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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 10. Cannabis [26000 - 26325] (*Heading of Division 10 amended by Stats. 2017, Ch. 27, Sec. 3.*)

CHAPTER 1. General Provisions and Definitions [26000 - 26002] (*Chapter 1 added November 8, 2016, by initiative Proposition 64, Sec. 6.1.*)

26000. (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 and cannabis products intended for use on, or consumption by, animals.

(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. 2022, Ch. 389, Sec. 3. (AB 1885) Effective January 1, 2023. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.*)

26001. For purposes of this division, the following definitions 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, or are intended for use on, or consumption by, animals.

(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, or are intended for use on, or consumption by, animals.

(c) "Animal" does not include a food animal as defined in Section 4825.1 or livestock as defined in Section 14205 of the Food and Agricultural Code.

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

(e) "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 harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals.

(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.

(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 beverage" means a form of edible cannabis product that is intended to be consumed in its final state as a beverage.

(i) "Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from glandular 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, a processed pet food, as defined by Section 113025 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(j) "Cannabis event organizer" means a person authorized to plan and organize temporary cannabis events as authorized in Section 26200.

(k) "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code, and includes cannabis products intended for use on, or consumption by, an animal. Cannabis products are not considered food, as defined by Section 109935 of the Health and Safety Code, a drug, as defined by Section 109925 of the Health and Safety Code, or a cosmetic, as defined by Section 109900 of the Health and Safety Code.

(l) "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.

(m) "Combined activities license" means a state license that authorizes two or more commercial cannabis activities at the same premises, with the exception of laboratory testing. A combined activities license shall conform with all requirements imposed by this division to the extent the licensee engages in those activities.

(n) "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, or acting as a cannabis event organizer for temporary cannabis events.

(o) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(p) "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.

(q) "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.

(r) "Daycare center" has the same meaning as in Section 1596.76 of the Health and Safety Code.

(s) "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.

(t) "Department" means the Department of Cannabis Control within the Business, Consumer Services, and Housing Agency.

(u) "Director" means the Director of the Department of Cannabis Control.

(v) "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(w) "Distributor" means a licensee that is authorized to engage in the distribution of cannabis and cannabis products.

(x) "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(y) "Edible cannabis product" means a cannabis product that is intended to be used, in whole or in part, for human or animal 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, a processed pet food, as defined by Section 113025 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(z) "Fund" means the Cannabis Control Fund established pursuant to Section 26210.

(aa) "Kind" means applicable type or designation regarding a particular cannabis variant, origin, or product type, including, but not limited to, strain name, trademark, or production area designation.

(ab) "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.

(ac) "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.

(ad) "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.

(ae) "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.

(af) "Licensing authority" means the department and any state agency currently or formerly responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.

(ag) "Live plants" means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(ah) "Local jurisdiction" means a city, county, or city and county.

(ai) "Lot" means a batch or a specifically identified portion of a batch.

(aj) "M-license" means a state license issued under this division for commercial cannabis activity involving medicinal cannabis.

(ak) "M-licensee" means any person holding a license under this division for commercial cannabis activity involving medicinal cannabis.

(al) "Manufacture" means to compound, blend, extract, infuse, package, label, or otherwise make or prepare a cannabis product.

(am) (1) "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, respectively, intended to be sold or donated for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found in Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation, or in compliance with any compassionate use, equity, or other similar program administered by a local jurisdiction.

(2) The amendments made to this subdivision by the act adding this paragraph shall become operative upon completion of the necessary changes to the track and trace program in order to implement the act adding this paragraph, as determined by the Department of Food and Agriculture, or on March 1, 2020, whichever occurs first.

(an) "Microbusiness" means a licensee that is authorized to engage in 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.

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

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

(aq) "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.

(ar) "Package" means any container or receptacle used for holding cannabis or cannabis products.

(as) "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.

(at) "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.

(au) "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.

(av) "Primary caregiver" has the same meaning as in Section 11362.7 of the Health and Safety Code.

(aw) "Processor" means a person authorized to engage in only trimming, drying, curing, grading, packaging, and labeling of cannabis and nonmanufactured cannabis products.

(ax) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.

(ay) "Retailer" means a person authorized to engage in the retail sale and delivery of cannabis or cannabis products to customers.

(az) "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.

(ba) "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 department.

(bb) "Unique identifier" means an alphanumeric code or designation issued pursuant to the track and trace program established by the department and used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

(bc) "Youth center" has the same meaning as in Section 11353.1 of the Health and Safety Code.

(Amended by Stats. 2024, Ch. 875, Sec. 2. (SB 1064) Effective January 1, 2025.)

26002. (a) This division does not apply to any product containing cannabinoids that has been approved by the federal Food and Drug Administration that has either been placed on a schedule of the federal Controlled Substances Act other than Schedule I or has been exempted from one or more provisions of that act, and that is intended for prescribed use for the treatment of a medical condition.

(b) This division does not apply to activity performed pursuant to a registration with the United States Drug Enforcement Administration pursuant to Part 1318 (commencing with Section 1318.01) of Chapter 2 of Title 21 of the Code of Federal Regulations, as it read on January 19, 2021, provided that the person engaging in the activity provides the licensing authority valid documentation of their registration with the United States Drug Enforcement Administration and the location where the activity will be performed prior to engaging in the activity.

(Amended by Stats. 2021, Ch. 157, Sec. 1. (AB 1305) Effective January 1, 2022.)