

# Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)

*Amended September 16, 2017*

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## **CHAPTER 1. General Provisions and Definitions [26000 - 26001]**

### **§ 26000. (BPC)**

**(a)** This division shall be known, and may be cited, as the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

**(b)** The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both of the following:

**(1)** Medicinal cannabis and medicinal cannabis products for patients with valid physician's recommendations.

**(2)** Adult-use cannabis and adult-use cannabis products for adults 21 years of age and over.

**(c)** In the furtherance of subdivision (b), this division sets forth the power and duties of the state agencies responsible for controlling and regulating the commercial medicinal and adult-use cannabis industry.

**(d)** The Legislature may, by majority vote, enact laws to implement this division, provided those laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

*(Amended by Stats. 2017, Ch. 27, Sec. 4. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26001. (BPC)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(k)** “Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this division.

**(l)** “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

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

**(n)** “Customer” means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician’s recommendation, or a primary caregiver.

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

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

**(q)** “Director” means the Director of Consumer Affairs.

**(r)** “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

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

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

**(u)** “Fund” means the Cannabis Control Fund established pursuant to Section 26210.

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

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

**(x)** “Labor peace agreement” means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the state’s proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant’s business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant’s employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant’s employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

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

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

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

**(ab)** “Live plants” means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

**(ac)** “Local jurisdiction” means a city, county, or city and county.

**(ad)** “Lot” means a batch or a specifically identified portion of a batch.

**(ae)** “M-license” means a state license issued under this division for commercial cannabis activity involving medicinal cannabis.

**(af)** “M-licensee” means any person holding a license under this division for commercial cannabis activity involving medicinal cannabis.

**(ag)** “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

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

**(ai)** “Medicinal cannabis” or “medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

**(aj)** “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

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

**(al)** “Owner” means any of the following:

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

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

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

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

**(am)** “Package” means any container or receptacle used for holding cannabis or cannabis products.

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

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

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

**(aq)** “Primary caregiver” has the same meaning as in Section 11362.7 of the Health and Safety Code.

**(ar)** “Purchaser” means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.

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

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

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

**(2)** Licensed by the bureau.

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

**(av)** “Youth center” has the same meaning as in Section 11353.1 of the Health and Safety Code.

*(Amended by Stats. 2017, Ch. 253, Sec. 1. Effective September 16, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **CHAPTER 2. Administration [26010 - 26018]**

### **§ 26010. (BPC)**

There is in the Department of Consumer Affairs the Bureau of Cannabis Control, under the supervision and control of the director. The director shall administer and enforce the provisions of this division related to the bureau.

*(Repealed and added by Stats. 2017, Ch. 27, Sec. 7. Effective June 27, 2017.)*

### **§ 26010.5. (BPC)**

**(a)** The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the Director of Consumer Affairs with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the Director of Consumer Affairs and at the pleasure of the Governor.

**(b)** Every power granted to or duty imposed upon the Director of Consumer Affairs under this division may be exercised or performed in the name of the director by a deputy or assistant director or by the chief, subject to conditions and limitations that the director may prescribe. In addition to every power granted or duty imposed under this division, the director shall have all other powers and duties generally applicable in relation to bureaus that are part of the Department of Consumer Affairs.

**(c)** The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service laws and regulations. The Governor may also appoint a deputy chief and an assistant chief counsel to the bureau. These positions shall hold office at the pleasure of the Governor.

**(d)** The bureau has the power, duty, purpose, responsibility, and jurisdiction to regulate commercial cannabis activity as provided in this division.

**(e)** The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction formerly vested in the Bureau of Marijuana Control, also formerly known as the Bureau of Medical Cannabis Regulation and the Bureau of Medical Marijuana Regulation, under the former Medical Cannabis Regulation and Safety Act (former Chapter 3.5 (commencing with Section 19300) of Division 8).

**(f)** Upon the effective date of this section, whenever "Bureau of Marijuana Control," "Bureau of Medical Cannabis Regulation," or "Bureau of Medical Marijuana Regulation" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

**(g)** Upon the effective date of this section, whenever any reference to the "Medical Cannabis Regulation and Safety Act," "Medical Marijuana Regulation and Safety Act," or former Chapter 3.5 (commencing with Section 19300) of Division 8 appears in any statute, regulation, contract, or in any other code, it shall be construed to refer to this division as it relates to medicinal cannabis and medicinal cannabis products.

*(Added by Stats. 2017, Ch. 27, Sec. 8. Effective June 27, 2017.)*



## **§ 26011. (BPC)**

Neither the chief of the bureau nor any member of the Cannabis Control Appeals Panel established under Section 26040 shall do any of the following:

- (a)** Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division.
- (b)** Engage or have any interest in the sale or any insurance covering a licensee's business or premises.
- (c)** Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial cannabis activity.
- (d)** Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.
- (e)** Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

*(Amended by Stats. 2017, Ch. 27, Sec. 9. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26011.5. (BPC)**

The protection of the public shall be the highest priority for all licensing authorities in exercising licensing, regulatory, and disciplinary functions under this division. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

*(Added by Stats. 2017, Ch. 27, Sec. 10. Effective June 27, 2017.)*

## **§ 26012. (BPC)**

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

- (1)** The bureau shall have the sole authority to create, issue, deny, renew, discipline, suspend, or revoke licenses for microbusinesses, transportation, storage unrelated to manufacturing activities, distribution, testing, and sale of cannabis and cannabis products within the state.
- (2)** The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of cannabis. The Department of Food and Agriculture shall have the authority to create, issue, deny, and suspend or revoke cultivation licenses for violations of this division.
- (3)** The State Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing of cannabis products. The State Department of Public Health shall have the authority to create, issue, deny, and suspend or revoke manufacturing licenses for violations of this division.

**(b)** The licensing authorities shall have the authority to collect fees in connection with activities they regulate concerning cannabis. The licensing authorities may create licenses in addition to

those identified in this division that the licensing authorities deem necessary to effectuate their duties under this division.

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

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

*(Amended by Stats. 2017, Ch. 27, Sec. 11. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26013. (BPC)**

**(a)** Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Those rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

**(b)**

**(1)** Each licensing authority may adopt emergency regulations to implement this division.

**(2)** Each licensing authority may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted as authorized by this section. Any such readoption shall be limited to one time for each regulation.

**(3)** Notwithstanding any other law, the initial adoption of emergency regulations and the readoption of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readopted emergency regulations authorized by this section shall be each submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

**(c)** Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent businessperson.

*(Amended by Stats. 2017, Ch. 27, Sec. 12. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26013.5. (BPC)**

Notice of any action of a licensing authority required by this division to be given may be signed and given by the director of the licensing authority or an authorized employee of the licensing

authority and may be made personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure, or in the manner prescribed by Section 124 of this code.

*(Added by Stats. 2017, Ch. 27, Sec. 13. Effective June 27, 2017.)*

#### **§ 26014. (BPC)**

**(a)** The bureau shall convene an advisory committee to advise the licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose such barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis.

**(b)** The advisory committee members shall include, but not be limited to, representatives of the cannabis industry, including medicinal cannabis, representatives of labor organizations, appropriate state and local agencies, persons who work directly with racially, ethnically, and economically diverse populations, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

**(c)** Commencing on January 1, 2019, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the licensing authorities.

*(Amended by Stats. 2017, Ch. 27, Sec. 14. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26015. (BPC)**

A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this division.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

#### **§ 26016. (BPC)**

For any hearing held pursuant to this division, except a hearing held under Chapter 4 (commencing with Section 26040), a licensing authority may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

**§ 26017. (BPC)**

In any hearing before a licensing authority pursuant to this division, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

**§ 26018. (BPC)**

A licensing authority may on its own motion at any time before a penalty assessment is placed into effect, and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

## **CHAPTER 3. Enforcement [26030 - 26038]**

### **§ 26030. (BPC)**

Grounds for disciplinary action include, but are not limited to, all of the following:

- (a)** Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.
- (b)** Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5 or discipline of a license pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.
- (c)** Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.
- (d)** Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.
- (e)** Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.
- (f)** Failure to comply with the requirement of a local ordinance regulating commercial cannabis activity.
- (g)** The intentional and knowing sale of cannabis or cannabis products by an A-licensee to a person under 21 years of age.
- (h)** The intentional and knowing sale of medicinal cannabis or medicinal cannabis products by an M-licensee to a person without a physician's recommendation.
- (i)** Failure to maintain safe conditions for inspection by a licensing authority.
- (j)** Failure to comply with any operating procedure submitted to the licensing authority pursuant to subdivision (b) of Section 26051.5.
- (k)** Failure to comply with license conditions established pursuant to subdivision (b) of Section 26060.1.

*(Amended by Stats. 2017, Ch. 27, Sec. 15. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26031. (BPC)**

**(a)** Each licensing authority may suspend, revoke, place on probation with terms and conditions, or otherwise discipline licenses issued by that licensing authority and fine a licensee, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

**(b)** A licensing authority may suspend or revoke a license when a local agency has notified the licensing authority that a licensee within its jurisdiction is in violation of state rules and

regulations relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for suspension or revocation of the license.

**(c)** Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's officers, directors, owners, agents, or employees while acting on behalf of the licensee or engaged in commercial cannabis activity.

**(d)** A licensing authority may recover the costs of investigation and enforcement of a disciplinary proceeding pursuant to Section 125.3 of this code.

**(e)** Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities. Upon any other enforcement action against a licensee, the licensing authority shall notify all other licensing authorities.

*(Amended by Stats. 2017, Ch. 27, Sec. 16. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26032. (BPC)**

**(a)** The actions of a licensee, its employees, and its agents are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law if they are all of the following:

**(1)** Permitted pursuant to a state license.

**(2)** Permitted pursuant to a local authorization, license, or permit issued by the local jurisdiction, if any.

**(3)** Conducted in accordance with the requirements of this division and regulations adopted pursuant to this division.

**(b)** The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and, if required by the applicable local ordinances, a local license or permit, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

*(Repealed and added by Stats. 2017, Ch. 27, Sec. 18. Effective June 27, 2017.)*

## **§ 26033. (BPC)**

**(a)** A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this division.

**(b)** A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section

11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code, is exempt from the licensure requirements of this division.

*(Repealed and added by Stats. 2017, Ch. 27, Sec. 20. Effective June 27, 2017.)*

#### **§ 26034. (BPC)**

All accusations against licensees shall be filed by the licensing authority within five years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in that case shall not be deemed to have accrued until discovery, by the licensing authority, of the facts constituting the fraud or misrepresentation, and, in that case, the accusation shall be filed within five years after that discovery.

*(Repealed and added by Stats. 2017, Ch. 27, Sec. 22. Effective June 27, 2017.)*

#### **§ 26035. (BPC)**

The director shall designate the persons employed by the Department of Consumer Affairs for purposes of the administration and enforcement of this division. The director shall ensure that a sufficient number of employees are qualified peace officers for purposes of enforcing this division.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

#### **§ 26036. (BPC)**

Nothing in this division shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority, including, but not limited to, under the Fish and Game Code, the Food and Agricultural Code, the Government Code, the Health and Safety Code, the Public Resources Code, the Water Code, or the application of those laws.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

#### **§ 26037. (BPC)**

**(a)** The actions of a licensee, its employees, and its agents that are (1) permitted under a license issued under this division and any applicable local ordinances and (2) conducted in accordance with the requirements of this division and regulations adopted pursuant to this division, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

**(b)** The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and any applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest,

prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

#### **§ 26038. (BPC)**

**(a)** A person engaging in commercial cannabis activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b). A violator shall be responsible for the cost of the destruction of cannabis associated with his or her violation.

**(b)** If an action for civil penalties is brought against a person pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. 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.

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

*(Amended by Stats. 2017, Ch. 27, Sec. 23. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*



## **CHAPTER 4. Appeals [26040 - 26047]**

### **§ 26040. (BPC)**

#### **(a)**

**(1)** There is established in state government a Cannabis Control Appeals Panel which shall consist of the following members:

**(A)** One member appointed by the Senate Committee on Rules.

**(B)** One member appointed by the Speaker of the Assembly.

**(C)** Three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate.

**(2)** Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

**(b)** The members of the panel appointed pursuant to subparagraph (C) of paragraph (1) of subdivision (a) may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member of the panel from office for dereliction of duty, corruption, or incompetency.

**(c)** A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if 5 Members of the Senate, or 10 Members of the Assembly, join as authors.

*(Amended by Stats. 2017, Ch. 253, Sec. 2. Effective September 16, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26041. (BPC)**

All personnel of the panel shall be appointed, employed, directed, and controlled by the panel consistent with state civil service requirements. The director shall furnish the equipment, supplies, and housing necessary for the authorized activities of the panel and shall perform such other mechanics of administration as the panel and the director may agree upon.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

### **§ 26042. (BPC)**

The panel shall adopt procedures for appeals similar to the procedures used in Article 3 (commencing with Section 23075) and Article 4 (commencing with Section 23080) of Chapter 1.5 of Division 9 of the Business and Professions Code. Such procedures shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

### **§ 26043. (BPC)**

**(a)** After proceedings pursuant to Section 26031 or 26058 or Chapter 2 (commencing with Section 480) or Chapter 3 (commencing with Section 490) of Division 1.5, any person aggrieved by the decision of a licensing authority denying the person's application for any license, denying the person's renewal of any license, placing any license on probation, imposing any condition on any license, imposing any fine on any license, assessing any penalty on any license, or canceling, suspending, revoking, or otherwise disciplining any license as provided for under this division, may appeal the licensing authority's written decision to the panel.

**(b)** The panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the licensing authority.

**(c)** Review by the panel of a decision of a licensing authority shall be limited to the following questions:

- (1)** Whether the licensing authority has proceeded without or in excess of its jurisdiction.
- (2)** Whether the licensing authority has proceeded in the manner required by law.
- (3)** Whether the decision is supported by the findings.
- (4)** Whether the findings are supported by substantial evidence in the light of the whole record.

*(Amended by Stats. 2017, Ch. 27, Sec. 25. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26044. (BPC)**

**(a)** In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the licensing authority, it may enter an order remanding the matter to the licensing authority for reconsideration in the light of that evidence.

**(b)** Except as provided in subdivision (a), in all appeals, the panel shall enter an order either affirming or reversing the decision of the licensing authority. When the order reverses the decision of the licensing authority, the panel may direct the reconsideration of the matter in the light of its order and may direct the licensing authority to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the licensing authority.

*(Amended by Stats. 2017, Ch. 27, Sec. 26. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26045. (BPC)**

**(a)** No court of this state, except the Supreme Court and the courts of appeal to the extent specified in this chapter, shall have jurisdiction to review, affirm, reverse, correct, or annul any order, rule, or decision of a licensing authority or to suspend, stay, or delay the operation or execution thereof, or to restrain, enjoin, or interfere with a licensing authority in the performance

of its duties, but a writ of mandate shall lie from the Supreme Court or the courts of appeal in any proper case.

**(b)** Any person affected by a final order of the panel, including a licensing authority, may apply to the Supreme Court or to the court of appeal for the appellate district in which the proceeding arose, for a writ of review of that final order.

**(c)** The application for writ of review shall be made within 30 days after filing of the final order.

**(d)** The provisions of the Code of Civil Procedure relating to writs of review shall, insofar as applicable, apply to proceedings in the courts as provided by this chapter. A copy of every pleading filed pursuant to this chapter shall be served on the panel, the licensing authority, and on each party who entered an appearance before the panel.

**(e)** No decision of a licensing authority that has been appealed to the panel and no final order of the panel shall become effective during the period in which application may be made for a writ of review, as provided by subdivision (c).

**(f)** The filing of a petition for, or the pendency of, a writ of review shall not of itself stay or suspend the operation of any order, rule, or decision of a licensing authority, but the court before which the petition is filed may stay or suspend, in whole or in part, the operation of the order, rule, or decision of the licensing authority subject to review, upon the terms and conditions which it by order directs.

*(Repealed and added by Stats. 2017, Ch. 27, Sec. 28. Effective June 27, 2017.)*

#### **§ 26046. (BPC)**

**(a)** The review by the court shall not extend further than to determine, based on the whole record of the licensing authority as certified by the panel, whether:

**(1)** The licensing authority has proceeded without or in excess of its jurisdiction.

**(2)** The licensing authority has proceeded in the manner required by law.

**(3)** The decision of the licensing authority is supported by the findings.

**(4)** The findings in the licensing authority's decision are supported by substantial evidence in the light of the whole record.

**(5)** There is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the licensing authority.

**(b)** Nothing in this chapter shall permit the court to hold a trial de novo, to take evidence, or to exercise its independent judgment on the evidence.

*(Added by Stats. 2017, Ch. 27, Sec. 29. Effective June 27, 2017.)*

#### **§ 26047. (BPC)**

The findings and conclusions of the licensing authority on questions of fact are conclusive and final and are not subject to review. Those questions of fact shall include ultimate facts and the findings and conclusions of the licensing authority. The panel, the licensing authority, and each

party to the action or proceeding before the panel shall have the right to appear in the review proceeding. Following the hearing, the court shall enter judgment either affirming or reversing the decision of the licensing authority, or the court may remand the case for further proceedings before or reconsideration by the licensing authority.

*(Added by Stats. 2017, Ch. 27, Sec. 30. Effective June 27, 2017.)*

## **CHAPTER 5. Licensing [26050 - 26059]**

### **§ 26050. (BPC)**

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

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

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

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

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

*(Amended by Stats. 2017, Ch. 27, Sec. 31. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26050.1. (BPC)**

**(a)** Notwithstanding subdivision (c) of Section 26050, until January 1, 2019, a licensing authority may, in its sole discretion, issue a temporary license if the applicant submits all of the following:

- (1)** A written request to the licensing authority in a manner prescribed by the licensing authority.
- (2)** A copy of a valid license, permit, or other authorization, issued by a local jurisdiction, that enables the applicant to conduct commercial cannabis activity at the location requested for the temporary license.
- (3)** The temporary license application fee, if any, required by the licensing authority.

**(b)** Temporary licenses issued pursuant to this section are subject to the following conditions:

- (1)** Except as provided for in paragraph (4) below, the temporary license shall be valid for a period of 120 days and may be extended for additional 90-day periods at the discretion of the licensing authority. Temporary licenses shall only be eligible for an extension of the expiration date if the applicant has submitted a complete application for licensure pursuant to regulations adopted under this division.
- (2)** A temporary license is a conditional license and authorizes the holder thereof to engage in commercial cannabis activity as would be permitted under the privileges of the license for which the applicant has submitted an application to the licensing authority.
- (3)** Refusal by the licensing authority to issue or extend a temporary license shall not entitle the applicant to a hearing or appeal of the decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to temporary licenses.
- (4)** A temporary license does not obligate the licensing authority to issue a nontemporary license nor does the temporary license create a vested right in the holder to either an extension of the temporary license or to the granting of a subsequent nontemporary license.

**(c)** This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

*(Added by Stats. 2017, Ch. 27, Sec. 32. Effective June 27, 2017. Repealed as of January 1, 2019, by its own provisions.)*

#### **§ 26051. (BPC)**

**(a)** The Cartwright Act, the Unfair Practices Act, the Unfair Competition Law, and the other provisions of Part 2 (commencing with Section 16600) of Division 7 apply to all licensees regulated under this division.

**(b)** It shall be unlawful for any person to monopolize, or attempt to monopolize, or to combine or conspire with any person or persons, to monopolize any part of the trade or commerce related to

cannabis. The Attorney General shall have the sole authority to enforce the provisions of this subdivision.

**(c)** In determining whether to grant, deny, or renew a license for a retail license, microbusiness license, or a license issued under Section 26070.5, the bureau shall consider if an excessive concentration exists in the area where the licensee will operate. For purposes of this section “excessive concentration” applies when either of the following conditions exist:

**(1)** The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis or cannabis products.

**(2)** The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to the population in the census tract, census division, or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

*(Repealed and added by Stats. 2017, Ch. 27, Sec. 34. Effective June 27, 2017.)*

#### **§ 26051.5. (BPC)**

**(a)** An applicant for any type of state license issued pursuant to this division shall do all of the following:

**(1)** Require that each owner of the applicant 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 arrests, and 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 his or her own recognizance, pending trial or appeal.

**(A)** 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.

**(B)** 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.

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

**(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)** For an applicant with 20 or more employees, provide a 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.

**(B)** For the purposes of this paragraph, “employee” does not include a supervisor.

**(C)** For the purposes of this paragraph, “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 licensing authority.

**(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 licensing authority.

**(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.

**(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 licensing authority:

**(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 of Food and Agriculture 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 licensing authority. 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.

*(Added by Stats. 2017, Ch. 27, Sec. 35. Effective June 27, 2017.)*

## **§ 26052. (BPC)**

**(a)** A licensee shall not perform any of the following acts, or permit any of the following acts to be performed by any employee, agent, or contractor of the licensee:

**(1)** Make any contract in restraint of trade in violation of Section 16600.

**(2)** Form a trust or other prohibited organization in restraint of trade in violation of Section 16720.

**(3)** Make a sale or contract for the sale of cannabis or cannabis products, or to fix a price charged therefor, or discount from, or rebate upon, that price, on the condition, agreement, or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of the seller, where the effect of that sale, contract, condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce.

**(4)** Sell any cannabis or cannabis products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers.

**(5)** Discriminate between different sections, communities, or cities or portions thereof, or between different locations in those sections, communities, or cities or portions thereof in this state, by selling or furnishing cannabis or cannabis products at a lower price in one section, community, or city or any portion thereof, or in one location in that section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition.

**(6)** Sell any cannabis or cannabis products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.

**(b)** Any person who, either as director, officer, or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter, or assists or aids, directly or indirectly, in that

violation is responsible therefor equally with the person, firm, or corporation for which that person acts.

**(c)** Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.

*(Amended by Stats. 2017, Ch. 27, Sec. 36. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26053. (BPC)**

**(a)** All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this division.

**(b)** A person that holds a state testing laboratory license under this division is prohibited from licensure for any other activity, except testing, as authorized under this division. A person that holds a state testing laboratory license shall not employ an individual who is also employed by any other licensee that does not hold a state testing laboratory license.

**(c)** Except as provided in subdivision (b), a person may apply for and be issued more than one license under this division.

**(d)** Each applicant or licensee shall apply for, and if approved, shall obtain, a separate license for each location where it engages in commercial cannabis activity.

*(Amended by Stats. 2017, Ch. 253, Sec. 3. Effective September 16, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26054. (BPC)**

**(a)** A licensee shall not sell alcoholic beverages or tobacco products on or at any premises licensed under this division.

**(b)** A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

**(c)** It shall not be a violation of state or local law for a business engaged in the manufacture of cannabis accessories to possess, transport, purchase, or otherwise obtain small amounts of cannabis or cannabis products as necessary to conduct research and development related to the cannabis accessories, provided the cannabis and cannabis products are obtained from a person licensed under this division permitted to provide or deliver the cannabis or cannabis products.

**(d)** It shall not be a violation of state or local law for an agent of a licensing authority to possess, transport, or obtain cannabis or cannabis products as necessary to conduct activities reasonably related to the duties of the licensing authority.

*(Amended by Stats. 2017, Ch. 27, Sec. 38. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26054.2. (BPC)**

**(a)** A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws before September 1, 2016.

**(b)** The licensing authorities shall request that local jurisdictions identify for the licensing authorities potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws, and any applicable local laws.

**(c)** In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence as deemed appropriate by the licensing authority to demonstrate operation in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code). The licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).

**(d)** This section shall cease to be operative on December 31, 2019, unless otherwise provided by law.

*(Amended by Stats. 2017, Ch. 27, Sec. 40. Effective June 27, 2017. Inoperative December 31, 2019, by its own provisions. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26055. (BPC)**

**(a)** Licensing authorities may issue state licenses only to qualified applicants.

**(b)** Revocation of a state license issued under this division shall terminate the ability of the licensee to operate pursuant to that license within California until a new license is obtained.

**(c)** A licensee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until written approval by the licensing authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

**(d)** Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

**(e)** An applicant may voluntarily provide proof of a license, permit, or other authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction. An applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction shall be presumed to be in compliance with all local ordinances unless the licensing authority is notified otherwise by the local jurisdiction. The licensing authority shall notify the contact person for the local jurisdiction of any applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction.

**(f)**

**(1)** A local jurisdiction shall provide to the bureau a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. If a local jurisdiction does not provide a contact person, the bureau shall assume that the clerk of the legislative body of the local jurisdiction is the contact person.

**(2)** Whenever there is a change in a local ordinance or regulation adopted pursuant to Section 26200 or a change in the contact person for the jurisdiction, the local jurisdiction shall provide that information to the bureau.

**(3)** The bureau shall share the information required by this subdivision with the other licensing authorities.

**(g)**

**(1)** The licensing authority shall deny an application for a license under this division for a commercial cannabis activity that the local jurisdiction has notified the bureau is prohibited in accordance with subdivision (f). The licensing authority shall notify the contact person for the local jurisdiction of each application denied due to the local jurisdictions indication that the commercial cannabis activity for which a license is sought is prohibited by a local ordinance or regulation.

**(2)** Prior to issuing a state license under this division for any commercial cannabis activity, if an applicant has not provided adequate proof of compliance with local laws pursuant to subdivision (e):

**(A)** The licensing authority shall notify the contact person for the local jurisdiction of the receipt of an application for commercial cannabis activity within their jurisdiction.

**(B)** A local jurisdiction may notify the licensing authority that the applicant is not in compliance with a local ordinance or regulation. In this instance, the licensing authority shall deny the application.

**(C)** A local jurisdiction may notify the licensing authority that the applicant is in compliance with all applicable local ordinances and regulations. In this instance, the licensing authority may proceed with the licensing process.

**(D)** If the local jurisdiction does not provide notification of compliance or noncompliance with applicable local ordinances or regulations, or otherwise does not provide notification indicating that the completion of the local permitting process is still pending, within 60 business days of receiving the inquiry from a licensing authority submitted pursuant to subparagraph (A), the licensing authority shall make a rebuttable presumption that the applicant is in compliance with all local ordinances and regulations adopted in accordance with Section 26200, except as provided in subparagraphs (E) and (F).

**(E)** At any time after expiration of the 60-business-day period set forth in subparagraph (D), the local jurisdiction may provide written notification to the licensing authority that the applicant or licensee is not in compliance with a local

ordinance or regulation adopted in accordance with Section 26200. Upon receiving this notification, the licensing authority shall not presume that the applicant or licensee has complied with all local ordinances and regulations adopted in accordance with Section 26200, and may commence disciplinary action in accordance with Chapter 3 (commencing with Section 26030). If the licensing authority does not take action against the licensee before the time of the renewal of the license, the license shall not be renewed until and unless the local jurisdiction notifies the licensing authority that the licensee is once again in compliance with local ordinances.

**(F)** A presumption by a licensing authority pursuant to this paragraph that an applicant has complied with all local ordinances and regulations adopted in accordance with Section 26200 shall not prevent, impair, or preempt the local government from enforcing all applicable local ordinances or regulations against the applicant, nor shall the presumption confer any right, vested or otherwise, upon the applicant to commence or continue operating in any local jurisdiction except in accordance with all local ordinances or regulations.

**(3)** For purposes of this section, “notification” includes written notification or access by a licensing authority to a local jurisdiction’s registry, database, or other platform designated by a local jurisdiction, containing information specified by the licensing authority, on applicants to determine local compliance.

**(h)** Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.

**(i)** A local or state public agency may charge and collect a fee from a person proposing a project pursuant to subdivision (a) of Section 21089 of the Public Resources Code.

*(Amended by Stats. 2017, Ch. 253, Sec. 4. Effective September 16, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26056. (BPC)**

The requirements of Sections 13143.9, 13145, and 13146 of the Health and Safety Code shall apply to all licensees.

*(Added by Stats. 2017, Ch. 27, Sec. 44. Effective June 27, 2017.)*

#### **§ 26057. (BPC)**

**(a)** The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

**(b)** The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

**(1)** Failure or inability to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow, water quality, and fish and wildlife.

**(2)** Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.

**(3)** Failure to provide information required by the licensing authority.

**(4)** The applicant, owner, or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

**(A)** A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

**(B)** A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

**(C)** A felony conviction involving fraud, deceit, or embezzlement.

**(D)** A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

**(E)** A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.

**(5)** Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

**(6)** The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled

substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

**(7)** The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities, has had a license suspended or revoked under this division in the three years immediately preceding the date the application is filed with the licensing authority.

**(8)** Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

**(9)** Any other condition specified in law.

*(Amended by Stats. 2017, Ch. 27, Sec. 45. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26058. (BPC)**

Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein. Any appeal from a final decision of the licensing authority shall be conducted in accordance with Chapter 4 (commencing with Section 26040).

*(Amended by Stats. 2017, Ch. 27, Sec. 46. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26059. (BPC)**

An applicant shall not be denied a state license if the denial is based solely on any of the following:

**(a)** A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

**(b)** A conviction that was subsequently dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code or any other provision allowing for dismissal of a conviction.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

## **CHAPTER 6. Licensed Cultivation Sites [26060 - 26066]**

### **§ 26060. (BPC)**

**(a)** Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, nursery, special cottage, and mixed-light cultivation sites shall apply to licensed cultivators under this division. The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this division, including regulations governing the licensing of indoor, outdoor, mixed-light cultivation site, nursery, and special cottage cultivation.

**(b)** The regulations shall do all of the following:

- (1)** Provide that weighing or measuring devices used in connection with the sale or distribution of cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).
- (2)** Require that cannabis cultivation by licensees is conducted in accordance with state and local laws.
- (3)** Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Chapter 6.5 (commencing with Section 26067). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.
- (4)** Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers pursuant to Chapter 6.5 (commencing with Section 26067).

**(c)** The Department of Food and Agriculture shall serve as the lead agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) related to the licensing of cannabis cultivation.

**(d)** The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis.

**(e)** A cannabis cultivator shall not use any pesticide that has been banned for use in the state.

**(f)** The regulations promulgated by the Department of Food and Agriculture under this division shall implement the requirements of subdivision(b) of Section 26060.1.

**(g)** The Department of Pesticide Regulation shall require that the application of pesticides or other pest control in connection with the indoor, outdoor, nursery, specialty cottage, or mixed-light cultivation of cannabis complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

*(Amended by Stats. 2017, Ch. 27, Sec. 47. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*



**§ 26060.1. (BPC)**

**(a)** An application for a license for cultivation issued by the Department of Food and Agriculture shall identify the source of water supply as follows:

**(1)**

**(A)** If water will be supplied by a retail water supplier, as defined in Section 13575 of the Water Code, the application shall identify the retail water supplier.

**(B)** Paragraphs (2) and (3) do not apply to any water subject to subparagraph (A) unless the retail water supplier has 10 or fewer customers, the applicant receives 10 percent or more of the water supplied by the retail water supplier, 25 percent or more of the water delivered by the retail water supplier is used for cannabis cultivation, or the applicant and the retail water supplier are affiliates, as defined in Section 2814.20 of Title 23 of the California Code of Regulations.

**(2)** If the water supply includes a diversion within the meaning of Section 5100 of the Water Code, the application shall identify the point of diversion and the maximum amount to be diverted as follows:

**(A)** For an application submitted before January 1, 2019, the application shall include a copy of one of the following:

**(i)** A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

**(ii)** A statement of water diversion and use filed with the State Water Resources Control Board on or before October 31, 2017, that covers the diversion and specifies the amount of water used for cannabis cultivation.

**(iii)** A pending application for a permit to appropriate water, filed with the State Water Resources Control Board on or before October 31, 2017.

**(iv)** Documentation submitted to the State Water Resources Control Board on or before January 1, 2019, demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of the Water Code.

**(v)** Documentation submitted to the State Water Resources Control Board on or before October 31, 2017, demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

**(B)** For an application submitted after December 31, 2018, the application shall include a copy of one of the following:

**(i)** A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

**(ii)** A statement of water diversion and use filed with the State Water Resources Control Board that covers the diversion and specifies the amount of water used for cannabis cultivation.

**(iii)** Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of the Water Code.

**(iv)** Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and in the calendar year in which the application is submitted. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

**(3)** If water will be supplied from a groundwater extraction not subject to paragraph (2), the application shall identify the location of the extraction and the maximum amount to be diverted for cannabis cultivation in any year.

**(b)** The Department of Food and Agriculture shall include in any license for cultivation all of the following:

**(1)** Conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to (A) ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability; (B) ensure that cultivation does not negatively impact springs, riparian habitat, wetlands, or aquatic habitat; and (C) otherwise protect fish, wildlife, fish and wildlife habitat, and water quality. The conditions shall include, but not be limited to, the principles, guidelines, and requirements established pursuant to Section 13149 of the Water Code.

**(2)** Any relevant mitigation requirements the Department of Food and Agriculture identifies as part of its approval of the final environmental documentation for the cannabis cultivation licensing program as requirements that should be included in a license for cultivation. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the identification of these mitigation measures. This paragraph does not reduce any requirements established pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

**(3)** A condition that the license shall not be effective until the licensee has demonstrated compliance with Section 1602 of the Fish and Game Code or receives written verification

from the Department of Fish and Wildlife that a streambed alteration agreement is not required.

**(c)** The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this section.

**(d)** Notwithstanding paragraph (1) of subdivision (b), the Department of Food and Agriculture is not responsible for verifying compliance with the conditions requested or imposed by the Department of Fish and Wildlife or the State Water Resources Control Board. The Department of Fish and Wildlife or the State Water Resources Control Board, upon finding and making the final determination of a violation of a condition included pursuant to paragraph (1) of subdivision (b), shall notify the Department of Food and Agriculture, which may take appropriate action with respect to the licensee in accordance with Chapter 3 (commencing with Section 26030).

*(Amended by Stats. 2017, Ch. 253, Sec. 5. Effective September 16, 2017.)*

## **§ 26061. (BPC)**

**(a)** The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include all of the following:

**(1)** Type 1, or “specialty outdoor,” for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

**(2)** Type 1A, or “specialty indoor,” for indoor cultivation using exclusively artificial lighting of between 501 and 5,000 square feet of total canopy size on one premises.

**(3)** Type 1B, or “specialty mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between 2,501 and 5,000 square feet of total canopy size on one premises.

**(4)** Type 1C, or “specialty cottage,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of 2,500 square feet or less of total canopy size for mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

**(5)** Type 2, or “small outdoor,” for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

**(6)** Type 2A, or “small indoor,” for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

**(7)** Type 2B, or “small mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

**(8)** Type 3, or “outdoor,” for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

**(9)** Type 3A, or “indoor,” for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

**(10)** Type 3B, or “mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

**(11)** Type 4, or “nursery” for cultivation of cannabis solely as a nursery.

**(b)** Except as otherwise provided by law:

**(1)** Type 5, or “outdoor,” means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

**(2)** Type 5A, or “indoor,” means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

**(3)** Type 5B, or “mixed-light,” means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

**(c)** No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

**(d)** Commencing on January 1, 2023, a Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold a Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not be eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

*(Amended by Stats. 2017, Ch. 27, Sec. 49. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26062. (BPC)**

**(a)** No later than January 1, 2021, the Department of Food and Agriculture shall establish a program for cannabis that is comparable to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code) and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code. The Department of Food and Agriculture shall be the sole determiner of designation and certification.

**(b)** If at any time preceding or following the establishment of a program by the Department of Food and Agriculture pursuant to subdivision (a), the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)) authorizes organic designation and certification for cannabis, this section shall become inoperative and, as of January 1, of the following year, is repealed.

*(Repealed and added by Stats. 2017, Ch. 27, Sec. 51. Effective June 27, 2017. Conditionally inoperative as prescribed by its own provisions. Repealed, by its own provisions, on January 1 following inoperative date.)*

#### **§ 26062.5. (BPC)**

A person shall not represent, sell, or offer for sale any cannabis or cannabis product as organic except in accordance with the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), if applicable. A person shall not represent, sell, or offer for sale any cannabis or cannabis product with the designation or certification established by the Department of Food and Agriculture pursuant to subdivision (a) of Section 26062 except in accordance with that subdivision.

*(Added by Stats. 2017, Ch. 27, Sec. 52. Effective June 27, 2017.)*

#### **§ 26063. (BPC)**

**(a)** No later than January 1, 2018, the Department of Food and Agriculture shall establish standards by which a licensed cultivator may designate a county of origin for cannabis. To be eligible for the designation, 100 percent of the cannabis shall be produced within the designated county, as defined by finite political boundaries.

**(1)** Cannabis shall not be advertised, marketed, labeled, or sold as grown in a California county when the cannabis was not grown in that county.

**(2)** The name of a California county, including any similar name that is likely to mislead consumers as to the origin of the product, shall not be used in the advertising, labeling, marketing, or packaging of cannabis products unless the cannabis contained in the product was grown in that county.

**(b)** No later than January 1, 2021, the Department of Food and Agriculture shall establish a process by which licensed cultivators may establish appellations of standards, practices, and varieties applicable to cannabis grown in a certain geographical area in California, not otherwise specified in subdivision (a).

*(Amended by Stats. 2017, Ch. 27, Sec. 53. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26065. (BPC)**

An employee engaged in the cultivation of cannabis under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

*(Amended by Stats. 2017, Ch. 27, Sec. 55. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26066. (BPC)**

Indoor and outdoor cannabis cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, current building and fire standards, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and

traditional state law enforcement agencies, shall address environmental impacts of cannabis cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

*(Amended by Stats. 2017, Ch. 27, Sec. 56. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **CHAPTER 6.5. Unique Identifiers and Track and Trace [26067 - 26069.9]**

### **§ 26067. (BPC)**

**(a)** The department, in consultation with the bureau, 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 pursuant to Section 26069, secure packaging, and is capable of providing information that captures, at a minimum, all of the following:

- (1)** The licensee receiving the product.
- (2)** The transaction date.
- (3)** The cultivator from which the product originates, including the associated unique identifier pursuant to Section 26069.

### **(b)**

**(1)** The department, in consultation with the State Board of Equalization, 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 products shipped.
- (B)** The estimated times of departure and arrival.
- (C)** The variety and quantity or weight of products received.
- (D)** The actual time of departure and arrival.
- (E)** A categorization of the product.
- (F)** The license number and the unique identifier pursuant to Section 26069 issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.

### **(2)**

**(A)** The database shall be designed to flag irregularities for all licensing authorities in this division to investigate. All licensing authorities pursuant to this division may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.

**(B)** The department shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.

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

**(4)** The bureau shall have 24-hour access to the electronic database administered by the department. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.

**(5)** The department shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the department.

**(6)** Information received and contained in records kept by the department or licensing authorities 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.

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

*(Added by Stats. 2017, Ch. 27, Sec. 58. Effective June 27, 2017.)*

#### **§ 26068. (BPC)**

**(a)** The department, in consultation with the bureau and the State Board of Equalization, 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, distribution, inventory, and sale.

**(b)** The department, in consultation with the bureau, 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.

*(Added by Stats. 2017, Ch. 27, Sec. 58. Effective June 27, 2017.)*



## **§ 26069. (BPC)**

**(a)** The department shall establish a Cannabis Cultivation Program to be administered by the secretary. The secretary shall administer this section as it pertains to the cultivation of cannabis. For purposes of this division, cannabis is an agricultural product.

**(b)** A person or entity shall not cultivate cannabis without first obtaining a state license issued by the department pursuant to this division.

**(c)**

**(1)** The department, in consultation with, but not limited to, the bureau, shall implement a unique identification program for cannabis. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. If the State Water Resources Control Board or the Department of Fish and Wildlife finds, based on substantial evidence, that cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area, the department shall not issue new licenses or increase the total number of plant identifiers within that watershed or area.

**(2)**

**(A)** The department shall establish a program for the identification of permitted cannabis plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each cannabis plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

**(B)** Unique identifiers shall only be issued to those persons appropriately licensed by this section.

**(C)** Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26067.

**(D)** The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each cannabis plant.

**(E)** The department may promulgate regulations to implement this section.

**(3)** The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

**(d)** A city, county, or city and county may administer unique identifiers and associated identifying information but a city, county, or city and county's identifiers shall not supplant the department's track and trace program.

**(e)**

**(1)** This section does not apply to the cultivation of cannabis in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.

**(2)** Subdivision (b) does not apply to persons or entities licensed under subdivision (b) of Section 26070.5.

*(Amended by Stats. 2017, Ch. 253, Sec. 6. Effective September 16, 2017.)*

#### **§ 26069.1. (BPC)**

The secretary may enter into a cooperative agreement with a county agricultural commissioner or other state or local agency to assist the department in implementing the provisions of this division related to administration, investigation, inspection, fee collection, document management, education and outreach, distribution of individual licenses approved by the secretary, and technical assistance pertaining to the cultivation of cannabis. The department shall pay compensation under a cooperative agreement from fees collected and deposited pursuant to this division and shall provide reimbursement to a county agricultural commissioner, state, or local agency for associated costs. The secretary shall not delegate through a cooperative agreement, or otherwise, its authority to issue cultivation licenses to a county agricultural commissioner, local agency, or another state agency. The secretary shall provide notice of any cooperative agreement entered into pursuant to this section to other relevant state agencies involved in the regulation of cannabis cultivation. No cooperative agreement under this section shall relieve the department of its obligations under paragraph (2) of subdivision (a) of Section 26012 to administer the provisions of this division related to, and associated with, the cultivation of cannabis.

*(Added by Stats. 2017, Ch. 27, Sec. 58. Effective June 27, 2017.)*

#### **§ 26069.9. (BPC)**

For purposes of this chapter:

**(a)** “Department” means the Department of Food and Agriculture.

**(b)** “Secretary” means the Secretary of Food and Agriculture.

*(Added by Stats. 2017, Ch. 27, Sec. 58. Effective June 27, 2017.)*

## **CHAPTER 7. Retailers and Distributors [26070 - 26070.5]**

### **§ 26070. (BPC) Retailers and Distributors.**

Retailers and Distributors.

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

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

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

**(3)**

**(A)** “Microbusiness,” for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of cannabis shall include the license conditions described in subdivision (b) of Section 26060.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(3)** Other than limited amounts of cannabis used for display purposes, samples, or immediate sale, storing all finished cannabis and cannabis products in a secured

and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

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

- (1)** Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.
- (2)** Diversion, theft, loss, or any criminal activity pertaining to the operation of the retailer.
- (3)** Diversion, theft, loss, or any criminal activity by any agent or employee of the retailer pertaining to the operation of the retailer.
- (4)** The loss or unauthorized alteration of records related to cannabis or cannabis products, registered qualifying patients, primary caregivers, or retailer employees or agents.
- (5)** Any other breach of security.

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

*(Amended by Stats. 2017, Ch. 253, Sec. 7. Effective September 16, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26070.1. (BPC)**

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

*(Added by Stats. 2017, Ch. 27, Sec. 60. Effective June 27, 2017.)*

#### **§ 26070.5. (BPC)**

**(a)** The bureau shall, by January 1, 2020, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:

- (1)** Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?
- (2)** Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

**(3)** Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons?

**(b)** Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons so long as the local jurisdiction does all of the following:

**(1)** Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities.

**(2)** Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division.

**(3)** Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation.

**(4)** Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

**(c)** Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

**(d)** The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

**(e)**

**(1)** No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

**(2)** If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

**(3)** If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

*(Amended by Stats. 2017, Ch. 27, Sec. 61. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **CHAPTER 8. Distribution and Transport [26080- 26080.]**

### **§ 26080. (BPC)**

**(a)** This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, cannabis or cannabis products outside the state, unless authorized by federal law.

**(b)** A local jurisdiction shall not prevent transportation of cannabis or cannabis products on public roads by a licensee transporting cannabis or cannabis products in compliance with this division.

*(Amended by Stats. 2017, Ch. 27, Sec. 62. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **CHAPTER 9. Delivery [26090- 26090]**

### **§ 26090. (BPC)**

**(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 regulatory authorities, and other state and local agencies enforcing this division.

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

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

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

*(Amended by Stats. 2017, Ch. 253, Sec. 8. Effective September 16, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*



## **CHAPTER 10. Testing Laboratories [26100 - 26106]**

### **§ 26100. (BPC)**

- (a)** Except as otherwise provided by law, cannabis or cannabis products shall not be sold pursuant to a license provided for under this division unless a representative sample of the cannabis or cannabis products has been tested by a licensed testing laboratory.
- (b)** The bureau shall develop criteria to determine which batches shall be tested. All testing of the samples shall be performed on the final form in which the cannabis or cannabis product will be consumed or used.
- (c)** Testing of batches to meet the requirements of this division shall only be conducted by a licensed testing laboratory.
- (d)** For each batch tested, the testing laboratory shall issue a certificate of analysis for selected lots at a frequency determined by the bureau with supporting data, to report both of the following:
- (1)** Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following, unless limited through regulation by the bureau:
    - (A)** Tetrahydrocannabinol (THC).
    - (B)** Tetrahydrocannabinolic Acid (THCA).
    - (C)** Cannabidiol (CBD).
    - (D)** Cannabidiolic Acid (CBDA).
    - (E)** The terpenes required by the bureau in regulation.
    - (F)** Cannabigerol (CBG).
    - (G)** Cannabinol (CBN).
    - (H)** Any other compounds or contaminants required by the bureau.
  - (2)** That the presence of contaminants does not exceed the levels established by the bureau. In establishing the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (d) of Section 26060, and any other relevant sources. For purposes of this paragraph, “contaminants” includes, but is not limited to, all of the following:
    - (A)** Residual solvent or processing chemicals.
    - (B)** Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.
    - (C)** Microbiological impurities as identified by the bureau in regulation.
- (e)** Standards for residual levels of volatile organic compounds shall be established by the bureau.
- (f)** The testing laboratory shall conduct all testing required by this section in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling and using verified methods.

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

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

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

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

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

*(Added by renumbering Section 26101 by Stats. 2017, Ch. 27, Sec. 66. Effective June 27, 2017. Note: This section was added (as Section 26101) on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26102. (BPC)**

A testing laboratory shall not be licensed by the bureau unless the laboratory meets all of the following:

**(a)** Complies with any other requirements specified by the bureau.

**(b)** Notifies the bureau within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

**(c)** Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

*(Repealed and added by Stats. 2017, Ch. 27, Sec. 68. Effective June 27, 2017.)*

## **§ 26104. (BPC)**

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

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

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

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

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

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

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

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

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

*(Amended by Stats. 2017, Ch. 253, Sec. 9. Effective September 16, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26105. (BPC)**

Manufacturing Level 2 licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents. The State Department of Public Health shall establish minimum standards concerning such methods and procedures for Level 2 licensees.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

## **§ 26106. (BPC)**

Standards for the production, packaging, and labeling of all cannabis products developed by the State Department of Public Health apply to all licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5, unless otherwise specified by the State Department of Public Health.

*(Amended by Stats. 2017, Ch. 27, Sec. 71. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **CHAPTER 11. Quality Assurance, Inspection, and Testing [26110-26110]**

### **§ 26110. (BPC)**

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

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

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

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

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

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

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

**(f)**

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

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

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

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

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

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

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

*(Repealed and added by Stats. 2017, Ch. 27, Sec. 73. Effective June 27, 2017.)*

## **CHAPTER 12. Packaging and Labeling [26120 - 26121]**

### **§ 26120. (BPC)**

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

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

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

**(1)** The following statements, in bold print:

**(A)** For cannabis: “GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

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

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

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

**(4)** The appellation of origin, if any.

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

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

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

**(8)** For a medicinal cannabis product sold at a retailer, the statement “FOR MEDICAL USE ONLY.”

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

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

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

*(Amended by Stats. 2017, Ch. 27, Sec. 74. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26121. (BPC)**

**(a)** A cannabis product is misbranded if it is any of the following:

**(1)** Manufactured, packed, or held in this state in a manufacturing premises not duly licensed as provided in this division.

**(2)** Its labeling is false or misleading in any particular.

**(3)** Its labeling or packaging does not conform to the requirements of Section 26120 or any other labeling or packaging requirement established pursuant to this division.

**(b)** It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale a cannabis product that is misbranded.

**(c)** It is unlawful for any person to misbrand a cannabis product.

**(d)** It is unlawful for any person to receive in commerce a cannabis product that is misbranded or to deliver or offer for delivery any such cannabis product.

*(Added by Stats. 2017, Ch. 27, Sec. 75. Effective June 27, 2017.)*

## **CHAPTER 13. Manufacturers and Cannabis Products [26130 - 26135]**

### **§ 26130. (BPC)**

**(a)** The State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. Licenses to be issued are as follows:

**(1)** “Manufacturing Level 1,” for sites that manufacture cannabis products using nonvolatile solvents, or no solvents.

**(2)** “Manufacturing Level 2,” for sites that manufacture cannabis products using volatile solvents.

**(b)** For purposes of this section, “volatile solvents” shall have the same meaning as in paragraph (3) of subdivision (b) of Section 11362.3 of the Health and Safety Code, unless otherwise provided by law or regulation.

**(c)** Edible cannabis products shall be:

**(1)** Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.

**(2)** Produced and sold with a standardized concentration of cannabinoids not to exceed 10 milligrams tetrahydrocannabinol (THC) per serving.

**(3)** Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis product in solid form.

**(4)** Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

**(5)** Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, that are similar to the standards for preparation, storage, handling, and sale of food products.

**(6)** Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary.

**(7)** Marked with a universal symbol, as determined by the State Department of Public Health through regulation.

**(d)** Cannabis, including concentrated cannabis, included in a cannabis product manufactured in compliance with law is not considered an adulterant under state law.

*(Amended by Stats. 2017, Ch. 253, Sec. 10. Effective September 16, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26131. (BPC)**

**(a)** A cannabis product is adulterated if it is any of the following:



**(1)** It has been produced, prepared, packed, or held under unsanitary conditions in which it may have become contaminated with filth or in which it may have been rendered injurious.

**(2)** It consists in whole or in part of any filthy, putrid, or decomposed substance.

**(3)** It bears or contains any poisonous or deleterious substance that may render it injurious to users under the conditions of use suggested in the labeling or under conditions as are customary or usual.

**(4)** It bears or contains a substance that is restricted or limited under this division or regulations promulgated pursuant to this division and the level of substance in the product exceeds the limits specified pursuant to this division or in regulation.

**(5)** Its concentrations differ from, or its purity or quality is below, that which it is represented to possess.

**(6)** The methods, facilities, or controls used for its manufacture, packing, or holding do not conform to, or are not operated or administered in conformity with, practices established by regulations adopted under this division to ensure that the cannabis product meets the requirements of this division as to safety and has the concentrations it purports to have and meets the quality and purity characteristics that it purports or is represented to possess.

**(7)** Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

**(8)** It is an edible cannabis product and a substance has been mixed or packed with it after testing by a testing laboratory so as to reduce its quality or concentration or if any substance has been substituted, wholly or in part, for the edible cannabis product.

**(b)** It is unlawful for a person to manufacture, sell, deliver, hold, or offer for sale a cannabis product that is adulterated.

**(c)** It is unlawful for a person to adulterate a cannabis product.

**(d)** It is unlawful for a person to receive in commerce a cannabis product that is adulterated or to deliver or proffer for delivery any such cannabis product.

*(Added by Stats. 2017, Ch. 27, Sec. 78. Effective June 27, 2017.)*

## **§ 26132. (BPC)**

**(a)** When the State Department of Public Health has evidence that a cannabis product is adulterated or misbranded, the department shall notify the manufacturer.

**(b)** The State Department of Public Health may order a manufacturer to immediately cease distribution of a cannabis product and recall the product if the department determines both of the following:

**(1)** The manufacture, distribution, or sale of the cannabis product creates or poses an immediate and serious threat to human life or health.

**(2)** Other procedures available to the State Department of Public Health to remedy or prevent the occurrence of the situation would result in an unreasonable delay.

**(c)** The State Department of Public Health shall provide the manufacturer an opportunity for an informal proceeding on the matter, as determined by the department, within five days, on the actions required by the order and on why the product should not be recalled. Following the proceeding, the order shall be affirmed, modified, or set aside as determined appropriate by the State Department of Public Health.

**(d)** The State Department of Public Health's powers set forth in this section expressly include the power to order movement, segregation, isolation, or destruction of cannabis products, as well as the power to hold those products in place.

**(e)** If the State Department of Public Health determines it is necessary, it may issue the mandatory recall order and may use all appropriate measures to obtain reimbursement from the manufacturer for any and all costs associated with these orders. All funds obtained by the State Department of Public Health from these efforts shall be deposited into a fee account specific to the State Department of Public Health, to be established in the Cannabis Control Fund, and will be available for use by the department upon appropriation by the Legislature.

**(f)** It is unlawful for any person to move or allow to be moved a cannabis product subject to an order issued pursuant to this section unless that person has first obtained written authorization from the State Department of Public Health.

*(Added by Stats. 2017, Ch. 27, Sec. 79. Effective June 27, 2017.)*

### **§ 26133. (BPC)**

**(a)** If the State Department of Public Health finds or has probable cause to believe that a cannabis product is adulterated or misbranded within the meaning of this division or the sale of the cannabis product would be in violation of this division, the department shall affix to the cannabis product, or component thereof, a tag or other appropriate marking. The State Department of Public Health shall give notice that the cannabis product is, or is suspected of being, adulterated or misbranded, or the sale of the cannabis would be in violation of this division and has been embargoed and that no person shall remove or dispose of the cannabis product by sale or otherwise until permission for removal or disposal is given by the State Department of Public Health or a court.

**(b)** It is unlawful for a person to remove, sell, or dispose of a detained or embargoed cannabis product without written permission of the State Department of Public Health or a court. A violation of this subdivision is punishable by a fine of not more than ten thousand dollars (\$10,000).

**(c)** If the adulteration or misbranding can be corrected by proper labeling or additional processing of the cannabis product and all of the provisions of this division can be complied with, the licensee or owner may request the State Department of Public Health to remove the tag or other marking. If, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected, the department may remove the tag or other marking.

**(d)** If the State Department of Public Health finds that a cannabis product that is embargoed is not adulterated or misbranded, or that its sale is not otherwise in violation of this division, the State Department of Public Health may remove the tag or other marking.

**(e)** The cannabis product may be destroyed by the owner pursuant to a corrective action plan approved by the State Department of Public Health and under the supervision of the department. The cannabis product shall be destroyed at the expense of the licensee or owner.

**(f)** A proceeding for condemnation of a cannabis product under this section shall be subject to appropriate notice to, and the opportunity for a hearing with regard to, the person affected in accordance with Section 26016.

**(g)** Upon a finding by the administrative law judge that the cannabis product is adulterated or misbranded, or that its sale is otherwise in violation of this division, the administrative law judge may direct the cannabis product to be destroyed at the expense of the licensee or owner. The administrative law judge may also direct a licensee or owner of the affected cannabis product to pay fees and reasonable costs, including the costs of storage and testing, incurred by the bureau or the State Department of Public Health in investigating and prosecuting the action taken pursuant to this section.

**(h)** When, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected by proper labeling or additional processing of the cannabis and cannabis product and when all provisions of this division have been complied with, and after costs, fees, and expenses have been paid, the State Department of Public Health may release the embargo and remove the tag or other marking.

**(i)** The State Department of Public Health may condemn a cannabis product under provisions of this division. The cannabis product shall be destroyed at the expense of the licensee or owner.

*(Added by Stats. 2017, Ch. 27, Sec. 80. Effective June 27, 2017.)*

#### **§ 26134. (BPC)**

**(a)** The State Department of Public Health may issue a citation, which may contain an order of abatement and an order to pay an administrative fine assessed by the department if the licensee is in violation of this division or any regulation adopted pursuant to it.

**(1)** Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the law determined to have been violated.

**(2)** If appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

**(3)** The administrative fine assessed by the State Department of Public Health shall not exceed five thousand dollars (\$5,000) for each violation, unless a different fine amount is expressly provided by this division. In assessing a fine, the department shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

**(4)** A citation issued or a fine assessed pursuant to this section shall notify the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall

be requested by written notice to the State Department of Public Health within 30 days of the date of issuance of the citation or fine. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

**(5)** Failure of a licensee to pay a fine within 30 days of the date of assessment of the fine, unless assessment of the fine or the citation is being appealed, may result in further legal action being taken by the State Department of Public Health. If a licensee does not contest a citation or pay the fine, the full amount of the fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee, including the amount of the fine.

**(6)** A citation may be issued without the assessment of an administrative fine.

**(7)** The State Department of Public Health may limit the assessment of administrative fines to only particular violations of this division and establish any other requirement for implementation of the citation system by regulation.

**(b)** Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

*(Added by Stats. 2017, Ch. 27, Sec. 81. Effective June 27, 2017.)*

## **§ 26135. (BPC)**

A peace officer, including a peace officer within the State Department of Public Health or the bureau, may seize cannabis and cannabis products in any of the following circumstances:

**(a)** The cannabis or cannabis product is subject to recall or embargo by any licensing authority.

**(b)** The cannabis or cannabis product is subject to destruction pursuant to this division.

**(c)** The cannabis or cannabis product is seized related to an investigation or disciplinary action for violation of this division.

*(Added by Stats. 2017, Ch. 27, Sec. 82. Effective June 27, 2017.)*

## **CHAPTER 14. Protection of Minors [26140- 26140]**

### **§ 26140. (BPC)**

**(a)** An A-licensee shall not:

- (1)** Sell cannabis or cannabis products to persons under 21 years of age.
- (2)** Allow any person under 21 years of age on its premises, unless the A-licensee holds an M-license and the licensed premises for the A-license and M-license are the same.
- (3)** Employ or retain persons under 21 years of age.
- (4)** Sell or transfer cannabis or cannabis products unless the person to whom the cannabis or cannabis product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

**(b)** Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish cannabis to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any cannabis while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase cannabis. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

**(c)** Notwithstanding subdivision (a), an M-licensee may:

- (1)** Allow on the premises any person 18 years of age or older who possesses a valid government-issued identification card, and either a valid county-issued identification card under Section 11362.712 of the Health and Safety Code or a valid physician's recommendation for himself or herself or for a person for whom he or she is a primary caregiver.
- (2)** Allow any person 21 years of age or older on its premises if the M-licensee holds an A-license and the licensed premises for the M-license and A-license are the same.
- (3)** Sell cannabis, cannabis products, and cannabis accessories to a person 18 years of age or older who possesses a valid government-issued identification card and either a valid county-issued identification card under Section 11362.712 of the Health and Safety Code or a valid physician's recommendation for himself or herself or for a person for whom he or she is a primary caregiver.
- (4)** The bureau may establish requirements for the purchase of cannabis, cannabis products, or cannabis accessories by a primary caregiver for a patient to ensure that the status of a person as a primary caregiver is verified.

*(Amended by Stats. 2017, Ch. 253, Sec. 11. Effective September 16, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **CHAPTER 15. Advertising and Marketing Restrictions [26150 - 26156]**

### **§ 26150. (BPC)**

For purposes of this chapter:

- (a)** “Advertise” means the publication or dissemination of an advertisement.
- (b)** “Advertisement” includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:
  - (1)** Any label affixed to any cannabis or cannabis products, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of this division.
  - (2)** Any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.
- (c)** “Advertising sign” is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of cannabis or cannabis products which are not cultivated, manufactured, distributed, or sold on the same lot.
- (d)** “Health-related statement” means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of cannabis or cannabis products and health benefits, or effects on health.
- (e)** “Market” or “Marketing” means any act or process of promoting or selling cannabis or cannabis products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

*(Amended by Stats. 2017, Ch. 27, Sec. 84. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26151. (BPC)**

#### **(a)**

- (1)** All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee’s license number.
- (2)** A technology platform shall not display an advertisement by a licensee on an Internet Web page unless the advertisement displays the license number of the licensee.
- (3)** An outdoor advertising company subject to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200) of Division 3) shall not display an advertisement by a licensee unless the advertisement displays the license number of the licensee.

**(b)** Any advertising or marketing placed in broadcast, cable, radio, print, and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

**(c)** Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the licensee. For purposes of this section, that method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

**(d)** All advertising shall be truthful and appropriately substantiated.

*(Amended by Stats. 2017, Ch. 27, Sec. 85. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26152. (BPC)**

A licensee shall not do any of the following:

**(a)** Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

**(b)** Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.

**(c)** Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

**(d)** Advertise or market on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

**(e)** Advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

**(f)** Publish or disseminate advertising or marketing that is attractive to children.

**(g)** Advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

*(Amended by Stats. 2017, Ch. 27, Sec. 86. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26153. (BPC)**

A licensee shall not give away any amount of cannabis or cannabis products, or any cannabis accessories, as part of a business promotion or other commercial activity.

*(Amended by Stats. 2017, Ch. 27, Sec. 87. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26154. (BPC)**

A licensee shall not include on the label of any cannabis or cannabis product or publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of cannabis consumption.

*(Amended by Stats. 2017, Ch. 27, Sec. 88. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26155. (BPC)**

**(a)** The provisions of subdivision (g) of Section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

**(b)** This chapter does not apply to any noncommercial speech.

*(Amended by Stats. 2017, Ch. 27, Sec. 89. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26156. (BPC)**

The requirements of Section 5272 apply to this division.

*(Added by Stats. 2017, Ch. 27, Sec. 90. Effective June 27, 2017.)*



## **CHAPTER 16. Records [26160 - 26162.5]**

### **§ 26160. (BPC)**

- (a)** A licensee shall keep accurate records of commercial cannabis activity.
- (b)** All records related to commercial cannabis activity as defined by the licensing authorities shall be maintained for a minimum of seven years.
- (c)** Licensing authorities may examine the records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections and examinations of records shall be conducted during standard business hours of the licensed facility or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.
- (d)** Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing authority upon request.
- (e)** A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.
- (f)** If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of up to thirty thousand dollars (\$30,000) per individual violation.

*(Amended by Stats. 2017, Ch. 27, Sec. 91. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26161. (BPC)**

- (a)** Every sale or transport of cannabis or cannabis products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the licensing authorities or State Board of Equalization and shall not be commingled with invoices covering other commodities.
- (b)** Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:
  - (1)** Name and address of the purchaser.
  - (2)** Date of sale and invoice number.
  - (3)** Kind, quantity, size, and capacity of packages of cannabis or cannabis products sold.
  - (4)** The cost to the purchaser, together with any discount applied to the price as shown on the invoice.
  - (5)** The place from which transport of the cannabis or cannabis product was made unless transport was made from the premises of the licensee.
  - (6)** Any other information specified by the licensing authority.

*(Amended by Stats. 2017, Ch. 27, Sec. 92. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **§ 26162. (BPC)**

**(a)** Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities 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 chapter, or a local ordinance.

**(b)** Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, and other state and federal laws relating to confidential patient information.

**(c)** Nothing in this section precludes the following:

**(1)** Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

**(2)** Notifications from the bureau or any licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.

**(3)** Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.

**(4)** Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.

**(d)** Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

*(Added by Stats. 2017, Ch. 27, Sec. 93. Effective June 27, 2017.)*

## **§ 26162.5. (BPC)**

Information contained in a physician's recommendation issued in accordance with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 and received by a licensee, including, but not limited to, the name, address, or social security number of the patient, the patient's medical condition, or the name of the patient's primary caregiver is hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by a

licensee 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 chapter, or a local ordinance.

*(Added by Stats. 2017, Ch. 27, Sec. 94. Effective June 27, 2017.)*

## **CHAPTER 18. License Fees [26180 - 26181]**

### **§ 26180. (BPC)**

Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

**(a)** Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26067, but shall not exceed the reasonable regulatory costs to the licensing authority.

**(b)** The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.

**(c)** All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

**(d)** The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Cannabis Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

*(Amended by Stats. 2017, Ch. 27, Sec. 96. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26180.5. (BPC)**

No later than January 1, 2018, the Secretary of Business, Consumer Services, and Housing or his or her designee shall initiate work with the Legislature, the Department of Consumer Affairs, the Department of Food and Agriculture, the State Department of Public Health, and any other related departments to ensure that there is a safe and viable way to collect cash payments for taxes and fees related to the regulation of cannabis activity throughout the state.

*(Added by Stats. 2017, Ch. 27, Sec. 97. Effective June 27, 2017.)*

### **§ 26181. (BPC)**

The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their cannabis programs.

*(Amended by Stats. 2017, Ch. 27, Sec. 98. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **CHAPTER 19. Annual Reports; Performance Audit [26190 - 26191]**

### **§ 26190. (BPC)**

Beginning on March 1, 2023, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities, in compliance with Section 9795 of the Government Code, and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

- (a)** The amount of funds allocated and spent by the licensing authority for cannabis licensing, enforcement, and administration.
- (b)** The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.
- (c)** The average time for processing state license applications, by state license category.
- (d)** The number of appeals from the denial of state licenses or other disciplinary actions taken by the licensing authority and the average time spent on these appeals.
- (e)** The number of complaints submitted by citizens or representatives of cities or counties regarding licensees, provided as both a comprehensive statewide number and by geographical region.
- (f)** The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities.
- (g)** The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.
- (h)** A detailed list of the petitions for regulatory relief or rulemaking changes received by the licensing authorities from licensees requesting modifications of the enforcement of rules under this division.
- (i)**
  - (1)** For the first publication of the reports, the licensing authorities shall provide a joint report to the Legislature regarding the state of the cannabis market in California. This report shall identify any statutory or regulatory changes necessary to ensure that the implementation of this division does not do any of the following:
    - (A)** Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power.
    - (B)** Perpetuate the presence of an illegal market for cannabis or cannabis products in the state or out of the state.
    - (C)** Encourage underage use or adult abuse of cannabis or cannabis products, or illegal diversion of cannabis or cannabis products out of the state.
    - (D)** Result in an excessive concentration of licensees in a given city, county, or both.

**(E)** Present an unreasonable risk of minors being exposed to cannabis or cannabis products.

**(F)** Result in violations of any environmental protection laws.

**(2)** For purposes of this subdivision, “excessive concentration” means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:

**(A)** The ratio of licensees to population in a census tract or census division exceeds the ratio of licensees to population in the county in which the census tract or census division is located, unless reduction of that ratio would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis or cannabis products.

**(B)** The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division, or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

*(Amended by Stats. 2017, Ch. 27, Sec. 99. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26190.5. (BPC)**

The bureau shall contract with the California Cannabis Research Program, known as the Center for Medicinal Cannabis Research, and formerly known as the California Marijuana Research Program, authorized pursuant to Section 11362.9 of the Health and Safety Code, to develop a study that identifies the impact that cannabis has on motor skills.

*(Added by Stats. 2017, Ch. 27, Sec. 100. Effective June 27, 2017.)*

#### **§ 26191. (BPC)**

**(a)** Commencing January 1, 2019, and by January 1 triennially thereafter, the Office of State Audits and Evaluations within the Department of Finance shall conduct a performance audit of the bureau’s activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

**(1)** The actual costs of the program.

**(2)** The overall effectiveness of enforcement programs.

**(3)** Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

**(b)** The Legislature shall provide sufficient funds to the Department of Finance to conduct the triennial audit required by this section.

*(Amended by Stats. 2017, Ch. 27, Sec. 101. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **CHAPTER 20. Local Control [26200 - 26202]**

### **§ 26200. (BPC)**

#### **(a)**

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

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

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

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

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

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

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

**(g)** Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or

cannabis products on the premises of a retailer or microbusiness licensed under this division if all of the following are met:

- (1)** Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older.
- (2)** Cannabis consumption is not visible from any public place or nonage-restricted area.
- (3)** Sale or consumption of alcohol or tobacco is not allowed on the premises.

*(Amended by Stats. 2017, Ch. 27, Sec. 102. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

#### **§ 26201. (BPC)**

Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

*(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

#### **§ 26202. (BPC)**

**(a)** A local jurisdiction may enforce this division and the regulations promulgated by any licensing authority if delegated the power to do so by the licensing authority.

**(b)** A licensing authority shall implement the delegation of enforcement authority in subdivision (a) through an agreement between the licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

*(Amended by Stats. 2017, Ch. 27, Sec. 103. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*



## **CHAPTER 21. Funding [26210 - 26211]**

### **§ 26210. (BPC)**

**(a)** The Marijuana Control Fund, formerly known as the Medical Cannabis Regulation and Safety Act Fund and the Medical Marijuana Regulation and Safety Act Fund, is hereby renamed the Cannabis Control Fund. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on moneys in the fund.

**(b)** Upon the effective date of this section, whenever “Marijuana Control Fund,” “Medical Cannabis Regulation and Safety Act Fund,” or “Medical Marijuana Regulation and Safety Act Fund” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Cannabis Control Fund.

**(c)** Any General Fund or special fund loan that was used to establish and support the regulatory activities of the state licensing entities pursuant to former Section 19351 shall be repaid by the initial proceeds from fees collected pursuant to this division or any rule or regulation adopted pursuant to this division, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

**(d)** The Medical Cannabis Fines and Penalties Account established in former Section 19351 is hereby renamed the Cannabis Fines and Penalties Account.

*(Amended by Stats. 2017, Ch. 27, Sec. 104. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

### **§ 26210.5. (BPC)**

By July 1, 2018, the bureau, in coordination with the Department of General Services, shall establish an office to collect fees and taxes in the County of Humboldt, County of Trinity, or County of Mendocino in order to ensure the safe payment and collection of cash in those counties.

*(Added by Stats. 2017, Ch. 27, Sec. 105. Effective June 27, 2017.)*

### **§ 26211. (BPC)**

**(a)** Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the State Board of Equalization under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.

**(1)** Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the State Board of Equalization, as necessary, to implement the provisions of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

**(2)** Within 45 days of November 9, 2016, the date this section became operative:

**(A)** The Director of Finance shall determine an amount of the initial advance from the General Fund to the Cannabis Control Fund that does not exceed thirty million dollars (\$30,000,000); and

**(B)** There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the State Department of Health Care Services to provide for the public information program described in subdivision (c).

**(b)** Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Cannabis Control Fund to support the activities of the bureau, state licensing authorities under this division, and the State Board of Equalization to support its activities under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

**(c)** The State Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of cannabis and cannabis products to persons under the age of 21 years, describe the penalties for providing access to cannabis and cannabis products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from cannabis use, the potential harms of using cannabis while pregnant or breastfeeding, and the potential harms of overusing cannabis or cannabis products.

*(Amended by Stats. 2017, Ch. 27, Sec. 106. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

## **CHAPTER 22. Cannabis Cooperative Associations [26220 - 26231.2]**

### **ARTICLE 1. Definitions [26220 - 26220.3]**

#### **§ 26220. (BPC)**

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26220.1. (BPC)**

“Association” means any cannabis cooperative that is organized pursuant to this chapter. An association shall be deemed incorporated pursuant to this chapter, or organized pursuant to this chapter and shall be deemed a cultivator of a cannabis product within the meaning of this chapter, if it is functioning under, or is subject to, the provisions of this chapter, irrespective of whether it was originally incorporated pursuant to those provisions or was incorporated under other provisions.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26220.2. (BPC)**

“Member” includes members of associations without capital stock and holders of common stock in associations that are organized with shares of stock.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26220.3. (BPC)**

“Cannabis product” includes any cannabis associated with a licensed cultivator.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **ARTICLE 2. General Provisions [26222 - 26222.6]**

#### **§ 26222. (BPC)**

The purpose of this chapter is to do all of the following:

- (a)** Promote, foster, and encourage the intelligent and orderly marketing of cannabis product through cooperation.
- (b)** Eliminate speculation and waste.
- (c)** Make the distribution of cannabis product as direct as can be efficiently done.
- (d)** Stabilize the marketing of cannabis product.
- (e)** Satisfy the conditions of Section 26052.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26222.1. (BPC)**

An exemption under law that applies to a cannabis product in the possession, or under the control, of the individual cultivator, shall apply similarly and completely to the cannabis product that is delivered by its cultivator members that are in the possession, or under the control, of the association.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26222.2. (BPC)**

A person, firm, corporation, or association, that is hereafter organized or doing business in this state, may not use the word “cannabis cooperative” as part of its corporate name or other business name or title for producers’ cooperative marketing activities, unless it has complied with this chapter.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26222.3. (BPC)**

An association that is organized pursuant to this chapter shall not conspire in restraint of trade, or serve as an illegal monopoly, attempt to lessen competition, or to fix prices in violation of law of this state.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26222.4. (BPC)**

The marketing contracts and agreements between an association that is organized pursuant to this chapter and its members and any agreements authorized in this chapter shall not result in restraint of trade, or violation of law of this state.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26222.5. (BPC)**

The General Corporation Law (Division 1 (commencing with Section 100) of Title 1 of the Corporations Code) applies to each association that is organized pursuant to this chapter, except where those provisions are in conflict with or inconsistent with the express provisions of this chapter. For the purpose of associations organized without shares of stock, the members shall be deemed to be “shareholders” as the term is used in the General Corporation Law.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26222.6. (BPC)**

**(a)** Except as provided in subdivision (c), Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure does not apply to a proprietary interest in an association organized in accordance with this chapter. A proprietary interest that would otherwise escheat to the state pursuant to Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure shall instead become the property of the association.

**(b)** Notwithstanding subdivision (a), no proprietary interest shall become the property of the association under this section unless all of the following requirements are satisfied:

**(1)** At least 60 days' prior notice of the proposed transfer of the proprietary interest to the association is given to the affected member by first-class or certified mail to the last address of the member shown on the association's records, and by publication in a newspaper of general circulation in the county in which the member last resided as shown on the association's records. Notice given pursuant to this paragraph constitutes actual notice.

**(2)** No written notice objecting to the transfer is received by the association from the affected member or, if the member is deceased, from the member's heirs or the executor or executrix of the estate, prior to the date of the proposed transfer.

**(c)** "Proprietary interest" means and includes any membership, membership certificate, membership share, share certificate, or equity or dividend certificate of any class representing a proprietary interest in, and issued by, the association together with all accrued and unpaid earnings, dividends, and patronage distributions relating thereto.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **ARTICLE 3. Purposes [26223- 26223.]**

#### **§ 26223. (BPC)**

**(a)** Three or more natural persons, who are engaged in the cultivation of any cannabis product, may form an association pursuant to this chapter for the purpose of engaging in any activity in connection with any of the following:

**(1)** The cultivation, marketing, or selling of the cannabis products of its members.

**(2)** The growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any product of its members.

**(3)** The manufacturing, selling, or supplying to its members of machinery, equipment, or supplies.

**(4)** The financing of the activities that are specified by this section.

**(b)** Members of a cannabis cooperative shall be disclosed to the licensing authority before the application is processed.

**(c)** Members of a cannabis cooperative formed pursuant to this chapter shall be limited to cultivators who only hold a single Type 1 or Type 2 license.

**(d)** Collectively, members of a cannabis cooperative shall not grow more than four acres of total canopy size of cultivation throughout the state during the period that the respective licensees are valid.

**(e)** No member of a cooperative formed pursuant to this section shall be licensed to operate a cannabis business in another state or country.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

## **ARTICLE 4. Articles of Incorporation [26224 - 26224.2]**

### **§ 26224. (BPC)**

The articles of incorporation of an association shall show that the signers of the articles of incorporation are engaged in the cultivation of cannabis products, and that they propose to incorporate an association pursuant to this chapter, and shall state all of the following:

**(a)** The name of the association.

**(b)** The purposes for which it is formed.

**(c)** The city, county, or city and county where the principal office for the transaction of business of the association is to be located.

**(d)** The number of directors of the association, which shall not be less than three, and the names and addresses of the persons who are to serve as first directors. If it is desired that the first directors shall serve for terms of different lengths, the term for which each person so named to serve shall also be stated.

**(e)** If organized without shares of stock, whether the voting power and the property rights and interest of each member are equal or unequal. If voting power and property rights and interest of each member are unequal, the general rule or rules that are applicable to all members by which the voting power and the property rights and interests, respectively, of each member may be and are determined and fixed shall also be stated.

**(f)**

**(1)** If organized with shares of stock, the number of shares that may be issued and if the shares are to have a par value, the par value of each share, and the aggregate par value of all shares. If the shares are to be without par value, it shall be so stated.

**(2)** If the shares of stock are to be classified, a description of the classes of shares and a statement of the number of shares of each kind or class and the nature and extent of the preferences, rights, privileges, and restrictions that are granted to or imposed upon the holders of the respective classes of stock. Except as to the matters and things so stated, no distinction shall exist between the classes of stock or the holders of them. One class of stock shall always be known as common stock, and voting power may be restricted to holders of common stock.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26224.1. (BPC)**

Articles of incorporation shall be signed, acknowledged, and filed in the manner that is prescribed by the general laws of this state for domestic corporations.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26224.2. (BPC)**

The articles of incorporation of any association may be amended in the manner and for the purposes which are authorized by the General Corporation Law, Division 1 (commencing with Section 100) of Title 1 of the Corporations Code.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **ARTICLE 5. Bylaws [26225 - 26225.95]**

#### **§ 26225. (BPC)**

Each association shall, within 30 days after its incorporation, adopt for its government and management, a code of bylaws, consistent with this chapter. The vote or written assent of shareholders or members that hold at least a majority of the voting power is necessary to adopt the bylaws and is effectual to repeal or amend a bylaw, or to adopt an additional bylaw. The power to repeal and amend the bylaws, and adopt new bylaws, may, by a similar vote, or similar written assent, be delegated to the board of directors, which authority may, by a similar vote, or similar written assent, be revoked.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26225.1. (BPC)**

The bylaws may prescribe the time, place, and manner of calling and conducting its meetings. Meetings of members or stockholders shall be held at the place as provided in the bylaws, or, if no provision is made, in the city, county, or city and county where the principal place of business is located at a place designated by the board of directors. Meetings of the board of directors may be held at any place within or without the state that is fixed by a quorum of the board of directors unless otherwise provided in the articles of incorporation or bylaws.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26225.2. (BPC)**

The bylaws may prescribe the number of stockholders, directors, or members that constitutes a quorum.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26225.3. (BPC)**

The bylaws may prescribe the following:

- (a)** The right of members or stockholders to vote by proxy or by mail or both, and the conditions, manner, form, and effects of those votes.
- (b)** The right of members or stockholders to cumulate their votes and the prohibition, if any, of cumulative voting.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26225.4. (BPC)**

- (a)** The bylaws may prescribe the qualifications, compensation, duties, and term of office of directors and officers and the time of their election.
- (b)** The number of directors set forth in the articles of incorporation shall be either a fixed number or a variable number. If a fixed number, it shall not be less than three, and if a variable number, the stated minimum shall not be less than three and the stated maximum shall not be greater than two times the stated minimum minus one.
- (c)** The number of directors may also be set forth in the bylaws either as a fixed number or as a variable number subject to the same limitations as in subdivision (b). After shares have been issued or members have been admitted, any adoption or amendment of the bylaw provision shall be approved by the outstanding shares as provided in Section 152 of the Corporations Code.
- (d)** In the event of an inconsistency between an article provision referred to in subdivision (b) and a bylaw provision referred to in subdivision (c), the provision more recently adopted or amended shall prevail.
- (e)** If a variable number of directors is set forth in the articles of incorporation or the bylaws, the exact number of directors shall be fixed, within the limits specified, by approval of the board of directors or the shareholders as provided in Section 153 of the Corporations Code in the manner designated in the bylaws.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26225.5. (BPC)**

The bylaws may prescribe penalties for violations of the bylaws.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26225.6. (BPC)**

The bylaws may prescribe the amount of entrance, organization, and membership fees, if any, the manner and method of collection of the fees, and the purposes for which they may be used.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*



#### **§ 26225.7. (BPC)**

The bylaws may prescribe the amount that each member or stockholder shall be required to pay annually, or from time to time, if at all, to carry on the business of the association, the charge, if any, to be paid by each member or stockholder for services that are rendered by the association to him, the time of payment and the manner of collection, and the marketing contract between the association and its members or stockholders that every member or stockholder may be required to sign.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26225.8. (BPC)**

The bylaws may prescribe the amount of dividends, if any, that may be declared on the stock or membership capital. To the extent that dividends are payable out of the excess of association income over association expenses attributable to business transacted with or for members, dividends shall not exceed 8 percent per annum.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26225.9. (BPC)**

The bylaws may prescribe any of the following:

- (a)** The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock.
- (b)** The method, time, and manner of permitting members to withdraw or the holders of common stock to transfer their stock.
- (c)** The manner of assignment and transfer of the interest of members, and of the shares of common stock.
- (d)** The conditions under which, and time when, membership of a member shall cease.
- (e)** The automatic suspension of the rights of a member when he or she ceases to be eligible to membership in the association.
- (f)** The mode, manner, and effect of the expulsion of a member.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26225.95. (BPC)**

**(a)** The bylaws may prescribe any of the following:

- (1)** The manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture of his or her membership, or at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors.
- (2)** The conditions and terms for the repurchase by the association from its stockholders of their stock upon their disqualification as stockholders.

**(b)** If a member is expelled and the bylaws do not provide any procedure or penalty for expulsion, the board of directors shall equitably and conclusively appraise his or her property interest in the association and shall fix the amount of his or her property interest in money, which shall be paid to him or her within one year after such expulsion.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

## **ARTICLE 6. Directors and Management [26226 - 26226.9]**

### **§ 26226. (BPC)**

The affairs of the association shall be managed by a board of not less than three directors who are elected by the members or stockholders.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26226.1. (BPC)**

The bylaws may provide that the territory in which the association has members shall be divided into districts and that directors shall be elected from the several districts. If the bylaws divides the territory into districts for the election of directors, the bylaws shall specify the number of directors to be elected by each district and the manner and method of reapportioning the directors and of redistricting the territory covered by the association.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26226.2. (BPC)**

The bylaws may provide that primary elections shall be held to nominate directors. If the bylaws provide that the territory in which the association has members shall be divided into districts, the bylaws may also provide that the results of the primary elections in the various districts shall be final and shall be ratified at the annual meeting of the association.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26226.3. (BPC)**

The bylaws may provide that the territory in which the association has members shall be divided into districts, and that the directors shall be elected by representatives or advisers, who themselves have been elected by the members or stockholders from the several territorial districts. If the bylaws divide the territory into districts for the election of representatives or advisers who elect the directors, the bylaws shall specify the number of representatives or advisers to be elected by each district and the manner and method of reapportioning the representatives or advisers and of redistricting the territory that is covered by the association.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26226.4. (BPC)**

The bylaws may provide that one or more directors may be chosen by a public official or commission or by the other directors selected by the members. The director shall represent primarily the interest of the general public in the association. The director shall have the same powers and rights as other directors. These directors shall not number more than one-fifth of the entire number of directors.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26226.5. (BPC)**

The bylaws may provide for an executive committee and may allot to the committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26226.6. (BPC)**

An association may provide a fair remuneration for the time that is actually spent by its officers and directors in its service and for the service of the members of its executive committee.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26226.7. (BPC)**

If a vacancy on the board of directors occurs, except by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the bylaws provide for an election of directors by districts. If the bylaws provide for an election of directors by districts, the vacancy shall be filled either by the election of a director from the district in which the vacancy occurs or by the board of directors calling a special meeting of the members or stockholders in that district to fill the vacancy.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26226.8. (BPC)**

**(a)** The directors shall elect a president, one or more vice presidents, a secretary, a treasurer, and such other officers as may be prescribed by the bylaws. Any two or more offices, except those of president and secretary, may be held by the same person.

**(b)** The treasurer may be a bank or a depository and, as such, shall not be considered as an officer, but as a function of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds shall be deposited only as and where authorized by the board of directors.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26226.9. (BPC)**

**(a)** A member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition that is signed by 5 percent of the members, which requests the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer, against whom the charges have been brought, shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses. The person bringing the charges against him or her shall have the same opportunity.

**(b)** If the bylaws provide for election of directors by districts with primary elections in each district, the petition for removal of a director shall be signed by 20 percent of the members that reside in the district from which the director was elected. The board of directors shall call a special meeting of the members who reside in that district to consider the removal of the director. By a vote of the majority of the members of that district at the special meeting, the director in question shall be removed from office.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **ARTICLE 7. Powers [26227 - 26227.9]**

#### **§ 26227. (BPC)**

An association may engage in any activity in connection with the growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any cannabis product that is produced or delivered to it by its members; or any activity in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment, or in the financing of any such activities; or in any one or more of the activities that are specified in this section with a valid license.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26227.1. (BPC)**

An association may borrow without limitation as to the amount of corporate indebtedness or liability and may make advances to members.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26227.2. (BPC)**

An association may act as the agent or representative of any member or members in any of the activities specified in Section 26226.2 or 26226.3.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26227.3. (BPC)**

An association may purchase or otherwise acquire, hold, own, and exercise all rights of ownership in, sell, transfer, pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of an association that is engaged in any related activity or in the growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of a cannabis product that is handled by the association.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26227.4. (BPC)**

An association may establish reserves and invest the funds of the reserves in bonds or in other property as may be provided in the bylaws.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26227.5. (BPC)**

An association may buy, hold, and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conduct and operation of, or incidental to, the business of the association.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26227.6. (BPC)**

An association may levy assessments in the manner and in the amount as may be provided in its bylaws.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26227.7. (BPC)**

An association may do any of the following anywhere:

- (a)** That which is what is necessary, suitable, or proper for the accomplishment of a purpose, or the attainment of an object, that is enumerated in this article.
- (b)** That which is conducive to, or expedient for, the interest or benefit of the association.
- (c)** Contract accordingly.
- (d)** Exercise and possess all powers, rights, and privileges that are necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged.
- (e)** Exercise any other rights, powers, and privileges that are granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this chapter.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26227.75. (BPC)**

An association may use or employ any of its facilities for any purpose, provided the proceeds that arise from such use and employment shall go to reduce the cost of operation for its members. The cannabis products that are handled for, or the services, machinery, equipment, or supplies or facilities that are furnished to, nonmembers shall not, however, exceed in value the cannabis products that are handled for, or the services, merchandise, or facilities that are supplied to, members during the same period.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26227.8. (BPC)**

**(a)** An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other association, with or without capital stock, that is engaged in growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any cannabis product that is handled by the association, or the byproducts of the cannabis product.

**(b)** Any two or more associations that are organized pursuant to this section may be merged into one constituent association or consolidated into a new association. The merger or consolidation shall be made in the manner that is prescribed by the general laws of the state that cover domestic corporations.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26227.9. (BPC)**

**(a)** Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations and arrangements with another cannabis cooperative or association that is formed in this state for the cannabis cooperative and more economical carrying on of its business or any part of its business.

**(b)** Any two or more associations may, by agreement between them, unite in employing and using, or may separately employ and use, the same personnel, methods, means, and agencies for carrying on and conducting their respective business.

*(Amended by Stats. 2017, Ch. 253, Sec. 12. Effective September 16, 2017.)*

### **ARTICLE 8. Financial Provisions [26228 - 26228.3]**

#### **§ 26228. (BPC)**

An association is not subject in any manner to the terms of the Corporate Securities Law (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code), and any association may issue its membership certificates or stock or other securities as provided in this chapter without the necessity of any qualification under that law.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26228.1. (BPC)**

If an association issues nonpar value stock, the issuance of the stock shall be governed by the terms of all general laws that cover the issuance of nonpar value stock in domestic corporations.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26228.2. (BPC)**

If an association with preferred shares of stock purchases the stock or any property, or any interest in any property of any person, it may discharge the obligations that are so incurred, wholly or in part, by exchanging for the acquired interest, shares of its preferred stock to an amount that at par value would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. In that case, the transfer to the association of the stock or interest that is purchased is equivalent to payment in cash for the shares of stock that are issued.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26228.3. (BPC)**

The board of directors of every association shall cause to be sent to the members of the association not later than 120 days after the close of the fiscal or calendar year an annual report of the operations of the association, unless the report is expressly dispensed with in the bylaws. If required by the bylaws, interim reports of the operations of the association for the three-month, six-month, or nine-month periods of the current fiscal year of the association shall be furnished to the members of the association. Such annual report and any such interim reports shall include a balance sheet as of such closing date. Such financial statement shall be prepared from, and be in accordance with, the books. It shall be prepared in a form that is sanctioned by sound accounting practice for the association or approved by a duly certified public accountant or a public accountant.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

## **ARTICLE 9. Members [26229 - 26229.8]**

### **§ 26229. (BPC)**

Under the terms and conditions that are prescribed in the bylaws adopted by it, an association may admit as members or issue common stock only to persons engaged in the cultivation of a cannabis product that is to be handled by or through the association.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26229.1. (BPC)**

If a member of a nonstock association is other than a natural person, the member may be represented by any individual, associate, officer, or manager or member of it, who is duly authorized in writing.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26229.2. (BPC)**

Any association may become a member or stockholder of any other association.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26229.3. (BPC)**

If a member of an association that is established without shares of stock has paid his membership fee in full, he or she shall receive a certificate of membership.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26229.4. (BPC)**

An association shall not issue a certificate for stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but the retention as security does not affect the member's right to vote.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26229.5. (BPC)**

An association, in its bylaws, may limit the amount of common stock that any member may own.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26229.6. (BPC)**

The bylaws shall prohibit the transfer of the common stock or membership certificates of the associations to a person that is not qualified to be a shareholder or member as specified in this chapter. These restrictions shall be printed upon every certificate of stock or membership that is subject to them.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26229.7. (BPC)**

The association may, at any time, as specified in the bylaws, except when the debts of the association exceed 50 percent of its assets, buy in or purchase its common stock at the book value of the common stock, as conclusively determined by the board of directors, and pay for it in cash within one year thereafter.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

#### **§ 26229.8. (BPC)**

A member or stockholder is not liable for the debts of the association to an amount that exceeds the sum that remains unpaid on his membership fee or his subscription to the capital stock,



including any unpaid balance on any promissory note that is given in payment of the membership fee or the subscription to the capital stock.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

## **ARTICLE 10. Marketing Contracts [26230 - 26230.3]**

### **§ 26230. (BPC)**

The association and its members may make and execute marketing contracts that require the members to sell, for any period of time, but not over 15 years, all or a specified part of a cannabis product exclusively to or through the association, or a facility that is created by the association. If the members contract a sale to the association, title to the cannabis product passes absolutely and unreservedly, except for recorded liens, to the association upon delivery or at another specified time that is expressly and definitely agreed in the contract.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26230.1. (BPC)**

Notwithstanding any provisions of the Civil Code, a contract that is entered into by a member or stockholder of an association that provides for the delivery to the association of a cannabis product that is produced or acquired by the member or stockholder may be specifically enforced by the association to secure the delivery to it of the cannabis product.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26230.2. (BPC)**

The bylaws or a marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by him or her of any provision of the marketing contract regarding the sale or delivery or withholding of a cannabis product and may provide that the member will pay all costs, premiums for bonds, expenses, and fees, if any action is brought upon the contract by the association. These provisions are valid and enforceable in the courts of this state. The clauses that provide for liquidated damages are enforceable as such and shall not be regarded as penalties.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

### **§ 26230.3. (BPC)**

If there is a breach or threatened breach of a marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance of the contract. Pending the adjudication of the action and upon filing a verified complaint that shows the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

**ARTICLE 11. Reorganization of Corporations Organized Pursuant to Other Laws**  
**[26231 - 26231.2]**

**§ 26231. (BPC)**

A corporation that is organized or existing pursuant to any law except Title 23 (commencing with Section 653aa) of Part 4 of Division 1 of the Civil Code may be brought under the provisions of this chapter by amending its articles of incorporation, in the manner that is prescribed by the general corporation laws, to conform to this chapter. If a corporation amends its articles of incorporation to conform to this chapter, it shall be deemed to be organized and existing pursuant to, and entitled to the benefit of, and subject to this chapter for all purposes and as fully as though it had been originally organized pursuant to this chapter.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

**§ 26231.1. (BPC)**

Articles of incorporation shall be deemed to conform to this chapter within the meaning of Section 26231 if it clearly appears from the articles of incorporation that the corporation desires to be subject to, and to be organized, exist, and function pursuant to this chapter.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

**§ 26231.2. (BPC)**

If the amended articles conform, as provided in Section 26231.1, provisions in the articles of incorporation that appeared in the original articles or some previous amended articles, are ineffective if, and to the extent that, they are inapplicable to, or inconsistent with, this chapter.

*(Added by Stats. 2017, Ch. 27, Sec. 107. Effective June 27, 2017.)*

**— END OF MAUCRSA —**