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Initiative: Cannabis Policy Reform Act of 2014

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JAN 21 2014

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Request for Circulating Title and Summary Using Amended Language

I, Ed Rosenthal, request that a circulating title and summary of the chief purpose and points of the proposed measure (the Cannabis Policy Reform Act of 2014) be prepared using the amended language of the enclosed.

- 
(Signature of Proponent)
- Dated this 16th day of January, 2014

CANNABIS POLICY REFORM ACT OF 2014

This initiative measure is submitted to the People of the State of California in accordance with provisions of Article II, Section 8 of the California Constitution.

An initiative measure to add Chapter 6.7, entitled "Cannabis Policy Reform", to Division 10 of the Health and Safety Code and adds Section 420 to, and to add Chapter 14.5 (commencing with Section 25400) to Division 9 of the Business and Professions Code, to amend Section 68152 of the Government Code, to amend Sections 11014.5, 11054, 11364.5, 11370, 11470, 11479, 11488, 11532, 11703, and 11705 of, to add Division 10.3 (commencing with Section 11720) to, and to repeal Sections 11357, 11358, 11359, 11360, 11361, and 11485 of, the Health and Safety Code, to add Part 14.6 (commencing with Section 34001) to Division 2 of the Revenue and Taxation Code, to repeal Section 23222(b) and amend 40000.15 of the Vehicle Code, and to amend Section 18901.3 of the Welfare and Institutions Code, relating to cannabis.

SECTION 1: Title

This Act shall be known and may be cited as the Cannabis Policy Reform Act of 2014.

SECTION 2: Findings and Declarations

The People of the State of California hereby find and declare all of the following:

- (A) Existing marijuana laws have created a violent, criminal drug market.
- (B) Millions of criminal justice and court resources are spent each year enforcing marijuana laws that could otherwise be spent on preventing violent crime.
- (C) Existing marijuana laws have a disproportionate impact on African-American and Latino communities.
- (D) Marijuana has been used medicinally to relieve pain and treat medical conditions by thousands of people in California for more than fifteen years.
- (E) Regulating, controlling, and taxing marijuana like alcohol will save criminal justice resources, reduce violent crime, reduce racial disparities, and generate revenue for California.
- (F) Industrial hemp is produced in at least 30 nations to produce thousands of products including paper, textiles, food oils, automotive parts, and personal care products.
- (G) Hundreds of millions of dollars of industrial hemp products are sold in the United States.

(H) California manufacturers of hemp products import tens of thousands of acres worth of hemp products from other parts of the world that could have been produced by California farmers.

SECTION 3: Purposes and Intents

The People of the State of California hereby declare that the intents and purposes of this Act are:

(A) To remove all existing civil and criminal penalties for adults 21 years of age or older who cultivate, possess, transport, sell, or use cannabis subject to the provisions of this act, without impacting existing laws proscribing dangerous activities while under the influence of cannabis, or certain conduct that exposes children to cannabis.

(B) To ensure that the proper regulatory apparatus for cannabis sale and cultivation is implemented.

(C) To prevent the distribution of marijuana to minors.

(D) To prevent revenues from the sale of marijuana from going to criminal enterprises, gangs, and cartels.

(E) To prevent the diversion of marijuana to states where it is not legal.

(F) To prevent state-authorized marijuana activity from being used as a cover or pretext for the trafficking of illegal drugs or other illegal activity.

(G) To prevent violence and the use of firearms in the cultivation and distribution of marijuana.

(H) To prevent drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use.

(I) To prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands.

(J) To clarify and standardize regulations statewide regarding personal use and production, as well as the commercial manufacture and sale of cannabis and its derivatives.

(K) To raise tax revenues for California for education.

(L) That nothing in this act is intended to require any individual or entity to engage in any conduct that violates federal law or to exempt anyone from any requirement of federal law.

(M) To make cannabis available for scientific, medical, industrial, and research purposes.

SECTION 4: Definitions

Section 11018 of the Health and Safety Code is amended to read:

11018. "Marijuana" or "cannabis" mean all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It 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, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include industrial hemp as defined in Section 11018.5, except where the plant is cultivated or processed for purposes not expressly allowed by Division 24 (commencing with Section 8100) of the Food and Agriculture Code.

Section 11018.5 of the Health and Safety Code is amended to read:

11018.5. "Industrial hemp" means a fiber or oilseed crop, or both, that is limited to non-psychoactive types of the plant *Cannabis sativa* L., and the seed produced therefrom, having no more than five-tenths of one percent tetrahydrocannabinol (THC) contained in the dried flowering tops, and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, the flowering tops, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

SECTION 5: Repeal of Marijuana Prohibition

The following sections are hereby repealed from the Health and Safety Code: Section 11054(d)(13), Section 11054(d)(20), Section 11357, Section 11358, Section 11359, Section 11360, Section 11361, and Section 11485. Section 23222(b) of the California Vehicle Code is hereby repealed. Cannabis related activities are hereby removed from the prohibitions contained within Health and Safety Code Sections 11014.5, 11364.5, 11364.7, 11365, 11366, 11366.5, 11379.6, 11470, 11488, 11488.5, 11570, 11703, 11705.

(b) Health and Safety Code Section 11361.5 is amended to include prior violations of Health and Safety Code Section 11357, 11358, 11359, 11360, 11361, as well as cannabis related violations of Health and Safety Code Section 11365, 11366, 11366.5, 11379.6, and Vehicle Code Section 23222(b).

(c) Section 11421 is added to the Health and Safety Code to read:

11421. Except as provided herein, it is lawful, and not a crime, public offense, or cause for incarceration, for an adult to use, possess, share, cultivate, process, transport, distribute and sell to other adults 21 years of age or older, or otherwise engage in cannabis related activities consistent with the provisions of this act. It is lawful and not a violation of California law for a person 21 years of age or older to smoke or consume cannabis in one's home, in any privately owned property with the owner's consent, or in public where not prohibited by the facility management. It is lawful for adults 21 years of age or older to cultivate cannabis. Cannabis may be cultivated on privately owned property unless the owner objects.

SECTION 6: Cannabis Regulation

Sections 11422, 11423, 11424, 11425, 11426, 11427, and 11428 are added to the Health and Safety Code, to read:

11422(a). The California Department of Alcohol Beverage Control (ABC) shall promulgate rules and regulations concerning the industrial, research, scientific, medical, and commercial cannabis regulatory regime. The ABC shall have exclusive power, except as herein provided, to control, license, permit, or otherwise authorize the commercial and industrial cultivation, manufacturing, processing, testing, transportation, distribution and sale of cannabis and to collect license fees or taxes on account thereof.

(b) The ABC shall fully implement the regulatory regime created herein within 12 months from the passage of this Act. The commercial cultivation, processing, transportation, distribution, and sale of cannabis shall not be lawful until 12 months from the passage of the Act. All regulations promulgated and enforced by the ABC shall be unified, to the extent possible, with the California Alcoholic Beverages Control Act. This includes, but is not limited to, age verification measures to ensure only adults aged 21 and over can purchase marijuana, an allowance of safe onsite consumption of cannabis at cannabis related businesses, environmental protections, and penalties for diversion to minors.

(c) The ABC shall have exclusive power to suspend or revoke any specific cannabis license if it shall determine for good cause that the granting or continuance of such license following analogous procedures as those used for alcohol and set forth herein. These regulations shall include appropriate controls on the licensed premises for commercial production, cultivation, processing, transportation and sale of cannabis. This includes, but is not limited to, age verification measures to prevent the diversion of cannabis to minors, prohibitions on the use of firearms at cultivation, processing, or distribution facilities, and regulations concerning zoning, land use, locations, size, hours of operation, occupancy, protection of adjoining and nearby properties, and other environmental and public health controls. These regulations may not include bans, actual or *de facto*, of the conduct permitted by this Act.

(d) Any regulations created and enforced by the ABC or local governments shall not infringe on the individual rights set forth in this Act. Any taxes, regulations, fines and fees imposed pursuant to this section shall not be imposed on adults, aged 21 and older, with personal amounts of cannabis.

“Personal amounts of cannabis” includes all cannabis produced from a personal garden, or three pounds of dried processed marijuana, whichever is greater.

- (1) An indoor personal garden using electric lights will be measured by the total wattage used by the lights in all phases of growth. The total watts used by the lights can be no more than 2600 per individual.
- (2) Outdoor personal gardens or greenhouses are permitted. Their total size can be no more than 100 square feet per individual.
- (3) Up to three individuals can maintain a personal garden located on a residential property. More than three individuals can maintain a personal garden collectively or cooperatively in an area zoned industrial or agricultural. A residence on this property does not preclude cultivation of such a garden.
- (4) The presence of persons younger than 18 years of age in a household does not make the cultivation unlawful nor shall it be used in any manner to diminish parental rights or justify the removal of a child from the home unless the child’s physical health and wellbeing is in actual imminent danger.
- (5) These size limitations do not apply to medical gardens grown by qualified patients or their primary caregivers under the provisions of the California Compassionate Use Act.

(e) The California Department of Food and Agriculture (DFA) shall oversee the medical, commercial and industrial cultivation of cannabis. The regulations promulgated pursuant to this subsection shall be consistent with the provisions of the Food and Agriculture Code related to the production of consumable plant crops and vineyards. This shall include provisions for the permitting, tracking and inspection of all cannabis that is cultivated for commercial or industrial purposes.

(f) The California Department of Public Health (DPH) shall oversee the processing and distribution of medical cannabis pursuant to Section 11425. The DPH and DFA shall work together to regulate the cultivation and distribution of medical cannabis and the issuance and enforcement of the Class M license pursuant to Business and Professions Code Section 420.1(m).

(g) The California Environmental Protection Agency shall create any rules necessary to protect the environment, including regulations limiting the use of pesticides, controlling water diversion, and preventing other forms of pollution generated by the commercial and industrial cultivation of cannabis.

11423(a). The ABC shall work with the California Board of Equalization and any other executive and legislative entities to develop a fee and taxation structure that can be implemented for cannabis in a manner similar to that of alcohol subject to the provisions of this Act.

11424(a). Local jurisdictions shall have the right to restrict personal gardens that are visible from the street or other publicly accessible property. Counties and cities retain the ability to regulate land use, zoning, and nuisances of cannabis related activities in a manner consistent with this Act and subordinate to all State implementations of this Act. Local jurisdictions may not pass ordinances that restrict commercial cultivation in agricultural districts; neither may they ban access in their districts to medical cannabis by qualified medical cannabis patients.

All proposed regulations by local government agencies specific to open or proposed marijuana businesses otherwise within proper zoning and otherwise compliant with state and local law are subject to a referendum to be held at regular elections on any proposal to prohibit cultivation, processing, or sales. The proposals are not enforceable until they have been approved by popular vote.

(b) This Act authorizes the State of California to prevent the diversion of marijuana to states where it is illegal and generally control the importation and exportation of cannabis through the provisions of 21 U.S.C. Section 873.

11425. This Act shall not adversely affect the individual rights and protections afforded by California Health and Safety Code Sections 11362.5 through 11362.83. Schools, employers, and/or landlords may not discriminate against, nor penalize a person, solely for their status as a qualified patient or primary caregiver unless failing to do so would put the school, employer, or landlord in violation of federal law or cause it to lose a federal contract or funding. A person may not be denied medical care, including organ transplants, on the basis of their status as a qualified patient. A patient's use of marijuana shall not constitute the use of an illicit substance.

11426(a). Except as authorized by law, every person under the age of 21 who possesses, cultivates, or transports cannabis in a manner as defined by section 11422(d) is guilty of an infraction.

(b) Except as authorized by law, every person 21 years of age or older who furnishes cannabis to a person under the age of 18 shall be guilty of a misdemeanor. Except as authorized by law, every person 21 years of age or older who furnishes cannabis to a person under the age of 21, but 18 years of age or older, shall be guilty of an infraction. Cannabis related conduct that contributes to the delinquency of a minor may also be punished by Penal Code section 272.

(c) It is an infraction to consume cannabis while operating a vehicle, boat, or aircraft, upon a school or public bus, on school grounds other than at a college or university or in a children's playground.

(d) It is an infraction to smoke cannabis on public streets, sidewalks, parks, or in designated non-smoking areas unless authorized by the owner or designated authority.

(e) Driving while impaired by cannabis shall be punished by Vehicle Code Sections 23103, 23152(a), and 23153.

11427(a). Except as provided in Section 11427(d) the unlawful cultivation of cannabis shall be punished as a misdemeanor or an infraction. Unlawful cultivation occurs when cannabis is grown outside of the regulations promulgated pursuant to Sections 11422(a), 11422(b), 11422(c), 11422(e), 11422(f), 11422(g) and 11424(b). Nothing in this Act shall prevent prosecution under other statutes related to environmental protection.

(b) Except as provided in Section 11427(d), the unlawful sale of cannabis shall be punished as a misdemeanor or an infraction. The unlawful sale of cannabis occurs when cannabis is sold outside of the regulations promulgated pursuant to Sections 11423 and 11424(b).

(c) Except as provided in Section 11427(d), the transportation or possession of untaxed cannabis in excess of the personal use quantity defined in Section 11422(d) shall be punished as an infraction or misdemeanor.

(d) The following activities may be punished as either a misdemeanor or a felony:

(1) The sale of marijuana to children under the age of 16.

(2) The diversion of marijuana to states where it is not legal.

(3) The use of violence, coercion, or duress in the unlawful cultivation or unlawful distribution of marijuana.

(4) Gross pollution or environmental destruction caused by the unlawful cultivation of marijuana.

(5) Cultivation on public land or on private property where prohibited by the owner.

11428(a). No public agency shall alter, amend, assess, condition, deny, limit, postpone, qualify, revoke, surcharge, or suspend any certificate, franchise, incident, interest, license, opportunity, permit, privilege, right or title of any person because of cannabis use or other conduct permitted by this Act.

SECTION 7

Sections 420, 420.1, 420.2, 420.3, 420.4, 420.5, 420.6, 420.7, 420.8, 420.9, 430, 430.1, and 430.2 are added to the Business and Professions Code, to read:

420. The regulation of commercial cannabis cultivation, processing, transportation, distribution, and sales shall fall under the purview of the ABC. The ABC shall issue

licenses authorizing the cultivation, processing, transportation, distribution, and wholesale and retail sales of cannabis, cannabis seeds, and cannabis plants.

420.1. The classification of the licenses administered by the ABC is initially set as delineated herein. The ABC, or the Legislature, may later modify these licenses in order to better effectuate the purposes of this Act. The ABC shall issue licenses to all qualifying applicants. Unless otherwise provided herein, a holder of any valid license may hold any of the other various licenses permitted herein, except they may hold a license for only one class in Class A, Class B, Class C, or Class D.

Commercial cultivators and processors involved in germination, cultivation, processing, packaging, conversion, extraction, and wholesale sales of cannabis to licensed manufacturing, processing, or cultivation facilities that produce only cannabidiol (CBD)-containing cannabis including hemp need not apply for a special license. Vendors of products containing only CBD also need not apply for a special license. Both these groups must register with the ABC and maintain regular business licenses. These businesses are subject to inspection for compliance by the ABC. Any cannabis variety or strains containing less than one half of one percent THC shall be deemed hemp strains suitable for cultivation.

(a) A "Class A" license shall apply to outdoor commercial cannabis cultivators who cultivate between 21,780 square feet (one half acre) and 43,560 square feet (one acre) of plant canopy. This license shall authorize the germination, cultivation, processing, packaging, and wholesale sale of cannabis to a licensed manufacturing, processing, cultivation, or retail facility. A holder of this license may sell cannabis to any licensee holding a valid license authorized pursuant to this section and licensee may hold various classes of licenses. All holders of this license must declare how the cannabis will be processed consistent with similar regulations enforced by the California Department of Food and Agriculture.

Holders of this license must comply with all environmental rules and regulations pertaining to the cultivation of an agricultural crop produced for human consumption. Any processing occurring at the cultivation site may be subject to additional zoning requirements, and inspection by the local health department. The holder of a Class A license may not be issued more than one Class A license. This license shall be subject to the provisions of Section 11422(e) of the Health and Safety Code.

(b) A "Class B" license shall authorize the same privileges and restrictions as a Class A license, but shall apply to cultivators who are cultivating up to 21,780 square feet of plant canopy. The holder of a Class B license may not be issued more than three Class B licenses. This license shall be subject to the provisions of Section 11422(e) of the Health and Safety Code.

(c) A "Class C" license authorizes the same privileges and restrictions as a Class A license, but shall apply to cultivators who are cultivating up to 10,000 square feet of plant canopy. The holder of a Class C license may not be issued more than three Class C licenses. This license shall be subject to the provisions of Section 11422(e) of the Health

and Safety Code.

(d) A “Class D” license authorizes the same privileges and restrictions as a Class A license. This class of license shall apply to cultivators who cultivate no more than 1000 square feet of plant canopy outdoors or who process amounts of cannabis commensurate with that amount of plant canopy. The holder of a Class D license may not be issued more than three Class D licenses. This license shall be subject to the provisions of Section 11422(e) of the Health and Safety Code.

Holders of one class of cultivation license (A, B, C or D) may not hold licenses for other classes of cultivation. Holders of this license shall be subject to additional regulations relevant to the cultivation of cannabis. A holder of this license must maintain the requisite electrical, plumbing and environmental permits as required by the city, county and/or state. This license may also be subject to controls related to electrical consumption and the disposal of waste associated with the cultivation facility. All commercial cultivation is subject to relevant zoning laws.

(e) A “Class E” license authorizes the manufacturing and packaging of processed cannabis. The ABC shall develop the rules, regulations, and procedures necessary for the inspection, tracking, and labeling of all licensed cannabis manufacturing facilities and the cannabis contained therein. This license may be issued for continuous use or for specific seasonal operations. The California Department of Public Health or local health agency may be designated to enforce the provisions of this class of license. The ABC shall create separate subclasses of the Class E license for the manufacturing of edibles and the manufacturing of extracts and concentrates. The holders of this license may distribute cannabis to a licensed retail or wholesale entity. All cannabis subject to the Class E license must be clearly labeled to show the following: compliance with the California Health and Safety Code for food packaged and labeled for human consumption, the THC and CBD (cannabidiol) content of the cannabis, and a warning that reads: “For Adult Consumption Only, Not For Children”.

(f) A “Class F” license authorizes the sale of cannabis for consumption on the premises where sold. The cultivation, production, processing, distributing, and manufacturing of cannabis is not subject to this class of license. This license shall be used for any establishment exclusively dedicated to adult cannabis use and sales as well as to any bona fide eating or drinking establishment seeking to permit cannabis consumption on premises. This license authorizes the on-premises retail sale of cannabis and on-premises consumption of cannabis indoors and/or outdoors. A city or county may mandate that air-cleaning equipment be used for premises seeking to permit indoor cannabis smoking in their jurisdiction. The number of Class F licenses issued may be capped by the ABC pursuant to population density in a manner identical to similar caps as related to alcohol. The ABC shall promulgate regulations necessary for the tracking and inspection of all retail sales of cannabis.

(g) A “Class G” license authorizes the sale of cannabis only for off-premises consumption. This shall include seeds, clones, and larger plants. The cultivation, production, processing, distributing, and manufacturing of cannabis is not subject to this

class of license. This license shall be used for any establishment dedicated to cannabis sales as well as to any establishment not primarily dedicated to the sale of cannabis, such as convenience stores.

(h) A “Class H” license is a private club license that authorizes the same privileges and restrictions as Class C, Class D, Class E, and Class F licenses and applies to members and guests only, for production and consumption of cannabis only on the premises where sold. The ABC may issue further regulations related to this class of license. It is subject to the same taxation regulations as other licenses.

(i) A “Class I” license is a license authorizing the scientific and medical research of cannabis. The cultivation, production, processing, conversion, extraction, testing and other related activities are subject to this research license. This license does not confer the right to transfer or sell consumable products containing THC except for use in specific research projects.

(j) A “Class J” license is a special event license issued to event producers who do not qualify for a Class H license. It authorizes the sale of cannabis during an event to guests and attendees for on- or off-premises consumption. This license shall be used for farmers markets, festivals, parties, and other similar events. This license only becomes valid when the license holder has obtained event insurance. Holders of Class J licenses will be subject to the same taxes as other retailers.

(k) A “Class K” license is a license authorizing the brokering of cannabis and cannabis-containing derivatives between the various classes of license holders.

(l) A “Class L” license is a license authorizing the testing and labeling of cannabis produced and distributed by other classes of license holders.

(m) A “Class M” license is a license authorizing medical cannabis dispensaries pursuant to California Health and Safety Code Section 11362.5 through 11362.83. This license shall also be used for the commercial cultivation, processing, distribution, and sales of medical cannabis. This license shall be subject to the provisions of Section 11422(f) of the Health and Safety Code. Dispensaries lawfully operating under California Health and Safety Code Section 11362.5 through 11362.83 and local ordinances as of November 5, 2014 are automatically eligible for Class M licenses.

420.2 The ABC shall levy fees on the issuance of licenses pursuant to this Act in a manner designed to cover the costs of assuring compliance with the regulations to be issued.

420.3 The ABC shall issue and enforce regulations concerning commercial cultivation, manufacturing, distributing, transporting, testing, and selling of cannabis that provide for all of the following:

(a) Adequate security measures to protect against the unauthorized access or diversion of cannabis from the cultivator, processor, distributor, transporter, tester, manufacturer or seller in a manner not permitted by the Act. These regulations may include recordkeeping

provisions to ensure transparency of finances and non-diversion into a criminal market.

(b) The holders of all Classes of licenses must submit to an inspection and tracking system to ensure non-diversion and that all cannabis produced by the licensee that is sold is assessed pursuant to Part 14.6 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code. The license holder must also provide a detailed crop security plan, along with satisfactory proof of the ability of the licensee to provide for that security.

(c) Holders of all Classes of licenses shall be subject to inspection and tracking to ensure that cannabis is not sold by a licensee if that cannabis has not been manufactured subject to an assessment provided for in Part 14.6 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code.

(d) The holder of any commercial license may be subject to regulations adopted by the ABC pursuant to this chapter.

(e) Punishments for violations by licensees shall be in substantial accord with those applicable to the regulation of alcohol sales, including penalties for permitting persons under 21 years of age to purchase THC containing cannabis products and other appropriate regulatory provisions concerning such matters as the time of sale, deliveries, and signage. It is the intent of the people in enacting this act that the regulation of cannabis sales be consistent with the statutory guidance regarding alcohol sales in Chapter 16 (commencing with Section 25600) to the extent that consistency is feasible.

420.4(a). The ABC will appoint a Cannabis Appeals Board. The Cannabis Appeals Board (the "Board"), shall exercise the powers as are vested in it by this chapter and may adopt such rules pertaining to appeals and other matters within its jurisdiction as may be required.

The Board and its duly authorized representatives in the performance of its duties under this chapter shall have the powers of a head of a department as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code 26081. Any person aggrieved by a final decision of the ABC issuing, denying, suspending, revoking, or ordering any penalty assessment against a registration for the cultivation, manufacture, testing, transportation, storage, distribution, sale, purchase, or possession of cannabis may appeal to the board, which shall review the decision subject to the limitations that may be imposed by the Legislature.

(b) No decision of the ABC shall become effective during the period in which an appeal may be filed, and the filing of an appeal shall stay the effect of the decision until such time as a final order is made by the Board.

(1) The review by the Board of a decision of the ABC shall be limited to whether:

(A) The ABC has proceeded without, or in excess of, its jurisdiction.

(B) The ABC has proceeded in the manner required by law.

(C) The decision is supported by the findings.

(D) The findings are supported by substantial evidence in the light of the whole record.

420.5. Each order of the Board on appeal from a decision of the ABC shall be in writing and shall be filed by delivering copies to the parties personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure. Each order shall become final upon being filed as provided in this section, and there shall be no reconsideration or rehearing by the Board.

420.6(a). Any person affected by a final order of the Board, including the ABC, may apply only to the Supreme Court or to the Court of Appeal of the appellate district in which the proceeding arose, for a writ of review of the final order. The application for a writ of review shall be made within 30 days after filing of the final order of the Board.

(b) No court of this state, except the Supreme Court and the Court of Appeal to the extent specified in this article, shall have jurisdiction to review, affirm, reverse, correct, or annul any order, rule, or decision of the Department, or to suspend, stay, or delay the operation or execution of it, or to restrain, enjoin, or interfere with the Department in the performance of its duties, but a writ of mandate shall lie from the Supreme Court or the Court of Appeal in any proper case.

(c) No decision of the ABC that has been appealed to the Board and no final order of the Board shall become effective during the period in which application may be made for a writ of review, as provided in this section.

(d) 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 the Department, 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 ABC subject to review, upon the terms and conditions that it by order directs.

420.7. The writ of review shall be made returnable at a time and place specified by court order and shall direct the board to certify the whole record of the ABC in the case to the court within the time specified. No new or additional evidence shall be introduced in the court, but the cause shall be heard on the whole record of the Department as certified to by the Board.

420.8(a). The review by the court shall not extend further than to determine, based on the whole record of the ABC as certified by the Board, whether:

(1) The ABC has proceeded without or in excess of its jurisdiction.

(2) The ABC has proceeded in the manner required by law.

(3) The ABC's decision is supported by the findings.

(4) The findings in the ABC'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 Board.

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

430. The Board, the ABC, and each party to the action or proceeding before the Board 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 ABC or the court may remand the case for further proceedings before or reconsideration by the ABC.

430.1. 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 article. A copy of every pleading filed pursuant to this article shall be served on the Board, the ABC, and on each party who entered an appearance before the Board.

430.2. Whenever any matter is pending before the Board or a court of record involving a dispute between the ABC and a registrant, and the parties to the dispute agree upon a settlement or adjustment of it, the court shall, upon the stipulation by the parties that an agreement has been reached, remand the matter to the ABC.

SECTION 8

Section 4. Part 14.6 (commencing with Section 34001) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 14.6. CANNABIS TAXES

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

34001. It is the intent of the people in enacting this part to utilize any revenues generated from the commercial regulation of cannabis for the public benefit by enacting a tax on cannabis.

34002. This part shall be known and may be cited as the "Cannabis Tax Law".

34003. Except where the context otherwise requires, the definitions set forth in Part 1 (commencing with Section 6001) govern the construction of this part.

34004. The Cannabis Tax may be imposed on all classes of license other than a Class I or Class M license.

CHAPTER 2. IMPOSITION OF TAX

34011(a). All businesses that sell cannabis related products shall be subject to a tax based on their gross sales of non-medicinal THC-containing products. This tax is not a substitute for any other taxes. It will be collected in addition to any other taxes that apply, except as provided in Section 34011(b). There shall be a minimum of three sectors of cannabis production:

- (1) Cultivation and manicuring
- (2) Wholesale sales
- (3) Retail sales

In addition there may be a fourth sector: Processing into edibles, concentrates or other products for consumption. There may also be other sectors that have not yet developed but that may develop in the future.

The businesses from each sector shall pay the tax at the rate of six percent (6%) of gross receipts from sales of THC-containing products whether produce or processed products.

Vertically integrated companies shall pay the tax on the “virtual sale” of the product as it transfers from one sector to another. Direct sales by farmers to the public will not be subject to a wholesale tax, but shall be subject only to the retail tax.

For the purpose of this section a farmer is defined as a business that derives more than seventy-five percent (75%) of gross cannabis income from cultivating cannabis.

For the purpose of this section a “virtual sale” is defined as a transfer from one sector to another. In each sector, the “value or cost” of each transfer will be determined as a percentage of the retail price and the customary industry mark-up policy. These taxes cannot be collected before the final product is sold.

(b) Exemption for medicinal preparations. Products licensed solely for medicinal use pursuant to Section 420.1(m) may be exempted from taxes under Section 34011(a) at the processing, wholesale, and retail levels upon the determination of the Department of Health. This category shall include (1) products whose cannabinoid content exceeds sixty-six percent (66%) CBD (cannabidiol); (2) herbal balms, poultices and cosmetics formulated for external use only; and (3) other purely medicinal products designated by the Department of Health. This exemption shall not apply to any product that is also licensed for non-medicinal use or is mainly used for non-medical purposes.

(c) Class L facilities shall be subject to a one percent (1%) tax based on the gross receipts received for their cannabis testing services. This tax is not a substitute for any other taxes.

(d) Cities or Counties shall be allowed to impose up to an additional five percent (5%) sales tax on retail sales of non-medicinal marijuana products. This tax will be configured with the regular sales tax. Patients requiring cannabis for the treatment of serious debilitating illnesses shall be exempt from all retail taxes on cannabis upon the approval of their primary care physician. The State Department of Health will oversee and issue identification for these patients.

- (1) Should a county impose a sales tax, it will share the revenue from the tax with the city in which the sale was made with the county receiving fifty percent (50%) and the city receiving fifty percent (50%). Cities and towns within a county that imposes a special-marijuana sales tax would be precluded from adding additional taxes on the sale. This tax will be configured with the regular sales tax at the time of purchase but the full amount of the additional tax will be retained by the county and city.
- (2) Should there be no sales tax imposed by a county, cities within the county are permitted to impose a special-marijuana sales tax of five percent (5%). This tax will be configured with the regular sales tax at the time of purchase but the full amount of the additional tax will be retained by the city.

(e) Neither the county or city, nor state agencies may impose any cannabis-specific or cannabis business-specific taxes other than those specified in this initiative.

CHAPTER 3. COLLECTION AND ADMINISTRATION

34021. To the extent feasible or practicable, the provisions of Chapter 5 (commencing with Section 6451), Chapter 6 (commencing with Section 6701), Chapter 7 (commencing with Section 6901), and Chapter 8 (commencing with Section 7051) of Part 1 shall govern returns and payments, determinations, collections of fees, overpayments and refunds, and administration under this part.

34022. The ABC shall enforce this part and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The ABC may prescribe the extent to which any ruling and regulation shall be applied without retroactive effect.

CHAPTER 4. DISPOSITION OF PROCEEDS AND ADJUSTMENT OF THE TAX

34031. Any amount due to the state under this part shall be paid in the form of a remittance payable to the State Board of Equalization.

34031(a). The Cannabis Tax Fund is hereby created in the State Treasury. The Fund shall consist of all revenues deposited therein pursuant to this part.

(b) Moneys in the Fund shall be appropriated as follows:

- (1) Forty percent (40%) to the county government in which the funds were collected. If it was collected in a city, the county and the city will divide these funds equally.
- (2) Thirty percent (30%) to the state's General Fund.
- (3) Twenty percent (20%) to education, divided as follows:

- a) Five percent (5%) to preschool education for student instruction.
- b) Five percent (5%) to primary school education for student instruction.
- c) Five percent (5%) to secondary school education for student instruction.
- d) Five percent (5%) to community colleges for student instruction.

(4) Five percent (5%) to research programs to:

- (a) Evaluate the safety and efficacy of marijuana for medical and social purposes
- (b) Assess and advance scientific methods for addressing drug abuse, driving and employment safety concerns
- (c) Evaluate the impact and implementation of this act.

(5) Five percent (5%) to drug education, and drug abuse prevention and treatment programs.

SECTION 9

Section 18901.3 of the Welfare and Institutions Code is amended to read:

18901.3. (a) Subject to the limitations of subdivision (b), pursuant to Section 115(d)(1)(A) of Public Law 104-193 (21 U.S.C. Section 862a(d)(1)(A)), California opts out of the provisions of Section 115(a)(2) of Public Law 104-193 (21 U.S.C. Section 862a(a)(2)) with respect to marijuana offenses. A convicted marijuana felon shall be eligible to receive food stamps under this section.

SECTION 10

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

SECTION 11

The provisions of this Act are severable. If any provision of this Act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 12. The provisions of this Act shall become effective November 5, 2014.