

**Additional Document and Information for the Planning Commission Meeting, July 13, 2023**

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To: Planning Department <planning@edcgov.us>

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Item #4  
43 pages

Please new legislation, AB 195 for review and consideration for the July 13, Planning Commission Meeting.

Thank you,

David Harde

## California Governor Signs into Law Cannabis Tax Relief Bill

Wednesday, July 6, 2022

Help for California's fledgling cannabis industry finally appears to be on the way. For years, the industry has shouldered heavy taxes – a 15% state-wide excise tax, sales and use taxes up to 10.75%, and local business licenses taxes up to 15% in some jurisdictions. And, to top it off, California imposed a cultivation tax on cannabis flowers of \$161.28 per dry-weight pound. While growers could sustain this tax burden when business was good, wholesale prices plummeted in the fall of 2021 and left growers unable to turn a profit.

Enter Assembly Bill 195, a budget "trailer bill" signed into law by Governor Newsom on June 30, 2022. Among other things, AB 195 amends the California Revenue and Taxation Code to eliminate the cultivation tax on harvested cannabis. Specifically, harvested cannabis that enters the commercial market on or after July 1, 2022 is not subject to the cultivation tax, even if the distributor or manufacturer received the cannabis from a cultivator prior to July 1, 2022. AB 195 also shifts the point of collection and remittance of the 15% state wide-excise tax from distributors to retailers effective January 1, 2023, and sales or transfers of harvested cannabis that has entered the commercial market by cultivators to distributors or manufacturers after July 1, 2022 are exempt from cultivation tax if the cannabis is ultimately subject to this 15% excise tax on retail sales. AB 195 tracks Governor Newsom's proposed budget,<sup>[1]</sup> which suggested slashing the cultivation tax rate to zero. For growers and the cannabis industry alike, this is a welcome sign of relief.

Beginning July 1, 2025, the California Department of Tax and Fee Administration must adjust the excise tax rate every two years to a rate that would generate an amount of revenue equivalent to what would have been collected from the cultivation tax (such rate not to exceed 19%). AB 195 includes other provisions, including updated allocations of the Cannabis Tax Fund and tax credits to commercial cannabis businesses.

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### ENDNOTES

[1] Discussed in a prior article [here](#).

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**AB-195 Cannabis.** (2021-2022)

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**Assembly Bill No. 195**

**CHAPTER 56**

An act to amend Sections 26038, 26051.5, 26067, 26068, and 26090 of, and to add and repeal Section 26203 of, the Business and Professions Code, to amend Sections 5650, 5650.1, and 13103 of the Fish and Game Code, to amend Section 11552 of the Government Code, to amend Sections 6479.3, 34010, 34011, 34012, 34012.5, 34013, 34014, and 34019 of, to amend, repeal, and add Section 34015 of, to add Sections 6369.6, 34011.01, 34011.1, 34011.2, 34012.3, 34014.1, 34015.1, 34015.2, 34019.01, and 34020.1 to, and to add and repeal Sections 17053.64, 17053.82, 23664, 23682, and 34019.1 of, the Revenue and Taxation Code, and to amend Section 1052 of the Water Code, relating to cannabis, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[ Approved by Governor June 30, 2022. Filed with Secretary of State June 30, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 195, Committee on Budget. Cannabis.

(1) The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. MAUCRSA establishes the Department of Cannabis Control within the Business, Consumer Services, and Housing Agency to administer the act, and requires the department to be under the supervision and control of a director.

Existing law specifies the annual compensation for various directors of state departments and agencies, including the Director of Transportation and the Director of Fish and Wildlife.

This bill would require the annual compensation for the Director of Cannabis Control to be consistent with the directors described above.

(2) Chapter 70 of the Statutes of 2021 established the Department of Cannabis Control and transferred to this department, except as specified, the powers, duties, purposes, functions, responsibilities, and jurisdiction under MAUCRSA of the former Bureau of Cannabis Control in the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health which are collectively referred to as licensing authorities.

MAUCRSA authorizes the Department of Cannabis Control to issue state licenses only to qualified applicants. MAUCRSA requires, among other things, that each licensee electronically submit to the Department of Justice

fingerprint images and related information for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and state and federal arrests. Existing law, until July 1, 2022, authorizes employees of a licensing authority, acting on behalf of the Department of Cannabis Control, to receive criminal history information for these purposes.

This bill would allow employees of a licensing authority, acting on behalf of the Department of Cannabis Control, to receive criminal history information for the purposes described above until July 1, 2023.

MAUCRSA requires an applicant for a state license, with 20 or more employees, to provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

This bill, beginning July 1, 2024, would instead require an applicant for a state license with 10 or more employees to provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

This bill would specify that compliance with the terms of an applicable labor peace agreement is a condition of licensure, and would authorize the Department of Cannabis Control to suspend, revoke, place on probation with terms and conditions, or otherwise discipline the license and fine the licensee, if the department determines the licensee has not complied with these provisions, as provided. The bill would authorize any labor organization, as defined, or any current or former employee of the relevant licensee, to file a complaint with the Agricultural Labor Relations Board that an organization with which a licensee has entered into a labor peace agreement is not a bona fide labor organization, and would establish procedures for the board's review of that complaint.

(3) MAUCRSA authorizes local jurisdictions to enforce its provisions and to regulate cannabis businesses, as specified.

This bill, until January 1, 2025, would establish a task force on state and local regulation of commercial cannabis activity to promote communication between state and local entities engaged in the regulation of commercial cannabis activity and facilitate cooperation to enforce applicable state and local laws, consisting of specified members from state agencies and all local jurisdictions regulating commercial cannabis activity that opt to participate. The bill would exempt meetings of the task force from the Bagley-Keene Open Meeting Act and the Brown Act.

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

This bill would make legislative findings to that effect.

(4) MAUCRSA imposes civil penalties on a person who aids and abets unlicensed commercial cannabis activity, as specified.

Existing law makes it a crime for a person who has management or control of a building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, to knowingly rent, lease, or make available for use, with or without compensation, the building, room, space, or enclosure, for the purpose of unlawfully manufacturing, storing, or distributing a controlled substance for sale or distribution

This bill would amend AUMA by imposing a civil penalty of up to \$10,000 per violation against a person who has management or control of a commercial property or a commercial building, room, space, or enclosure and knowingly rents, leases, or makes it available for the unlicensed cultivation, manufacture, storage, sale, or distribution of cannabis. The bill would make each day the violation continues a separate violation for this purpose. The bill would require an action for these civil penalties to be brought exclusively by the Attorney General on behalf of the people, on behalf of the department, or on behalf of the participating agency, or by a city or county counsel or city prosecutor.

Existing law requires that deliveries, as defined, of cannabis or cannabis products only be made by a licensed retailer or microbusiness or a licensed nonprofit, and sets forth the procedure for delivery.

Existing law requires the department to establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain and requires the program to capture certain information. Existing law requires the program to include an electronic seed to sale software tracking system with data points for the different stages of commercial activity.

This bill would also require the department to incorporate delivery into the track and trace program by January 1, 2023, and would authorize the department to adopt and readopt emergency regulations to implement that requirement, as specified. The bill, after the department incorporates delivery into the track and trace program, as specified, would require the program to capture the date of retail sale to a customer, whether the sale is on the retail premises or by delivery, and information, as determined by those emergency regulations, relating to cannabis or cannabis products leaving the licensed premises in a delivery vehicle, and would require a licensed retailer, before cannabis or a cannabis product leaves the licensed premises in a delivery vehicle, to enter into the track and trace system all information required by the department.

(5) Existing law makes it unlawful to deposit, permit to pass, or place where it can pass, specified pollutants into the waters of this state, including any substance or material deleterious to fish, plant life, mammals, or bird life. A violation of this provision is a crime under the Fish and Game Code. Existing law also subjects a violation of that provision to a civil penalty of no more than \$25,000 for each violation and an additional civil penalty of no more than \$10 for each gallon or pound of material discharged, and requires the civil action to be brought by the Attorney General upon complaint by the Department of Fish and Wildlife or by the district attorney or city attorney in the name of the people of the State of California. Existing law provides that a specified affirmative defense to a violation of the criminal provision does not apply to an action for civil penalties or injunctive relief pursuant to that civil provision.

This bill would provide that the specified affirmative defense to a violation of the criminal provision also does not apply in any other civil action that alleges a violation resulting from unlicensed cannabis cultivation. The bill would delete the requirement that the Attorney General only bring that civil action upon complaint by the department and would authorize, for a violation resulting from unlicensed cannabis cultivation, the civil action to be brought by a county counsel in the name of the people of the State of California.

Existing law generally requires  $\frac{1}{2}$  of all fines and forfeitures imposed or collected in any court of this state for violations of the Fish and Game Code or any other law providing for the protection or preservation of birds, mammals, fish, reptiles, or amphibians to be deposited in the county treasury of the county in which the violation was committed. Existing law requires those funds and other specified funds to be deposited in a county fish and wildlife propagation fund and authorizes the county board of supervisors to expend those funds for specified purposes.

This bill would additionally authorize expenditures from the fish and wildlife propagation fund of a county for costs incurred by a county counsel in investigating and prosecuting specified civil actions for violations resulting from unlicensed cannabis cultivation.

(6) Under existing law, the diversion or use of water other than as authorized by specified provisions of law is a trespass, subject to specified civil liability and injunctive relief imposed in the superior court in actions brought by the Attorney General upon request of the State Water Resources Control Board. Existing law requires funds recovered pursuant to that provision to be deposited in the Water Rights Fund, which is available upon appropriation by the Legislature for specified purposes. Existing law imposes fines of \$1,000 for each day a trespass occurs and \$2,500 for each acre-foot of water diverted or used in excess of the diverter's water rights.

This bill would authorize, for a violation resulting from unlicensed cannabis cultivation, the civil action to be brought by a county counsel or city attorney, upon approval of the board, in the name of the people of the State of California. The bill would delete the requirement that the Attorney General only bring the civil action upon request of the board. The bill would require funds recovered pursuant to that provision, upon appropriation by the Legislature, to be used to proportionally reimburse the Attorney General, city attorney, county counsel, and the board for costs of bringing the action, including reasonable attorney's fees, for investigating the violation and supporting the prosecution of the action. The bill would impose a penalty of \$3,500 per day for the unauthorized diversion or use for unlicensed cannabis activity in lieu of the current fines.

(7) AUMA, as additionally amended by statute, imposes a weight-based cultivation tax on harvested cannabis that enters the commercial market and a separate excise tax on purchasers of cannabis or cannabis products sold in this state at the rate of 15% of the average market price of any retail sale by a cannabis retailer, as specified. Existing law defines average market price in an arm's length transaction to mean the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the California Department of Tax and Fee Administration (CDTFA) on a biannual basis in 6-month intervals. Existing law requires the distributor to collect the excise tax from the cannabis retailer and to remit the tax to CDTFA. Existing law requires revenues from the cultivation and excise

taxes to be deposited into the California Cannabis Tax Fund, and continuously appropriates that tax fund for specified purposes.

This bill, beginning on January 1, 2023, would discontinue the imposition of the cultivation tax. The bill, beginning on January 1, 2023, would impose the cannabis excise tax on purchasers of cannabis or cannabis products sold in this state at the rate of 15% of the gross receipts of any retail sale by a cannabis retailer. The bill, for the 2025–26 fiscal year and every 2 years thereafter, would require CDTFA, in consultation with the Department of Finance, on or before May 1 of the fiscal year immediately preceding the applicable fiscal year, to adjust the cannabis excise tax rate by a percentage that will generate an amount of revenue that would have been collected pursuant to the cultivation tax imposed prior to its discontinuation under this bill, as specified, except that the bill would prohibit the cannabis tax rate from exceeding 19% of the gross receipts of retail sale.

(8) AUMA, as additionally amended by statute, establishes the California Cannabis Tax Fund as a continuously appropriated fund consisting of specified taxes, interest, penalties, and other amounts related to commercial cannabis activity. Each fiscal year, AUMA requires the Controller to make, as specified, disbursements from the fund for various purposes, including, among others, administering programs related to community reinvestment, youth education, prevention, early intervention, and treatment, environmental restoration and protection, and public health and safety. AUMA prohibits the Legislature, prior to July 1, 2028, from changing the allocations to those programs. Before making those disbursements, AUMA requires the Controller to disburse funds to various state entities, including, among others, the CDTFA, the Department of Cannabis Control, and the Controller, for reasonable costs in carrying out their duties under AUMA.

This bill would prohibit the Controller from making specified disbursements to certain state entities for the 2022–23 and 2023–24 fiscal years. The bill, for the 2021–22, 2022–23, 2023–24, and 2024–25 fiscal years, would require the Controller, after making specified disbursements, to disburse funds in an amount not to exceed the 2020–21 fiscal year baseline, as defined, into sub-trust accounts for administering those programs related to community reinvestment, youth education, prevention, early intervention, and treatment, environmental restoration and protection, and public health and safety. The bill would require any amount of funds that exceeds the 2020–21 fiscal year baseline to remain in the tax fund and to be disbursed according to a specified schedule to enable funds disbursed to the sub-trust accounts for the 2022–23, 2023–24, and 2024–25 fiscal years to be equal to the 2020–21 fiscal year baseline. The bill would require, on or before January 1, 2026, any remaining moneys in the tax fund retained pursuant to these provisions and any interest derived to be disbursed to the sub-trust accounts, as specified. The bill would appropriate \$10,000 in the 2022–23 fiscal year, and \$150,000,000 in the 2023–24 fiscal year, from the General Fund, and require the Controller, pursuant to a specified schedule, to transfer amounts of those moneys that would enable funds disbursed to the sub-trust accounts for the 2022–23 and 2023–24 fiscal years to be equal to the 2020–21 fiscal year baseline.

(9) MAUCRSA requires the Department of Cannabis Control to administer a grant program to assist with the development of a local jurisdiction's local equity program or to assist applicants and licensees in a local jurisdiction's equity program, and authorizes the department to provide technical assistance to the local equity program. MAUCRSA defines local equity program for these purposes to mean a program adopted or operated by a local jurisdiction that focuses on inclusion and support of individuals and communities in California's cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization. MAUCRSA required the department, on or before January 1, 2022, to develop and implement a program to provide a waiver for an application fee, a licensing fee, or a renewal fee for a needs-based applicant or needs-based licensee, as specified. Existing law made the operation of those provisions contingent upon an appropriation in the annual Budget Act or another statute for purposes of those provisions.

This bill, until December 31, 2025, would authorize a licensed cannabis retailer that has received approval from the department for a fee waiver for an application fee, a licensing fee, or a renewal fee, as specified, to retain a vender compensation in an amount equal to 20 percent of the cannabis excise tax the licensee would otherwise be required to remit, if certain conditions are met.

(10) Existing law requires the distributor to collect the cannabis excise tax from the cannabis retailer and to remit the tax to CDTFA. Under existing law, the cultivation tax and the cannabis excise tax collected by a distributor or a manufacturer and any amount unreturned to the cultivator or retailer that is not tax, but was collected under the representation by the distributor or manufacturer that it was tax, constitute debts owed by the distributor or manufacturer to this state. Existing law deems any tax collected from a cultivator or retailer that has not been remitted to CDTFA a debt owed to this state by the person required to collect and remit the tax. Existing law requires a distributor to obtain a permit from CDTFA and provides that any person required to obtain a permit and who engages in business as a distributor without a valid permit is guilty of a misdemeanor.

This bill, beginning on January 1, 2023, would revise and recast the provisions relating to the administration of the cannabis cultivation and cannabis excise taxes. The bill, among other things, would remove the requirement that the distributor collect the cannabis excise tax from the cannabis retailer, and would instead require the cannabis retailer to collect the cannabis excise tax from the purchaser and to remit the cannabis excise tax to CDTFA quarterly. The bill would deem any tax collected by the cannabis retailer, and any amount unreturned to the purchaser that is not tax, to constitute a debt owed to this state by the cannabis retailer, as provided. The bill would authorize CDTFA to require a cannabis retailer to file specified reports with CDTFA with respect to the person's inventory, purchases, and sales for purpose of administration of the cannabis excise tax, and would authorize CDTFA to examine books and records for these purposes. The bill would require a cannabis retailer to obtain a permit from CDTFA, and would provide that any person required to obtain a permit and who engages in business as a cannabis retailer without a valid permit is guilty of a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

This bill would provide that an unlicensed person who is required to be licensed under MAUCRSA and who possesses, keeps, stores, or retains for the purpose of sale, or sells or offers to sell any cannabis or cannabis products, is liable for the cannabis cultivation and cannabis excise taxes as if they were the cultivator or purchaser, as specified. The bill would impose an additional penalty in an amount equal to 25% of the amount of tax or \$500, whichever is greater. The bill would establish a procedure for relief from the penalty, including a signed statement from the person, and would provide that any person who asserts the truth of any material matter that they know to be false in relation to these provisions is guilty of a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

(11) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

Existing federal law imposes an income tax upon every corporation, except as specified, and prohibits the allowance of a deduction or credit for any amount paid or incurred during the taxable year in carrying on any trade or business consisting of trafficking in controlled substances, including cannabis.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2023, until January 1, 2028, to a qualified taxpayer, defined to mean a licensed commercial cannabis business that meets specified criteria, in an amount equal to 25% of the total amount of the qualified taxpayer's qualified expenditures, as defined, in the taxable year not to exceed \$250,000 per taxable year, as specified. The bill would cap the aggregate amount of the credit allowed, over all taxable years, at \$20,000,000.

This bill would allow an additional credit against those taxes for each taxable year beginning on or after January 1, 2023, and before January 1, 2028, to a cannabis equity licensee that received approval for a specified fee waiver and deferral program administered by the Department of Cannabis Control, in an amount equal to \$10,000. The bill would cap the aggregate amount of the credit allowed, over all taxable years, at \$20,000,000.

Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill would include additional information required for any bill authorizing a new tax expenditure.

(12) Under the Sales and Use Tax Law, a person whose estimated tax liability under the law averages \$10,000 or more per month is required to remit amounts due by an electronic funds transfer, as specified. That law imposes a penalty on a person who remits those taxes by means other than appropriate electronic funds transfer. That law authorizes, until January 1, 2022, a person licensed to engage in commercial cannabis activity to remit amounts due by a means other than electronic funds transfer, if the CDTFA deems it necessary to facilitate collection of amounts due.

This bill would extend that authorization indefinitely, and would provide that a person licensed to engage in commercial cannabis activity who failed to remit amounts due by means of electronic funds transfer on and after January 1, 2022, and before January 1, 2023, is not subject to or is relieved of any penalties imposed for failure to pay by electronic funds transfer.

(13) 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.

(14) AUMA authorizes legislative amendment of its provisions with a  $\frac{2}{3}$  vote of both houses, without submission to the voters, to further its purposes and intent.

This bill would declare that its provisions further the purposes and intent of AUMA.

(15) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** (a) It is imperative that the cannabis supply chain be taxed and regulated in a way that drives out the illicit market, as intended by the voters in enacting the Control, Regulate and Tax Adult Use of Marijuana Act. The current cannabis tax structure, contrary to the voters' intent, has pushed producers and consumers into the unlicensed market and prevented the expansion of the licensed market, allowing the illicit market to persist. Changes to the existing cannabis tax structure are therefore necessary to further the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act by reducing barriers to entry into the legal, regulated cannabis market and combating the illicit market.

(b) It is also imperative that the cannabis supply chain be taxed in a way that generates hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, education, prevention, and treatment of youth substance use disorders, community investment, and public safety-related activities, as intended by the voters in enacting the Control, Regulate and Tax Adult Use of Marijuana Act.

(c) The purpose of the amendments to the cannabis cultivation and excise taxes by this act is to achieve these goals by simplifying the state's cannabis tax structure. By consolidating the state's cannabis taxes into a single excise tax imposed at the point of retail sale, the state can tax the entire cannabis supply chain—from cultivation to sale—in a manner that is more efficient and transparent, thereby lowering barriers to entry into the legal, regulated cannabis market.

(d) By combating the illicit market and encouraging consumers and businesses to enter into the legal, regulated cannabis market, these changes may increase the state's cannabis tax revenue while reducing unnecessary burdens imposed on the state's legal cannabis businesses. The transition to a new cannabis tax structure may be accompanied by short-term volatility, even if that transition is successful in the long term. During this transitional period, the recipients identified in subdivision (b)—programs for restoring and repairing the environment, youth education, treatment, and substance use prevention, community investment, and public safety—may require support from the state and its general fund to provide a more predictable revenue stream.

(e) Therefore, the purpose of the amendments to the cannabis cultivation and excise taxes by this act is to tax the cannabis supply chain in a way that reduces barriers to entry into the legal market and drives out the illicit market, while providing transitional stabilization and support to existing recipients of cannabis tax revenues.

**SEC. 2.** Section 26038 of the Business and Professions Code is amended to read:

**26038.** (a) (1) A person engaging in commercial cannabis activity without a license as required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation. Each day of operation shall constitute a separate violation of this section.

(2) A person aiding and abetting unlicensed commercial cannabis activity shall be subject to civil penalties of up to three times the amount of the license fee for each violation, but in no case shall the penalty exceed thirty thousand dollars (\$30,000) for each violation. Each day of operation of unlicensed commercial cannabis activity that a person is found to have aided and abetted shall constitute a separate violation of this section.

(3) A person who has management or control of a commercial property, or a commercial building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly rents, leases, or makes available for use, with or without compensation, the commercial property, building, room, space, or enclosure for the purpose of the unlicensed commercial cultivation, manufacture, storage, sale, or distribution of cannabis shall be subject to civil penalties of up to ten thousand dollars (\$10,000) for each violation. Each day of violation shall constitute a separate violation of this section.

(4) In assessing a penalty, a court shall give due consideration to the appropriateness of the amount of the civil penalty with respect to factors the court determines to be relevant, including the following:

(A) The gravity of the violation by the licensee or person.

(B) The good faith of the licensee or person.

(C) The licensee's or person's history of previous violations.

(D) Whether, and to what extent, the licensee or person profited from the unlicensed cannabis activity.

(5) Cannabis associated with a violation described in this subdivision may be destroyed in accordance with Section 11479 of the Health and Safety Code. The person in violation shall be responsible for the cost of the destruction of cannabis associated with their violation.

(b) An action for civil penalties brought against a person pursuant to this division shall not be commenced unless the action is filed within three years from the date of the violation.

(c) All civil penalties imposed and collected pursuant to this section by a court shall be deposited into the General Fund except as provided in subdivision (e).

(d) For the purposes of this section, in order to prove that a person aided and abetted an unlicensed cannabis activity all of the following must be demonstrated:

(1) The person was an owner, officer, controlling shareholder, or in a similar position of authority allowing them to make command or control decisions regarding the operations and management of the unlicensed cannabis activity or the property in which the activity is taking place.

(2) The person had actual knowledge that the cannabis activity was unlicensed and that the cannabis activity required a license.

(3) The person provided substantial assistance or encouragement to the unlicensed cannabis activity.

(4) The person's conduct was a substantial factor in furthering the unlicensed cannabis activity.

(e) (1) If an action for civil penalties is brought against a person pursuant to this division by the Attorney General on behalf of the people or on behalf of the department or a participating agency, the penalty shall first be used to reimburse the Attorney General and the department or the participating agency for the costs of investigating and prosecuting the action, including expert fees and reasonable attorney's fees, with the remainder, if any, to be deposited into the General Fund.

(2) If the action is brought by a county counsel, the penalty shall first be used to reimburse the county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

(3) If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

(4) Actions for civil penalties pursuant to paragraph (2) of subdivision (a) shall be brought exclusively by the Attorney General on behalf of the people, on behalf of the department, or on behalf of the participating agency, or by a city or county counsel or city prosecutor in a city or county having a population in excess of 750,000.

(5) Actions for civil penalties pursuant to paragraph (3) of subdivision (a) shall be brought exclusively by the Attorney General on behalf of the people, on behalf of the department, or on behalf of the participating agency, or by a city or county counsel, or city prosecutor.

(f) For purposes of paragraph (3) of subdivision (a), in order to prove that a person knowingly rented, leased, or made available the commercial property for unlawful commercial cannabis activity, it shall be demonstrated that the person had actual knowledge that the cannabis-related activity was for commercial purposes, required a license, and was unlicensed. The presence of a lawful amount of cannabis, cannabis products, or cannabis plants, subject to Sections 11362.1 and 11362.45 of the Health and Safety Code, shall not be evidence of actual knowledge.

(g) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial cannabis activity in violation of this division.

(h) (1) This section does not limit, preempt, or otherwise affect any other state or local law, rule, regulation, or ordinance applicable to the conduct described in subdivision (a), or otherwise relating to commercial cannabis

activities.

(2) This section is meant to further the intent of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA), which allows local governments to reasonably regulate the cultivation of nonmedical cannabis for personal use by adults 21 years of age and older through zoning and other local laws.

**SEC. 3.** Section 26051.5 of the Business and Professions Code is amended to read:

**26051.5.** (a) An applicant for a state license issued pursuant to this division to conduct commercial cannabis activity, as defined in Section 26001, shall do all of the following:

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

(A) Notwithstanding any other law, the Bureau of Cannabis Control, the Department of Food and Agriculture, the State Department of Public Health, and the department, as defined in Section 26001, may obtain criminal history information from the Department of Justice and the Federal Bureau of Investigation for an applicant for any state license under this division, including any license established by a licensing authority, as defined in Section 26001, by regulation pursuant to subdivision (b) of Section 26012.

(B) When received, the Department of Justice shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation for the purpose of obtaining a federal criminal history records check. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the licensing authority.

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

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

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

(F) Employees of a licensing authority, as defined in Section 26001, acting on behalf of the department may receive criminal history information pursuant to this section. This subparagraph shall become inoperative on July 1, 2023.

(G) Notwithstanding any other law, a licensing authority may request and receive from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. A local or state agency may provide those records to a licensing authority upon request.

(2) Provide evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property or that landowner's agent where the commercial cannabis activity will occur, as proof to demonstrate the landowner has acknowledged and consented to permit commercial cannabis activities to be conducted on the property by the tenant applicant.

(3) Provide evidence that the proposed location is in compliance with subdivision (b) of Section 26054.

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

(5) (A) (i) For an applicant with 20 or more employees, or an applicant with 10 or more employees that submits an application on or after July 1, 2024, provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and will abide by the terms of a labor peace agreement. On and after July 1, 2024, the department shall not renew a license for a licensee with 10 or more employees unless the licensee provides a statement that the licensee has already entered into and will abide by the terms of a labor peace agreement.

(ii) For an applicant with 10 or more employees but less than 20 employees that has not yet entered into a labor peace agreement, provide a notarized statement as a part of its application indicating that the

applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 20th employee, or on or before July 1, 2024, whichever is earlier.

(iii) For an applicant with less than 10 employees that has not yet entered into a labor peace agreement, provide a notarized statement as a part of its application indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 10th employee or on or before July 1, 2024, whichever is later.

(iv) Nothing in this paragraph shall be construed to limit the authority of the department to revoke or suspend a license for a violation of this paragraph.

(B) Compliance with the terms of an applicable labor peace agreement is a condition of licensure. A licensee seeking renewal of any license shall attest to the department that it remains in compliance with the terms of any applicable labor peace agreement.

(C) Any labor organization, or any current or former employee of the relevant licensee, may report to the department that a licensee has failed to provide a truthful attestation of compliance with subparagraph (B).

(i) The reporting party shall provide documentation, in a form and manner required by the department, to substantiate their allegation before the department considers it. The department shall collaborate with such agencies as it deems relevant to evaluate the report.

(ii) If the department substantiates the validity of a report made pursuant to this subparagraph, the department may suspend, revoke, place on probation with terms and conditions, or otherwise discipline the license and fine the licensee.

(D) (i) Any labor organization, or any current or former employee of the relevant licensee, may file a complaint with the Agricultural Labor Relations Board that an organization with which a licensee has entered into a labor peace agreement is not a bona fide labor organization.

(ii) The Agricultural Labor Relations Board shall consider all relevant evidence provided or obtained in rendering a decision on whether the entity is a bona fide labor organization and issue a report with its findings no later than ninety (90) days from receiving the complaint.

(iii) If the Agricultural Labor Relations Board determines that the entity is not a bona fide labor organization, the labor peace agreement shall be null and void. The department shall promptly notify all licensees that have signed labor peace agreements with the entity that the entity was found not to be a bona fide labor organization and offer those licensees a reasonable time period, not to exceed 180 days, to enter into a labor peace agreement with a bona fide labor organization. Failure to enter into a labor peace agreement with a bona fide labor organization after that reasonable time period shall be a violation of this section.

(E) For the purposes of this paragraph, all of the following shall apply:

(i) "Employee" does not include a supervisor.

(ii) "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists, in whole or in part, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work for employees.

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

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

(7) Provide any other information required by the department.

(8) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part

3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.

(9) Pay all applicable fees required for licensure by the department.

(10) Provide proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.

(11) (A) Provide a statement, upon initial application and application for renewal, that the applicant employs, or will employ within one year of receiving or renewing a license, one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course. This paragraph shall not be construed to alter or amend existing requirements for employers to provide occupational safety and health training to employees.

(B) An applicant with only one employee shall not be subject to subparagraph (A).

(C) For purposes of this paragraph "employee" has the same meaning as provided in subparagraph (B) of paragraph (5) and "supervisor" has the same meaning as provided in subparagraph (C) of paragraph (5).

(b) An applicant shall also include in the application a detailed description of the applicant's operating procedures for all of the following, as required by the department:

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

(4) Inventory procedures.

(5) Quality control procedures.

(6) Security protocols.

(7) For applicants seeking licensure to cultivate, the source or sources of water the applicant will use for cultivation, as provided in subdivisions (a) to (c), inclusive, of Section 26060.1. For purposes of this paragraph, "cultivation" as used in Section 26060.1 shall have the same meaning as defined in Section 26001. The department shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this paragraph.

(c) The applicant shall also provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy, including aggregate square footage and individual square footage of separate cultivation areas, if any, roads, water crossings, points of diversion, water storage, and all other facilities and infrastructure related to the cultivation.

(d) Provide a complete list of every person with a financial interest in the person applying for the license as required by the department. For purposes of this subdivision, "persons with a financial interest" does not include persons whose only interest in a licensee is an interest in a diversified mutual fund, blind trust, or similar instrument.

**SEC. 4.** Section 26067 of the Business and Professions Code is amended to read:

**26067.** (a) The department shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier and is capable of providing information that captures, at a minimum, all of the following:

(1) The licensee from which the product originates and the licensee receiving the product.

(2) The transaction date.

(3) The unique identifier or identifiers for the cannabis or cannabis product.

(4) The date of retail sale to a customer and whether the sale is conducted on the retail premises or by delivery.

(5) Information relating to cannabis and cannabis products leaving the licensed premises in a delivery vehicle as determined by regulations adopted pursuant to subdivision (d) of Section 26068.

(b) (1) The department, in consultation with the California Department of Tax and Fee Administration, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:

(A) The variety and quantity or weight of cannabis or cannabis products shipped.

(B) The estimated times of departure and arrival.

(C) The variety and quantity or weight of cannabis or cannabis products received.

(D) The actual time of departure and arrival.

(E) A categorization and the unique identifier of the cannabis or cannabis product.

(F) The license number issued by the department for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and retailers.

(2) The database shall be designed to flag irregularities for the department to investigate.

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

(4) The California Department of Tax and Fee Administration shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.

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

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

**SEC. 5.** Section 26068 of the Business and Professions Code is amended to read:

**26068.** (a) The department, in consultation with the California Department of Tax and Fee Administration, shall ensure that the track and trace program can also track and trace the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity, including, but not limited to, cultivation, harvest, processing, manufacturing, distribution, inventory, sale, and delivery.

(b) The department shall ensure that licensees under this division are allowed to use third-party applications, programs, and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of cannabis and cannabis products throughout the distribution chain and communicate the information to licensing agencies as required by law.

(c) Any software, database, or other information technology system utilized by the department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology that is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

(d) (1) The department shall incorporate delivery into the track and trace program no later than January 1, 2023.

(2) Notwithstanding any other law, provisions related to inclusion of information related to delivery in the track and trace system in Sections 26067 and 26090 shall only become effective after the department incorporates

delivery into the track and trace program as required by this subdivision.

(3) Notwithstanding any other law, the department may adopt and readopt emergency regulations to implement this subdivision. The provisions of Section 26013 shall be applicable to emergency regulations adopted or readopted pursuant to this section. The emergency regulations authorized by this paragraph shall be deemed an emergency and necessary for the immediate preservation of public peace, health, safety, or general welfare.

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

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

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

(c) Before cannabis or a cannabis product leaves the licensed premises in a delivery vehicle, the retailer shall enter into the track and trace system all information required by the department and shall update the information as required by the department.

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

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

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

**SEC. 7.** Section 26203 is added to the Business and Professions Code, to read:

**26203.** (a) There is hereby established a task force on state and local regulation of commercial cannabis activity. The purpose of the task force is to promote communication between state and local entities engaged in the regulation of commercial cannabis activity and facilitate cooperation to enforce applicable state and local laws.

(b) The task force shall be composed of representatives from all of the following:

(1) The Department of Cannabis Control.

(2) The California Department of Tax and Fee Administration.

(3) The Department of Fish and Wildlife.

(4) The State Water Resources Control Board.

(5) The Department of the California Highway Patrol.

(6) The Labor and Workforce Development Agency.

(7) The Department of Justice.

(8) All local jurisdictions regulating commercial cannabis activity that opt to participate in the task force, which may send representatives from one or more of the following:

(A) The contact person designated pursuant to subdivision (f) of Section 26055.

(B) A county sheriff's office or municipal police department.

(C) A district attorney's office or city attorney's office.

(c) Beginning July 1, 2023, the task force shall meet twice each fiscal year, through teleconference or similar means to facilitate remote participation, for discussions to be convened and led by the Department of Cannabis Control. Discussion topics may include, but need not be limited to, enforcement against the illicit market, social equity programs, state licensing requirements, and labor and workforce compliance.

(d) The task force shall not be subject to the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

**SEC. 8.** Section 5650 of the Fish and Game Code is amended to read:

**5650.** (a) Except as provided in subdivision (b), it is unlawful to deposit in, permit to pass into, or place where it can pass into the waters of this state any of the following:

- (1) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous material or substance.
- (2) Any refuse, liquid or solid, from any refinery, gas house, tannery, distillery, chemical works, mill, or factory of any kind.
- (3) Any sawdust, shavings, slabs, or edgings.
- (4) Any factory refuse, lime, or slag.
- (5) Any cocculus indicus.
- (6) Any substance or material deleterious to fish, plant life, mammals, or bird life.

(b) This section does not apply to a discharge or a release that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a waste discharge requirement pursuant to Section 13263 of the Water Code or a waiver issued pursuant to subdivision (a) of Section 13269 of the Water Code issued by the State Water Resources Control Board or a California regional water quality control board after a public hearing, or that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a federal permit for which the State Water Resources Control Board or a California regional water quality control board has, after a public hearing, issued a water quality certification pursuant to Section 13160 of the Water Code. This section does not confer additional authority on the State Water Resources Control Board, a California regional water quality control board, or any other entity.

(c) It shall be an affirmative defense to a violation of this section if the defendant proves, by a preponderance of the evidence, all of the following:

- (1) The defendant complied with all applicable state and federal laws and regulations requiring that the discharge or release be reported to a government agency.
- (2) The substance or material did not enter the waters of the state or a storm drain that discharges into the waters of the state.
- (3) The defendant took reasonable and appropriate measures to effectively mitigate the discharge or release in a timely manner.

(d) The affirmative defense in subdivision (c) does not apply and may not be raised in an action for civil penalties or injunctive relief pursuant to Section 5650.1, or in any other civil action that alleges a violation of this section resulting from unlicensed cannabis cultivation.

(e) The affirmative defense in subdivision (c) does not apply and may not be raised by any defendant who has on two prior occasions in the preceding five years, in any combination within the same county in which the case is prosecuted, either pleaded nolo contendere, been convicted of a violation of this section, or suffered a judgment for a violation of this section or Section 5650.1. This subdivision shall apply only to cases filed on or after January 1, 1997.

(f) The affirmative defense in subdivision (c) does not apply and may not be raised by the defendant in any case in which a district attorney, city attorney, or Attorney General alleges, and the court finds, that the defendant acted willfully.

**SEC. 9.** Section 5650.1 of the Fish and Game Code is amended to read:

**5650.1.** (a) A person who violates Section 5650 is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

(b) The civil penalty imposed for each separate violation pursuant to this section is separate, and in addition to, any other civil penalty imposed for a separate violation pursuant to this section or any other provision of law, except as provided in subdivision (j).

(c) In determining the amount of a civil penalty imposed pursuant to this section, the court shall take into consideration all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation. In making this determination, the court shall consider the degree of toxicity and volume of the discharge, the extent of harm caused by the violation, whether the effects of the violation may be reversed or mitigated, and with respect to the defendant, the ability to pay, the effect of any civil penalty on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines justice may require.

(d) (1) Every civil action brought under this section shall be brought by the Attorney General, district attorney, or city attorney in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

(2) A civil action alleging a violation resulting from unlicensed cannabis cultivation may be brought by a county counsel in the name of the people of the State of California.

(e) In a civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding that irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued, or that the remedy at law is inadequate.

(f) After the party seeking the injunction has met its burden of proof, the court shall determine whether to issue a temporary restraining order, preliminary injunction, or permanent injunction without requiring the defendant to prove that it will suffer grave or irreparable harm. The court shall make the determination whether to issue a temporary restraining order, preliminary injunction, or permanent injunction by taking into consideration, among other things, the nature, circumstance, extent, and gravity of the violation, the quantity and characteristics of the substance or material involved, the extent of environmental harm caused by the violation, measures taken by the defendant to remedy the violation, the relative likelihood that the material or substance involved may pass into waters of the state, and the harm likely to be caused to the defendant.

(g) The court, to the maximum extent possible, shall tailor a temporary restraining order, preliminary injunction, or permanent injunction narrowly to address the violation in a manner that will otherwise allow the defendant to continue business operations in a lawful manner.

(h) All civil penalties collected pursuant to this section shall not be considered fines or forfeitures as defined in Section 13003 and shall be apportioned in the following manner:

(1) Fifty percent shall be distributed to the county treasurer of the county in which the action is prosecuted. Amounts paid to the county treasurer shall be deposited in the county fish and wildlife propagation fund established pursuant to Section 13100.

(2) Fifty percent shall be distributed to the department for deposit in the Fish and Game Preservation Fund. These funds may be expended to cover the costs of legal actions or for any other law enforcement purpose consistent with Section 9 of Article XVI of the California Constitution.

(i) Except as provided in subdivision (j), in addition to any other penalty provided by law, a person who violates Section 5650 is subject to a civil penalty of not more than ten dollars (\$10) for each gallon or pound of material discharged. The total amount of the civil penalty shall be reduced for every gallon or pound of the illegally discharged material that is recovered and properly disposed of by the responsible party.

(j) A person shall not be subject to a civil penalty imposed under this section and to a civil penalty imposed pursuant to Article 9 (commencing with Section 8670.57) of Chapter 7.4 of Division 1 of Title 2 of the Government Code for the same act or failure to act.

**SEC. 10.** Section 13103 of the Fish and Game Code is amended to read:

**13103.** Expenditures from the fish and wildlife propagation fund of any county may be made only for the following purposes:

(a) Public education relating to the scientific principles of fish and wildlife conservation, consisting of supervised formal instruction carried out pursuant to a planned curriculum and aids to education such as literature, audio and video recordings, training models, and nature study facilities.

(b) Temporary emergency treatment and care of injured or orphaned wildlife.

(c) Temporary treatment and care of wildlife confiscated by the department as evidence.

(d) Breeding, raising, purchasing, or releasing fish or wildlife that are to be released upon approval of the department pursuant to Sections 6400 and 6401 onto land or into waters of local, state, or federal agencies or onto land or into waters open to the public.

(e) Improvement of fish and wildlife habitat, including, but not limited to, construction of fish screens, weirs, and ladders; drainage or other watershed improvements; gravel and rock removal or placement; construction of irrigation and water distribution systems; earthwork and grading; fencing; planting trees and other vegetation management; and removal of barriers to the migration of fish and wildlife.

(f) Construction, maintenance, and operation of public hatchery facilities.

(g) Purchase and maintain materials, supplies, or equipment for either the department's ownership and use or the department's use in the normal performance of the department's responsibilities.

(h) Predator control actions for the benefit of fish or wildlife following certification in writing by the department that the proposed actions will significantly benefit a particular wildlife species.

(i) Scientific fish and wildlife research conducted by institutions of higher learning, qualified researchers, or governmental agencies, if approved by the department.

(j) Reasonable administrative costs, excluding the costs of audits required by Section 13104, for secretarial service, travel, and postage by the county fish and wildlife commission when authorized by the county board of supervisors. For purposes of this subdivision, "reasonable cost" means an amount that does not exceed 15 percent of the average amount received by the fund during the previous three-year period, or ten thousand dollars (\$10,000) annually, whichever is greater, excluding any funds carried over from a previous fiscal year.

(k) Contributions to a secret witness program for the purpose of facilitating enforcement of this code and regulations adopted pursuant to this code.

(l) Costs incurred by the district attorney or city attorney in investigating and prosecuting civil and criminal actions for violations of this code, as approved by the department.

(m) Costs incurred by a county counsel in investigating and prosecuting an action for civil penalties, injunctive relief, or civil penalties and injunctive relief pursuant to Section 5650.1 resulting from unlicensed cannabis cultivation.

(n) Other expenditures, approved by the department, for the purpose of protecting, conserving, propagating, and preserving fish and wildlife.

**SEC. 11.** Section 11552 of the Government Code is amended to read:

**11552.** (a) Effective January 1, 1988, an annual salary of eighty-five thousand four hundred two dollars (\$85,402) shall be paid to each of the following:

- (1) Commissioner of Financial Protection and Innovation.
- (2) Director of Transportation.
- (3) Real Estate Commissioner.
- (4) Director of Social Services.
- (5) Director of Water Resources.
- (6) Director of General Services.

- (7) Director of Motor Vehicles.
- (8) Executive Officer of the Franchise Tax Board.
- (9) Director of Employment Development.
- (10) Director of Alcoholic Beverage Control.
- (11) Director of Housing and Community Development.
- (12) Director of Alcohol and Drug Programs.
- (13) Director of Statewide Health Planning and Development.
- (14) Director of the Department of Human Resources.
- (15) Director of Health Care Services.
- (16) Director of State Hospitals.
- (17) Director of Developmental Services.
- (18) State Public Defender.
- (19) Director of the California State Lottery.
- (20) Director of Fish and Wildlife.
- (21) Director of Parks and Recreation.
- (22) Director of Rehabilitation.
- (23) Director of the Office of Administrative Law.
- (24) Director of Consumer Affairs.
- (25) Director of Forestry and Fire Protection.
- (26) The Inspector General pursuant to Section 6125 of the Penal Code.
- (27) Director of Child Support Services.
- (28) Director of Industrial Relations.
- (29) Director of Toxic Substances Control.
- (30) Director of Pesticide Regulation.
- (31) Director of Managed Health Care.
- (32) Director of Environmental Health Hazard Assessment.
- (33) Director of California Bay-Delta Authority.
- (34) Director of California Conservation Corps.
- (35) Director of Technology.
- (36) Director of Emergency Services.
- (37) Director of the Office of Energy Infrastructure Safety.
- (38) Director of Cannabis Control.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

**SEC. 12.** Section 6369.6 is added to the Revenue and Taxation Code, to read:

**6369.6.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, medicinal cannabis or medicinal cannabis products as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a person with an identification card or primary caregiver furnishes the seller with both their card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

(b) For purposes of this section, "person with an identification card" and "primary caregiver" have the same meanings as those terms are defined in Section 11362.7 of the Health and Safety Code.

**SEC. 13.** Section 6479.3 of the Revenue and Taxation Code is amended to read:

**6479.3.** (a) Except as provided in subdivision (k), any person whose estimated tax liability under this part averages ten thousand dollars (\$10,000) or more per month, as determined by the department pursuant to methods of calculation prescribed by the department, shall remit amounts due by an electronic funds transfer under procedures prescribed by the department. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.

(b) Any person whose estimated tax liability under this part averages less than ten thousand dollars (\$10,000) per month or any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the department.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the department. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) (1) Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(2) A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment amount incorrectly remitted.

(f) Except as provided in Sections 6476 and 6477, any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the department under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages ten thousand dollars (\$10,000) or more per month, the department may consider tax returns filed pursuant to this part and any other information in the department's possession.

(h) Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 6591.

(i) The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 6476 and 6477 shall be limited to a maximum of 6 percent of the prepayment amount.

(j) The department shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

(k) (1) On and after January 1, 2022, a person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code, may remit amounts due by a means other than electronic funds transfer, if the department deems it necessary to facilitate collection of amounts due.

(2) A person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code that failed to remit amounts due by means of electronic funds transfer on and after January 1, 2022, and before January 1, 2023, is not subject to or is relieved of any of the penalties imposed by this section for that failure.

**SEC. 14.** Section 17053.64 is added to the Revenue and Taxation Code, to read:

**17053.64.** (a) (1) For each taxable year beginning on or after January 1, 2023, and before January 1, 2028, there shall be allowed a credit against the "net tax," as defined in Section 17039, to a qualified taxpayer equal to 25 percent of the total amount of the qualified taxpayer's qualified expenditures in the taxable year, subject to paragraph (2).

(2) (A) The credit allowable under this section in any taxable year to any qualified taxpayer shall be limited to a maximum of two hundred fifty thousand dollars (\$250,000).

(B) For qualified taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the limit specified in subparagraph (A) shall be the aggregate amount of the credit claimed by all taxpayers that are required to be or authorized to be included in a combined report and in no instance shall the aggregate amount of credit claimed by a combined group exceed the limit specified in subparagraph (A).

(b) For purposes of this section:

(1) "Full-time employee" means an individual who is either of the following:

(A) Paid wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code by the qualified taxpayer for services not less than an average of 35 hours per week.

(B) A salaried employee who was paid compensation during the taxable year for full-time employment, as described in Section 515 of the Labor Code, by the qualified taxpayer that is paid wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(2) "Minimum wage" means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Qualified expenditures" means amounts paid or incurred by a qualified taxpayer for any of the following:

(A) Employment compensation for the full-time employees of the qualified taxpayer. For purposes of this subparagraph, "employment compensation" means wages paid to full-time employees who are paid no less than 150 percent but no more than 350 percent of the applicable minimum wage. The calculation of wages pursuant to this subparagraph may include the monetary value to the full-time employee of employer-provided group health insurance benefits, childcare benefits, employer contributions to employer-provided retirement benefits, or employer contributions to pension benefits.

(B) Safety-related equipment, training, and services. For purposes of this subparagraph, "safety-related equipment, training, and services" means equipment primarily used by employees of cannabis licensees to ensure their personal and occupational safety or the safety of customers of the cannabis licensees; training for nonmanagement employees on workplace hazards, including, but not limited to, training required pursuant to subparagraph (A) of paragraph (11) of subdivision (a) of Section 26051.5 of the Business and Professions Code; and services, including, but not limited to, safety audits, security guards, security cameras, and fire risk mitigation.

(C) Workforce development and safety training for employees of the qualified taxpayer. For purposes of this subparagraph, "workforce development" includes, but is not limited to, joint labor management training programs, membership in a joint apprenticeship training committee registered by the Division of Apprenticeship Standards, and a state-recognized high road training partnership as defined in Section 14005 of the Unemployment Insurance Code.

(4) "Qualified taxpayer" means a commercial cannabis business, licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, and that provides full-time employees with all of

the following:

- (A) Employment compensation, as described in subparagraph (A) of paragraph (3).
  - (B) Employer-provided group health insurance.
  - (C) Employer-provided retirement benefits or pension benefits, including stock in the duly licensed commercial cannabis employer to employees under employee stock ownership plans where the employer pays for the full value of the stock.
  - (D) Possesses a Type-10 or a Type-12 license pursuant to Section 26050 of the Business and Professions Code.
- (c) The total aggregate amount of the credit that may be allocated by credit reservations to all qualified taxpayers pursuant to this section and Section 23664 shall not exceed twenty million dollars (\$20,000,000) for all taxable years, cumulatively.
- (d) To be eligible for the credit allowed by this section, a qualified taxpayer shall request a credit reservation from the Franchise Tax Board during the month of July for each taxable year or within 30 days of the start of their taxable year if the qualified taxpayer's taxable year begins after July, in the form and manner prescribed by the Franchise Tax Board.
- (e) To obtain a credit reservation with respect to a qualified expenditure, the qualified taxpayer shall provide all necessary information, as determined by the Franchise Tax Board.
- (f) The Franchise Tax Board shall approve tentative credit reservations with respect to qualified expenditures incurred during a taxable year for qualified taxpayers, subject to the cap established under this section and Section 23664.
- (g) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following taxable year, and the seven succeeding years if necessary, until the credit is exhausted.
- (h) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction or credit otherwise allowed under this part for any qualified expenditure made by the qualified taxpayer as a trade or business expense shall be reduced by the amount of the credit allowed by this section.
- (i) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.
- (j) This section shall remain in effect only until December 1, 2028, and as of that date is repealed.

**SEC. 15.** Section 17053.82 is added to the Revenue and Taxation Code, to read:

**17053.82.** (a) For each taxable year beginning on or after January 1, 2023, and before January 1, 2028, there shall be allowed a credit against the "net tax," as defined in Section 17039, to a qualified taxpayer in an amount equal to ten thousand dollars (\$10,000).

(b) For purposes of this section, "qualified taxpayer" means an equity licensee that has received approval, including approval contingent upon the availability of funds, for the fee waiver and deferral program established pursuant to Section 26249 of the Business and Professions Code, as administered by the Department of Cannabis Control.

(c) On January 1, 2024, and every 6 months thereafter, the Department of Cannabis Control shall provide the Franchise Tax Board with a list of qualified taxpayers for the purposes of administering this section. The Department of Cannabis Control may satisfy this requirement by maintaining a database that makes this information available to the Franchise Tax Board.

(d) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following taxable year, and succeeding seven years if necessary, until the credit is exhausted.

(e) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(f) This section and Section 23682 shall be known and may be cited as the Cannabis Equity Tax Credit.

(g) This section shall remain in effect only until December 1, 2028, and as of that date is repealed.

**SEC. 16.** Section 23664 is added to the Revenue and Taxation Code, to read:

**23664.** (a) (1) For each taxable year beginning on or after January 1, 2023, and before January 1, 2028, there shall be allowed a credit against the "tax," as defined in Section 23036, to a qualified taxpayer equal to 25 percent of the total amount of the qualified taxpayer's qualified expenditures in the taxable year, subject to paragraph (2).

(2) (A) The credit allowable under this section in any taxable year to any qualified taxpayer shall be limited to a maximum of two hundred fifty thousand dollars (\$250,000).

(B) For qualified taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the limit specified in subparagraph (A) shall be the aggregate amount of the credit claimed by all taxpayers that are required to be or authorized to be included in a combined report and in no instance shall the aggregate amount of credit claimed by a combined group exceed the limit specified in subparagraph (A).

(b) For purposes of this section:

(1) "Full-time employee" means an individual who is either of the following:

(A) Paid wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code by the qualified taxpayer for services not less than an average of 35 hours per week.

(B) A salaried employee who was paid compensation during the taxable year for full-time employment, as described in Section 515 of the Labor Code, by the qualified taxpayer that is paid wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(2) "Minimum wage" means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Qualified expenditures" means amounts paid or incurred by a qualified taxpayer for any of the following:

(A) Employment compensation for the full-time employees of the qualified taxpayer. For purposes of this subparagraph, "employment compensation" means wages paid to full-time employees who are paid no less than 150 percent but no more than 350 percent of the applicable minimum wage. The calculation of wages pursuant to this subparagraph may include the monetary value to the full-time employee of employer-provided group health insurance benefits, childcare benefits, employer contributions to employer-provided retirement benefits, or employer contributions to pension benefits.

(B) Safety-related equipment, training, and services. For purposes of this subparagraph, "safety-related equipment, training, and services" means equipment primarily used by employees of cannabis licensees to ensure their personal and occupational safety or the safety of customers of the cannabis licensees; training for nonmanagement employees on workplace hazards, including, but not limited to, training required pursuant to subparagraph (A) of paragraph (11) of subdivision (a) of Section 26051.5 of the Business and Professions Code; and services, including, but not limited to, safety audits, security guards, security cameras, and fire risk mitigation.

(C) Workforce development and safety training for employees of the qualified taxpayer. For purposes of this subparagraph, "workforce development" includes, but is not limited to, joint labor management training programs, membership in a joint apprenticeship training committee registered by the Division of Apprenticeship Standards, and a state-recognized high road training partnership as defined in Section 14005 of the Unemployment Insurance Code.

(4) "Qualified taxpayer" means a commercial cannabis business, licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, and that provides full-time employees with all of the following:

(A) Employment compensation, as described in subparagraph (A) of paragraph (3).

(B) Employer-provided group health insurance.

(C) Employer-provided retirement benefits or pension benefits, including stock in the duly licensed commercial cannabis employer to employees under employee stock ownership plans where the employer pays for the full value of the stock.

(D) Possesses a Type-10 or a Type-12 license pursuant to Section 26050 of the Business and Professions Code.

(c) The total aggregate amount of the credit that may be allocated by credit reservations to all qualified taxpayers pursuant to this section and Section 17053.64 shall not exceed twenty million dollars (\$20,000,000) for all taxable years, cumulatively.

(d) To be eligible for the credit allowed by this section, a qualified taxpayer shall request a credit reservation from the Franchise Tax Board during the month of July for each taxable year or within 30 days of the start of their taxable year if the qualified taxpayer's taxable year begins after July, in the form and manner prescribed by the Franchise Tax Board.

(e) To obtain a credit reservation with respect to a qualified expenditure, the qualified taxpayer shall provide all necessary information, as determined by the Franchise Tax Board.

(f) The Franchise Tax Board shall approve tentative credit reservations with respect to qualified expenditures incurred during a taxable year for qualified taxpayers, subject to the cap established under this section and Section 17053.64.

(g) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following taxable year, and the seven succeeding years if necessary, until the credit is exhausted.

(h) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction or credit otherwise allowed under this part for any qualified expenditure made by the qualified taxpayer as a trade or business expense shall be reduced by the amount of the credit allowed by this section.

(i) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(j) This section shall remain in effect only until December 1, 2028, and as of that date is repealed.

**SEC. 17.** Section 23682 is added to the Revenue and Taxation Code, to read:

**23682.** (a) For each taxable year beginning on or after January 1, 2023, and before January 1, 2028, there shall be allowed a credit against the "tax," as defined in Section 23036, to a qualified taxpayer in an amount equal to ten thousand dollars (\$10,000).

(b) For purposes of this section, "qualified taxpayer" means an equity licensee that has received approval, including approval contingent upon the availability of funds, for the fee waiver and deferral program established pursuant to Section 26249 of the Business and Professions Code, as administered by the Department of Cannabis Control.

(c) On January 1, 2024, and every six months thereafter, the Department of Cannabis Control shall provide the Franchise Tax Board with a list of qualified taxpayers for the purposes of administering this section. The Department of Cannabis Control may satisfy this requirement by maintaining a database that makes this information available to the Franchise Tax Board.

(d) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following taxable year, and succeeding seven years if necessary, until the credit is

exhausted.

(e) This section and Section 17053.82 shall be known and may be cited as the Cannabis Equity Tax Credit.

(f) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(g) This section shall remain in effect only until December 1, 2028, and as of that date is repealed.

**SEC. 18.** Section 34010 of the Revenue and Taxation Code is amended to read:

**34010.** This part shall be known, and may be cited, as the "Cannabis Tax Law." For purposes of this part:

(a) "2020–21 fiscal year baseline" means the total amount of funds disbursed in the sub-trust accounts in fiscal year 2021–22 for the third allocation of the fiscal year 2020–21 revenue, pursuant to subdivision (f) of Section 34019, as determined by the Department of Finance.

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

(c) "Average market price" shall mean both of the following:

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

(B) Notwithstanding subparagraph (A), the department shall not increase the mark-up amount during the period beginning on and after the operative date of the act amending this section by adding this subparagraph and before July 1, 2021.

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

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

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

(f) "Cannabis flowers" means the dried flowers of the cannabis plant as defined by the department.

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

(h) "Cannabis retailer" means a person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code as a retailer, non-storefront retailer, microbusiness, or nonprofit, or any other person otherwise authorized under Division 10 (commencing with Section 26000) of the Business and Professions Code to engage in retail sales.

(i) "Cultivator" means all persons required to be licensed to cultivate cannabis pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(j) "Department" means the California Department of Tax and Fee Administration or its successor agency.

(k) "Designated for donation" means medicinal cannabis donated by a cultivator to a cannabis retailer for subsequent donation to a medicinal cannabis patient pursuant to Section 26071 of the Business and Professions Code.

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

(m) "Enters the commercial market" means cannabis or cannabis products, except for immature cannabis plants and seeds, that complete and comply with a quality assurance review and testing, as described in Section 26110

of the Business and Professions Code.

(n) "Gross receipts" has the same meaning as set forth in Section 6012.

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

(p) "Medicinal cannabis patient" means a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who possesses a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code, or a qualified patient or primary caregiver for a qualified patient issued a valid identification card pursuant to Section 11362.71 of the Health and Safety Code.

(q) "Microbusiness" has the same meaning as set forth in Section 26001 of the Business and Professions Code.

(r) "Nonprofit" has the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

(s) "Person" has the same meaning as set forth in Section 6005.

(t) "Retail sale" has the same meaning as set forth in Section 6007.

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

(v) "Sub-trust accounts" means the sub-trust accounts created under subdivision (f) of Section 34019.

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

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

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

**SEC. 19.** Section 34011 of the Revenue and Taxation Code is amended to read:

**34011.** (a) (1) Effective on and after January 1, 2018, and before January 1, 2023, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. A purchaser's liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

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

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

(b) (1) A distributor in an arm's length transaction shall collect the cannabis excise tax imposed by this section from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer. A distributor in a nonarm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer, or at the time of retail sale by the cannabis retailer, whichever is earlier. A distributor shall report and remit the cannabis excise tax to the department pursuant to Section 34015. A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting the cannabis excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the department.

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

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

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

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

(f) This section shall not be construed to impose a cannabis excise tax upon medicinal cannabis, or medicinal cannabis product, donated for no consideration to a medicinal cannabis patient pursuant to Section 26071 of the Business and Professions Code.

(g) (1) This section shall not be construed to impose a cannabis excise tax upon cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code.

(2) A person licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code that sells cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code shall be liable for the cannabis excise tax imposed by this section as if the person were a cannabis retailer at the time of sale.

(h) This section shall be inoperative on April 1, 2023.

**SEC. 20.** Section 34011.01 is added to the Revenue and Taxation Code, to read:

**34011.01.** (a) Any amount owed by a cannabis retailer to a distributor in connection with the collection of cannabis excise tax owed prior to January 1, 2023, shall be paid by the retailer to the distributor on or before April 1, 2023. This section shall not be construed to require the department to enforce this obligation.

(b) A cannabis retailer may claim a credit on the cannabis excise tax return for cannabis excise tax amounts paid to a distributor, pursuant to Section 34011, before January 1, 2023, on cannabis or cannabis products sold to a purchaser on or after January 1, 2023, for which the cannabis retailer is responsible for remitting to the department.

**SEC. 21.** Section 34011.1 is added to the Revenue and Taxation Code, to read:

**34011.1.** (a) (1) Until December 31, 2025, a licensed cannabis retailer that has received approval from the Department of Cannabis Control for a fee waiver under Section 26249 of the Business and Professions Code may retain vendor compensation in an amount equal to 20 percent of the cannabis excise tax. For purposes of this paragraph, approval for a fee waiver under Section 26249 includes approval for a fee waiver that is contingent upon the availability of funds.

(2) To apply to retain vendor compensation pursuant to this section, a cannabis retailer shall complete a one-page application in a form and manner prescribed by the department that sets forth the name under which they transact or intend to transact business, the location of their place or places of business, and any other information the department may require. The cannabis retailer shall also include with the application their seller's permit number and cannabis tax permit number and a copy of their cannabis license and Department of Cannabis Control approved fee waiver. An application for a permit shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(3) Upon verification that a licensed cannabis retailer meets the requirements of this subdivision, the department shall issue the cannabis retailer a notice approving vendor compensation under this section.

(4) To maintain eligibility for vendor compensation under this section, a licensed cannabis retailer shall maintain eligibility for a fee waiver under Section 26249 of the Business and Professions Code and any relevant implementing regulations. An approval for vendor compensation under this section shall expire on the last day of the calendar quarter following notification to the department pursuant to paragraph (5) that a cannabis retailer is no longer eligible for a fee waiver. If a cannabis retailer maintains eligibility for a fee waiver, an approval for vendor compensation under this subdivision shall remain valid for one year commencing on the first day of the calendar quarter following the date the department issues the notice, and may be renewed pursuant to paragraph (2) or other procedures as may be prescribed by the department.

(5) To notify the department of a cannabis retailer's eligibility for vendor compensation under this section, the Department of Cannabis Control shall do either of the following:

(A) Maintain a database accessible to the department reflecting whether a cannabis retailer is eligible or has become ineligible for a fee waiver under Section 26249 of the Business and Professions Code and implementing regulations.

(B) Otherwise provide information upon request of the department for purposes of verifying a cannabis retailer's eligibility under this section.

(b) This section shall become operative on January 1, 2023.

**SEC. 22.** Section 34011.2 is added to the Revenue and Taxation Code, to read:

**34011.2.** (a) (1) Effective on and after January 1, 2023, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at 15 percent of the gross receipts of any retail sale by a cannabis retailer.

(2) For the 2025–26 fiscal year and every two years thereafter, the department, in consultation with the Department of Finance, shall on or before May 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the cannabis excise tax rate upon purchasers of cannabis or cannabis products imposed in paragraph (1) by the additional percentage of the gross receipts of any retail sale by a cannabis retailer that the department estimates will generate an amount of revenue equivalent to the amount that would have been collected in the previous fiscal year pursuant to the weight-based cultivation tax imposed under Section 34012 as it read on the date before the effective date of the act adding this section. In no case shall the cannabis excise tax exceed 19 percent of the gross receipts of retail sale. The department shall round the rate calculated under this subdivision to the nearest one-quarter of 1 percent. The adjusted rate shall become operative the following July 1.

(3) On or before May 1, 2025, and each May 1 every two years thereafter, the department, in consultation with the Department of Finance, shall estimate the amount of revenue that would have been collected in the previous fiscal year pursuant to the weight-based cultivation tax imposed under Section 34012 as it read on the date before the effective date of the act adding this section. The department shall estimate this amount by projecting the revenue from weight-based cultivation taxes that would have been collected in the previous calendar year based on information available to the department, including, but not limited to, information in the track and trace system required pursuant to Chapter 6.5 (commencing with Section 26067) of Division 10 of the Business and Professions Code, or any implementing regulations, as a percentage of gross receipts from the retail sale of cannabis and cannabis products by cannabis retailers in the previous calendar year.

(b) A purchaser's liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state, except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this section is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

(c) A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting that tax to the department in accordance with this division.

(d) The cannabis retailer shall provide each purchaser with an invoice, receipt, or other document that separately states the cannabis excise tax.

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

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

(g) Cannabis or cannabis products shall not be sold to a purchaser unless the cannabis excise tax imposed by this section has been paid by the purchaser at the time of sale.

(h) This section shall not be construed to impose a cannabis excise tax upon medicinal cannabis, or medicinal cannabis product, donated for no consideration to a medicinal cannabis patient pursuant to Section 26071 of the Business and Professions Code.

(i) (1) This section shall not be construed to impose a cannabis excise tax upon cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code.

(2) A person licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code that sells cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the

Business and Professions Code shall be liable for the cannabis excise tax imposed by this section as if the person were a cannabis retailer at the time of sale.

(j) This section shall become operative on January 1, 2023.

**SEC. 23.** Section 34012 of the Revenue and Taxation Code is amended to read:

**34012.** (a) (1) Effective January 1, 2018, and before July 1, 2022, there is hereby imposed a cultivation tax on all harvested cannabis that enters the commercial market upon all cultivators. The tax shall be due after the cannabis is harvested and enters the commercial market.

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

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

(2) Notwithstanding paragraph (1), the cultivation tax imposed by this subdivision shall not apply to harvested cannabis that enters the commercial market and no tax collection is required pursuant to subdivision (h) if any of the following apply:

(A) The harvested cannabis was first sold or transferred by a cultivator to a manufacturer on or after July 1, 2022.

(B) The harvested cannabis was first sold or transferred by a cultivator to a distributor on or after July 1, 2022.

(C) The harvested cannabis, or cannabis products containing that harvested cannabis, was first sold or transferred by a microbusiness to a distributor or manufacturer that arranges for laboratory testing pursuant to subdivision (a) of Section 26110 of the Business and Professions Code on or after July 1, 2022.

(3) It is the intent of the Legislature that the suspension of the cultivation tax imposed by paragraph (2) apply only to cannabis that is ultimately subject, at retail sale as either cannabis or as cannabis products containing the harvested cannabis, to the cannabis excise tax imposed pursuant to Section 34011.2.

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

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

(d) The department may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the cannabis is packaged.

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

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

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

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

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

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

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

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

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

(l) All cannabis removed from a cultivator's premises, except for plant waste or medicinal cannabis or medicinal cannabis products designated for donation, shall be presumed to be sold and thereby taxable under this section, except as otherwise exempt pursuant to Section 34012.2.

(j) The tax imposed by this section shall be imposed on all cannabis cultivated in the state pursuant to rules and regulations promulgated by the department, but shall not apply to cannabis cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act of 1996 (Proposition 215), found in Section 11362.5 of the Health and Safety Code.

(k) (1) For the 2020 calendar year, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the department for inflation.

(2) For the 2021 calendar year, the rates shall be those imposed for the 2020 calendar year in paragraph (1) and shall not be adjusted for inflation unless the adjustment is for an inflation rate that is less than zero.

(3) For the 2022 calendar year, until July 1, 2022, the rates shall be those imposed for the 2021 calendar year in paragraph (2) and shall be adjusted by the department for inflation.

(l) The Department of Cannabis Control is not responsible for enforcing any provisions of the cultivation tax.

**SEC. 24.** Section 34012.3 is added to the Revenue and Taxation Code, to read:

**34012.3.** (a) The cannabis excise tax required to be collected by a cannabis retailer, and any amount not returned to the purchaser that is not tax but was collected from the purchaser under the representation by the cannabis retailer that it was tax, constitutes debt owed by the cannabis retailer to this state.

(b) This section shall become operative on January 1, 2023.

**SEC. 25.** Section 34012.5 of the Revenue and Taxation Code is amended to read:

**34012.5.** (a) The cultivation tax and cannabis excise tax imposed pursuant to Section 34011 required to be collected by the distributor, or required to be collected by the manufacturer pursuant to paragraph (2) of subdivision (h) of Section 34012, and any amount unreturned to the cultivator or cannabis retailer that is not tax but was collected from the cultivator or cannabis retailer under the representation by the distributor or the manufacturer that it was tax constitute debts owed by the distributor or the manufacturer to this state.

(b) A distributor or manufacturer that has collected any amount of tax in excess of the amount of tax imposed by this part and actually due from a cultivator or cannabis retailer, may refund such amount to the cultivator or cannabis retailer, even though such tax amount has already been paid over to the department and no corresponding credit or refund has yet been secured. The distributor or manufacturer may claim credit for that overpayment against the amount of tax imposed by this part that is due upon any other quarterly return, providing that credit is claimed in a return dated no later than three years from the date of overpayment.

(c) Any tax collected from a cultivator, cannabis retailer, or purchaser that has not been remitted to the department shall be deemed a debt owed to the State of California by the person required to collect and remit the tax.

**SEC. 26.** Section 34013 of the Revenue and Taxation Code is amended to read:

**34013.** (a) The department shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the taxes imposed by this part, and references to "feepayer" shall include a person required to pay or collect the taxes imposed by this part.

(b) (1) A person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code that failed to remit amounts due by means of electronic funds transfer on and after January 1, 2022, and before the operative date of the act adding this paragraph is not subject to or is relieved of any of the penalties imposed by Section 55050 for that failure.

(2) Until January 1, 2022, subdivision (a) of Section 55050 shall not apply to a person required to pay or collect the taxes imposed by this part on a person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code if the department deems it necessary to facilitate the collection of amounts due.

(c) The department may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(d) The department shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag cannabis or cannabis products, or the packages thereof, to designate prior tax payment.

(e) Until January 1, 2024, the department may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer, and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other law, the emergency regulations adopted by the department may remain in effect for two years from adoption, and may be readopted in accordance with subdivision (h) of Section 11346.1 of the Government Code.

(f) Any person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code.

(g) The department may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the department's request, the Attorney General shall bring the actions.

**SEC. 27.** Section 34014 of the Revenue and Taxation Code is amended to read:

**34014.** (a) (1) Until January 1, 2023, all distributors must obtain a separate permit from the department pursuant to regulations adopted by the department. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a distributor without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation that so engages in business, is guilty of a misdemeanor.

(2) On and after January 1, 2023, all cannabis retailers shall obtain a separate cannabis tax permit from the department pursuant to regulations adopted by the department. A fee shall not be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cannabis retailer without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation that so engages in business, is guilty of a misdemeanor.

(b) The department may require every licensed distributor, retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on cannabis produced or received by the retailer, cultivator, microbusiness, nonprofit, or other person required to be

licensed in accordance with procedures to be established by the department. Notwithstanding anything herein to the contrary, the department may waive any security requirement it imposes for good cause, as determined by the department. "Good cause" includes, but is not limited to, the inability of a distributor, retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a cannabis business.

(c) In fixing the amount of any security required by the department, the department shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

**SEC. 28.** Section 34014.1 is added to the Revenue and Taxation Code, to read:

**34014.1.** (a) Whenever any person fails to comply with any provision of this part relating to the cannabis excise tax or any rule or regulation of the department relating to the cannabis excise tax prescribed and adopted under this part, or when a person's seller's permit has been suspended or revoked under Part 1 (commencing with Section 6001), or when a person's license has been suspended or revoked under Division 10 (commencing with Section 26000) of the Business and Professions Code, the department upon conducting a hearing, after giving the person 10 days' notice in writing specifying the time and place of hearing and requiring the person to show cause why the person's permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The department shall give to the person written notice of the suspension or revocation of any of the person's permits. The notices herein required may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination under subdivision (d) of Section 55061 of the Revenue and Taxation Code. The department shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this part relating to the cannabis excise tax and the regulations of the department.

(b) A person whose permit has been previously suspended or revoked shall pay the department a new issuance fee of one hundred dollars (\$100) for the reissuance of a permit.

**SEC. 29.** Section 34015 of the Revenue and Taxation Code is amended to read:

**34015.** (a) Unless otherwise prescribed by the department pursuant to subdivision (c), the cannabis excise tax imposed by Section 34011 and cultivation tax imposed by this part is due and payable to the department quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the department by each distributor using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department. If the cultivation tax is paid by stamp pursuant to subdivision (d) of Section 34012, the department may by regulation determine when and how the tax shall be paid.

(b) The department may require every person engaged in the cultivation, distribution, manufacturing, retail sale of cannabis or cannabis products, or any other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the department may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(c) The department may adopt regulations prescribing the due date for returns and remittances of cannabis excise tax collected by a distributor in an arm's length transaction pursuant to subdivision (b) of Section 34011.

(d) The department may make examinations of the books and records of any person licensed, or required to be licensed, pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, as it may deem necessary in carrying out this part.

(e) This section shall remain in effect only until April 30, 2023, and as of that date is repealed.

**SEC. 30.** Section 34015 is added to the Revenue and Taxation Code, to read:

**34015.** (a) Unless otherwise prescribed by the department, the cannabis excise tax imposed by Section 34011.2 is due and payable to the department quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, each cannabis retailer shall file a return for the preceding quarterly period with the department using electronic media

prescribed by the department. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(b) The department may require every person engaged in the cultivation, distribution, manufacturing, or retail sale of cannabis or cannabis products, or any other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media prescribed by the department with respect to the person's inventory, purchases, and sales during the preceding month and any other information as the department may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(c) The department may examine the books and records of any person licensed, or required to be licensed, pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, as it may deem necessary in carrying out this part.

(d) This section shall become operative on January 1, 2023.

**SEC. 31.** Section 34015.1 is added to the Revenue and Taxation Code, to read:

**34015.1.** (a) (1) Any unlicensed person who is required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code and who possesses, keeps, stores, or retains for the purpose of sale, or sells or offers to sell any cannabis or cannabis products, shall be liable for the cultivation tax imposed pursuant to Section 34012 as if the person were the cultivator of the harvested cannabis and that cannabis entered the commercial market, the cannabis excise tax imposed pursuant to Section 34011 or 34011.2 as if the person were the purchaser of the cannabis or cannabis product in a retail sale from a cannabis retailer, and for applicable penalties and interest, if any, which shall become immediately due and payable.

(2) (A) The department shall ascertain as best it may the category and amount of the harvested cannabis deemed as having entered the commercial market, and the average market price or gross receipts, based on any information within the department's possession or that may come into its possession, of the retail sale of the cannabis or cannabis product deemed as purchased from a cannabis retailer, and shall determine immediately the tax on that amount, adding to the tax a penalty of 25 percent of the amount of tax or five hundred dollars (\$500), whichever is greater, and shall give the unlicensed person notice of that determination in the same manner as prescribed for service of notice by Section 55061. However, if the department determines that the failure to secure a license was due to reasonable cause, the department may waive the penalty. Sections 55101 and 55102 shall be applicable with respect to the finality of the determination and the right of the person to petition for a redetermination.

(B) Any person seeking to be relieved of the penalty imposed pursuant to subparagraph (A) shall file with the department a signed statement setting forth the facts upon which they base the claim for relief. Any person who signs a statement pursuant to this section that asserts the truth of any material matter that they know to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in the county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and the fine.

(3) If the department believes that the collection of any amount of tax required to be paid by any person under this part will be jeopardized by delay, it may make a jeopardy determination pursuant to Article 4 (commencing with Section 55101) of Chapter 3 of Part 30.

(4) The department may collect the tax, penalty, and interest due from the person by seizure and sale of property in the manner prescribed for the collection pursuant to Section 55181.

(5) In the suit, a copy of the jeopardy determination certified by the department shall be prima facie evidence that the person is indebted to the state in the amount of the tax, penalties, and interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the amount, or any portion thereof, should have been reported until the date of payment.

(6) The foregoing remedies of the state are cumulative.

(7) No action taken pursuant to this section relieves the person in any way from the penal provisions of this part or the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)).

(b) Any licensed person, on or after January 1, 2023, who sells or transfers to any person cannabis or cannabis products and who knowingly does not report or falsely reports that sale or transfer in the track and trace system

required pursuant to Chapter 6.5 (commencing with Section 26067) of Division 10 of the Business and Professions Code or any regulations promulgated for purposes of that chapter, shall be, with respect to the cannabis or cannabis products knowingly not reported or falsely reported in the track and trace system, liable for the cannabis excise tax imposed pursuant to Section 34011 or 34011.2 as if the person were the purchaser of the cannabis or cannabis product in a retail sale from a cannabis retailer, and for applicable penalties and interest, if any, which shall become immediately due and payable.

**SEC. 32.** Section 34015.2 is added to the Revenue and Taxation Code, to read:

**34015.2.** (a) Upon the termination, dissolution, or abandonment of the business of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, any officer, member, manager, partner, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax for, or who is under a duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company in complying with any requirement of this part, shall, notwithstanding any provision in the Corporations Code to the contrary, be personally liable for any unpaid taxes and interest and penalties on those taxes, if the officer, member, manager, partner, or other person willfully fails to pay or to cause to be paid any taxes due from the corporation, partnership, limited partnership, limited liability partnership, or limited liability company pursuant to this part.

(b) The officer, member, manager, partner, or other person shall be liable only for taxes that became due during the period they had the control, supervision, responsibility, or duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.

(c) Personal liability may be imposed pursuant to this section only if the department can establish that the corporation, partnership, limited partnership, limited liability partnership, or limited liability company is required to collect the cannabis excise tax imposed pursuant to Section 34011 or 34011.2 or cultivation tax imposed pursuant to Section 34012 and that it failed to report and pay the tax.

(d) Except as provided in subdivision (e), the sum due for the liability under this section may be collected by determination and collection in the manner provided in Chapter 3 (commencing with Section 55040) and Chapter 4 (commencing with Section 55121) of Part 30.

(e) A notice of deficiency determination under this section shall be mailed within three years after the last day of the calendar month following the quarterly period in which the department obtains actual knowledge, through its audit or compliance activities, or by written communication by the business or its representative, of the termination, dissolution, or abandonment of the business of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company, or, within eight years after the last day of the calendar month following the quarterly period in which the corporation, partnership, limited partnership, limited liability partnership, or limited liability company business was terminated, dissolved, or abandoned, whichever period expires earlier. If a business or its representative files a notice of termination, dissolution, or abandonment of its business with a state or local agency other than the department, this filing shall not constitute actual knowledge by the department under this section.

(f) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

**SEC. 33.** Section 34019 of the Revenue and Taxation Code is amended to read:

**34019.** (a) (1) For each fiscal year, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011, 34011.2, and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Except as provided in paragraph (2), before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the tax fund to the appropriate account, without regard to fiscal year, the following:

(A) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

(B) Reasonable costs incurred by the Department of Cannabis Control for implementing, administering, and enforcing Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code. This paragraph shall remain operative through the 2022-23 fiscal year.

(C) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(D) Reasonable costs incurred by the Governor's Office of Business and Economic Development for implementing, administering, and enforcing Chapter 23 (commencing with Section 26240) of Division 10 of the Business and Professions Code.

(E) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(F) Reasonable costs incurred by the Department of Finance for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(G) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

(H) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(2) Notwithstanding paragraph (1), the Controller shall not make disbursements pursuant to subparagraph (A), (B), (C), (E) or (H) for the 2022–23 and 2023–24 fiscal years.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with the 2018–19 fiscal year until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Department of Cannabis Control shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with cannabis use, as well as whether cannabis use is associated with an increase or decrease in use of alcohol or other drugs.

(2) The impact of treatment for maladaptive cannabis use and the effectiveness of different treatment programs.

(3) Public safety issues related to cannabis use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of cannabis and cannabis products, and studying the health-related effects among users of varying potency levels of cannabis and cannabis products.

(4) Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis rates of cannabis-related substance use disorders.

(5) Cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax cannabis based on potency, and the structure and function of licensed cannabis businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the adult-use cannabis industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies

might do so more effectively.

(9) Environmental issues related to cannabis production and the criminal prohibition of cannabis production.

(10) The geographic location, structure, and function of licensed cannabis businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for cannabis-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of cannabis or cannabis products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning with the 2018–19 fiscal year and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center, including the enhanced understanding of the efficacy and adverse effects of cannabis as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in the 2018–19 fiscal year, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the tax fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, fostercare providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or

expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.

(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other cooccurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I) Construction of community-based youth treatment facilities.

(J) The departments may contract with each county behavioral health program for the provision of services.

(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments, or submitted reports prepared by the applicable county to demonstrate and validate need.

(L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M) The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation, and oversight of the programs.

(N) If the Department of Finance ever determines that funding pursuant to cannabis taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2) Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by cannabis cultivation and

related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale, and use of cannabis and cannabis products on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal cultivation, production, sale, and use of cannabis or cannabis products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of cannabis cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3) Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of cannabis. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments that ban both indoor and outdoor commercial cannabis cultivation, or ban retail sale of cannabis or cannabis products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D) For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before the 2022–23 fiscal year pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of

funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in the 2027–28 fiscal year. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

**SEC. 34.** Section 34019.01 is added to the Revenue and Taxation Code, to read:

**34019.01.** Notwithstanding subdivision (f) of Section 34019, for the 2021–22 fiscal year, the 2022–23 fiscal year, and the 2023–24 fiscal year, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e) of Section 34019, by November 1 following the fiscal year, the Controller shall disburse funds deposited in the tax fund during the prior fiscal year into sub-trust accounts in an amount not to exceed the 2020–21 fiscal year baseline. Any amount of funds that exceeds the 2020–21 fiscal year baseline shall remain in the tax fund for that fiscal year and shall be disbursed, as follows:

(a) (1) For the 2021–22 fiscal year, by November 1, 2022, the Controller shall disburse from the tax fund, to the extent available, an amount necessary to enable funds disbursed to the sub-trust accounts for the 2021–22 fiscal year pursuant to subdivision (f) of Section 34019 and Section 34019.1 to be equal to the 2020–21 fiscal year baseline.

(2) For the 2022–23 fiscal year, by November 1, 2023, the Controller shall disburse, to the extent available, an amount necessary to enable funds disbursed to the sub-trust accounts for the 2022–23 fiscal year pursuant to subdivision (f) of Section 34019 and Section 34019.1 to be equal to the 2020–21 fiscal year baseline.

(3) For the 2023–24 fiscal year, by November 1, 2024, the Controller shall disburse, to the extent available, an amount necessary to enable funds disbursed to the sub-trust accounts for the 2023–24 fiscal year pursuant to subdivision (f) of Section 34019 and Section 34019.1 to be equal to the 2020–21 fiscal year baseline.

(b) On or before January 1, 2026, any remaining moneys in the tax fund retained pursuant to this section and any interest derived shall be disbursed to the sub-trust accounts pursuant to subdivision (f) of Section 34019.

**SEC. 35.** Section 34019.1 is added to the Revenue and Taxation Code, to read:

**34019.1.** (a) In the 2022–23 fiscal year, the sum of ten thousand dollars (\$10,000) is hereby appropriated from the General Fund for the purposes of this section. In the 2023–24 fiscal year, the sum of one hundred fifty million dollars (\$150,000,000) is hereby appropriated from the General Fund, as specified in subdivision (b), for the purposes of this section. In no event shall any funds in excess of those amounts be transferred pursuant to this section. These funds shall be available for encumbrance or expenditure until June 30, 2025.

(b) Upon the order of the Department of Finance, the Controller shall make the following transfers from the General Fund, in an amount not to exceed one hundred fifty million dollars (\$150,000,000) in fiscal years 2023–24 and 2024–25, cumulatively:

(1) By November 1, 2023, the Controller shall, subject to the limitation in subdivision (a), transfer from the General Fund an amount that would enable funds disbursed to the sub-trust accounts for the 2022–23 fiscal year, pursuant to subdivision (f) of Section 34019, Section 34019.01, and this paragraph, to be equal to the 2020–21 fiscal year baseline.

(2) By November 1, 2024, the Controller shall, subject to the limitation in subdivision (a), transfer from the General Fund an amount that would enable funds disbursed to the sub-trust accounts for the 2023–24 fiscal year, pursuant to subdivision (f) of Section 34019, Section 34019.01, and this paragraph, to be equal to the 2020–21 fiscal year baseline.

(c) This section shall remain in effect only until December 31, 2026, and as of that date is repealed.

**SEC. 36.** Section 34020.1 is added to the Revenue and Taxation Code, to read:

**34020.1.** (a) On or before March 1, 2025, the Department of Cannabis Control, in consultation with the Department of Finance and the California Department of Tax and Fee Administration, shall submit a report to the Legislature on the condition and health of the cannabis industry in the state. The report shall include, but is not limited to, the following information:

(1) How many local jurisdictions have permitted commercial cannabis activity.

(2) How many local jurisdictions have not permitted commercial cannabis activity.

(3) Information or analysis concerning the potential expansion or contraction of the cannabis market in the state, which may include information concerning any increase in retail cannabis sales and activity in the illicit market.

(4) How many equity licensees have been approved by the Department of Cannabis Control.

(5) In what counties the state equity licensees located.

(6) The health of the Cannabis Tax Fund, and any future projections of Cannabis Tax Fund revenues.

(7) Information on the viability of cannabis businesses in the state, and the ability to continue to operate cannabis businesses in the state, from a general and equity licensee standpoint.

(8) The impacts of the suspension of the cultivation tax imposed by paragraph (2) of subdivision (a) of Section 34012, including whether that suspension resulted in a decrease in retail cannabis prices or increased participation in the legal cannabis market.

(b) The report may include recommendations to strengthen the state's legal cannabis market.

(c) The Department of Cannabis Control may contract with a public university or universities in California to prepare the report. Subject to approval by the Department of Cannabis Control, the university or universities may contract with other organizations in connection with the report.

(d) The Department of Cannabis Control may consolidate this report with any other reports required under Division 10 (commencing with Section 26000) of the Business and Professions Code.

**SEC. 37.** Section 1052 of the Water Code is amended to read:

**1052.** (a) The diversion or use of water subject to this division other than as authorized in this division is a trespass.

(b) (1) An action for the issuance of injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, or permanent injunction, may be brought by the Attorney General on behalf of the board, or in the Attorney General's independent capacity in the name of the people of the State of California, where the diversion or use of water is threatened, is occurring, or has occurred.

(2) (A) A civil action for a violation under this section resulting from unlicensed cannabis cultivation may also be brought by a city attorney or county counsel, upon approval of the board, in the name of the people of the State of California.

(B) A city attorney or county counsel shall inform and coordinate with the board as to the investigation of potential violations of this section related to unlicensed cannabis cultivation. Unless the board withholds its approval within 21 days after the local jurisdiction provides notice of its intent to file, the local jurisdiction may deem the board's silence as approval.

(c) A person or entity committing a trespass as defined in this section may be liable in an amount not to exceed the following:

(1) If the unauthorized diversion or use occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years, or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions, the sum of the following:

(A) One thousand dollars (\$1,000) for each day in which the trespass occurs.

(B) Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in excess of that diverter's water rights.

(2) If the unauthorized diversion or use is not described by paragraph (1), five hundred dollars (\$500) for each day in which the unauthorized diversion or use occurs.

(3) Notwithstanding paragraphs (1) and (2), up to three thousand five hundred dollars (\$3,500) for each day in which the unauthorized diversion or use for unlicensed cannabis cultivation occurs.

(d) Civil liability for a violation of this section may be imposed by the superior court or the board as follows:

(1) The superior court may impose civil liability in an action brought by the Attorney General, upon request of the board, to impose, assess, and recover any sums pursuant to subdivision (c). In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(2) The superior court may impose civil liability in an action for a violation under this section resulting from unlicensed cannabis cultivation brought by a city attorney or county counsel to impose, assess, and recover any sums pursuant to subdivision (c). In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, whether the violation was intentional or committed knowingly, the nature and persistence of the violation, the length of time over which the violation has occurred, and the corrective action, if any, taken by the violator. The court shall make its findings on the record.

(3) The board may impose civil liability in accordance with Section 1055.

(e) (1) Upon appropriation by the Legislature, funds recovered in an action pursuant to this section shall be used to proportionally reimburse the Attorney General, city attorney, county counsel, and the board for costs of bringing the action, including reasonable attorney's fees, and of investigating the violation and supporting the prosecution of the action.

(2) Except for reimbursements to the Attorney General, city attorney, or county counsel, as specified in paragraph (1), all funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

(f) The remedies prescribed in this section are cumulative and not alternative.

**SEC. 38.** For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 17053.64 and 23664 of the Revenue and Taxation Code, as added by this act, the Legislature finds and declares all of the following:

(a) The specific goals, purposes, and objectives that the credits will achieve include all of the following:

- (1) Provide relief for high-road cannabis employers who are providing good jobs in a struggling industry.
- (2) Assist high-road cannabis employers and operators to stay in business or grow their business.

(b) Detailed performance indicators for the Legislature to use in determining whether the credits meet the goals, purposes, and objectives described in subdivision (a) are the number of credits claimed and the total dollar amount of credits claimed.

(c) (1) The Franchise Tax Board shall analyze the performance indicators in subdivision (b) for each taxable year and shall report its findings to the Legislature, on or before March 1, 2025, and annually thereafter while the credit is operative, in compliance with Section 9795 of the Government Code.

(2) The disclosure provisions of this paragraph shall be treated as an exception to Section 19542 under Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

**SEC. 39.** For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 17053.82 and 23682 of the Revenue and Taxation Code, as added by this act, the Legislature finds and declares all of the following:

(a) The specific goals, purposes, and objectives that the credits will achieve include all of the following:

- (1) Provide relief for individuals who are low income or who have directly or indirectly been negatively impacted by past cannabis policies.
- (2) Assist cannabis equity licensees to stay in business or grow their businesses.

(b) Detailed performance indicators for the Legislature to use in determining whether the credits meet the goals, purposes, and objectives described in subdivision (a) are the number of credits claimed and the total dollar amount of credits claimed.

(c)(1) The Franchise Tax Board shall analyze the performance indicators in subdivision (b) for each taxable year and shall report its findings to the Legislature, on or before March 1, 2025, and annually thereafter while the credit is operative, in compliance with Section 9795 of the Government Code.

(2) The disclosure provisions of this paragraph shall be treated as an exception to Section 19542 under Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

**SEC. 40.** The Legislature finds and declares that Section 8 of this act, which adds Section 26203 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the integrity of active and prospective administrative, civil, and criminal investigations conducted for law enforcement and licensing purposes; to prevent premature or overbroad disclosure of potentially sensitive information regarding those investigations to suspected violators of applicable state and local laws, as well as potential witnesses and others, in ways that might compromise those investigations; to allow members of the task force created by Section 26203 of the Business and Professions Code to more freely share information, and otherwise coordinate, regarding those investigations; and to otherwise promote fuller cooperation among members of the task force to enforce applicable state and local laws, it is necessary to exempt the task force from the provisions of the Bagley-Keene Open Meeting Act and the Brown Act.

**SEC. 41.** (a) Except as provided in subdivision (b), the provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application, except as provided in subdivision (b).

(b) The provisions of Sections 34011 and 34012 of the Revenue and Taxation Code, as amended by this act, and Section 34011.1 of the Revenue and Taxation Code, as added by this act, are not severable from the provisions of subdivisions (a) and (b) of Section 34011.2 of the Revenue and Taxation Code, as added by this act. If any provision of subdivision (a) or (b) of Section 34011.2 or its application is held invalid in a final decision of a court of competent jurisdiction, the amendments to Sections 34011 and 34012 made by this act, and Sections 34011.1 and 34011.2 as added by this act, shall become inoperative on the date of that final decision. Sections 34011 and 34012 shall revert to the law as it read before the effective date of this act, and Sections 34011.1 and 34011.2 shall be repealed, on the first day of the first calendar quarter commencing more than 90 days after that final decision.

**SEC. 42.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**SEC. 43.** The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act, enacted as Proposition 64 at the November 8, 2016, statewide general election, by accomplishing all of the following:

(a) Taxing the growth and sale of cannabis in a way that drives out the illicit market for cannabis, and discourages use by minors and abuse by adults.

(b) Generating hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.

(c) Reducing barriers to entry into the legal, regulated market.

**SEC. 44.** This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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## California Cannabis Farmers May Finally Get Some Relief



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Residents of California often complain about high taxes, but no one pays higher taxes than the cannabis industry. In addition to the Federal 280E penalties, the cannabis industry in California is subject to a 15% state-wide excise tax, sales and use taxes that can reach up to 10.75%, and local business licenses taxes which are as high as 15% in some jurisdictions. On top of these excise taxes, which combined can approach 40%, there is a state cultivation tax currently imposed on cannabis flowers at a rate of \$161.28/dry-weight pound (and some local jurisdictions impose additional cultivation taxes).

During good times, the industry could withstand this tremendous tax burden with the price per pound of wholesale flower at between \$1,500/lb (outdoor) and \$3,000/lb (premium indoor). However, when wholesale prices collapsed to as low as \$400/lb for outdoor flower in the fall of 2021, growers could no longer make a profit. Following protests by desperate growers, in January 2021, Governor Newsom signaled that relief was on its way. Finally on May 13, 2022, the governor made it official when he released his budget which proposed slashing the cultivation tax to \$0 as of July 1, 2022.<sup>[1]</sup> While this cut comes too late for many growers that have already been wiped out, it provides some much-needed relief for an industry that has been struggling to survive.

[1] Newsom's proposal would also shift the point of collection and remittance of the 15% state-wide excise tax from distributors to retailers, update allocations of the Cannabis Tax Fund, and establish a local jurisdiction retail grant access program to aid localities with the development and implementation of local retail licensing programs.

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