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SB-160 Department of Cannabis Control: licensure: appellations of origin: trade samples. (2021-2022)

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Senate Bill No. 160

CHAPTER 87

An act to amend Sections 26001, 26012, 26050.2, 26062, 26063, and 26153.1 of the Business and Professions Code, relating to cannabis, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor July 16, 2021. Filed with Secretary of State July 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 160, Committee on Budget and Fiscal Review. Department of Cannabis Control: licensure: appellations of origin: trade samples.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (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.

Existing law, 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. MAUCRSA generally divides responsibility for the state licensure and regulation of commercial cannabis activity among the Bureau of Cannabis Control in the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health.

AB 141 of the 2021–22 Regular Session (AB 141) would, among other things, establish the Department of Cannabis Control within the Business, Consumer Services, and Housing Agency, would transfer to this department the powers, duties, purposes, functions, responsibilities, and jurisdiction of the bureau, the Department of Food and Agriculture, and the State Department of Public Health under MAUCRSA, except as specified, and would make conforming changes.

This bill would revise, as described below, certain provisions of MAUCRSA that would be amended or added by AB 141, and would become operative only if AB 141 is enacted before this bill.

MAUCRSA defines “manufacture” for purposes of the act to mean to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

This bill would revise the definition of “manufacture” to include to package or label a cannabis product.

MAUCRSA authorizes licensing authorities to create, issue, deny, renew, discipline, suspend, or revoke licenses, and provides that this is a matter of statewide concern.

AB 141 would give the department this authority and would remove the statement that this is a matter of statewide concern.

This bill would add the statement that this is a matter of statewide concern.

MAUCRSA, until January 1, 2022, authorizes a licensing authority, in its sole discretion, to issue a provisional license if the applicant has submitted a completed license application to the licensing authority, including evidence that compliance with the California Environmental Quality Act (CEQA) or local cannabis ordinances is underway, if applicable, as specified.

AB 141 would authorize the Department of Cannabis Control to issue a provisional license until June 30, 2022, if certain conditions are met.

This bill would revise the conditions under which the department would be authorized to issue a provisional license to include compliance with certain labor peace agreement requirements and employee safety training requirements. The bill, until September 30, 2022, would also authorize the department to issue a provisional license to a cultivation license applicant if certain criteria are met. The bill, until June 30, 2023, would also authorize the department to issue a provisional license for a local equity license application that includes cultivation activities if certain criteria are met.

AB 141 would authorize the department to renew a provisional license until January 1, 2025, and would prohibit a provisional license from being effective after January 1, 2026. AB 141 would prohibit the first renewal of a provisional license on or after July 1, 2022, unless certain criteria are met, including specified evidence of progress with CEQA compliance, and would prohibit subsequent renewals unless certain criteria, as revised, are met.

This bill, beginning July 1, 2022, through June 30, 2023, would prohibit the department from renewing a provisional license unless certain criteria are met. The bill, on or after July 1, 2023, would prohibit the department from renewing a provisional license unless certain criteria, as revised, are met.

MAUCRSA requires the Department of Food and Agriculture to establish a program for cannabis, and requires the State Department of Public Health to establish a certification program for manufactured cannabis products that are comparable to the federal National Organic Program and the California Organic Food and Farming Act. Existing law makes the authority to establish these programs inoperative if the federal National Organic Program authorizes organic designation and certification for cannabis. Existing law prohibits a person from representing, selling, or offering for sale any cannabis or cannabis products as organic or with the designation or certification established by the Department of Food and Agriculture or the State Department of Public Health, except as provided.

AB 141 would authorize the Department of Food and Agriculture and the State Department of Public Health to collect fees to cover the reasonable regulatory costs of performing the duties relating to their respective programs and to levy civil penalties, and to deny, suspend, or revoke a registration or certification issued pursuant those programs, for specified violations. AB 141 provides that a licensing authority is authorized to apply, as specified, to the appropriate superior court for a judgment in the amount of the administrative penalty and an order compelling the person to comply with the order of the Department of Food and Agriculture.

Under this bill, the authority to apply to the appropriate superior court for a judgment and an order as described above would be limited to the Department of Food and Agriculture.

MAUCRSA requires the Department of Food and Agriculture, no later than January 1, 2021, to establish a process by which licensed cultivators may establish appellations of origin for cannabis produced in certain geographical areas of California, instead of by county or city.

AB 141 would authorize the Department of Food and Agriculture to collect fees to cover the reasonable regulatory costs of performing the duties relating to the appellation of origin provisions for geographical areas of the state.

This bill would delay the requirement that the Department of Food and Agriculture establish the above-described process until January 1, 2022, and would make other clarifying changes.

MAUCRSA prohibits a licensee from giving away any amount of cannabis or cannabis product as part of a business promotion or other commercial activity.

AB 141 would require the Department of Cannabis Control to adopt regulations authorizing a licensee to designate cannabis or a cannabis product as a trade sample at any time while the cannabis or cannabis product is in the possession of the licensee, and would require the regulations to include a definition of trade sample and the quantity of cannabis and cannabis products that may be designated as trade samples.

This bill would additionally require those regulations to include the amount of trade samples that may be provided to a licensee.

This bill would appropriate \$10,000 from the General Fund to the Department of Cannabis Control for purposes of implementing the provisions of the bill.

AUMA authorizes the Legislature to amend its provisions with a $\frac{2}{3}$ vote of both houses to further its purposes and intent.

This bill would state that the bill furthers the purposes and intent of AUMA.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

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

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

SECTION 1. Section 26001 of the Business and Professions Code, as amended by Section 4 of Assembly Bill 141 of the 2021–22 Regular Session, 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 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.

(e) “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.

(f) “Cannabis accessories” has the same meaning as in Section 11018.2 of the Health and Safety Code.

(g) “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, or a drug, as defined by Section 109925 of the Health and Safety Code.

(h) “Cannabis products” has the same meaning as in Section 11018.1 of the Health and Safety Code. 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.

(i) “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.

(j) “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.

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

(l) “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.

(m) "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.

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

(o) "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.

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

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

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

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

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

(u) "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.

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

(w) "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.

(x) "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.

(y) "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.

(z) "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.

(aa) "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.

(ab) "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.

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

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

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

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

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

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

(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) "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.

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

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

(am) "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.

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

(ao) "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.

(ap) "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.

(aq) "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.

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

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

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

(au) "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.

(av) "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.

(aw) "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.

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

SEC. 2. Section 26012 of the Business and Professions Code, as amended by Section 11 of Assembly Bill 141 of the 2021–22 Regular Session, is amended to read:

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.

SEC. 3. Section 26050.2 of the Business and Professions Code, as amended by Section 37 of Assembly Bill 141 of the 2021–22 Regular Session, is amended to read:

26050.2. (a) (1) Until June 30, 2022, except as provided in paragraphs (3) and (4), the department may, in its sole discretion, issue a provisional license to an applicant if the applicant has submitted a completed license application to the department, including the following, if applicable:

(A) If compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) is not complete, evidence that compliance is underway.

(B) If compliance with local ordinances enacted pursuant to Section 26200 is not complete, evidence that compliance is underway.

(C) Compliance with paragraphs (5) and (11) of subdivision (a) of Section 26051.5.

(D) For a license application that includes cultivation activities, any of the following documents:

(i) A final streambed alteration agreement.

(ii) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife.

(iii) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed.

(iv) Written verification by the Department of Fish and Wildlife that the applicant has submitted a notification described in Section 1602 of the Fish and Game Code, submitted payment of applicable fees pursuant to Section 1609 of the Fish and Game Code, and is responsive to the Department of Fish and Wildlife. For purposes of this subparagraph, an applicant is not responsive to the Department of Fish and Wildlife if either of the following apply:

(I) The notification has been deemed incomplete a second time.

(II) After a notification has been deemed incomplete once, the Department of Fish and Wildlife has not received requested information from the applicant for more than 60 days.

(D) The application is submitted to the department on or before March 31, 2022.

(2) If an application for a cultivation license is submitted on or after January 1, 2022, the department shall not issue a provisional license pursuant to this section if issuing the provisional license would cause a licensee to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation.

(3) Until June 30, 2023, the department may, in its sole discretion, issue a provisional license for a local equity license application that includes cultivation activities, provided that the applicant meets the following requirements:

(A) The local equity applicant is not a cultivation license applicant for a premises that exceeds one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation.

(B) Issuing the license would not cause the applicant to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation.

(C) The local equity applicant satisfies all of the requirements in subparagraphs (A) to (D), inclusive, of paragraph (1).

(D) The local equity applicant submits an application to the department on or before March 31, 2023.

(4) Until September 30, 2022, the department may, in its sole discretion, issue a provisional license to a cultivation license applicant, provided that the applicant meets the following requirements:

(A) The applicant is not a cultivation license applicant for a premises that exceeds 20,000 square feet of total canopy for outdoor cultivation.

(B) Issuing the license would not cause the applicant to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation.

(C) The cultivation license applicant satisfies all of the requirements in subparagraphs (A) to (D), inclusive, of paragraph (1).

(D) The cultivation license applicant submits an application to the department on or before June 30, 2022.

(b) A provisional license issued pursuant to this section shall be valid for no more than 12 months from the date it was issued or renewed. If the department issues or renews a provisional license, it shall include the outstanding items needed to qualify for an annual license specific to the licensee.

(c) The department may, in its sole discretion, renew a provisional license until it issues or denies the provisional licensee's annual license, subject to the requirements of this section.

(d) For a renewal of a provisional license beginning July 1, 2022, through June 30, 2023, the department shall not renew a provisional license unless the following criteria are met:

(1) For cultivation licenses, to illustrate progress with compliance with Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code, one of the following documents:

(A) A final streambed alteration agreement issued by the Department of Fish and Wildlife.

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife by the provisional licensee.

(C) Written verification by the Department of Fish and Wildlife that the provisional licensee has submitted a complete notification described in Section 1602 of the Fish and Game Code.

(D) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed.

(2) If compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) is not yet complete, a determination from the department that one of the following requirements has been met:

(A) The lead agency is in the process of preparing a site-specific initial study, addendum, or checklist pursuant to Section 15063, 15164, 15168, or 15183 of Title 14 of the California Code of Regulations to demonstrate whether it is consistent with a previously circulated and adopted negative declaration, mitigated negative declaration, or environmental impact report.

(B) If a local jurisdiction is the lead agency, the lead agency has made substantial progress during the previous 12-month licensure term toward completing project-specific environmental review by drafting, preparing, or circulating for public review an environmental document pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) If the department is the lead agency, information requested by the department of the provisional licensee that demonstrates the furtherance of environmental review.

(D) Information submitted to the department by the provisional licensee applicant that demonstrates evidence of substantial progress toward compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) during the previous 12-month licensure term.

(e) On or after July 1, 2023, the department shall not renew a provisional license unless the following criteria are met:

(1) For cultivation licenses, to illustrate progress with compliance with Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code, one of the following documents:

(A) A final streambed alteration agreement issued by the Department of Fish and Wildlife.

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife by the provisional licensee.

(C) Written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not needed.

(2) If compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) is not yet complete, to illustrate progress with compliance, a determination from the department that one of the following has been met:

(A) The lead agency for the license has prepared and circulated for public review a negative declaration or a mitigated negative declaration.

(B) The lead agency for the license has determined that an environmental impact report is required pursuant to Section 21157 of the Public Resources Code and has either made substantial progress in preparing that environmental impact report or has a contract or contracts with consultants in place for the preparation of that environmental impact report.

(C) The lead agency has certified to the department that it has conducted a reasonably comprehensive site-specific review and has reviewed, prepared, and deemed complete an initial study, addendum, or checklist pursuant to Section 15063, 15164, 15168, or 15183 of Title 14 of the California Code of Regulations, which demonstrates consistency with a previously circulated and adopted negative declaration, mitigated negative declaration, or environmental impact report, in preparation for approval of an annual license.

(D) The lead agency for the license has reviewed, prepared, and deemed complete a notice of exemption pursuant to Section 21108 or 21152 of the Public Resources Code, except for ministerial projects not subject to the California Environmental Quality Act pursuant to paragraph (1) of subdivision (b) of Section 21080 of the Public Resources Code.

(f) A provisional license authorizing cultivation activities shall not be renewed if the department is notified of either or both of the following:

(1) The State Water Resources Control Board has notified the department that the provisional licensee is not in compliance with subdivision (a) or (b) of Section 26060.1 or the principles, guidelines, and requirements established pursuant to Section 13149 of the Water Code.

(2) The Department of Fish and Wildlife has notified the department that the provisional licensee is not in compliance with any final streambed alteration agreement, any conditions set forth in a signed draft streambed alteration agreement, or a condition established pursuant to subdivision (a) or paragraphs (1) and (2) of subdivision (b) of Section 26060.1.

(g) (1) After January 1, 2023, the department shall not renew a license pursuant to this section for cultivation activities if renewing the license would cause a licensee to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation or 22,000 square feet for mixed-light or indoor cultivation.

(2) After January 1, 2024, no provisional license that causes a licensee to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation or 22,000 square feet for mixed-light or indoor cultivation shall be in effect.

(h) The department, in its sole discretion, may allow a provisional licensee to move locations after the date provisional licenses can no longer be issued provided that the new location is approved in compliance with California Environmental Quality Act, and Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code. If all other renewal requirements are satisfied, the department may also renew the license at the new location.

(i) The department may, in its sole discretion, revoke or suspend a provisional license if it determines the licensee failed to actively and diligently pursue requirements for the annual license. The department shall adopt regulations clarifying what constitutes actively and diligently pursuing requirements for the annual license.

(j) The department shall cancel a provisional license upon issuance of an annual license, denial of an annual license, abandonment of an application for licensure, or withdrawal of an application for licensure.

(k) Except as specified in this section, the provisions of this division shall apply to a provisional license in the same manner as to an annual license.

(l) Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the issuance of a license pursuant to this section by the department, except as otherwise provided in this section.

(m) Refusal by the department to issue a license pursuant to this section or revocation or suspension by the department of a license issued pursuant to this section shall not entitle the applicant or licensee to a hearing or an appeal of the decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division and Sections 26031 and 26058 shall not apply to licenses issued pursuant to this section.

(n) For purposes of this section, "streambed alteration agreement" has the same meaning as the term "agreement" is defined in Section 1601 of the Fish and Game Code, which includes both individual agreements and general agreements under Section 1617 of the Fish and Game Code.

(o) The Department may not renew a provisional license after January 1, 2025 and no provisional license shall be effective after January 1, 2026.

(p) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(q) It is the intent of the Legislature that no further exemptions from annual licenses be adopted and that any licenses issued under this division after January 1, 2025, be issued in compliance with all relevant environmental laws.

(r) It is the intent of the Legislature that funds appropriated in Item 1115-101-0001 of the Budget Act of 2021 shall be promptly deployed to allow local jurisdictions to meet the deadlines in this Act.

SEC. 4. Section 26062 of the Business and Professions Code, as amended by Section 49 of Assembly Bill 141 of the 2021–22 Regular Session, is amended to read:

26062. (a) (1) (A) No later than July 1, 2021, the Department of Food and Agriculture shall establish a program for cannabis that is comparable to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code) and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code. For purposes of administering this paragraph, the Department of Food and Agriculture shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(B) The Department of Food and Agriculture may collect fees to cover the reasonable regulatory costs of performing duties pursuant to this paragraph. The Department of Food and Agriculture may deny, suspend, or revoke a registration or certification issued under the program established pursuant to this paragraph for a violation of the program or Section 26062.5. A violation of the program established pursuant to this paragraph or Section 26062.5 may also be subject to a civil penalty in an amount not to exceed thirty thousand dollars (\$30,000) for each individual violation.

(C) A person may request a hearing to contest a denial, suspension, revocation, or civil penalty levied pursuant to this paragraph by submitting a written request within 30 days of service. The hearing shall be held pursuant to the provisions of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code and any informal hearing regulations adopted by the Department of Food and Agriculture.

(D) After the exhaustion of the administrative and judicial review procedures, the Department of Food and Agriculture may apply to the appropriate superior court for a judgment in the amount of the administrative penalty and an order compelling the person to comply with the order of the Department of Food and Agriculture. The application, which shall include a certified copy of the final order of the Department of Food and Agriculture, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

(E) Any penalties or fees collected by the Department of Food and Agriculture pursuant to this paragraph shall be deposited in the Department of Food and Agriculture Fund.

(2) (A) No later than July 1, 2021, the State Department of Public Health shall establish a certification program for manufactured cannabis products that is comparable to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code. For purposes of administering this paragraph, the State Department of Public Health shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(B) For the purposes of enforcement of this paragraph, any authorized agent of the State Department of Public Health, including those defined in Section 109945 of the Health and Safety Code, may examine records and inspect the premises of a cannabis manufacturer and embargo cannabis products in that premises as necessary to perform the duties pursuant to this paragraph.

(C) The State Department of Public Health may collect fees to cover the reasonable regulatory costs of performing duties pursuant to this paragraph. The State Department of Public Health may deny, suspend, or revoke a registration or certification issued pursuant to this paragraph for a violation of the certification program or for a violation of Section 26062.5, consistent with Section 110875 of the Health and Safety Code. The State Department of Public Health may levy a civil penalty for a violation of the certification program or Section 26062.5. The amount of any penalty imposed pursuant to this paragraph shall be consistent with Section 110915 of the Health and Safety Code. A person subject to a penalty shall have the right to an informal hearing, consistent with Section 110915 of the Health and Safety Code. Any penalties or fees collected by the State Department of Public Health pursuant to this paragraph shall be deposited in the Food Safety Fund established pursuant to Section 110050 of the Health and Safety Code for use by the State Department of Public Health, upon appropriation by the Legislature, for the purpose of administering the certification program.

(b) If at any time preceding or following the establishment of a program pursuant to subdivision (a), the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)) authorizes organic designation and certification for cannabis, this section shall become inoperative and, as of January 1, of the following year, is repealed.

SEC. 5. Section 26063 of the Business and Professions Code, as amended by Section 50 of Assembly Bill 141 of the 2021–22 Regular Session, is amended to read:

26063. (a) (1) No later than January 1, 2018, the department shall establish standards by which a licensed cultivator may designate a county, city, or city and county of origin for cannabis. To be eligible for the designation, 100 percent of the cannabis shall be produced within the designated county, city, or city and county, as defined by finite political boundaries.

(2) Cannabis shall not be advertised, marketed, labeled, or sold as produced in a California county, city, or city and county, including any similar name that is likely to mislead consumers as to the kind of cannabis, when the cannabis was not produced in that county, city, or city and county.

(3) The name of a California county, city, or city and county, including any similar name that is likely to mislead consumers as to the kind of cannabis contained in the product, shall not be used in the advertising, labeling, marketing, or packaging of cannabis products unless 100 percent of the cannabis contained in the product was produced in that county, city, or city and county.

(b) (1) No later than January 1, 2022, the Department of Food and Agriculture shall establish a process by which licensed cultivators may establish appellations of origin, including standards, practices, and cultivars applicable to cannabis produced in a certain geographical area in California, not otherwise specified in subdivision (a).

(2) Cannabis shall not be advertised, marketed, labeled, or sold using an appellation of origin established pursuant to paragraph (1), including any similar name that is likely to mislead consumers as to the kind of cannabis, unless the cannabis meets the appellation of origin requirements for, and was produced in, the geographical area.

(3) An appellation of origin established pursuant to this subdivision, including any similar name that is likely to mislead consumers as to the kind of cannabis contained in a product, shall not be used in the advertising, labeling, marketing, or packaging of a cannabis product unless 100 percent of the cannabis contained in the product meets the appellation of origin requirements and was produced in the geographical area.

(4) The Department of Food and Agriculture may collect fees to cover the reasonable regulatory costs of performing duties pursuant to this section. Any fees collected by the Department of Food and Agriculture pursuant to this section shall be deposited in the Department of Food and Agriculture Fund.

(c) An appellation of origin shall not be approved unless it requires the practice of planting in the ground in the canopy area and excludes the practices of using structures, including a greenhouse, hoop house, glasshouse, conservatory, hothouse, and any similar structure, and any artificial light in the canopy area.

SEC. 6. Section 26153.1 of the Business and Professions Code, as added by Section 76 of Assembly Bill 141 of the 2021–22 Regular Session, is amended to read:

26153.1. (a) The Department of Cannabis Control shall adopt regulations to establish a process authorizing licensees to designate cannabis or cannabis products as a trade sample at any time while the cannabis or cannabis product is in the possession of the licensee.

(b) The department shall adopt regulations to establish a definition of trade sample, the quantity of cannabis and cannabis products that may be designated as trade samples, the amount of trade samples that may be provided to a licensee, and any other provisions necessary to implement this section.

(c) Cannabis or cannabis products designated as trade samples shall be subject to quality assurance and testing pursuant to Section 26110, and may be returned to cultivators and manufacturers following quality assurance and testing pursuant to Section 26110.

(d) Cannabis or cannabis products designated as trade samples shall be recorded into the track and trace program established pursuant to Section 26067.

(e) Cannabis or cannabis products designated as trade samples shall be labeled with the following: "TRADE SAMPLE. NOT FOR RESALE OR DONATION."

(f) Cannabis or cannabis products designated as trade samples shall only be given for targeted advertising to licensees about new or existing cannabis or cannabis products. The department may adopt regulations specifying additional purposes of trade samples.

(g) Cannabis or cannabis products designated as trade samples may be transported between any two licensees by an employee of a licensed distributor or microbusiness authorized to engage in distribution, or by a licensee authorized to engage in transportation of cannabis, including a distributor transport-only licensee as established by the department in regulation. Employees transporting trade samples pursuant to this subdivision but outside of a registered vehicle of the licensed distributor or microbusiness shall be subject to possession limits established in Section 11357 of the Health and Safety Code.

(h) Cannabis and cannabis products designated as trade samples shall not be provided for any form of payment, consideration, cost, or compensation.

(i) Except as otherwise provided in this section, cannabis and cannabis products designated as trade samples shall comply with all applicable requirements for cultivation, manufacturing, distribution, processing, storing, laboratory testing, quality assurance, packaging, or labeling under this division.

(j) This section shall become effective upon adoption of regulations by the department and no later than January 1, 2023.

(k) Notwithstanding any other law, the department may adopt and readopt emergency regulations to implement this section. The provisions of Section 26013 shall be applicable to emergency regulations adopted or readopted pursuant to this section. The emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of public peace, health, safety or general welfare.

SEC. 7. This act shall become operative only if (1) Assembly Bill 141 of the 2021–22 Regular Session is enacted and takes effect on or before January 1, 2022, (2) Assembly Bill 141 amends Sections 26001, 26012, 26050.2, 26062, and 26063 of and adds Section 26153.1 to, the Business and Professions Code and (3) this bill is enacted after Assembly Bill 141.

SEC. 8. The sum of ten thousand dollars (\$10,000) is hereby appropriated from the General Fund to the Department of Cannabis Control for purposes of implementing this act.

SEC. 9. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

SEC. 10. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.