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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 2. Administration [26010 - 26018] (*Chapter 2 added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)*

26010. There is in the Business, Consumer Services, and Housing Agency, the Department of Cannabis Control under the supervision and control of a director. The director shall administer and enforce the provisions of this division related to the department.

(Amended by Stats. 2021, Ch. 70, Sec. 6. (AB 141) Effective July 12, 2021.)

26010.5. (a) The Governor shall appoint the director of the department, subject to confirmation by the Senate. The director shall serve under the direction and supervision of the Secretary of the Business, Consumer Services, and Housing Agency and at the pleasure of the Governor.

(b) Every power granted to or duty imposed upon the director under this division may be exercised or performed in the name of the director by a deputy or assistant director or by a chief, subject to conditions and limitations that the director may prescribe.

(c) (1) The director may employ and appoint all employees necessary to properly administer the work of the department, in accordance with civil service laws and regulations.

(2) The Governor may also appoint a chief deputy director, a deputy director of equity and inclusion, and either a deputy director of legal affairs or a chief counsel to the department. These positions shall serve under the direction and supervision of the director and hold office at the pleasure of the Governor.

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

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

(Amended by Stats. 2021, Ch. 70, Sec. 7. (AB 141) Effective July 12, 2021.)

26010.6. (a) Pursuant to subdivision (u) of Section 11105 of the Penal Code, and except as provided in subdivision (c), the Department of Cannabis Control shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for an employee, prospective employee, contractor, or subcontractor whose duties include or would include access to criminal offender record information, as defined in Section 11075 of the Penal Code, contained in the information systems or records of the Department of Cannabis Control or access to cannabis, cannabis products, or other controlled substances listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code. The Department of Justice shall provide a state- or federal-level response pursuant to subdivision (p) of Section 11105 of the Penal Code, except for peace officer employees and prospective peace officer employees.

(b) Pursuant to subdivision (u) of Section 11105 of the Penal Code, the Department of Cannabis Control shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for all peace officer employees and prospective peace officer employees of the department. The Department of Justice shall provide a state- or federal-level response pursuant to subdivision (k) of Section 11105 of the Penal Code.

(c) Subdivision (a) does not apply to employees hired on or before June 30, 2023, or to any contract entered into on or before June 30, 2023.

(Amended by Stats. 2023, Ch. 198, Sec. 4. (SB 152) Effective September 13, 2023.)

26010.7. (a) Except as provided in Sections 26062 and 26063 and Chapter 23 (commencing with Section 26240), on and after the operative date of this section, the Department of Cannabis Control and the director shall succeed to and be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction of the Bureau of Cannabis Control, also formerly known as the Bureau of Medical Cannabis Regulation and the Bureau of Medical Marijuana Regulation under the former Medical Cannabis Regulation and Safety Act (former Chapter 3.5 commencing with Section 19300 of Division 8), the State Department of Public Health, and the Department of Food and Agriculture, as provided for pursuant to this division as it read on the day before the operative date of this section.

(b) Except as provided in Sections 26062 and 26063 and Chapter 23 (commencing with Section 26240), on and after the operative date of this section, both of the following shall apply:

(1) Whenever "Bureau of Marijuana Control," "Bureau of Medical Cannabis Regulation," or "Bureau of Medical Marijuana Regulation" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Department of Cannabis Control.

(2) Unless the context clearly requires otherwise, whenever "Department of Public Health," "State Department of Public Health," "Department of Food and Agriculture," or "California Department of Food and Agriculture" appears in this division, or any statute, regulation, or contract, related to regulation of cannabis pursuant to this division, it shall be construed to refer to the Department of Cannabis Control.

(c) Any regulation, order, or other action adopted, prescribed, taken, or performed by the Bureau of Cannabis Control, the State Department of Public Health, or the Department of Food and Agriculture under this division in effect immediately preceding the operative date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms, and shall be deemed to be a regulation, order, or action of the Department of Cannabis Control. On and after the operative date of this section, any proposed regulation noticed by, or submitted to the Office of Administrative Law by, the Bureau of Cannabis Control, the State Department of Public Health, or the Department of Food and Agriculture under this division, shall be deemed to be a regulation noticed by or submitted by the Department of Cannabis Control.

(d) Any action by or against the Bureau of Cannabis Control, the State Department of Public Health, or the Department of Food and Agriculture pertaining to matters vested in the Department of Cannabis Control by this section shall not abate but shall continue in the name of the Department of Cannabis Control, and the Department of Cannabis Control shall be substituted for the Bureau of Cannabis Control, the State Department of Public Health, and the Department of Food and Agriculture by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(e) On and after the operative date of this section, all books, documents, forms, records, data systems, and property of the Bureau of Cannabis Control, the Department of Consumer Affairs, the State Department of Public Health, and the Department of Food and Agriculture pertaining to functions transferred to the Department of Cannabis Control shall be transferred to the Department of Cannabis Control.

(f) On and after the operative date of this section, positions filled by appointment by the Governor in the Bureau of Cannabis Control, the State Department of Public Health, and the Department of Food and Agriculture whose principal assignment was to perform functions transferred pursuant to this section shall be transferred to the Department of Cannabis Control. Individuals in positions transferred pursuant to this subdivision shall serve at the pleasure of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law unless otherwise provided. Individuals in positions transferred pursuant to this subdivision who have been previously confirmed by the Senate shall not be required to undergo a new confirmation as a result of this transfer. Titles of positions transferred pursuant to this subdivision shall be determined by the director with the approval of the Governor.

(g) On and after the operative date of this section, every officer and employee of the Bureau of Cannabis Control, the State Department of Public Health, the Department of Food and Agriculture, and the Department of Consumer Affairs who is performing a function transferred to the Department of Cannabis Control and who is serving in the state civil service, including an excluded or temporary employee, shall be transferred to the Department of Cannabis Control pursuant to the provisions of Section 19050.9 of the Government Code. The status, position, and rights of any officer or employee of the Bureau of Cannabis Control, the State Department of Public Health, the Department of Food and Agriculture, and the Department of Consumer Affairs shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Cannabis Control, as applicable, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except for a position that is exempt from civil service. The personnel records of all transferred employees shall be transferred to the Department of Cannabis Control.

(h) A contract, lease, license, or any other agreement to which the Bureau of Cannabis Control, the Department of Consumer Affairs, the State Department of Public Health, or the Department of Food and Agriculture is a party shall not be void or voidable by reason of this section, and shall continue in full force and effect, with the Department of Cannabis Control assuming all of the rights, obligations, liabilities, and duties of the Bureau of Cannabis Control, the State Department of Public Health, and the Department of Food and Agriculture relating to the transfer of duties, powers, purposes, functions, responsibilities, and jurisdiction made pursuant

to this section. The assumption by the Department of Cannabis Control shall not in any way affect the rights of the parties to any contract, lease, license, or agreement.

(i) This section shall become operative on and after July 1, 2021, or the operative date of the act adding this section, whichever is later.

(Added by Stats. 2021, Ch. 70, Sec. 8. (AB 141) Effective July 12, 2021.)

26011. Neither the director nor any member of the Cannabis Control Appeals Panel established under Section 26040 shall do any of the following:

(a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division.

(b) Engage or have any interest in the sale or any insurance covering a licensee's business or premises.

(c) Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial cannabis activity.

(d) Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.

(e) Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

(Amended by Stats. 2021, Ch. 70, Sec. 9. (AB 141) Effective July 12, 2021. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)

26011.5. The protection of the public shall be the highest priority for the department in exercising licensing, regulatory, and disciplinary functions under this division. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(Amended by Stats. 2021, Ch. 70, Sec. 10. (AB 141) Effective July 12, 2021.)

26012. (a) It being a matter of statewide concern, except as otherwise authorized in this division, the department shall have the sole authority to create, issue, deny, renew, discipline, condition, suspend, or revoke licenses for commercial cannabis activity.

(b) The department shall have the authority to collect fees in connection with activities it regulates concerning cannabis. The department may create licenses in addition to those identified in this division that the department deems necessary to effectuate its duties under this division.

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

(Amended (as amended by Stats. 2021, Ch. 70, Sec. 11) by Stats. 2021, Ch. 87, Sec. 2. (SB 160) Effective July 16, 2021. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)

26012.5. (a) The department shall provide on its internet website information regarding the status of every license issued by the department in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(b) Beginning January 1, 2022, the information provided on the department's internet website pursuant to subdivision (a) shall include information on suspensions and revocations of licenses and final decisions adopted by the department pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relating to persons or businesses licensed or regulated by the department.

(c) The information provided shall not include personal information, including home addresses, home telephone numbers, dates of birth, or social security numbers. The department shall disclose the county of a licensee's address of record.

(Amended by Stats. 2022, Ch. 28, Sec. 17. (SB 1380) Effective January 1, 2023.)

26012.6. (a) For purposes of this section, "demographic data" includes, but is not limited to, race, ethnicity, gender, sexual orientation, income level, education level, prior convictions, and veteran status.

(b) (1) The department shall collect demographic data about every person applying for a license.

(2) The demographic data may be requested when an initial license is issued or at the time of license renewal.

(c) The department shall consolidate the demographic data received as described in subdivision (b) and shall publish the aggregate demographic data that it collects on its internet website.

(d) The department shall maintain the confidentiality of the information it receives from an applicant or licensee under this section and shall only release the information in an aggregate form that cannot be used to identify an individual.

(e) A licensee or applicant shall not be required to provide the information specified in subdivision (b) as a condition of licensure or license renewal, and a licensee shall not be subject to discipline for not providing the information specified in subdivision (b).

(Added by Stats. 2024, Ch. 878, Sec. 1. (SB 1109) Effective January 1, 2025. Conditionally operative pursuant to Sec. 2 of Ch. 878 of Stats. 2024.)

26013. (a) The department shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer, and enforce its duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Those rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

(b) (1) The department may adopt emergency regulations to consolidate, clarify, or make consistent regulations, including emergency regulations adopted before or in place as of July 1, 2021, or to implement Section 26010.7.

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

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

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

(Amended by Stats. 2021, Ch. 70, Sec. 13. (AB 141) Effective July 12, 2021. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)

26013.5. (a) Notice of any action of the department required by this division to be given may be signed and given by the director or an authorized employee of the department and may be made personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure, or in the manner prescribed by Section 124 of this code.

(b) Notwithstanding subdivision (c) of Section 11505 of the Government Code, whenever written notice, including a notice, order, or document served pursuant to Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), or Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code, is required to be given by the department, the notice may be given by regular mail addressed to the last known address of the licensee or by personal service, at the option of the department.

(Amended by Stats. 2021, Ch. 70, Sec. 14. (AB 141) Effective July 12, 2021.)

26014. (a) The department shall convene an advisory committee to advise the department on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose such barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis.

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

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

(d) Each member of the advisory committee shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties. The payments in each instance shall be made only from the fund and shall be subject to the availability of money.

(Amended by Stats. 2021, Ch. 70, Sec. 15. (AB 141) Effective July 12, 2021. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)

26015. (a) The department may make or cause to be made such investigation as it deems necessary to carry out its duties under this division.

(b) The chief of enforcement and all investigators, inspectors, and deputies of the department identified by the director have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them in investigating the laws administered by the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters set forth in this section.

(c) The department may employ individuals, who are not peace officers, to provide investigative services.

(d) Notwithstanding any other law, the department may employ peace officers and shall be exempt from the requirements of Section 13540 of the Penal Code.

(Amended by Stats. 2021, Ch. 70, Sec. 16. (AB 141) Effective July 12, 2021.)

26016. For any hearing held pursuant to this division, except a hearing held under Chapter 4 (commencing with Section 26040), the department may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 2021, Ch. 70, Sec. 17. (AB 141) Effective July 12, 2021.)

26017. In any hearing before the department pursuant to this division, the department may pay any person appearing as a witness at the hearing at the request of the department pursuant to a subpoena, the person's actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

(Amended by Stats. 2021, Ch. 70, Sec. 18. (AB 141) Effective July 12, 2021.)

26018. The department may on its own motion at any time before a penalty assessment is placed into effect, and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

(Amended by Stats. 2021, Ch. 70, Sec. 19. (AB 141) Effective July 12, 2021.)