

AMENDED IN SENATE AUGUST 17, 2015

AMENDED IN SENATE JULY 2, 2015

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 243

Introduced by Assembly Member Wood
(Coauthors: Assembly Members Rendon and Williams)

February 5, 2015

An act to add Sections 11362.769 and 11362.777 to the Health and Safety Code, *to add Part 13.5 (commencing with Section 31001) to Division 2 of the Revenue and Taxation Code*, and to add Section 13276 to the Water Code, relating to medical marijuana, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 243, as amended, Wood. Medical marijuana cultivation.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use and cultivation of marijuana for medical purposes. Existing law makes it a crime to plant, cultivate, harvest, dry, or process marijuana, except as otherwise authorized by law. Under existing law, qualified patients, persons with valid identification cards, and the designated primary caregivers of

qualified patients and persons with identification cards, who associate in order collectively and cooperatively to cultivate marijuana for medical purposes, are not subject to criminal sanctions solely on the basis of that fact.

This bill would establish the Division of Medical Cannabis Cultivation in the Department of Food and Agriculture. The bill would authorize a county, city, or city and county to issue or deny a conditional permit to cultivate medical marijuana and would require an applicant to obtain both a conditional permit from the county, city, or city and county and a state medical marijuana cultivation license from the division prior to cultivation occurring. By increasing the duties of local officials relative to issuing a conditional permit to cultivate medical marijuana, the bill would impose a state-mandated local program.

The bill would require the division to implement an identification program for medical marijuana in consultation with the State Water Resources Control Board and the Department of Fish and Wildlife. The bill would authorize the division to charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each medical marijuana plant. The bill would allow a county, city, or city and county to administer the unique identifier program, in which case the bill would authorize the county, city, or city and county, to charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each medical marijuana plant. ~~The bill would specify that the unique identifier program established pursuant the bill's provisions does not apply to a county, city, or city and county that has an existing ordinance pertaining to the cultivation of marijuana that provides for the identification of individual plants during the cultivation period.~~

~~This bill, on and after June 1, 2016, would impose a tax a licensed medical marijuana cultivator, at the rate of \$50 per medical marijuana plant with a unique identifier. This bill would require the tax to be administered by the State Board of Equalization, as prescribed, and~~

~~The bill would impose a tax in an unspecified amount on marijuana flowers, marijuana leaves, and immature marijuana plants and would require a licensed medical marijuana distributor designated entity, as specified, to collect the tax from the licensed medical marijuana cultivator and remit the amounts collected cultivator. The bill would require the State Board of Equalization to collect the tax pursuant to the procedures set forth in the Fee Collection Procedures Law. By expanding the application of the Fee Collection Procedures Law, a~~

violation of which is a crime, this bill would impose a state-mandated local program. ~~This~~ *The* bill would require all moneys less refunds, to be deposited into the Marijuana Production and Environment Mitigation Fund, which this bill would create in the State Treasury, and continuously appropriate those moneys to the board for allocation, as specified. ~~The bill would require a licensed medical marijuana cultivator to sell his or her medical marijuana products only to a licensed medical marijuana distributor, and would prohibit any other sales of medical marijuana by a licensed medical marijuana cultivator. The bill would also prohibit the sale of medical marijuana plants that do not contain a unique identifier by a licensed cultivator to a licensed distributor.~~

The bill would require the board to adopt a system for reporting the movement of cannabis and cannabis products through the distribution chain, as specified.

The bill would require the Legislative Analyst's Office to regularly review the tax levels established under the above provisions and make recommendations to the Legislature regarding adjustments that would further the goal of addressing the public safety and environmental impacts caused by the proliferation of marijuana cultivation.

The bill would require, on or before January 1, 2021, specified state agencies, including, among others, ~~the board, the division,~~ *division* and the Department of Justice, to submit reports to the Legislature regarding implementation of the bill.

The bill would specify that its provisions regarding the unique identifier program and cultivation do not apply to certain qualified patients cultivating marijuana if the patient cultivates marijuana for his or her personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity, or to certain primary caregivers cultivating marijuana if the primary caregiver cultivates marijuana exclusively for the personal medical use of no more than 5 specified qualified patients for whom he or she is the primary caregiver and who does not receive remuneration, except as specified.

The bill would also require indoor and outdoor medical marijuana cultivation to be conducted in accordance with state and local laws and best practices related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. This bill would require state agencies to address environmental impacts of medical marijuana cultivation and coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

The bill would ~~state the intent of the Legislature~~ *require* that the multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, *to* continue its enforcement efforts on a statewide level and permanent basis.

(2) Under existing law, the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with responsibility for the coordination and control of water quality in the state.

This bill would require each regional board, and would allow the state board, to address discharges of waste resulting from medical marijuana cultivation and associated activities.

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

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

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

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

1 ~~SECTION 1. It is the intent of the Legislature that the~~
2 ~~multiagency task force, the Department of Fish and Wildlife and~~
3 ~~State Water Resources Control Board pilot project to address the~~
4 ~~Environmental Impacts of Cannabis Cultivation, assigned to~~
5 ~~respond to the damages caused from marijuana cultivation on~~
6 ~~public and private lands in California, will continue its enforcement~~
7 ~~efforts on a statewide level and permanent basis to ensure the~~
8 ~~reduction of the adverse impacts of marijuana cultivation on water~~
9 ~~quality and fish and wildlife throughout the state.~~

10 ~~SEC. 2.~~

11 ~~SECTION 1.~~ Section 11362.769 is added to the Health and
12 Safety Code, to read:

1 11362.769. Indoor and outdoor medical marijuana cultivation
2 shall be conducted in accordance with state and local laws and
3 best practices related to land conversion, grading, electricity usage,
4 water usage, water quality, woodland and riparian habitat
5 protection, agricultural discharges, and similar matters. State
6 agencies, including, but not limited to, the State Board of Forestry
7 and Fire Protection, the Department of Fish and Wildlife, the State
8 Water Resources Control Board, the California regional water
9 quality control boards, and traditional state law enforcement
10 agencies shall address environmental impacts of medical marijuana
11 cultivation and shall coordinate, when appropriate, with cities and
12 counties and their law enforcement agencies in enforcement efforts.

13 ~~SEC. 3.~~

14 *SEC. 2.* Section 11362.777 is added to the Health and Safety
15 Code, to read:

16 11362.777. (a) The Division of Medical Cannabis Cultivation
17 is established within the Department of Food and Agriculture. The
18 division shall be administered by a person appointed by the
19 Governor and, except as specified in subdivision (c), shall
20 administer this section as it pertains to the cultivation of medical
21 marijuana.

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

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

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

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

35 (3) A person or entity shall not submit an application for a
36 license issued by the state pursuant to this section if *the proposed*
37 *cultivation of marijuana will violate the provisions of any local*
38 *ordinance or regulation, or if* medical marijuana is prohibited by
39 the county, city, or city and county in which the cultivation is

1 proposed to ~~occur~~. *occur, either expressly or otherwise under*
2 *principles of permissive zoning.*

3 (c) (1) Except as specified in paragraph (2), *and without limiting*
4 *any other local regulation*, a county, city, or city and county,
5 through its current or future land use regulations or ordinance, may
6 issue or deny a conditional permit to cultivate medical ~~marijuana~~.
7 *marijuana pursuant to this section.* A county, city, or city and
8 county may inspect the intended cultivation site for suitability prior
9 to issuing a conditional permit. After the city, county, or city and
10 county have approved a conditional permit, the applicant shall
11 apply for a state medical marijuana cultivation license from the
12 division. A locally issued conditional cultivation permit shall only
13 become active upon licensing by the division and receiving final
14 local approval. A person shall not cultivate medical marijuana
15 prior to obtaining both a conditional permit from the county, city,
16 or city and county and a state medical marijuana cultivation license
17 from the division.

18 (2) If a county, city, or city and county does not have land use
19 regulations or ordinances ~~pertaining to regulating or prohibiting~~
20 ~~the cultivation of marijuana, does not have a local cultivation~~
21 ~~permit process in place, marijuana, either expressly or otherwise~~
22 *under principles of permissive zoning*, or chooses not to administer
23 a conditional permit ~~program, program pursuant to this section~~,
24 then commencing March 1, 2016, the division shall be the sole
25 licensing authority for medical marijuana cultivation applicants
26 in that county, city, or city and county.

27 (d) (1) The division, in consultation with, but not limited to,
28 the State Water Resources Control Board and the Department of
29 Fish and Wildlife, shall implement a unique identification program
30 for medical marijuana. In implementing the program, the division
31 shall consider issues, including, but not limited to, water use and
32 environmental impacts. *In implementing the program, the division*
33 *shall ensure that individual and cumulative effects of water*
34 *diversion and discharge associated with cultivation do not affect*
35 *the instream flows needed for fish spawning, migration, and*
36 *rearing, and the flows needed to maintain natural flow variability.*
37 *The division shall ensure that cultivation will not negatively impact*
38 *springs, riparian wetlands, and aquatic habitats.*

39 (2) The division shall establish a program for the identification
40 of permitted medical marijuana plants at a cultivation site during

1 the cultivation period. The unique identifier shall be attached at
2 the base of each plant. A unique identifier, such as, but not limited
3 to, a zip tie, shall be issued for each medical marijuana plant.

4 (3) The division may charge a fee to cover the reasonable costs
5 of issuing the unique identifier and monitoring, tracking, and
6 inspecting each medical marijuana plant.

7 ~~(e) (1) On and after June 1, 2016, there is hereby imposed a~~
8 ~~tax on a licensed medical marijuana cultivator at the rate of \$50~~
9 ~~per medical marijuana plant with a unique identifier. The unique~~
10 ~~identifiers shall serve as the indicator for quantity purposes of~~
11 ~~sales.~~

12 ~~(2) A licensed medical marijuana distributor shall charge the~~
13 ~~licensed medical marijuana cultivator the amount of the tax as a~~
14 ~~charge that is separate from, and not included in, any other fee,~~
15 ~~charge, or other amount paid by the medical marijuana distributor.~~

16 ~~(3) The licensed medical marijuana distributor shall collect the~~
17 ~~tax from the licensed medical marijuana cultivator at the time of~~
18 ~~sale, and may retain reimbursement pursuant to regulations that~~
19 ~~shall be approved by the State Board of Equalization before June~~
20 ~~1, 2016, for startup costs associated with the collection of the tax,~~
21 ~~to be taken on the first return or next consecutive returns until the~~
22 ~~entire reimbursement amount is retained.~~

23 ~~(4) The licensed medical marijuana distributor shall separately~~
24 ~~state the amount of the tax imposed under this subdivision on the~~
25 ~~sales receipt given by the licensed medical marijuana distributor~~
26 ~~to the licensed medical marijuana cultivator at the time of sale.~~

27 ~~(5) The State Board of Equalization shall administer and collect~~
28 ~~the tax imposed by this subdivision pursuant to the Fee Collection~~
29 ~~Procedures Law (Part 30 (commencing with Section 55001) of~~
30 ~~Division 2 of the Revenue and Taxation Code) with those changes~~
31 ~~as may be necessary to conform to this section. For purposes of~~
32 ~~this subdivision, the references in the Fee Collection Procedures~~
33 ~~Law to "fee" shall include the tax imposed by this subdivision,~~
34 ~~and references to "feepayer" shall include the licensed medical~~
35 ~~marijuana distributor.~~

36 ~~(6) (A) The tax is required to be collected by a licensed medical~~
37 ~~marijuana distributor and any amount unreturned to the licensed~~
38 ~~medical marijuana cultivator who paid an amount in excess of the~~
39 ~~tax, but was collected from the licensed medical marijuana~~
40 ~~cultivator under the representation by the licensed medical~~

1 ~~marijuana distributor that it was owed as a tax, constitutes debts~~
2 ~~owed by the licensed medical marijuana distributor to this state.~~

3 ~~(B) A licensed medical marijuana cultivator is liable for the tax~~
4 ~~until it has been paid to the state, except that payment to a licensed~~
5 ~~medical marijuana distributor relieves the licensed medical~~
6 ~~marijuana cultivator from further liability for the tax. Any tax~~
7 ~~collected from a licensed medical marijuana cultivator that has not~~
8 ~~been remitted to the State Board of Equalization shall be a debt~~
9 ~~owed to the state by the licensed medical marijuana distributor~~
10 ~~required to collect and remit the tax. This subdivision does not~~
11 ~~impose any obligation upon a licensed medical marijuana~~
12 ~~distributor to take any legal action to enforce the collection of the~~
13 ~~tax imposed by this subdivision.~~

14 ~~(7) The State Board of Equalization may prescribe, adopt, and~~
15 ~~enforce regulations relating to the administration and enforcement~~
16 ~~of this subdivision, including, but not limited to, collections,~~
17 ~~reporting, refunds, and appeals. The State Board of Equalization~~
18 ~~may consult with the division, and the division shall provide to~~
19 ~~the board any information necessary for the proper administration~~
20 ~~of the tax imposed by this subdivision.~~

21 ~~(8) (A) The tax imposed by this subdivision is due and payable~~
22 ~~to the State Board of Equalization quarterly on or before the last~~
23 ~~day of the month next succeeding each quarterly period.~~

24 ~~(B) On or before the last day of the month following each~~
25 ~~quarterly period, a return for the preceding quarterly period shall~~
26 ~~be filed with the State Board of Equalization using electronic~~
27 ~~media, in the form prescribed by the State Board of Equalization.~~
28 ~~Returns shall be authenticated in a form or pursuant to methods,~~
29 ~~as prescribed by the State Board of Equalization.~~

30 ~~(9) (A) A licensed medical marijuana cultivator required to pay~~
31 ~~the tax imposed under this subdivision shall register with the State~~
32 ~~Board of Equalization. Every application for registration shall be~~
33 ~~made in a form prescribed by the State Board of Equalization and~~
34 ~~shall set forth the name under which the applicant transacts or~~
35 ~~intends to transact business, the location of the person's place or~~
36 ~~places of business, and any other information that the State Board~~
37 ~~of Equalization may require. An application for registration shall~~
38 ~~be authenticated in a form or pursuant to methods as may be~~
39 ~~prescribed by the State Board of Equalization.~~

1 ~~(B) An application for registration filed pursuant to this section~~
2 ~~may be filed using electronic media as prescribed by the State~~
3 ~~Board of Equalization. Electronic media includes, but is not limited~~
4 ~~to, computer modem, magnetic media, optical disc, facsimile~~
5 ~~machine, or telephone.~~

6 ~~(10) A licensed medical marijuana cultivator shall sell his or~~
7 ~~her medical marijuana products only to a licensed medical~~
8 ~~marijuana distributor and shall not make any other sales of medical~~
9 ~~marijuana. Medical marijuana plants that do not contain a unique~~
10 ~~identifier shall not be sold by a licensed cultivator to a licensed~~
11 ~~distributor.~~

12 ~~(11) The State Board of Equalization shall deposit all revenues,~~
13 ~~less refunds, collected pursuant to this subdivision into the~~
14 ~~Marijuana Production and Environment Mitigation Fund, which~~
15 ~~is hereby created in the State Treasury. Notwithstanding Section~~
16 ~~13340 of the Government Code, all moneys deposited in the fund~~
17 ~~are hereby continuously appropriated, without regard to fiscal~~
18 ~~years, to the State Board of Equalization for the purposes of this~~
19 ~~section, to be allocated by the board in the following manner:~~

20 ~~(A) Five dollars (\$5) shall go to the division to administer the~~
21 ~~unique identifier program described in subdivision (d).~~

22 ~~(B) Fifteen dollars (\$15) shall go to the division for disbursement~~
23 ~~to local law enforcement-related activities, state law~~
24 ~~enforcement-related activities, or both, pertaining to illegal~~
25 ~~marijuana cultivation. Funds allocated pursuant to this~~
26 ~~subparagraph shall be allocated on a competitive grant application~~
27 ~~process administered by the division. The division shall promulgate~~
28 ~~guidelines for the grant process as soon as administratively~~
29 ~~possible, but no later than April 1, 2016.~~

30 ~~(C) Fifteen dollars (\$15) shall go to the Natural Resources~~
31 ~~Agency to fund a competitive grant program for environmental~~
32 ~~cleanup and restoration of public and private lands that have been~~
33 ~~damaged from illegal marijuana cultivation. Funds allocated~~
34 ~~pursuant to this subparagraph shall be prioritized to restoration~~
35 ~~and cleanup projects, on public or private lands, based on the level~~
36 ~~of damages that have occurred. Not less than 35 percent of the~~
37 ~~funds shall be used for these purposes related to public lands, and~~
38 ~~not less than 20 percent of the funds collected shall be used for~~
39 ~~these purposes in regard to private lands. The agency shall consult~~
40 ~~and partner with counties, cities, or cities and counties, and may~~

1 partner with nonprofit organizations recognized by the California
2 Attorney General's office, other appropriate state agencies, and
3 the appropriate federal entities within the United State Department
4 of Interior, for the purposes of awarding grants to state or local
5 government entities and nonprofit organizations that engage in
6 environmental cleanup and restoration. The agency shall
7 promulgate guidelines for the grant process as soon as
8 administratively possible, but no later than April 1, 2016.

9 (D) Fifteen dollars (\$15) shall go to the multiagency task force,
10 the Department of Fish and Wildlife, and the State Water Resources
11 Control Board project to address the Environmental Impacts of
12 Cannabis Cultivation and to respond to the damages caused from
13 marijuana cultivation on public and private lands in California.

14 (f)

15 (e) (1) On or before January 1, 2021, the following entities
16 shall submit a report to the Legislature:

17 (A) The State Board of Equalization shall submit a report on
18 the total amount of revenue that was collected over the five-year
19 time period from the tax imposed pursuant to subdivision (e):

20 (B)

21 (A) The multiagency task force, the Department of Fish and
22 Wildlife, and the State Water Resources Control Board, shall
23 submit a report on the project to address the Environmental Impacts
24 of Cannabis Cultivation and how funds allocated to those entities
25 pursuant to ~~subdivision (e)~~ *Section 31013 of the Revenue and*
26 *Taxation Code* have been used for those purposes.

27 (C)

28 (B) The Department of Justice shall submit a report on how
29 local and state law enforcement agencies have used funds allocated
30 pursuant to ~~subdivision (e)~~ *Section 31013 of the Revenue and*
31 *Taxation Code* to address illegal marijuana cultivation and related
32 activities.

33 (D)

34 (C) The Natural Resources Agency shall submit a report on how
35 funds allocated to it pursuant to ~~subdivision (e)~~ *Section 31013 of*
36 *the Revenue and Taxation Code* have been used for environmental
37 cleanup and restoration of public and private lands that have been
38 damaged from illegal marijuana cultivation.

39 (2) It is the intent of the Legislature to use the reports required
40 by this subdivision to determine the necessity of a readjustment

1 to the tax imposed pursuant to ~~subdivision (e)~~. *Part 13.5*
2 *(commencing with Section 31001) of Division 2 of the Revenue*
3 *and Taxation Code.*

4 (3) The reports required by this subdivision shall be submitted
5 in compliance with Section 9795 of the Government Code.

6 ~~(g) (1) Except as specified in paragraph (3), no later than March~~
7 ~~1, 2016, a county, city, or city and county~~

8 *(f) A county board of supervisors or city council may adopt a*
9 *resolution or ordinance to be the responsible entity for purposes*
10 *of administering the unique identification program specified in*
11 *subdivision (d), in which case, the county, city, or city and county*
12 *county board of supervisors or city council shall designate the*
13 *appropriate entity to issue the unique identifiers. Counties may*
14 *designate the local agricultural commissioner, sheriff, or other*
15 *appropriate entity. Cities may designate the city planning and*
16 *building department, the Chief of Police, or other appropriate*
17 *entity. A county, city, or city and county may charge a fee to cover*
18 *the reasonable costs of issuing the unique identifier and monitoring,*
19 *tracking, and inspecting each medical marijuana plant. plant, in*
20 *addition to any other local fees or taxes imposed by the county.*
21 *Upon adoption of an ordinance or resolution by the county board*
22 *of supervisors or city council, the division shall cooperate with*
23 *that local jurisdiction to phase out the division's operation of the*
24 *program.*

25 ~~(2) Licensed cultivators and licensed distributors shall comply~~
26 ~~with subdivision (e) in a county, city, or city and county that elects~~
27 ~~to administer the unique identification program pursuant to~~
28 ~~paragraph (1).~~

29 ~~(3) If a county, city, or city and county decides at a later date~~
30 ~~to be the responsible entity for purposes of administering the unique~~
31 ~~identification program specified in subdivision (d), the county,~~
32 ~~city, or city and county may adopt an ordinance or resolution to~~
33 ~~participate in the provisions of this subdivision at a later date, but~~
34 ~~no later than July 1, 2018, in which case the division shall~~
35 ~~cooperate with that local jurisdiction to phase out the division's~~
36 ~~operation of the program.~~

37 ~~(h) The unique identifier program established pursuant to this~~
38 ~~section does not apply to a county, city, or city and county that~~
39 ~~has an existing ordinance pertaining to the cultivation of marijuana~~
40 ~~that provides for the identification of individual plants during the~~

1 cultivation period. A county, city, or city and county may choose
2 to opt in to the unique identifier program administered by the
3 division to be eligible for funds pursuant to subdivision (e). A
4 county, city, or city and county that does not participate in a unique
5 identifier program pursuant to this section shall not be eligible for
6 funds pursuant to subdivision (e).

7 (i)

8 (g) This section does not apply to a qualified patient cultivating
9 marijuana pursuant to Section 11362.5 if he or she cultivates
10 marijuana for his or her personal medical use and does not sell,
11 distribute, donate, or provide marijuana to any other person or
12 entity. This section does not apply to a primary caregiver
13 cultivating marijuana pursuant to Section 11362.5 if he or she
14 cultivates marijuana exclusively for the personal medical use of
15 no more than five specified qualified patients for whom he or she
16 is the primary caregiver within the meaning of Section 11362.7
17 and who does not receive remuneration for these activities, except
18 for compensation provided in full compliance with subdivision (c)
19 of Section 11362.765. ~~This section does not preclude a county,~~
20 ~~city, or city and county from regulating or banning the cultivation,~~
21 ~~possession, storage, manufacture, transport, provision, distribution,~~
22 ~~donation, or sale of marijuana, or any other activity, by a person~~
23 ~~specified in this subdivision, or impair the enforcement of the~~
24 ~~same. Exemption from the requirements of this section does not~~
25 ~~limit or prevent a city, county, or city and county from regulating~~
26 ~~or banning the cultivation, storage, manufacture, transport,~~
27 ~~provision, or other activity by the exempt person, or impair the~~
28 ~~enforcement of that regulation or ban.~~

29 (h) This section does not prevent a city, county, or city and
30 county from doing any of the following:

31 (1) Adopting local ordinances, whether consistent or inconsistent
32 with this section, that do either of the following:

33 (A) Regulate the location, operation, or establishment of a
34 licensed medical marijuana cultivator or a person that cultivates,
35 processes, possesses, stores, manufactures, tests, transports,
36 distributes, or sells medical marijuana.

37 (B) Prohibit medical marijuana activity within its jurisdiction.

38 (2) Providing for the administrative, civil, or criminal
39 enforcement of the ordinances described in paragraph (1).

1 (3) *Enacting and enforcing other laws or ordinances pursuant*
2 *to the authority granted by Section 7 of Article XI of the California*
3 *Constitution.*

4 (i) *This section does not preclude a county from establishing a*
5 *fee for the operation of a licensed medical marijuana cultivator*
6 *within the jurisdiction of the county.*

7 (j) *This section does not preempt any local ordinance regulating*
8 *or banning cultivation of medical marijuana, or otherwise prevent*
9 *or limit a city, county, or city and county from adopting or*
10 *enforcing a zoning ordinance or other law, ordinance, or*
11 *regulation, that bans or regulates the location, operation, or*
12 *establishment of an entity that cultivates medical marijuana.*

13 SEC. 3. *Part 13.5 (commencing with Section 31001) is added*
14 *to Division 2 of the Revenue and Taxation Code, to read:*

15
16 PART 13.5. MEDICAL MARIJUANA TAX

17
18 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

19
20 31001. *This part shall known and may be cited as the Medical*
21 *Marijuana Tax Law.*

22 31002. *As used in this part, the following terms have the*
23 *following definitions:*

24 (a) *“Marijuana” means all parts of the plant Cannabis sativa*
25 *L., Cannabis indica, or Cannabis ruderalis, whether growing or*
26 *not; the seeds thereof; the resin, whether crude or purified,*
27 *extracted from any part of the plant; and every compound,*
28 *manufacture, salt, derivative, mixture, or preparation of the plant,*
29 *its seeds, or resin. “Cannabis” does not include the mature stalks*
30 *of the plant, fiber produced from the stalks, oil or cake made from*
31 *the seeds of the plant, any other compound, manufacture, salt,*
32 *derivative, mixture, or preparation of the mature stalks (except*
33 *the resin extracted therefrom), fiber, oil, or cake, or the sterilized*
34 *seed of the plant which is incapable of germination. “Cannabis”*
35 *also means the separated resin, whether crude or purified, obtained*
36 *from marijuana. Without limiting the definition, “cannabis” also*
37 *means marijuana as defined by Section 11018 of the Health and*
38 *Safety Code, as enacted by Chapter 1407 of the Statutes of 1972.*

1 (b) “Marijuana flowers” means the flowers of the plant specified
2 in subdivision (a). “Marijuana flowers” does not include any part
3 of the plant other than the flowers.

4 (c) “Marijuana leaves” means the leaves of the plant specified
5 in subdivision (a). “Marijuana leaves” does not include any part
6 of the plant other than the leaves.

7 (d) “Medical marijuana tax” means the tax imposed pursuant
8 to this part.

9 (e) “Cultivation” means any activity involving the planting,
10 growing, harvesting, drying, curing, grading, or trimming of
11 marijuana.

12 (f) “Cultivator” means a person that plants, grows, cultivates,
13 harvests, dries, cures, grades, or trims medical marijuana, or that
14 does all or any combination of those activities.

15 (g) “Designated entity” means an entity defined by Section ____
16 of the Business and Professions Code, or an entity designated by
17 the board.

18 (h) “Immature marijuana plant” means a marijuana plant with
19 no observable flowers or buds.

20 (i) “Medical marijuana,” “medical marijuana product,” or
21 “marijuana product” means a product containing marijuana,
22 including, but not limited to, concentrates and extractions intended
23 to be sold for use by medical marijuana patients in California
24 pursuant to the Compassionate Use Act of 1996 (Section 11362.5
25 of the Health and Safety Code).

26 (j) “Sale” means the transfer of title or possession for
27 consideration in any manner or by any means whatever.

28
29 CHAPTER 2. IMPOSITION OF TAX
30

31 31005. (a) A marijuana tax shall be imposed upon each
32 cultivator and shall be collected by the designated entity at the
33 time of distribution at the following rates:

34 (1) \$____ per ounce on all cannabis flowers.

35 (2) \$____ per ounce on all cannabis leaves.

36 (3) \$____ per immature cannabis plant.

37 (b) The tax imposed by this section shall be measured by the
38 quantities of cannabis flowers, cannabis leaves, and immature
39 cannabis plants sold by any cannabis cultivator to the designated
40 entity.

1 (c) *The designated entity shall separately state the amount of*
2 *the tax imposed under this part on the sales receipt given by the*
3 *designated entity to the licensed medical marijuana cultivator at*
4 *the time of sale.*

5 (d) *Any claim for exemption from the tax pursuant to this part*
6 *shall be made to the board in the manner prescribed by the board.*

7 31006. *The Legislative Analyst's Office shall regularly review*
8 *the tax levels established under this part and make*
9 *recommendations to the legislature, as appropriate, regarding*
10 *adjustments that would further the goal of addressing public safety*
11 *and the environmental impacts caused by the proliferation of*
12 *marijuana cultivation.*

13
14 *CHAPTER 3. ADMINISTRATION*
15

16 31010. (a) *The board shall administer and collect the tax*
17 *imposed by this part pursuant to the Fee Collection Procedures*
18 *Law (Part 30 (commencing with Section 55001) of Division 2 of*
19 *the Revenue and Taxation Code) with those changes as may be*
20 *necessary to conform to this section. For purposes of this part, the*
21 *references in the Fee Collection Procedures Law to "fee" shall*
22 *include the tax imposed by this part, and references to "feepayer"*
23 *shall include a person required to pay the cannabis tax imposed*
24 *by this part.*

25 (b) *The tax that is required to be collected by the designated*
26 *entity, and any amount unreturned to the medical marijuana*
27 *cultivator that is not owed as part of the tax, but was collected*
28 *from the medical marijuana cultivator under the representation*
29 *by the designated entity that it was owed as a tax, constitutes debts*
30 *owed by the designated entity to the state.*

31 (c) *A medical marijuana cultivator is liable for the tax until it*
32 *has been paid to the state, except that payment to the designated*
33 *entity relieves the medical marijuana cultivator from further*
34 *liability for the tax. Any tax collected from a medical marijuana*
35 *cultivator that has not been remitted to the board shall be a debt*
36 *owed to the state by the designated entity required to collect and*
37 *remit the tax. This part does not impose any obligation upon the*
38 *designated entity to take any legal action to enforce the collection*
39 *of the tax imposed by this part.*

1 31011. (a) The board may prescribe, adopt, and enforce
2 regulations relating to the implementation, administration, and
3 enforcement of this part, including, but not limited to, applicant
4 requirements, collections, reporting, refunds, and appeals.

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

15 31012. (a) The marijuana tax is due and payable to the board
16 quarterly on or before the last day of the month following each
17 calendar quarter.

18 (b) On or before the last day of the month following each
19 calendar quarter, a return for the preceding calendar quarter shall
20 be filed using electronic media with the board.

21 (c) Returns shall be authenticated in a form or pursuant to
22 methods as may be prescribed by the board.

23 31013. (a) The Marijuana Production and Environment
24 Mitigation Fund is hereby created in the State Treasury. The fund
25 shall consist of all medical marijuana taxes, interest, penalties,
26 and other amounts collected and paid to the board pursuant to
27 this part, less payments of refunds and reimbursement to the board
28 for expenses incurred in the administration and collection of the
29 medical marijuana tax.

30 (b) Notwithstanding Section 13340 of the Government Code,
31 all moneys deposited in the Marijuana Production and
32 Environment Mitigation Fund are hereby continuously
33 appropriated, without regard to fiscal years, in the following
34 manner:

35 (1) Ten percent to the Division of Medical Cannabis Cultivation
36 to administer the unique identifier program specified in Section
37 11362.777 of the Health and Safety Code.

38 (2) Thirty percent to the Division of Medical Cannabis
39 Cultivation for disbursement to local law enforcement-related
40 activities, state law enforcement-related activities, or both,

1 *pertaining to illegal marijuana cultivation. Funds allocated*
2 *pursuant to this subparagraph shall be allocated on a competitive*
3 *grant application process administered by the Division of Medical*
4 *Cannabis Cultivation. The Division of Medical Cannabis*
5 *Cultivation shall promulgate guidelines for the grant process as*
6 *soon as administratively possible, but no later than April 1, 2016.*

7 *(3) Thirty percent to the Natural Resources Agency to fund a*
8 *competitive grant program for environmental cleanup and*
9 *restoration of public and private lands that have been damaged*
10 *by illegal marijuana cultivation. Funds allocated pursuant to this*
11 *subparagraph shall be prioritized to restoration and cleanup*
12 *projects, on public or private lands, based on the level of damages*
13 *that have occurred. Not less than 35 percent of the funds shall be*
14 *used for these purposes related to public lands, and not less than*
15 *20 percent of the funds collected shall be used for these purposes*
16 *in regard to private lands. The agency shall consult and partner*
17 *with counties, cities, or cities and counties, and may partner with*
18 *nonprofit organizations recognized by the California Attorney*
19 *General's office, other appropriate state agencies, and the*
20 *appropriate federal entities, including, but not limited to, the*
21 *United States Department of Agriculture and the United States*
22 *Department of the Interior, for the purposes of awarding grants*
23 *to state or local government entities and nonprofit organizations*
24 *that engage in environmental cleanup and restoration. The agency*
25 *shall promulgate guidelines for the grant process as soon as*
26 *administratively possible, but no later than April 1, 2016.*

27 *(4) Thirty percent to the multiagency task force, the Department*
28 *of Fish and Wildlife and State Water Resources Control Board*
29 *pilot project to address the Environmental Impacts of Cannabis*
30 *Cultivation and to respond to the damages caused by marijuana*
31 *cultivation on public and private lands in California, specified in*
32 *Section 13276 of the Water Code.*

33
34 *CHAPTER 4. TRACK AND TRACE PROCESS*
35

36 *31020. The board shall adopt a system for reporting the*
37 *movement of cannabis and cannabis products throughout the*
38 *distribution chain. The system shall also employ secure packaging*
39 *and be capable of providing information to the board. This system*
40 *shall capture, at a minimum, all of the following:*

1 (a) *The amount of tax due by the designated entity.*

2 (b) *The name, address, and license number of the designated*
3 *entity that remitted the tax.*

4 (c) *The name, address, and license number of the succeeding*
5 *entity receiving the product.*

6 (d) *The transaction date.*

7 (e) *Any other information deemed necessary by the board for*
8 *the taxation and regulation of marijuana and marijuana products.*

9 31021. (a) *The board shall submit a report to the Legislature*
10 *on the total amount of revenue that was collected for the five-year*
11 *period from the operative date of the tax imposed pursuant to this*
12 *part. The report is due to the Legislature on or before the last day*
13 *of the month commencing 180 days after the 5-year period from*
14 *the operative date of the tax imposed under this part.*

15 (b) *The report required by this section shall be submitted in*
16 *compliance with Section 9795 of the Government Code.*

17
18 *CHAPTER 5. OPERATIVE DATE AND FUNDING*
19

20 31030. *This part shall become operative on or after the first*
21 *day of the first calendar quarter commencing more than 270 days*
22 *after adequate funding has been received by the board to implement*
23 *and administer this part, or on or after the first day of the first*
24 *calendar quarter commencing more than 180 days from the*
25 *adoption and funding of the cannabis track and trace process*
26 *required pursuant to Section 31020, whichever is later. The board*
27 *shall post a notice on its Internet Web site when this requirement*
28 *has been satisfied.*

29 31031. *Funds for the establishment and support of the*
30 *regulatory activities required pursuant to this part shall be*
31 *advanced as a General Fund or special fund loan, and shall be*
32 *repaid by the board from the initial proceeds from fees collected*
33 *pursuant to this part or any rule or regulation adopted pursuant*
34 *to this part, no later than six months after the operative date*
35 *specified in Section 31030.*

36 SEC. 4. *Section 13276 is added to the Water Code, to read:*

37 13276. (a) *The multiagency task force, the Department of Fish*
38 *and Wildlife and State Water Resources Control Board pilot project*
39 *to address the Environmental Impacts of Cannabis Cultivation,*
40 *assigned to respond to the damages caused by marijuana*

1 *cultivation on public and private lands in California, shall continue*
2 *its enforcement efforts on a permanent basis and expand them to*
3 *a statewide level to ensure the reduction of adverse impacts of*
4 *marijuana cultivation on water quality and on fish and wildlife*
5 *throughout the state.*

6 ~~Each~~

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

15 ~~(a)~~

16 *(c)* Site development and maintenance, erosion control, and
17 drainage features.

18 ~~(b)~~

19 *(d)* Stream crossing installation and maintenance.

20 ~~(e)~~

21 *(e)* Riparian and wetland protection and management.

22 ~~(d)~~

23 *(f)* Soil disposal.

24 ~~(e)~~

25 *(g)* Water storage and use.

26 ~~(f)~~

27 *(h)* Irrigation runoff.

28 ~~(g)~~

29 *(i)* Fertilizers and soil.

30 ~~(h)~~

31 *(j)* Pesticides and herbicides.

32 ~~(i)~~

33 *(k)* Petroleum products and other chemicals.

34 ~~(j)~~

35 *(l)* Cultivation-related waste.

36 ~~(k)~~

37 *(m)* Refuse and human waste.

38 ~~(l)~~

39 *(n)* Cleanup, restoration, and mitigation.

1 SEC. 5. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

6 SEC. 6. This act is an urgency statute necessary for the
7 immediate preservation of the public peace, health, or safety within
8 the meaning of Article IV of the Constitution and shall go into
9 immediate effect. The facts constituting the necessity are:

10 In order to address the damage done by illegal marijuana
11 cultivation at the earliest time possible, it is necessary that this act
12 take effect immediately.

O