 *be worthless and charged off for income tax purposes, or, if the*
15 *person is not required to file income tax returns, accounts which*
16 *have been charged off in accordance with generally accepted*
17 *accounting principles. If partial payments have been made, the*
18 *payments shall be prorated between amounts due for the sale of*
19 *cannabis or cannabis products and the amounts due for the related*
20 *prepayment. If any of those accounts are thereafter in whole or in*
21 *part collected by the seller, the gross receipts derived from the*
22 *cannabis or cannabis products represented by the amounts*
23 *collected shall be included in the first return filed after that*
24 *collection and the amount of the prepayment thereon paid with*
25 *the return.*

26 *(b) In lieu of a refund, the board may authorize a credit to be*
27 *taken by the person to whom the refund is due upon his or her*
28 *prepayment form or sales and use tax return.*

29 *6480.56. (a) The board may require any wholesaler subject*
30 *to this article to place with the board any security that the board*
31 *determines is necessary to ensure compliance with this article.*
32 *The amount of the security shall be fixed by the board but shall*
33 *not be greater than three times the estimated average liability of*
34 *wholesalers required to file returns for monthly periods,*
35 *determined in any manner that the board deems proper, or five*
36 *hundred thousand dollars (\$500,000), whichever amount is less.*
37 *These amounts apply regardless of the type of security placed with*
38 *the board. The amount of the security may be increased or*
39 *decreased by the board subject to the maximum amounts.*

1 (b) The board may sell the security at public auction if it
2 becomes necessary to so do in order to recover any tax or any
3 amount required to be collected or penalty due. Notice of the sale
4 may be served upon the person that placed the security personally
5 or by mail. If service is by mail, service shall be made in the
6 manner prescribed for service of a notice of a deficiency
7 determination and shall be addressed to the person's address as
8 it appears in the records of the board. However, security in the
9 form of a bearer bond issued by the United States or the State of
10 California which has a prevailing market price may be sold by the
11 board at a private sale at a price not lower than the prevailing
12 market price thereof. Upon any sale, any surplus above the
13 amounts due shall be returned to the wholesaler that placed the
14 security.

15 SEC. 4. Section 6592 of the Revenue and Taxation Code is
16 amended to read:

17 6592. (a) If the board finds that a person's failure to make a
18 timely return or payment is due to reasonable cause and
19 circumstances beyond the person's control, and occurred
20 notwithstanding the exercise of ordinary care and the absence of
21 willful neglect, the person shall be relieved of the penalties
22 provided by Sections 6476, 6477, 6479.3, 6480.4, 6480.8, 6480.54,
23 6511, 6565, 6591, 7051.2, 7073, and 7074.

24 (b) Except as provided in subdivision (c) any person seeking to
25 be relieved of the penalty shall file with the board a statement
26 under penalty of perjury setting forth the facts upon which he or
27 she bases his or her claim for relief.

28 (c) The board shall establish criteria that provides for efficient
29 resolution of requests for relief pursuant to this section.

30 SEC. 5. Section 6901 of the Revenue and Taxation Code is
31 amended to read:

32 6901. (a) If the board determines that any amount, penalty, or
33 interest has been paid more than once or has been erroneously or
34 illegally collected or computed, the board shall set forth that fact
35 in the records of the board and shall certify the amount collected
36 in excess of the amount legally due and the person from whom it
37 was collected or by whom paid. The excess amount collected or
38 paid shall be credited by the board on any amounts then due and
39 payable from the person from whom the excess amount was
40 collected or by whom it was paid under this part, and the balance

1 shall be refunded to the person, or his or her successors,
2 administrators, or executors, if a determination by the board is
3 made in any of the following cases:

4 ~~(a)~~

5 (1) Any amount of tax, interest, or penalty was not required to
6 be paid.

7 ~~(b)~~

8 (2) Any amount of prepayment of sales tax, interest, or penalty
9 paid pursuant to Article 1.5 (commencing with Section 6480), or
10 Article 1.7 (commencing with Section 6480.50), of Chapter 5 was
11 not required to be paid.

12 ~~(c)~~

13 (3) Any amount that is approved as a settlement pursuant to
14 Section 7093.5.

15 ~~Any~~

16 (b) Any overpayment of the use tax by a purchaser to a retailer
17 ~~who~~ that is required to collect the tax and ~~who~~ that gives the
18 purchaser a receipt therefor pursuant to Article 1 (commencing
19 with Section 6201) of Chapter 3 shall be credited or refunded by
20 the state to the purchaser. Any proposed determination by the board
21 pursuant to this section with respect to an amount in excess of fifty
22 thousand dollars (\$50,000) shall be available as a public record
23 for at least 10 days prior to the effective date of that determination.

24 *SEC. 6. No reimbursement is required by this act pursuant to*
25 *Section 6 of Article XIII B of the California Constitution because*
26 *the only costs that may be incurred by a local agency or school*
27 *district will be incurred because this act creates a new crime or*
28 *infraction, eliminates a crime or infraction, or changes the penalty*
29 *for a crime or infraction, within the meaning of Section 17556 of*
30 *the Government Code, or changes the definition of a crime within*
31 *the meaning of Section 6 of Article XIII B of the California*
32 *Constitution.*

33 *SEC. 7. This act shall become operative on July 1, 2011.*

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All matter omitted in this version of the bill appears in the bill as amended in the Assembly, August 20, 2010. (JR11)

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