



| | | | | | | |
|------|------------------|----------------|--------------|-----------------|------------------|--------------|
| Home | Bill Information | California Law | Publications | Other Resources | My Subscriptions | My Favorites |
|------|------------------|----------------|--------------|-----------------|------------------|--------------|

SB-34 Cannabis: donations. (2019-2020)

SHARE THIS:  

Date Published: 10/14/2019 09:00 PM

Senate Bill No. 34

CHAPTER 837

An act to amend Sections 26001, 26153, 26161, and 26162.5 of, and to add Section 26071 to, the Business and Professions Code, and to amend Sections 34010, 34011, and 34012 of, and to add and repeal Sections 6414 and 34012.1 of, the Revenue and Taxation Code, relating to cannabis.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 34, Wiener. Cannabis: donations.

(1) The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities.

Existing administrative law prohibits a retailer licensee from providing free cannabis goods to any person or allowing individuals who are not employed by the retailer to provide free cannabis goods to any person on the licensed premises. Existing administrative law provides an exception to this prohibition for specified medicinal retailer and microbusiness licensees to provide access to medicinal cannabis patients who have difficulty accessing medicinal cannabis goods, as specified.

This bill, the Dennis Peron and Brownie Mary Act, would similarly authorize, on and after a specified date, licensees that are authorized to make retail sales to provide free cannabis or cannabis products to a medicinal cannabis patient or the patient's primary caregiver if specified requirements are met, including that the cannabis or cannabis products otherwise meet specified requirements of MAUCRSA. The bill would authorize those licensees to contract with an individual or organization to coordinate the provision of free medicinal cannabis and medicinal cannabis products on the retailer's premises.

(2) Existing law deems information contained in a physician's recommendation to use cannabis for medical purposes to be "medical information" within the meaning of the Confidentiality of Medical Information Act, and prohibits a licensee from disclosing this information except, among other exceptions, as necessary for the state or any city, county, or city and county to perform certain official duties. Existing law, the Medical Marijuana Program (MMP), requires counties to administer an identification card program for qualified patients that possess or cultivate cannabis for personal medical purposes. Existing law deems identification cards issued to those qualified patients to be "medical information" within the meaning of the Confidentiality of Medical Information Act, and likewise prohibits a licensee from disclosing these identification cards, subject to the same exceptions.

This bill would additionally except from these prohibitions against disclosure the disclosure of the medical information described above as necessary for the state or any city, county, or city and county to perform official duties pursuant to the Sales and Use Tax Law and pursuant to provisions relating to cannabis taxes.

(3) Existing sales and use tax laws impose use taxes on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, presumes tangible personal property purchased outside the state that is stored, used, or consumed in this state is purchased for use in this state, and provides various exemptions from those taxes.

This bill, on and after a specified operative date, and until 5 years after that operative date, would exempt from the use tax the storage, use, or other consumption in this state of medicinal cannabis or medicinal cannabis products that are donated, for no consideration, under specified circumstances. The bill would require the exemption to apply only if the cannabis retailer certifies in writing, as specified, that the medicinal cannabis or medicinal cannabis product will be used as specified. The bill would make a licensee that uses the donated medicinal cannabis or medicinal cannabis product in some other manner, or for some other purpose, liable for the payment of use tax and subject to having their license suspended.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing laws authorize districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into the local tax laws.

Existing law requires the state to reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse any local agencies for sales and use tax revenues lost by them pursuant to this bill.

(4) AUMA imposes an excise tax on the purchase of cannabis and cannabis products, as defined, at the rate of 15% of the average market price of any retail sale by a cannabis retailer.

The bill would require that these provisions not be construed to impose an excise tax upon medicinal cannabis, or medicinal cannabis products, donated for no consideration to a medicinal cannabis patient, as specified.

(5) AUMA imposes a cultivation tax on all harvested cannabis that enters the commercial market upon all cultivators. Existing law defines entering the commercial market to mean cannabis or cannabis products, except for immature cannabis plants and seeds, that complete and comply with specified quality assurance review and testing.

This bill, on and after a specified operative date, and until 5 years after that operative date, would prohibit the cultivation tax from being imposed on medicinal cannabis designated for donation by a cultivator in the track and trace system. The bill would require a licensee that certifies in writing that the medicinal cannabis or a medicinal cannabis product will be donated to a medicinal cannabis patient and sells or uses the medicinal cannabis or medicinal cannabis product in some manner or for some purpose other than donation be liable for the cultivation tax. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill would specify that the certification in writing relieves the cultivator that donates the medicinal cannabis from liability for the cultivation tax and the distributor from liability for collecting the cultivation only if the certification is taken in good faith. The bill would prohibit a distributor from collecting or remitting the cultivation tax for medicinal cannabis or medicinal cannabis products designated for donation by the cultivator. The bill would require a cultivator to keep records of any medicinal cannabis or medicinal cannabis products designated for donation. The bill would require that the cannabis tax provisions not be construed to impose a cultivation tax upon medicinal cannabis or medicinal cannabis products designated for donation by a cultivator.

(6) The bill would require the Legislative Analyst's Office, in order to enable the Legislature to determine whether the use tax exemption and the cultivation tax exemption provided by the bill are meeting, failing to meet, or exceeding a specified goal and objective, to collect certain data regarding the tax exemptions from specified entities, and to submit a report containing the data to the Legislature and the Governor annually each year that the tax exemptions are in effect.

(7) This bill would provide that the provisions of the act are severable.

(8) This bill would incorporate additional changes to Section 26001 of the Business and Professions Code proposed by SB 185 to be operative only if this bill and SB 185 are enacted and this bill is enacted last.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(10) The Control, Regulate and Tax Adult Use of Marijuana Act, an initiative measure, authorizes the Legislature to amend the act to further the purposes and intent of the act with a $\frac{2}{3}$ vote of the membership of both houses of the Legislature, except as provided.

This bill would declare that its provisions further specified purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known as the Dennis Peron and Brownie Mary Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) This act intends to regulate the distribution of donated medicinal cannabis and medicinal cannabis products by retailers and compassionate care programs, which were driven to the black market after the legalization of adult-use cannabis.

(b) Historically, compassionate care programs donated medicinal cannabis and medicinal cannabis products to patients with a valid physician's recommendation who need these products to treat their debilitating symptoms and heal.

(c) It is vital for the health and safety of vulnerable and low-income medicinal cannabis patients to keep them off the black market by allowing these compassionate care donations.

SEC. 3. Section 26001 of the Business and Professions Code, as amended by Section 19 of Chapter 92 of the Statutes of 2018, is amended to read:

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.

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

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

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

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

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

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

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

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

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

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

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

- (i) "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.
- (j) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.
- (k) "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as provided for in this division.
- (l) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (m) "Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.
- (n) "Customer" means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician's recommendation, or a primary caregiver.
- (o) "Day care center" has the same meaning as in Section 1596.76 of the Health and Safety Code.
- (p) "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform.
- (q) "Director" means the Director of Consumer Affairs.
- (r) "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.
- (s) "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (t) "Edible cannabis product" means a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- (u) "Fund" means the Cannabis Control Fund established pursuant to Section 26210.
- (v) "Kind" means applicable type or designation regarding a particular cannabis variant or cannabis product type, including, but not limited to, strain name or other grower trademark, or growing area designation.
- (w) "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.
- (x) "Labor peace agreement" means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.
- (y) "License" means a state license issued under this division, and includes both an A-license and an M-license, as well as a testing laboratory license.
- (z) "Licensee" means any person holding a license under this division, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.
- (aa) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.
- (ab) "Live plants" means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.
- (ac) "Local jurisdiction" means a city, county, or city and county.
- (ad) "Lot" means a batch or a specifically identified portion of a batch.
- (ae) "M-license" means a state license issued under this division for commercial cannabis activity involving medicinal cannabis.

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

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

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

(ai) (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.

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

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

(al) "Owner" means any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Licensed by the bureau.

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

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

SEC. 3.5. Section 26001 of the Business and Professions Code is amended to read:

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(q) "Director" means the Director of Consumer Affairs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ai) (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.

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

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

(al) "Owner" means any of the following:

- (1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
- (2) The chief executive officer of a nonprofit or other entity.
- (3) A member of the board of directors of a nonprofit.
- (4) An individual who will be participating in the direction, control, or management of the person applying for a license.

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

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

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

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

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

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

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

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

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

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

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

SEC. 4. Section 26071 is added to the Business and Professions Code, to read:

26071. (a) To provide access to medicinal cannabis patients who have difficulty accessing cannabis or cannabis products, a licensee that is authorized to make retail sales may provide free cannabis or cannabis products if all of the following criteria are met:

- (1) Free cannabis or cannabis products are provided only to a medicinal cannabis patient or the patient's primary caregiver. For purposes of this section, "medicinal cannabis patient" includes a qualified patient, as defined under Section 11362.7 of the Health and Safety Code, or a person in possession of a valid identification card issued under Section 11362.71 of the Health and Safety Code.
- (2) (A) A licensed retailer providing medicinal cannabis or medicinal cannabis products pursuant to this section to a qualified patient, as defined under Section 11362.7 of the Health and Safety Code, that possesses a valid physician's recommendation,

shall ensure that the physician is in good standing by following the procedures described in subparagraph (B) before providing the qualified patient with any medicinal cannabis or medicinal cannabis products that a cultivator certified were for donation pursuant to Section 34012.1 of the Revenue and Taxation Code or that are exempt from the use tax pursuant to Section 6414 of the Revenue and Taxation Code.

(B) In order to verify the physician's recommendation, the licensed retailer shall do all of the following:

(i) Verify with the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine that the attending physician has a license in good standing to practice medicine or osteopathy in the state.

(ii) Keep a copy of the patient's or primary caregiver's driver's license or other government issued identification.

(3) Except as provided for under Section 34012.1 of the Revenue and Taxation Code, the cannabis or cannabis products comply with all applicable requirements for cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or donation under this division.

(4) A licensee intending to donate the cannabis or cannabis products shall designate the cannabis or cannabis products for donation in the track and trace system. If a cultivator certified that the cannabis or cannabis products are designated for donation to medicinal cannabis patients pursuant to Section 34012.1 of the Revenue and Taxation Code, a licensee shall not change that designation pursuant to subdivision (b) of Section 34012.1 of the Revenue and Taxation Code.

(5) Before being provided to the patient or primary caregiver, the cannabis or cannabis products have been properly recorded in the track and trace system as belonging to the retailer.

(6) The cannabis or cannabis products provided to a medicinal cannabis patient or the primary caregiver of the patient in a single day shall not exceed the possession limits prescribed by Section 11362.77 of the Health and Safety Code.

(7) The event shall be properly recorded in the retailer's inventory records and the track and trace system. The retailer shall include in its inventory records for each medicinal cannabis patient the number of an identification card issued pursuant to Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code or a copy of the physician's recommendation for no less than four years. If the medicinal cannabis patient is a qualified patient, as defined under Section 11362.7 of the Health and Safety Code, that possesses a valid physician's recommendation, the retailer shall certify in writing that they verified the recommendation pursuant to paragraph (2) and shall keep a copy of that certification for no less than seven years.

(8) A licensed retailer that donates medicinal cannabis or medicinal cannabis products shall note the donation in their sales invoice or receipt pursuant to Section 26161 of the Business and Professions Code.

(b) In addition to the provision of free cannabis or cannabis products in subdivision (a), a licensee that is authorized to make retail sales may donate cannabis or cannabis products and the use of equipment in compliance with any compassionate use, equity, or other similar program administered by a local jurisdiction.

(c) A licensee that is authorized to make retail sales may contract with an individual or organization to coordinate the provision of free medicinal cannabis or medicinal cannabis products on the retailer's premises. Licensed retailers that are solely authorized to engage in retail sales by means of delivery may provide free medicinal cannabis or medicinal cannabis products by means of delivery.

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

SEC. 5. Section 26153 of the Business and Professions Code is amended to read:

26153. A licensee shall not give away any amount of cannabis or cannabis products, or any cannabis accessories, as part of a business promotion or other commercial activity. For purposes of this section, the donation of cannabis or cannabis products by a licensee to a patient or the primary caregiver of a patient, pursuant to Section 26071, shall not be considered a business promotion or other commercial activity.

SEC. 6. Section 26161 of the Business and Professions Code is amended to read:

26161. (a) Every sale or transport of cannabis or cannabis products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be

readily accessible for examination by employees of the licensing authorities or California Department of Tax and Fee Administration and shall not be commingled with invoices covering other commodities.

(b) Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:

- (1) Name and address of the purchaser.
- (2) Date of sale and invoice number.
- (3) Kind, quantity, size, and capacity of packages of cannabis or cannabis products sold.
- (4) The cost to the purchaser, together with any discount applied to the price as shown on the invoice.
- (5) The place from which transport of the cannabis or cannabis product was made unless transport was made from the premises of the licensee.
- (6) Whether the cannabis or cannabis products are designated for donation to a medicinal cannabis patient.
- (7) Any other information specified by the licensing authority.

SEC. 7. Section 26162.5 of the Business and Professions Code is amended to read:

26162.5. (a) Identification cards issued pursuant to Section 11362.71 of the Health and Safety Code are hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by a licensee except as (1) necessary for the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, Part 1 (commencing with Section 6001) and Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code, or a local ordinance, or (2) to a contractor providing software services to a licensee for the purpose of conducting a transaction or verifying eligibility, provided that the contractor does not use or retain medical information for any other purpose or share information with any party other than the contracting licensee.

(b) Information contained in a physician's recommendation issued in accordance with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 and received by a licensee, including, but not limited to, the name, address, or social security number of the patient, the patient's medical condition, or the name of the patient's primary caregiver is hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by a licensee except as (1) necessary for the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, Part 1 (commencing with Section 6001) and Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code, or a local ordinance, or (2) to a contractor providing software services to a licensee for the purpose of conducting a transaction or verifying eligibility, provided that the contractor does not use or retain medical information for any other purpose or share information with any party other than the contracting licensee.

SEC. 8. Section 6414 is added to the Revenue and Taxation Code, to read:

6414. (a) The storage, use, or other consumption in this state of medicinal cannabis or medicinal cannabis product shall be exempt from the use tax in either of the following circumstances:

- (1) The medicinal cannabis or medicinal cannabis product is donated by a cannabis retailer licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code to a medicinal cannabis patient.
- (2) The medicinal cannabis or medicinal cannabis product is donated by a person licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code to a cannabis retailer for subsequent donation to a medicinal cannabis patient.

(b) (1) The exemption specified in subdivision (a) shall apply only if the cannabis retailer certifies in writing to the licensee that donates the medicinal cannabis or medicinal cannabis product, in such a form as the department may prescribe, that the medicinal cannabis and medicinal cannabis product will be used in a manner and for a purpose specified in subdivision (a). The licensee that donates the medicinal cannabis or medicinal cannabis product shall keep a copy of the certification for no less than seven years. The certification in writing shall relieve the licensee that donates the medicinal cannabis or medicinal cannabis product of liability for use tax only if it is taken in good faith.

- (2) If a licensee uses the donated medicinal cannabis or medicinal cannabis product in some manner or for some purpose other than those specified in subdivision (a), the licensee shall be liable for the payment of use tax, the measure of tax to the

licensee shall be deemed that licensee's purchase price for similar product, and the licensee shall be subject to having their license suspended by the appropriate licensing authority pursuant to Section 26031 of the Business and Professions Code.

(c) "Medicinal cannabis" and "medicinal cannabis product" shall have the same meaning as those terms are defined in Section 26001 of the Business and Professions Code.

(d) "Cannabis retailer" shall have the same meaning as that term is defined in Section 34010.

(e) "Medicinal cannabis patient" shall mean a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who possesses a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code, or a qualified patient or primary caregiver for a qualified patient issued a valid identification card pursuant to Section 11362.71 of the Health and Safety Code.

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

(2) This section shall remain in effect only until five years after it becomes operative, and as of that date is repealed.

SEC. 9. Section 34010 of the Revenue and Taxation Code, as amended by Section 200 of Chapter 92 of the Statutes of 2018, is amended to read:

34010. For purposes of this part:

(a) "Arm's length transaction" shall mean a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

(b) "Average market price" shall mean both of the following:

(1) In an arm's length transaction, the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the department on a biannual basis in six-month intervals.

(2) In a nonarm's length transaction, the cannabis retailer's gross receipts from the retail sale of the cannabis or cannabis products.

(c) "Department" means the California Department of Tax and Fee Administration or its successor agency.

(d) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs.

(e) "Tax Fund" means the California Cannabis Tax Fund created by Section 34018.

(f) "Cannabis" has the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medicinal cannabis.

(g) "Cannabis products" has the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medicinal concentrates and medicinal cannabis products.

(h) "Cannabis flowers" means the dried flowers of the cannabis plant as defined by the board.

(i) "Cannabis leaves" means all parts of the cannabis plant other than cannabis flowers that are sold or consumed.

(j) "Cannabis retailer" means a person required to be licensed as a retailer, non-storefront retailer, microbusiness, or nonprofit pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(k) "Cultivator" means all persons required to be licensed to cultivate cannabis pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(l) "Distributor" means a person required to be licensed as a distributor pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(m) "Enters the commercial market" means cannabis or cannabis products, except for immature cannabis plants and seeds, that complete and comply with a quality assurance review and testing, as described in Section 26110 of the Business and Professions Code.

(n) "Gross receipts" has the same meaning as set forth in Section 6012.

(o) "Microbusiness" has the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.

(p) "Nonprofit" has the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

(q) "Person" has the same meaning as set forth in Section 6005.

(r) "Retail sale" has the same meaning as set forth in Section 6007.

(s) "Sale" and "purchase" mean any change of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

(t) "Transfer" means to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration.

(u) "Unprocessed cannabis" includes cannabis flowers, cannabis leaves, or other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers.

(v) "Manufacturer" means a person required to be licensed as a manufacturer pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(w) "Medicinal cannabis patient" shall mean a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who possesses a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code, or a qualified patient or primary caregiver for a qualified patient issued a valid identification card pursuant to Section 11362.71 of the Health and Safety Code.

(x) "Designated for donation" shall mean medicinal cannabis donated by a cultivator to a cannabis retailer for subsequent donation to a medicinal cannabis patient pursuant to Section 26071 of the Business and Professions Code.

SEC. 10. Section 34011 of the Revenue and Taxation Code, as amended by Section 201 of Chapter 92 of the Statutes of 2018, is amended to read:

34011. (a) (1) Effective January 1, 2018, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. A purchaser's liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

(2) Each cannabis retailer shall provide a purchaser with an invoice, receipt, or other document that includes a statement that reads: "The cannabis excise taxes are included in the total amount of this invoice."

(3) The department may prescribe other means to display the cannabis excise tax on an invoice, receipt, or other document from a cannabis retailer given to the purchaser.

(b) (1) A distributor in an arm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer. A distributor in a nonarm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer, or at the time of retail sale by the cannabis retailer, whichever is earlier. A distributor shall report and remit the cannabis excise tax to the department pursuant to Section 34015. A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting the cannabis excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the department.

(2) A distributor shall provide an invoice, receipt, or other similar document to the cannabis retailer that identifies the licensee receiving the product, the distributor from which the product originates, including the associated unique identifier, the amount of cannabis excise tax, and any other information deemed necessary by the department. The department may authorize other forms of documentation under this paragraph.

(c) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(d) Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use taxes under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

(e) Cannabis or cannabis products shall not be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(f) The sales and use taxes imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical cannabis as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides their card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

(g) Nothing in this section shall be construed to impose an excise tax upon medicinal cannabis, or medicinal cannabis product, donated for no consideration to a medicinal cannabis patient pursuant to Section 26071 of the Business and Professions Code.

SEC. 11. Section 34012 of the Revenue and Taxation Code is amended to read:

34012. (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested cannabis that enters the commercial market upon all cultivators. The tax shall be due after the cannabis is harvested and enters the commercial market.

(1) The tax for cannabis flowers shall be nine dollars and twenty-five cents (\$9.25) per dry-weight ounce.

(2) The tax for cannabis leaves shall be set at two dollars and seventy-five cents (\$2.75) per dry-weight ounce.

(b) The department may adjust the tax rate for cannabis leaves annually to reflect fluctuations in the relative price of cannabis flowers to cannabis leaves.

(c) The department may from time to time establish other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with cannabis flowers.

(d) The department may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the cannabis is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications, and denominations as may be prescribed by the department and may be purchased by any licensee under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the department may by regulation provide that cannabis shall not be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26068 of the Business and Professions Code.

(h) Cultivators shall be responsible for payment of the tax pursuant to regulations adopted by the department. A cultivator's liability for the tax is not extinguished until the tax has been paid to this state except that an invoice, receipt, or other document from a distributor or manufacturer given to the cultivator pursuant to paragraph (3) is sufficient to relieve the cultivator from further liability for the tax to which the invoice, receipt, or other document refers. Cannabis shall not be sold unless the tax has been paid as provided in this part.

(1) A distributor shall collect the cultivation tax from a cultivator on all harvested cannabis that enters the commercial market. This paragraph shall not apply where a cultivator is not required to send, and does not send, the harvested cannabis to a distributor.

(2) (A) A manufacturer shall collect the cultivation tax from a cultivator on the first sale or transfer of unprocessed cannabis by a cultivator to a manufacturer. The manufacturer shall remit the cultivation tax collected on the cannabis product sold or transferred to a distributor for quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code. This paragraph shall not apply where a distributor collects the cultivation tax from a cultivator pursuant to paragraph (1).

(B) Notwithstanding subparagraph (A), the department may prescribe a substitute method and manner for collection and remittance of the cultivation tax under this paragraph, including a method and manner for collection of the cultivation tax by a distributor.

(3) A distributor or manufacturer shall provide to the cultivator, and a distributor that collects the cultivation tax from a manufacturer pursuant to paragraph (2) shall provide to the manufacturer, an invoice, receipt, or other similar document that identifies the licensee receiving the product, the cultivator from which the product originates, including the associated unique identifier, the amount of cultivation tax, and any other information deemed necessary by the department. The department may authorize other forms of documentation under this paragraph.

(4) The department may adopt regulations prescribing procedures for the refund of cultivation tax collected on cannabis or cannabis product that fails quality assurance, inspection, and testing as described in Section 26110 of the Business and Professions Code.

(i) All cannabis removed from a cultivator's premises, except for plant waste or medicinal cannabis or medicinal cannabis products designated for donation, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all cannabis cultivated in the state pursuant to rules and regulations promulgated by the department, but shall not apply to cannabis cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act of 1996 (Proposition 215), found in Section 11362.5 of the Health and Safety Code.

(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the department annually thereafter for inflation.

(l) The Department of Food and Agriculture is not responsible for enforcing any provisions of the cultivation tax.

SEC. 12. Section 34012.1 is added to the Revenue and Taxation Code, to read:

34012.1. (a) Notwithstanding Section 34012, on and after the operative date of the act adding this section, the cultivation tax shall not be imposed on medicinal cannabis designated for donation by a cultivator in the track and trace system.

(b) A person licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code that certifies in writing that medicinal cannabis or a medicinal cannabis product will be donated to a medicinal cannabis patient and sells or uses the medicinal cannabis or medicinal cannabis product in some manner or for some purpose other than donation, shall be liable for the taxes under this part. The certification in writing shall relieve the cultivator that donates the medicinal cannabis from liability for the taxes imposed and shall relieve the distributor from liability for the taxes required to be collected under this part, only if the certification is taken in good faith.

(c) A distributor or manufacturer shall not collect or remit the cultivation tax for medicinal cannabis or medicinal cannabis products designated for donation by a cultivator.

(d) A cultivator shall keep records of any medicinal cannabis or medicinal cannabis products designated for donation.

(e) Nothing in this part shall be construed to impose a cultivation tax upon medicinal cannabis or medicinal cannabis products designated for donation.

(f) For purposes of this section, "medicinal cannabis" and "medicinal cannabis product" shall mean cannabis and cannabis product, as defined in Section 26001 of the Business and Professions Code, intended 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.

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

(2) This section shall remain in effect only until five years after it becomes operative, and as of that date is repealed.

SEC. 13. It is the intent of the Legislature to apply the requirements of Section 41 of the Revenue and Taxation Code to this act. Therefore, the Legislature finds and declares the following with respect to the tax exemptions provided by Section 6414 of the Revenue and Taxation Code, as added by Section 7 of this act, and Section 34012.1 of the Revenue and Taxation Code, as added by Section 11 of this act:

(a) The goal and objective of the tax exemptions provided by Section 6414 of the Revenue and Taxation Code, as added by Section 7 of this act, and Section 34012.1 of the Revenue and Taxation Code, as added by Section 11 of this act, is to eliminate the tax burden placed on charitable cannabis donations to medicinal cannabis patients in order to minimize the need for those patients to turn to the illicit market in the state. By providing tax exemptions for medicinal cannabis products that are donated to medicinal cannabis patients, this act is intended to offset other financial burdens that cannabis licensees face that bar them from donating cannabis to medicinal cannabis patients who are unable to afford and access safe and tested cannabis in the legal market.

(b) In order to enable the Legislature to determine whether the tax exemptions provided by Section 6414 of the Revenue and Taxation Code, as added by Section 7 of this act, and Section 34012.1 of the Revenue and Taxation Code, as added by Section 11 of this act, are meeting, failing to meet, or exceeding the goal and objective specified in subdivision (a), the Legislative Analyst's Office shall collect data from the California Department of Tax and Fee Administration, the Bureau of Cannabis Control,

and the Department of Food and Agriculture, including, but not limited to, data on tax revenue lost, the amount of medicinal cannabis products donated, and the number of medicinal cannabis patients served, as a result of the tax exemptions, as that data becomes available. The California Department of Tax and Fee Administration, the Bureau of Cannabis Control, and the Department of Food and Agriculture shall make any information requested pursuant to this subdivision available to the Legislative Analyst's Office. The Legislative Analyst's Office shall submit an annual report containing this data to the Legislature and the Governor each year that the tax exemptions are in effect. A report submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

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

(2) This section shall remain in effect only until five years after it becomes operative, and as of that date is repealed.

SEC. 14. 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.

SEC. 15. Section 3.5 of this bill incorporates amendments to Section 26001 of the Business and Professions Code proposed by both this bill and Senate Bill 185. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 26001 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 185, in which case Section 3 of this bill shall not become operative.

SEC. 16. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 17. 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.

SEC. 18. The Legislature finds and declares that this act is consistent with, and furthers the purposes and intent of, the Control, Regulate and Tax Adult Use of Marijuana Act, as stated in Section 3 of that act, by allowing indigent medicinal cannabis patients to continue to receive donated cannabis for medicinal personal use.