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REQUEST TO APPEAR  
BEFORE THE FRESNO CITY COUNCIL

2013 JAN 24 PM 1:07  
CITY CLERK, FRESNO CA

On April 1, 1980, the Fresno City Council adopted a policy relating to procedures to be used for those persons wishing to appear before the Fresno City Council, as follows:

SCHEDULED ORAL COMMUNICATIONS – APPEARANCES ON PRINTED AGENDA

In order to be placed on the agenda for a scheduled time, complete and submit the form below. State the topic to be discussed and provide any supporting material, if any. Also state the action you want the City Council to take. Your request will be referred to the City Manager and placed on the agenda no sooner than ten (10) days after receipt of your written letter in order to provide an opportunity for City staff to prepare comments for Council consideration. The policy is to limit your presentation to three (3) minutes pursuant to Ordinance 96-67. The City Clerk shall provide copies of your request to the Fresno City Council.

UNSCHEDULED ORAL COMMUNICATIONS

You may address the City Council at the conclusion of the Council meeting and the policy is to limit your presentation to three (3) minutes pursuant to Ordinance 96-67. Please be present at the conclusion of the Council meeting if you wish to be heard.

REQUEST TO APPEAR BEFORE THE FRESNO CITY COUNCIL

Name Rick Morse

Address ██████████ Fresno, CA 93728

Telephone No. (559) ██████████ Date: 1-24-14

Topic: The Future of Marijuana in the City of Fresno

Action (if any): Further discussion

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December 18, 2013

VIA HAND DELIVERY

Ms. Ashley Johansson  
Initiative Coordinator  
Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814-2919

RECEIVED

DEC 19 2013

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICERe: Request for Title and Summary for Re-submitted Proposed Initiative

Dear Ms. Johansson:

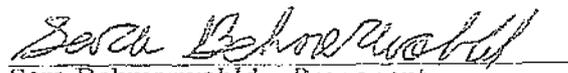
Pursuant to Article II, Section 10(d) of the California Constitution, this letter respectfully requests that the Attorney General prepare a circulating title and summary of the enclosed proposed statewide initiative: "The Control, Regulate and Tax Marijuana Act." The proposed initiative is substantially similar to the identically-titled initiative which we submitted to your office on December 5, 2013, though it includes certain substantive amendments. Also enclosed are the required signed statements pursuant to California Elections Code sections 9001 and 9608, and a check in the amount of \$200.

Please direct all queries and correspondence regarding this proposed initiative to:

Jesse Mainardi  
Sutton Law Firm  
150 Post Street, Suite 405  
San Francisco, CA 94108  
415/732-7700  
[jmainardi@campaignlawyers.com](mailto:jmainardi@campaignlawyers.com)

Thank you for your time and attention to this matter.

Sincerely,

  
Sara Behmerwohld - Proponent

12/18/13  
Date

Enclosures

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## THE CONTROL, REGULATE, AND TAX MARIJUANA ACT

### SECTION 1. Title.

This Act shall be known as "The Control, Regulate, and Tax Marijuana Act."

### 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 failed to prevent minors from accessing marijuana.

(b) Millions of dollars of criminal justice and court resources are spent each year enforcing marijuana laws that could otherwise be spent preventing and solving violent crimes and property-related crimes.

(c) Existing marijuana laws have created illegal production and distribution systems that have empowered violent drug cartels.

(d) Existing marijuana laws have contributed to environmental degradation.

(e) Strictly controlling, regulating and taxing marijuana will save criminal justice resources, reduce crime, including violent crime, benefit the environment, and generate hundreds of millions of dollars in new revenue for California.

(f) In 1996, the People of California enacted the Compassionate Use Act of 1996 to allow seriously ill Californians to use marijuana for medical purposes when appropriate. However, many patients for whom marijuana would be beneficial lack access to marijuana that is regulated, labeled, tested, and safe for consumption.

### SECTION 3. Intent and Purposes.

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

(a) Take marijuana cultivation and sales out of the hands of illegal drug cartels and bring them under a strictly controlled, regulated and taxed system.

(b) Strictly control the cultivation, processing, manufacturing, transportation, distribution, and sale of marijuana through state licensing and regulation.

(c) Deny access to marijuana by persons younger than twenty-one years of age.

- (d) Prohibit advertising of marijuana targeted at persons younger than twenty-one years of age or in areas where persons younger than twenty-one years of age congregate.
- (e) Not affect existing laws prohibiting the sale or distribution of marijuana to persons younger than twenty-one years of age.
- (f) Impose regulatory safeguards that guarantee strict environmental, food, and product safety standards for businesses engaged in the cultivation, processing, manufacturing, transporting, testing, and sale of marijuana.
- (g) Tax the sale of marijuana in order to generate hundreds of millions of dollars in new revenue annually for K-12 after school programs, drug and alcohol prevention and treatment programs, local governments, and environmental restoration.
- (h) Permit local governments to ban or limit the number of marijuana-related businesses in their own jurisdictions.
- (i) Preserve scarce law enforcement resources to prevent and prosecute crime, particularly violent crime.
- (j) Permit the possession and cultivation of marijuana within defined limits for personal use by persons twenty-one years of age and older.
- (k) Prohibit the consumption of marijuana in a public place, including near schools and other areas where children congregate.
- (l) Not affect existing laws pertaining to driving or operating a vehicle or other device used for transportation under the influence of marijuana.
- (m) Maintain the ability of public and private employers to enact and enforce workplace policies pertaining to marijuana.
- (n) Prevent the illegal diversion of marijuana from California to other states or to the illegal market.
- (o) Prevent the trafficking of illegal drugs or other illegal activity by persons engaged in marijuana-related activity that will be regulated under California law.
- (p) Prevent violence and the use of firearms in the illegal cultivation and distribution of marijuana.
- (q) Prevent the growing of marijuana on public lands and the public safety and environmental dangers posed by marijuana production on public lands.
- (r) Not affect state and local laws concerning the Compassionate Use Act of 1996 and its implementing laws and regulations.

(s) Not affect state and local laws concerning the regulation of industrial hemp.

#### **SECTION 4. Personal Use of Marijuana and Marijuana Paraphernalia.**

Sections 11362.1, 11362.2, 11362.3, and 11362.4 are added to the Health and Safety Code, to read:

##### ***Section 11362.1. Definitions.***

*As used in Sections 11362.2 through 11362.4, the following definitions shall apply:*

*(a) "Concentrated cannabis" means the separated resin, whether crude or purified, obtained from marijuana.*

*(b) "Local government agency" means a city, county, city and county, school district, special district, and any board, commission, division, or agency thereof.*

*(c) "Marijuana" means all parts of the plant genus Cannabis, 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, including concentrated cannabis. 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 (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.*

*(d) "State government agency" means a state office or department, the Legislature, the University of California, California State University, California Community College, and any board, commission, division, or agency thereof.*

##### ***Section 11362.2. Personal Use of Marijuana.***

*(a) Notwithstanding any other provision of law, it is lawful under state and local law, and shall not be a violation of state or local law, for persons twenty-one years of age or older to:*

*(1) Possess, use, process, transport, purchase, obtain, smoke, ingest, or give away to a person twenty-one years of age or older one ounce or less of marijuana other than concentrated cannabis, or one-eighth of an ounce or less of concentrated cannabis.*

*(2) Possess, grow, or process six or fewer marijuana plants and the marijuana produced by the plants, provided that:*

*(A) The plants and any marijuana produced by the plants in excess of one ounce are kept at the person's home or other private residence, or upon the grounds of that home or private residence,*

*and are secure from access by a person younger than twenty-one years of age, and are not visible by normal unaided vision from a public place; and*

*(B) Not more than six plants may be possessed, grown, or processed at a single home or private residence, or upon the grounds of that home or private residence, at one time.*

*(3) Assist another person who is twenty-one years of age or older, or allow property to be used, in any of the actions or conduct permitted under subdivision (a).*

*(b) Nothing in this section shall be construed or interpreted to permit:*

*(1) Marijuana to be smoked or ingested in any public place.*

*(2) Marijuana to be smoked in a location where smoking is prohibited.*

*(3) Marijuana to be smoked or ingested while driving, operating, or riding in a motor vehicle, boat, vessel, aircraft, or other vehicle or device used for transportation.*

*(4) A person to give away any amount of marijuana as part of a business promotion or other commercial activity.*

*(5) The manufacture of concentrated cannabis by chemical extraction or chemical synthesis, unless done pursuant to a license issued under Division 10 of the Business and Professions Code.*

*(c) Nothing in this section shall be construed or interpreted to amend or affect:*

*(1) Laws prohibiting the sale, administering, furnishing, or giving away of marijuana, or the offering to sell, administer, furnish, or give away marijuana, to a person younger than twenty-one years of age.*

*(2) Laws prohibiting a person younger than twenty-one years of age from engaging in any of the actions or conduct otherwise permitted under subdivision (a).*

*(3) The ability of public and private employers to maintain, enact, and enforce workplace policies prohibiting or restricting actions or conduct otherwise permitted under subdivision (a) in the workplace or by their employees.*

*(4) Laws prohibiting persons from engaging in actions or conduct that endanger others.*

*(5) Laws pertaining to driving or operating a motor vehicle, boat, vessel, aircraft, or other vehicle or device used for transportation under the influence of marijuana.*

*(6) The ability of a state or local government agency to prohibit or restrict actions or conduct otherwise permitted under subdivision (a) within a building owned, leased, or occupied by the state or local government agency.*

*(7) The ability of an individual or private entity to prohibit or restrict actions or conduct otherwise permitted under subdivision (a) on the individual's or entity's privately owned property.*

*(8) Laws pertaining to actions or conduct otherwise permitted under subdivision (a) on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.*

*(9) Laws pertaining to actions or conduct otherwise permitted under subdivision (a) on the grounds of, or within, a school providing instruction in kindergarten or any grades 1 through 12.*

*(10) Laws pertaining to the Compassionate Use Act of 1996 or its implementing laws and regulations.*

*(d) Notwithstanding any other provision of law, smoking or ingesting marijuana in a public place shall be subject to the penalty set forth in subdivision (b) of Section 11357 in effect as of January 1, 2014.*

#### **Section 11362.3. Marijuana Paraphernalia.**

*Notwithstanding any other provision of law, it is lawful under state and local law, and shall not be a violation of state or local law, for persons twenty-one years of age or older to possess, transport, purchase, obtain, use, manufacture, or give away or sell to persons twenty-one years of age or older equipment, products, or materials designed to assist in the smoking, ingesting, using, growing, cultivating, producing, processing, manufacturing, testing, or distributing of marijuana and products containing marijuana, provided that such equipment, products, or materials are used in compliance with Section 11362.2 and with Division 10 of the Business and Professions Code.*

#### **Section 11362.4. Penalties, Seizure, and Forfeiture.**

*(a) Notwithstanding any other provision of law, no state or local government agency shall impose any criminal, civil or administrative penalty on any person who is twenty-one years of age or older solely for actions or conduct permitted under Sections 11362.2 or 11362.3.*

*(b) Notwithstanding any other provision of law, the actions and conduct permitted under Sections 11362.2 and 11362.3 shall not be a basis for the seizure or forfeiture of any products, materials, equipment, property, or assets under state or local law.*

#### **SECTION 5. Regulation of Marijuana.**

Division 10 (commencing with Section 26000) is added to the Business and Professions Code, to read:

*Division 10. Marijuana.*

*26000. Regulation of Marijuana.*

*The Legislature may enact legislation to implement this Division provided that the legislation is consistent with the intents and purposes of the Control, Regulate, and Tax Marijuana Act and with the requirements set forth in this Division. All provisions of this Division shall be liberally construed and interpreted to accomplish the intents and purposes of the Control, Regulate, and Tax Marijuana Act.*

*26010. Definitions.*

*As used in this Division, the following definitions shall apply:*

*(a) "Department" means the Department of Alcoholic Beverage Control, or any successor agency.*

*(b) "Marijuana" means all parts of the plant genus *Cannabis*, 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, including concentrated cannabis. 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 (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.*

*(c) "Marijuana products" means concentrated cannabis and products that are comprised of marijuana and other ingredients.*

*(d) The terms "state government agency" and "local government agency" shall have the same meanings as set forth in Section 11362.1 of the Health and Safety Code.*

*26020. Duties of Regulatory Agency.*

*(a) The Department shall implement, administer, and enforce this Division in a manner consistent with the intents and purposes of the Control, Regulate, and Tax Marijuana Act.*

*(b) The Department shall, in addition to all other necessary acts:*

*(1) Adopt rules and regulations, with input and assistance from other state and local government agencies where appropriate, for the cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, testing, transfer, and sale of marijuana and marijuana products.*

- (2) Establish license application, issuance, renewal, suspension and revocation procedures.*
  - (3) Establish application, licensing, and renewal fees*
  - (4) Approve or deny applications for licenses.*
  - (5) Suspend, revoke, or fine licensees for good cause.*
  - (6) Take any reasonable action with respect to applicants or licensees in accordance with procedures established pursuant to this Division.*
  - (7) Establish a procedure for those persons and parties affected by decisions of the Department to protest and appeal those decisions.*
  - (8) Adopt other rules and regulations necessary to carry out the duties conferred on the Department by this Division.*
- (c) The Department shall have no power to license or otherwise regulate or restrict actions or conduct that is permitted under Sections 11362.2 and 11362.3 of the Health and Safety Code or under the Compassionate Use Act of 1996 and its implementing laws and regulations.*

**26030. Regulations.**

- (a) Not later than April 1, 2016, the Department shall adopt rules and regulations necessary for the initial implementation of this Division, including but not necessarily limited to rules and regulations pertaining to:*
- (1) Procedures for the issuance, renewal, suspension, and revocation of licenses.*
  - (2) Application, licensing, and renewal fees.*
  - (3) Qualifications for licensees.*
  - (4) Security requirements.*
  - (5) Labeling and packaging requirements.*
  - (6) Testing requirements.*
  - (7) Health and safety requirements.*
  - (8) Inspection, monitoring, and record-keeping requirements.*
  - (9) Advertising, marketing, and signage restrictions and requirements.*
  - (10) Environmental protection requirements.*

*(11) Food and product safety requirements.*

*(12) Additives and ingredients approved or prohibited for inclusion in marijuana products.*

*(13) Restrictions on whether other products may be sold by licensees selling marijuana or marijuana products.*

*(14) Requirements for the screening, hiring, and training of employees of licensees.*

*(15) Production caps on the total amount of marijuana produced in California in connection with limiting illicit marijuana markets.*

*(16) Requirements to prevent the sale or diversion of marijuana to persons under the age of twenty-one years.*

*(17) Prohibitions set forth in Sections 26050 and 26060.*

*(18) Penalties for the failure to comply with rules or regulations adopted pursuant to this Division.*

*(b) The Department may otherwise adopt, amend, and rescind rules and regulations relating to the implementation, administration, and enforcement of this Division, provided that the Department shall at all times maintain such rules and regulations sufficient to accomplish the intents and purposes of the Control, Regulate, and Tax Marijuana Act.*

*(c) The Department shall adopt, amend, and rescind all rules and regulations in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, section 11340 et seq.), as amended, and the regulations promulgated thereunder.*

#### **26040. Types of Licenses.**

*(a) Notwithstanding any other provision of law, the Department shall have the authority to issue licenses that it deems necessary to carry out the intents and purposes of the Control, Regulate, and Tax Marijuana Act.*

*(b) The Department shall issue licenses pursuant to this authority, including but not necessarily limited to licenses allowing for the following activities:*

*(1) The cultivation, purchasing, obtaining, possessing, packaging, processing, transporting, distribution, transfer, and sale of marijuana for wholesale or retail sale.*

*(2) The purchasing, obtaining, possessing, packaging, processing, manufacturing, transporting, distribution, transfer, and sale of marijuana products for wholesale or retail sale.*

*(3) The retail sale of marijuana and marijuana products to persons twenty-one years of age or older.*

*(4) The testing of marijuana and marijuana products to analyze and certify safety and potency.*

**26050. Protection of Minors.**

*No licensee shall:*

*(a) Sell marijuana or marijuana products to persons under the age of twenty-one years.*

*(b) Employ or retain persons under the age of twenty-one years.*

*(c) Sell marijuana or marijuana products packaged to appeal to persons under the age of twenty-one years.*

*(d) Advertise marijuana or marijuana products in a manner intended to encourage persons under the age of twenty-one years to smoke or ingest marijuana or marijuana products.*

*(e) Advertise marijuana or marijuana products within 1,000 feet of a school providing instruction in kindergarten or any grades 1 through 12.*

*(f) Advertise marijuana or marijuana products in areas where the advertising of alcohol or tobacco is prohibited.*

**26060. Import/Export.**

*No licensee shall import or export marijuana or marijuana products to or from California until such time as such import or export is legal under federal law.*

**26070. Protections for Licensees.**

*(a) Actions and conduct by a licensee, its employees, and its agents that are permitted pursuant to a valid license issued by the Department, and by those who allow property to be used by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Department, are lawful under state and local law, and shall not be a violation of state or local law.*

*(b) No state or local government agency shall impose any criminal, civil or administrative penalty on any licensee, its employees, or its agents, or on those who allow property to be used by a licensee, its employees, or its agents, solely for actions or conduct permitted pursuant to a valid license issued by the Department.*

*(c) Actions and conduct by a licensee, its employees, and its agents that are permitted pursuant to a valid license issued by the Department, and by those who allow property to be used by a*

licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Department, shall not be a basis for seizure or forfeiture of any products, materials, equipment, property, or assets under state or local law.

(d) Nothing in this section shall be construed or interpreted to:

(1) Prevent the Department from enforcing its rules and regulations against a licensee.

(2) Prevent a state or local government agency from enforcing a law, rule, or regulation that is not in conflict with the provisions of this Division or the rules and regulations of the Department, and is consistent with the intents and purposes of the Control, Regulate, and Tax Marijuana Act.

(3) Prevent a city, county, or a city and county from enforcing a local zoning ordinance, local ordinance of general application, or local ordinance enacted pursuant to Section 26120.

#### **26080. License Application.**

(a) Not later than May 1, 2016, the Department shall begin to accept and process applications for licensure.

(b) Upon receipt of an application for licensure and any applicable fee, the Department shall make a thorough investigation to determine whether the applicant and the premises qualify for the license and have complied with the provisions of this Division.

(c) The Department shall deny an application if:

(1) Either the applicant or the premises for which the license is applied do not qualify for licensure under rules and regulations enacted by the Department pursuant to this Division.

(2) Issuance would result in or add to an undue concentration of licenses within a particular local jurisdiction or community.

(3) Issuance would conflict with any local zoning ordinance, local ordinance of general application, or local ordinance enacted pursuant to Section 26120.

(d) The Department may refuse to issue any license for premises located within 1,000 feet of a school providing instruction in kindergarten or any grades 1 through 12, or for premises in areas where the sale of alcohol or tobacco is restricted.

#### **26090. Enforcement.**

(a) The Department shall work in conjunction with state and local law enforcement agencies for the purposes of implementing, administering, and enforcing the Department's rules and regulations and taking appropriate action against licensees and others who fail to comply with these rules and regulations or with state law.

*(b) The Department may bring a legal action to enjoin a violation or potential violation of, or to compel compliance with, any provision of this Division or rules and regulations promulgated by the Department. The legal action shall be brought in the county in which the violation occurred or may occur. Any proceedings brought pursuant to this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.*

*(c) State and local law enforcement agencies shall immediately notify the Department of any arrests made that involve a licensee or a licensed premises and actions or conduct under the Department's jurisdiction. The Department shall promptly investigate whether such arrests warrant suspension or revocation of a license.*

*(d) Nothing in this Division shall be construed or interpreted to limit a state or local law enforcement agency's ability to investigate unlawful activity in relation to a licensee or licensed premise.*

#### **26100. Review of Agency Action.**

*(a) The Department shall establish a procedure for those persons and parties affected by decisions of the Department to protest and appeal those decisions.*

*(b) An interested person may seek judicial review of any final decision of the Department.*

*(c) Any individual or entity may commence a legal action for a writ of mandate to compel the Department to perform the acts mandated by this Division.*

#### **26110. Limitations.**

*No license, fee, rule, regulation, or other action taken by the Department shall affect, or be interpreted or construed to affect, those limitations set forth in subdivisions (b) or (c) of Section 11362.2 of the Health and Safety Code.*

#### **26120. Local Control.**

*A city, county, or a city and county, may adopt and enforce ordinances that ban or regulate the location, operation, or establishment of an entity within that jurisdiction that is licensed or seeking licensure pursuant to this Division. This section shall not be construed or interpreted to permit a city, county, or a city and county to prohibit the transporting of marijuana or marijuana products through its jurisdiction by persons or entities licensed pursuant to this Division.*

#### **26130. Marijuana Regulation Fund.**

*(a) The Marijuana Regulation Fund (the "Fund") is hereby created within the State Treasury.*

*(b) All fees collected pursuant to this Division shall be deposited into the Fund.*

*(c) Notwithstanding Section 16305.7 of the Government Code, the Fund shall include any interest and dividends earned on the money in the Fund.*

*(d) Notwithstanding Section 13340 of the Government Code, all moneys within the Fund shall be allocated, upon appropriation by the Legislature, to the Department solely for the purposes of implementing, administering, and enforcing this Division, including but not necessarily limited to the costs incurred by the Department for its administrative expenses.*

*(e) All moneys collected as a result of penalties imposed under this Division shall be deposited directly into the General Fund, to be available upon appropriation.*

*(f) The Department may establish and administer a grant program to allocate moneys from the Fund to state and local government agencies for the purpose of assisting with marijuana regulation and the enforcement of this Division.*

**26140. Control, Regulate, and Tax Marijuana Task Force.**

*The Department may create a Control, Regulate, and Tax Marijuana Task Force (the "Task Force") for the purpose of advising the Department on marijuana cultivation, processing, manufacture, testing, distribution, sales, and tax issues. The Task Force may include representatives from one or more of the following:*

- (a) The Department.*
- (b) The Franchise Tax Board.*
- (c) The Board of Equalization.*
- (d) The Department of Food and Agriculture.*
- (e) The California Environmental Protection Agency.*
- (f) The Natural Resource Agency.*
- (g) The California Health and Human Services Agency.*
- (h) The Office of the Attorney General.*
- (i) The Labor and Workforce Development Agency.*
- (j) Local government agencies.*
- (k) Local law enforcement.*
- (l) Medical professionals.*

*(m) Experts in the production and distribution of marijuana.*

*(n) Other interested parties.*

## **SECTION 6. Marijuana Tax.**

Part 14.5 (Commencing with Section 34000) is added to Division 2 of the Revenue and Taxation Code, to read:

### *Part 14.5. Marijuana Tax.*

#### **34010. Definitions.**

*For purposes of this part:*

*(a) "Board" shall mean the Board of Equalization or its successor agency.*

*(b) "Department" shall have the same meaning as set forth in subdivision (a) of Section 26010 of the Business and Professions Code.*

*(c) "Fund" means the Marijuana Tax Fund created by Section 34011.*

*(d) "Gross receipts" shall have the same meaning as set forth in Section 6012 of the Revenue and Taxation Code.*

*(e) "Marijuana" shall have the same meaning as set forth in subdivision (b) of Section 26010 of the Business and Professions Code.*

*(f) "Marijuana products" shall have the same meaning as set forth in subdivision (c) of Section 26010 of the Business and Professions Code.*

*(g) "Retail sale" shall have the same meaning as set forth in Section 6007 of the Revenue and Taxation Code.*

#### **34011. Marijuana Tax Fund.**

*(a) The Marijuana 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 may only be appropriated for the following purposes:*

*(1) Costs incurred by the Board for administering and collecting the tax imposed by Section 34020.*

*(2) Costs incurred by the Department for implementing, administering, and enforcing Division 10 of the Business and Professions Code.*

*(3) Research pertaining to the implementation and effect of the Control, Regulate, and Tax Marijuana Act.*

*(4) The purposes set forth for each account in subdivision (c).*

*(c) The Fund shall contain four separate accounts, as follows:*

*(1) The Education Account, appropriated by the Legislature solely to benefit after school programs and after school extracurricular enrichment activities, including but not necessarily limited to art, music and sports, for children in kindergarten and grades 1 through 12.*

*(2) The Treatment and Prevention Account, appropriated by the Legislature to the State Department of Health Care Services, or its successor agency, in the following formula:*

*(A) Fifty percent (50%) for the development and ongoing funding of evidence-based substance abuse treatment and prevention services designed to reduce potential harms stemming from the misuse and abuse of drugs and alcohol by persons younger than twenty-one years of age. These services shall not rely on punitive sanctions and shall prioritize school retention and continued learning. Two percent (2%) of the fifty percent (50%) shall be allocated to a public university in California to evaluate the effectiveness of substance use disorder prevention and treatment modalities for persons younger than twenty-one years of age, and to recommend best practices in the fields of prevention and treatment for persons younger than twenty-one years of age.*

*(B) Fifty percent (50%) for the development and ongoing funding of evidence-based, community-based, voluntary substance abuse treatment interventions, including but not necessarily limited to services for persons with co-occurring mental health and substance use disorders, medication assisted treatments, and outreach and health programs for out-of-treatment drug users. Two percent (2%) of the fifty percent (50%) shall be allocated to a public university in California to evaluate the effectiveness of substance use disorder prevention and treatment modalities, and to recommend best practices in the fields of prevention and treatment.*

*(3) The Local Government Account, appropriated by the Legislature to cities and counties to assist with law enforcement, fire protection, or other local programs addressing public health and safety issues that may be associated with the Control, Regulate, and Tax Marijuana Act, in proportion to the amount of marijuana cultivated and sold at retail under Division 10 of the Business and Professions Code within each jurisdiction relative to the rest of the state.*

*(4) The Environmental Restoration Account, appropriated by the Legislature to the California Environmental Protection Agency and the Natural Resource Agency, or their successor agencies, for the restoration of clean air, water, and soil, and for the mitigation and cleanup of environmental harms when there is no financially responsible party.*

*(d) No moneys in the Marijuana Tax Fund shall be used to supplant state or local General Fund moneys for any purpose.*

#### **34020. Marijuana Tax.**

*(a) In addition to the tax imposed under Chapter 2 (commencing with Section 6051) of Part 1 of this Division, a tax is hereby imposed upon all persons required to be licensed for retail sale under Division 10 of the Business and Professions Code at the rate of twenty-five percent (25%) of the gross receipts of any such person from the retail sale of all marijuana or marijuana products sold at retail in this state beginning on July 1, 2016.*

*(b) For purposes of the application of the Sales and Use Tax under Part 1 of this Division, gross receipts, as defined in section 6012, shall include the tax levied under this Section.*

#### **34030. Collection and Administration.**

*(a) The Board shall administer and collect the tax imposed by Section 34020 pursuant to the Fee Collection Procedures Law (Part 30 of this Division, commencing with Section 55001). For purposes of Section 34020, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by Section 34020 and references to "feepayer" shall mean any person liable for the payment of the tax imposed by Section 34020 and collected pursuant to that law.*

*(b) The tax imposed by Section 34020 is due and payable to the Board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the Board by each person required to be licensed for retail sale under Division 10 of the Business and Professions Code.*

#### **34040. Distribution of Funds.**

*(a) All monies raised pursuant to the tax imposed by Section 34020 shall be deposited into the Fund.*

*(b) By July 15 of each fiscal year, the Controller shall disburse monies deposited in the Fund during the prior fiscal year as follows:*

*(1) Fifty-five percent (55%) shall be deposited in the Education Account.*

*(2) Thirty percent (30%) shall be deposited in the Treatment and Prevention Account.*

*(3) Ten percent (10%) shall be deposited in the Local Government Account.*

*(4) Five percent (5%) shall be deposited in the Environmental Restoration Account.*

*(c) Any amount appropriated from any account specified in subdivision (b) that is not encumbered within the period prescribed by law shall revert to the account from which it was appropriated.*

*(d) The Legislature shall appropriate from the Fund, before any funds are disbursed pursuant to subdivision (b), the following:*

*(1) The costs incurred by the Board for administering and collecting the tax imposed by Section 34020.*

*(2) Reasonable costs incurred by the Department for implementing, administering, and enforcing Division 10 of the Business and Professions Code in excess of the monies available in the Marijuana Regulation Fund established in Section 26130 of the Business and Professions Code. The Department of Finance shall report to the Legislature annually until 2021 on the fiscal condition of the Marijuana Regulation Fund and make recommendations as appropriate for legislation to ensure its stable, self-sustaining operation.*

*(3) Three million dollars (\$3,000,000) to a public university in California annually to research and evaluate the implementation and effect of the Control, Regulate, and Tax Marijuana Act until the year 2034. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The research funded pursuant to this subdivision shall include but not necessarily be limited to:*

*(A) Impacts on public health, including health costs associated with marijuana use.*

*(B) Health costs associated with the criminal prohibition of marijuana.*

*(C) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment modalities.*

*(D) Public safety issues related to marijuana use and the criminal prohibition of marijuana use.*

*(E) Marijuana use rates and maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance-use disorders.*

*(F) Marijuana market prices, illicit market prices, tax structures and rates, and the structure and function of licensed marijuana businesses.*

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

*34050. Procedures.*

*(a) The tax imposed by Section 34020 shall be collected by the Board, which shall establish a procedure for the collection of this tax by June 1, 2016.*

*(b) The Legislature may change the tax rate imposed by Section 34020, or impose additional taxes on marijuana and marijuana products, but not until April 1, 2022.*

*(c) The changes in tax rate and additional taxes referenced in subdivision (b) must be consistent with the intent and purposes of the Control, Regulate, and Tax Marijuana Act and must further the goals of undercutting illegal market prices and discouraging use by persons younger than twenty-one years of age.*

#### **34060. Audit.**

*The Controller, pursuant to his or her statutory authority, shall periodically audit the Fund to ensure that those funds are used and accounted for in a manner consistent with this Part.*

#### **34070. Applicability.**

*(a) The tax imposed by Section 34020 shall be imposed on every retail sale of marijuana and marijuana products in the state pursuant to rules and regulations promulgated by the Board.*

*(b) The tax imposed by Section 34020 does not apply to marijuana distributed pursuant to the Compassionate Use Act of 1996 and its implementing laws and regulations.*

#### **SECTION 7. Start-up Loan.**

*(a) It is the intent of the People of the State of California that the Legislature provide a start-up loan of thirty million dollars (\$30,000,000) from the General Fund, to be repaid with tax revenues on the retail sale of marijuana and marijuana products generated under this Act, in order to cover the initial implementation of this Act.*

*(b) There is hereby appropriated thirty million dollars (\$30,000,000) from the General Fund as a loan for the start-up costs of regulation, tax collection and administration, and public education and outreach about this Act, to be allocated by the Director of Finance. These costs shall include the costs of an evidence-based prevention and education campaign about marijuana targeted at discouraging persons younger than twenty-one years of age from using marijuana, as well as the necessary and proper costs to the Board of Equalization and the Department of Alcoholic Beverage Control to implement, administer, and enforce this Act.*

*(c) For purposes of repaying the loan, and notwithstanding anything to the contrary in Part 14.5 of Division 2 of the Revenue and Taxation Code, as set forth in this Act, the Controller shall transfer all tax revenues received by the Marijuana Tax Fund up to the amount of the loan provided by this section, including interest at the pooled money investment account rate, to the General Fund. The loan shall be repaid no later than January 1, 2020.*

#### **SECTION 8. Contracts.**

It is the public policy of the People of the State of California that contracts related to the operation of licenses under this Act should be enforceable and no contract entered into by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Department of Alcoholic Beverage Control, or by those who allow property to be used by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Department of Alcoholic Beverage Control, shall be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license are prohibited by federal law.

#### **SECTION 9. Amendment.**

Except as otherwise provided herein, this Act may be amended either by a subsequent measure submitted to a vote of the People at a statewide election, or by a statute passed by the Legislature and signed by the Governor which furthers the intents and purposes of this Act. Such permitted amendments include but are not limited to laws relating to non-psychoactive industrial hemp.

#### **SECTION 10. Conflicting Measures.**

This Act is intended to be comprehensive. In the event that this Act and one or more measures relating to the same subject appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this Act shall prevail in their entirety, and the other measure or measures shall be null and void. Notwithstanding the foregoing, in the event that one or more measures appearing on the same statewide ballot contain a provision changing the penalty associated with the possession of concentrated cannabis to a misdemeanor, the provisions of that measure or measures, if approved by the voters, shall be given full force and effect, but only to the extent consistent with the provisions of this Act.

#### **SECTION 11. Industrial Hemp.**

If the California Industrial Hemp Farming Act, Chapter 398 of 2013 Statutes (S.B. 566) ("CIHFA") shall become operative in accordance with its terms, then, as of the operative date of the CIHFA, the possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of "industrial hemp" as defined in section 11018.5 of the Health and Safety Code (as added by Section 6 of the CIHFA), shall be governed by the provisions of law set forth, added, or amended by the CIHFA, and not by the provisions of this Act that would otherwise be applicable.

#### **SECTION 12. Severability.**

If any provision in this Act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

**SECTION 13. Defense of Act.**

(a) In recognition of the proponents' direct and personal stake in defending this Act, the People of the State of California grant formal authority to those proponents to defend this Act in any legal proceeding.

(b) The proponents of this Act may exercise their authority to defend this Act by either:

(1) Intervening in a legal proceeding; or

(2) Defending the Act on behalf of the People and the State in the event that the State declines to defend the Act, or declines to appeal an adverse judgment against the Act, in which case the proponents shall:

(A) Act as agents of the People and the State;

(B) Be subject to all ethical, legal, and fiduciary duties applicable to such parties in such proceeding; and

(C) Take and be subject to the Oath of Office prescribed by Article XX, Section 3 of the California Constitution for the limited purpose of acting on behalf of the People and the State in such legal proceeding.

**SECTION 14. Effective Date.**

Except as otherwise provided herein, the provisions of this Act shall become effective the day after its approval by the voters, pursuant to Article II, Section 10(a) of the California Constitution.

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