The California Legal Update

New and Amended Statutes Edition

Remember 9/11/2001; Support Our Troops

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THIS EDITION'S WORDS OF WISDOM:

"*I refuse to answer that question on the grounds that I don't know the answer*." (Douglas Adams)

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***Administrative Notes*:**

***New and Amended Statutes*:**

ADMINISTRATIVE NOTES:

***New and Amended Statutes; Disclaimer*:** The statutes listed here are not intended to cover the entire body of the Legislature's work for 2015. Only those statutes believed to be of interest to most law enforcement officers, with the concerns of prosecutors in mind, are included. Sentencing rules (*of which there are many*), typically covered better in other publications, have been avoided except when important to the substance of a new or amended offense. Mere changes in the potential sentence for an offense are also not included unless the offense's classification is also affected (e.g., felony to misdemeanor). Statutes that affect post-conviction proceedings are also not included. Rewritten statutes, constituting cosmetic changes only, without any substantive changes to the elements of a crime, have been avoided. Some of the statutes that are included have been severely paraphrased, the degree of detail being dependent upon the newness, importance, and/or complexity of the statute. Other statutes, (including, but not limited to, the "**Electronic Communications Privacy Act**," **P.C. §§ 1546 et seq**., and the **Medical Marijuana Regulation and Safety Act**, at **B&P Code §§ 19300 et seq**., due to their importance and complexity, have been included, word for word (with some abbreviations) in their entirety. Although I have made a sincere effort to avoid taking any part of a statute out of context, it is *strongly* recommended that the unedited statute be consulted before attempting to use it either in the field or the courtroom. The effective date of each new or amended statute is January 1, 2016, unless otherwise indicated.

NEW AND AMENDED STATUTES:

Animals:

Fish & Game Code § 2022 (New): *Ivory and Rhinoceros Horns*:

The purchasing, selling, offering for sale, possessing with the intent to sell, or importing with the intent to sell, ivory or rhinoceros horns (with limited exceptions), is a misdemeanor.

Punishment: *Misdemeanor*:

Where the value of the ivory or rhinoceros horns is $250 or less; 30 days and/or a fine of between $1,000 and $10,000.
Where the value is more than $250; one year in county jail and/or a fine of between $5,000 and $40,000.
For a second or subsequent offense where the value is less than $250; one year in county jail and/or a fine of between $5,000 and $40,000.
For a second or subsequent offense where the value is more $250; one year in county jail and/or a fine of between $5,000 and $50,000, or an amount equal to twice the value, whichever is greater.
The Department of Fish & Wildlife may also impose an administrative of up to $10,000.

Automated License Plate Recognition Data:

Civ. Code §§ 1798.90.5, **1798.90.51**, **1798.90.52**, **1798.90.53**, **1798.90.54**, **1798.90.55:** (New): *Security of License Plate Information*:

A "*license plate recognition system*" is defined as "a searchable computerized database resulting from the operation of one or more mobile or fixed cameras combined with other computer algorithms to read and convert images of registration plates and the characters they contain into computer-readable data," or "automated license plate recognition (ALPR) data." These new sections require ALPR operators to maintain reasonable security procedures and practices, including protecting ALPR information from unauthorized access, detection, use, modification, or disclosure. A use and privacy policy, establishing minimum standards, must be implemented.

Cellphones; Cellular Communications Interception Technology:

Gov't. Code § 53166 (New): *Cellular Communications Interception Technology*:

(a) For purposes of this article, the following terms have the following meanings:

(1) "*Cellular communications interception technology*" means any device that intercepts mobile telephony calling information or content, including an international mobile subscriber identity catcher or other virtual base transceiver station that masquerades as a cellular station and logs mobile telephony calling information.

(2) "*Local agency*" means any city, county, city and county, special district, authority, or other political subdivision of the state, and includes every county sheriff and city police department.

(b) Every local agency that operates cellular communications interception technology shall do both of the following:

(1) Maintain reasonable security procedures and practices, including operational, administrative, technical, and physical safeguards, to protect information gathered through the use of cellular communications interception technology from unauthorized access, destruction, use, modification, or disclosure.

(2) Implement a usage and privacy policy to ensure that the collection, use, maintenance, sharing, and dissemination of information gathered through the use of cellular communications interception technology complies with all applicable law and is consistent with respect for an individual's privacy and civil liberties. This usage and privacy policy shall be available in writing to the public, and, if the local agency has an Internet Web site, the usage and privacy policy shall be posted conspicuously on that Internet Web site. The usage and privacy policy shall, at a minimum, include all of the following:

(A) The authorized purposes for using cellular communications interception technology and for collecting information using that technology.

(B) A description of the job title or other designation of the employees who are authorized to use, or access information collected through the use of, cellular communications interception technology. The policy shall identify the training requirements necessary for those authorized employees.

(C) A description of how the local agency will monitor its own use of cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws, including laws providing for process and time period system audits.

(D) The existence of a memorandum of understanding or other agreement with another local agency or any other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.

(E) The purpose of, process for, and restrictions on, the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.

(F) The length of time information gathered through the use of cellular communications interception technology will be retained,

and the process the local agency will utilize to determine if and when to destroy retained information.

(c)

(1) Except as provided in **para. (2)**, a local agency shall not acquire cellular communications interception technology unless approved by its legislative body by adoption, at a regularly scheduled public meeting held pursuant to the **Ralph M. Brown Act** (**Gov't. Code §§ 54950 et seq**.), of a resolution or ordinance authorizing that acquisition and the usage and privacy policy required by this section.
(2) Notwithstanding **para. (1)**, the county sheriff shall not acquire cellular communications interception technology unless the sheriff provides public notice of the acquisition, which shall be posted conspicuously on his or her department's Internet Web site, and his or her department has a usage and privacy policy required by this section.

(d) In addition to any other sanctions, penalties, or remedies provided by law, an individual who has been harmed by a violation of this section may bring a civil action in any court of competent jurisdiction against a person who knowingly caused that violation. The court may award a combination of any one or more of the following:

(1) Actual damages, but not less than liquidated damages in the amount of two thousand five hundred dollars ($2,500).
(2) Punitive damages upon proof of willful or reckless disregard of the law.
(3) Reasonable attorney's fees and other litigation costs reasonably incurred.
(4) Other preliminary and equitable relief as the court determines to be appropriate.

Cellphones & Other Electronic Devices; Electronic Communications Privacy Act:

P.C. § 1546 (New): *Definitions*:

(a) An "*adverse result*" means any of the following:

(1) Danger to the life or physical safety of an individual.
(2) Flight from prosecution.
(3) Destruction of or tampering with evidence.
(4) Intimidation of potential witnesses.
(5) Serious jeopardy to an investigation or undue delay of a trial.

(b) "*Authorized possessor*" means the possessor of an electronic device when that person is the owner of the device or has been authorized to possess the device by the owner of the device.

(c) "*Electronic communication*" means the transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system.

(d) "*Electronic communication information*" means any information about an electronic communication or the use of an electronic communication service, including, but not limited to, the contents, sender, recipients, format, or location of the sender or recipients at any point during the communication, the time or date the communication was created, sent, or received, or any information pertaining to any individual or device participating in the communication, including, but not limited to, an IP address. Electronic communication information does not include subscriber information as defined in this chapter.

(e) "*Electronic communication service*" means a service that provides to its subscribers or users the ability to send or receive electronic communications, including any service that acts as an intermediary in the transmission of electronic communications, or stores electronic communication information.

(f) "*Electronic device*" means a device that stores, generates, or transmits information in electronic form.

(g) "*Electronic device information*" means any information stored on or generated through the operation of an electronic device, including the current and prior locations of the device.

(h) "*Electronic information*" means electronic communication information or electronic device information.

(i) "*Government entity*" means a department or agency of the state or a political subdivision thereof, or an individual acting for or on behalf of the state or a political subdivision thereof.

(j) "*Service provider*" means a person or entity offering an electronic communication service.

(k) "*Specific consent*" means consent provided directly to the government entity seeking information, including, but not limited to, when the government entity is the addressee or intended recipient or a member of the intended audience of an electronic communication. Specific consent does not require that the originator of the communication have actual knowledge that an addressee, intended recipient, or member of the specific audience is a government entity.

(*l*) "*Subscriber information*" means the name, street address, telephone number, email address, or similar contact information provided by the subscriber to the provider to establish or maintain an account or communication channel, a subscriber or account number or identifier, the length of service, and the types of services used by a user of or subscriber to a service provider.

P.C. § 1546.1 (New): *Prohibited Acts and Procedures*:

(a) Except as provided in this section, a government entity shall not do any of the following:

(1) Compel the production of or access to electronic communication information from a service provider.

(2) Compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device.

(3) Access electronic device information by means of physical interaction or electronic communication with the electronic device. This section does not prohibit the intended recipient of an electronic communication from voluntarily disclosing electronic communication information concerning that communication to a government entity.

(b) A government entity may compel the production of or access to *electronic communication information* from a service provider, or compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device only under the following circumstances:

(1) Pursuant to a *warrant* issued pursuant to **P.C. §§ 1523 et seq.**, and subject to **subd. (d)** (see below).

(2) Pursuant to a *wiretap order* issued pursuant to **P.C. §§ 629.50 et seq.**

(3) Pursuant to an *order for electronic reader records* issued pursuant to **Civil Code § 1798.90**.

(4) Pursuant to a *subpoena* issued pursuant to existing state law, provided that the information is not sought for the purpose of investigating or prosecuting a criminal offense, and compelling the production of or access to the information via the subpoena is not otherwise prohibited by state or federal law. Nothing in this paragraph shall be construed to expand any authority under state law to compel the production of or access to electronic information.

(c) A government entity may access *electronic device information* by means of physical interaction or electronic communication with the device only as follows:

(1) Pursuant to a *warrant* issued pursuant to **P.C. §§ 1523 et seq.**, and subject to **subd. (d)** (see below).

(2) Pursuant to a *wiretap order* issued pursuant to **P.C. §§ 629.50 et seq.**

(3) With the *specific consent* of the authorized possessor of the device.

(4) With the *specific consent* of the owner of the device, only when the device has been reported as lost or stolen.

(5) If the government entity, in good faith, believes that *an emergency* involving danger of death or serious physical injury to any person requires access to the electronic device information.

(6) If the government entity, in good faith, believes the device to be *lost, stolen, or abandoned*, provided that the entity shall only access electronic device information in order to attempt to identify, verify, or contact the owner or authorized possessor of the device.

(7) Except where prohibited by state or federal law, if the device is *seized from an inmate's possession* or found in an area of a correctional facility under the jurisdiction of the Department of Corrections and Rehabilitation where inmates have access and the device is not in the possession of an individual and the device is not known or believed to be the possession of an authorized visitor. Nothing in this paragraph shall be construed to supersede or override **P.C. § 4576**.

(d) Any *warrant* for electronic information shall comply with the following:

(1) The warrant shall describe with particularity the information to be seized by specifying the time periods covered and, as appropriate and reasonable, the target individuals or accounts, the applications or services covered, and the types of information sought.

(2) The warrant shall require that any information obtained through the execution of the warrant that is unrelated to the objective of the warrant shall be sealed and not subject to further review, use, or disclosure without a court order. A court shall issue such an order upon a finding that there is probable cause to believe that the information is relevant to an active investigation, or review, use, or disclosure is required by state or federal law.

(3) The warrant shall comply with all other provisions of California and federal law, including any provisions prohibiting, limiting, or imposing additional requirements on the use of search warrants. If directed to a service provider, the warrant shall be accompanied by an order requiring the service provider to verify the authenticity of electronic information that it produces by providing an affidavit that complies with the requirements set forth in **Evid. Code § 1561**. Admission of that information into evidence shall be subject to **Evid. Code § 1562**.

(e) When issuing any *warrant* or order for *electronic information*, or upon the petition from the target or recipient of the warrant or order, a court may, at its discretion, do any or all of the following:

(1) Appoint a *special master*, as described in **P.C. § 1524(d)**, charged with ensuring that only information necessary to achieve the objective of the warrant or order is produced or accessed.

(2) Require that any information obtained through the execution of the warrant or order that is unrelated to the objective of the warrant be destroyed as soon as feasible after the termination of the current investigation and any related investigations or proceedings.

(f) A service provider may voluntarily disclose electronic communication information or subscriber information when that disclosure is not otherwise prohibited by state or federal law.

(g) If a government entity receives electronic communication information voluntarily provided pursuant to **subd. (f)**, it shall destroy that information within 90 days unless one or more of the following circumstances apply:

(1) The entity has or obtains the specific consent of the sender or recipient of the electronic communications about which information was disclosed.

(2) The entity obtains a court order authorizing the retention of the information. A court shall issue a retention order upon a finding that the conditions justifying the initial voluntary disclosure persist, in which case the court shall authorize the retention of the information only for so long as those conditions persist, or there is probable cause to believe that the information constitutes evidence that a crime has been committed.

(3) The entity reasonably believes that the information relates to child pornography and the information is retained as part of a multiagency database used in the investigation of child pornography and related crimes.

(h) If a government entity obtains electronic information pursuant to *an emergency* involving danger of death or serious physical injury to a person, that

requires access to the electronic information without delay, the entity shall, within three days after obtaining the electronic information, file with the appropriate court an application for a warrant or order authorizing obtaining the electronic information or a motion seeking approval of the emergency disclosures that shall set forth the facts giving rise to the emergency, and if applicable, a request supported by a sworn affidavit for an order delaying notification under **P.C. § 1546.2(b)(1)**. The court shall promptly rule on the application or motion and shall order the immediate destruction of all information obtained, and immediate notification pursuant to **P.C. § 1546.2(a)** if such notice has not already been given, upon a finding that the facts did not give rise to an emergency or upon rejecting the warrant or order application on any other ground.

(i) This section does not limit the authority of a government entity to use an administrative, grand jury, trial, or civil discovery subpoena to do any of the following:

(1) Require an originator, addressee, or intended recipient of an electronic communication to disclose any electronic communication information associated with that communication.

(2) Require an entity that provides electronic communications services to its officers, directors, employees, or agents for the purpose of carrying out their duties, to disclose electronic communication information associated with an electronic communication to or from an officer, director, employee, or agent of the entity.

(3) Require a service provider to provide subscriber information.

P.C. § 1546.2 (New): *Electronic Information Obtained with a Warrant or Under Emergency Circumstances*:

(a) Except as otherwise provided in this section, any government entity that executes a *warrant* (**P.C. § 1546.1(b)(1)**, **(c)(1)**, **(d)** & **(e)**, above) or obtains electronic information in *an emergency* pursuant to **P.C. § 1546.1** (**Subd. (c)(5)** and **(h)**, above), shall serve upon, or deliver to by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective, the identified targets of the warrant or emergency request, a notice that informs the recipient that information about the recipient has been compelled or requested, and states with reasonable specificity the nature of the government investigation under which the information is sought. The notice shall include a copy of the warrant or a written statement setting forth facts giving rise to the emergency. The notice shall be provided contemporaneously with the execution of a warrant, or, in the case of an emergency, within three days after obtaining the electronic information.

(b):

(1) When a *warrant* is sought or electronic information is obtained in an *emergency* under **P.C. § 1546.1** , the government entity may submit a request supported by a sworn affidavit for an order delaying notification and prohibiting any party providing information from notifying any other party that information has been sought. The court shall issue the order if the court determines that there is reason to believe that notification may have an adverse result, but only for the period of time that the court finds there is reason to believe that the notification may have that adverse result, and not to exceed 90 days.

(2) The court may grant extensions of the delay of up to 90 days each on the same grounds as provided in **para. (1)**.

(3) Upon expiration of the period of delay of the notification, the government entity shall serve upon, or deliver to by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective as specified by the court issuing the order authorizing delayed notification, the identified targets of the warrant, a document that includes the information described in **subd. (a)**, a copy of all electronic information obtained or a summary of that information, including, at a minimum, the number and types of records disclosed, the date and time when the earliest and latest records were created, and a statement of the grounds for the court's determination to grant a delay in notifying the individual.

(c) If there is no identified target of a warrant or emergency request at the time of its issuance, the government entity shall submit to the Department of Justice within three days of the execution of the warrant or issuance of the request all of the information required in **subd. (a)**. If an order delaying notice is obtained pursuant to **subd. (b)**, the government entity shall submit to the department upon the expiration of the period of delay of the notification all of the information required in **para (3)** of **subd. (b)**. The department shall publish all those reports on its Internet Web site within 90 days of receipt. The department may redact names or other personal identifying information from the reports.

(d) Except as otherwise provided in this section, nothing in this chapter shall prohibit or limit a service provider or any other party from disclosing information about any request or demand for electronic information.

P.C. § 1546.4 (New): *Suppression Provisions and Other Remedies*:

(a) Any person in a trial, hearing, or proceeding may move to suppress any electronic information obtained or retained in violation of the **Fourth Amendment** to the **United States Constitution** or of this chapter. The motion

shall be made, determined, and be subject to review in accordance with the procedures set forth in **P.C. § 1538.5(b)** to **(q)**, inclusive.

(b) The Attorney General may commence a civil action to compel any government entity to comply with the provisions of this chapter.

(c) An individual whose information is targeted by a warrant, order, or other legal process that is inconsistent with this chapter, or the **California Constitution** or the **United States Constitution**, or a service provider or any other recipient of the warrant, order, or other legal process may petition the issuing court to void or modify the warrant, order, or process, or to order the destruction of any information obtained in violation of this chapter, or the **California Constitution**, or the **United States Constitution**.

(d) A California or foreign corporation, and its officers, employees, and agents, are not subject to any cause of action for providing records, information, facilities, or assistance in accordance with the terms of a warrant, court order, statutory authorization, emergency certification, or wiretap order issued pursuant to this chapter.

See also **Gov't. Code § 53166(b)** (New), above.

Cigarettes:

H&S Code § 24600 (New): *Non-Nicotine Devices*:

It is an infraction to sell or furnish a device intended to deliver a "*non-nicotine*" product in a vapor state, to be directly inhaled by the user, to a person under the age of 18.

An exception is provided for any drug or medical device approved by the federal FDA.

Punishment: Infraction:
First violation; a fine of up to $500.
Second violation; a fine of up to $1,000.
Third and subsequent violation; a fine of up to $1,500.

Note: **H&S § 119405** continues to make it an infraction to furnish or sell to a minor under the age of 18 a device that provides an inhalable dose of nicotine (as opposed to a "*non-nicotine*" device) by delivering a vaporized solution; i.e., an "e-cigarette."

Controlled Substances:

H&S Code § 11357.5 (Amended): *Synthetic Marijuana*:

New **subd. (b)** creates an infraction for using or possessing a synthetic cannabinoid derivative (i.e., synthetic marijuana).

Punishment: Infraction; $250 fine.

H&S Code § 11360 (Amended): *Transporting Marijuana*:

The term "*transport*," when referring to transporting marijuana, is interpreted to mean "*transportation for sale*." Also, "This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses."

H&S Code § 11379.5 (Amended): *Transporting Phencyclidine*:

The term "*transport*," when referring to transporting phencyclidine, is interpreted to mean "*transportation for sale*." Also, "This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses."

H&S Code § 11379.6 (Amended): *Sentencing Aggravating Factors*:

Provides for two new aggravating factors for sentencing purposes: (1) Any offense involving the manufacturing of methamphetamine occurring within 200 feet of an occupied residence or any structure where another person was present at the time the offense was committed, and (2) where the offense involves a "volatile solvent to chemically extract "concentrated cannabis" (e.g., "hash oil" or "butane honey oil") occurring within 300 feet of an occupied residence or any structure where another person was present at the time the offense was committed.

H&S Code § 11391 (Amended): *Transporting Psilocybin or Psilocyn*:

The term "*transport*," when referring to transporting psilocybin or psilocyn (e.g., "mushrooms"), is interpreted to mean "*transportation for sale*." Also, "This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses."

H&S Code § 11489 (Amended): *After-Seizure Destruction of Excess Marijuana*:

The amount of marijuana that may be destroyed by law enforcement after seizure without a court order is increased from that in excess of *ten pounds* to that in excess of *two pounds*, or the amount in excess of the amount of marijuana a medical marijuana patient or designated caregiver is authorized to possess by

ordinance in the city or county where the marijuana was seized, whichever is greater. Video is added to the required method (i.e., photographs) of documenting the total amount of *any* controlled substance before it is destroyed.

DNA:

P.C. § 298 (Amended; Effective Date Unknown): *Collection of DNA Upon Arrest*:

Subd. (a)(1)(A), mandating the collection of blood specimens, buccal swab samples, and thumb and palms impressions for forwarding to the Department of Justice, is amended to read as follows, but is effective *only if and when* the California Supreme Court upholds the lower appellate court's decision in ***People v. Buza*** (2014) 231 Cal.App.4th 1446 (see below):

> " . . . except that a blood specimen or buccal swab sample taken from a person arrested for the commission of a felony as specified in **paragraph (2)** of **subdivision (a)** of **Section 296** shall be forwarded to the Department of Justice only after one of the following has occurred, which shall be deemed a finding of probable cause, whichever occurs first:
>
> > **(i)** A felony arrest warrant has been signed by a judicial officer pursuant to **P.C. § 813** or **817**.
> >
> > **(ii)** A grand jury indictment has been found and issued pursuant to **P.C. §§ 939.8**, **940**, or **944**.
> >
> > **(iii)** A judicial officer has determined that probable cause exists to believe the person has committed the offense for which he or she was arrested."

(a)(2): A blood specimen or buccal swab sample taken from a person arrested for the commission of a felony as specified in **P.C. § 296(a)(2)** that has not been forwarded to the Department of Justice within six months following the arrest of that person because the agency that took the blood specimen or buccal swab sample has not received notice to forward the DNA specimen or sample to the Department of Justice for inclusion in the state's DNA and Forensic Identification Database and Databank Program pursuant to **para. (1)** following a determination of probable cause, shall be destroyed by the agency that collected the blood specimen or buccal swab sample.

Note: ***People v. Buza***, *supra*, for which review has been granted by the California Supreme Court, held that the **DNA Act**, to the extent it requires felony arrestees to submit to a DNA sample for law enforcement analysis and inclusion in the state and federal DNA databases without independent suspicion, a warrant, or a judicial or grand jury determination of probable cause, unreasonably intrudes on the arrestee's expectation of privacy and is invalid under the **California**

Constitution. The amendment is intended to limit the restrictions on collecting DNA to the holding in ***Buza*** if upheld.

Drones:

Civ. Code § 1708.8 (Amended): *Invasion of Privacy*:

The potential civil liability of a person for a physical invasion of privacy is expanded to include when that person knowingly enters the airspace above the land of another person without permission or while committing a trespass in order to capture a visual image, sound recording, or physical impression of the plaintiff engaging in a private, personal, or familial activity, and the invasion occurs in a manner that is offensive to a reasonable person.

End of Life Option Act:

H&S Code §§ 443 through **443.22** (New): *End of Life Option Act*:

Provisions for a terminally ill individual to end his or her own life through the self-administration of an "aid-in-dying" drug.

Note: A complete recitation of the substantive provisions of this **Act** is available upon request.

H&S Code § 443.17 (New): *Criminal Penalties for Fraudulent Requests for an Aid-In-Dying Drug; Undue Influence on an Individual to Request, Ingest, or in the Administration of an Aid-In-Dying Drug*:

(a) Knowingly altering or forging a request for an aid-in-dying drug to end an individual's life without his or her authorization or concealing or destroying a withdrawal or rescission of a request for an aid-in-dying drug is punishable as a felony if the act is done with the intent or effect of causing the individual's death.

(b) Knowingly coercing or exerting undue influence on an individual to request or ingest an aid-in-dying drug for the purpose of ending his or her life or to destroy a withdrawal or rescission of a request, or to administer an aid-in-dying drug to an individual without his or her knowledge or consent, is punishable as a felony.

(c) For purposes of this section, "*knowingly*" has the meaning provided in **P.C. § 7**.

(d) The attending physician, consulting physician, or mental health specialist shall not be related to the individual by blood, marriage, registered domestic partnership, or adoption, or be entitled to a portion of the individual's estate upon death.

(e) Nothing in this section shall be construed to limit civil liability.

(f) The penalties in this section do not preclude criminal penalties applicable under any law for conduct inconsistent with the provisions of this section.

Punishment: Felony: 16 months, two or three years in state prison, or in county jail pursuant to **P.C. § 1170(h)**. (**P.C. § 18(a)**)

Evidence:

P.C. § 135 (Amended): *Destroying or Concealing Evidence*:

The misdemeanor crime of destroying or concealing evidence is expanded from books, papers, records, or instruments in writing to include digital images and video recordings owned by another person. "*Erasing*" is included as a method of destroying or concealing evidence.

P.C. § 141 (Amended): *Planting or Altering Evidence*:

The felony crime of a peace officer planting or altering evidence (**subd. (b)**), and the misdemeanor crime of anyone else planting or altering evidence (**subd. (a)**), is expanded by adding to the types of evidence ("*physical matter*") to which the section applies; i.e., "digital images and video recordings owned by another." Also, "*wrongfully*" is added as one of the necessary states of mind (i.e., "knowingly, willfully, and intentionally") to prove the crime.

Firearms, Etc.:

P.C. § 626.9 (Amended): *The Gun-Free School Zone Act of 1995; Exceptions*:

The **Act** is amended by adding to the list of *exceptions* to the illegal possession of a firearm in a school zone (1) a person who holds a valid license to carry the firearm (see **subd. (c)(5)**), as well as reserve peace officers as listed under **subds. (o)(5)** (a retired reserve officer) and **(p)** (a reserve officer who is authorized to carry a firearm by the appointing agency), as described below:

(a) Title of the Act.

(b) Any person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, as defined in **para. (e)(1)**, unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, shall be punished as specified in **subd. (f)**.

(c) Sub. (b) does not apply to the possession of a firearm under any of the following circumstances:

> **(1)** Within a place of residence or place of business or on private property, if the place of residence, place of business, or private property is not part of the school grounds and the possession of the firearm is otherwise lawful.
> **(2)** When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle. This section does not prohibit or limit the otherwise lawful transportation of any other firearm, other than a pistol, revolver, or other firearm capable of being concealed on the person, in accordance with state law.
> **(3)** When the person possessing the firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This subdivision may not apply when the circumstances involve a mutual restraining order issued pursuant to **Fam. Code §§ 6200 et seq**. absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating **subd. (b)**, the trier of a fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.
> **(4)** When the person is exempt from the prohibition against carrying a concealed firearm pursuant to **P.C. §§ 25615**, **25625**, **25630**, or **25645**.
> **(5)** When the person holds a valid license to carry the firearm pursuant to **P.C. §§ 26150 et seq**., who is carrying that firearm in an area that is not in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but within a distance of 1,000 feet from the grounds of the public or private school.

(d) Except as provided in **subd. (b)**, it shall be unlawful for any person, with reckless disregard for the safety of another, to discharge, or attempt to discharge, a firearm in a school zone, as defined in **para. (e)(1)**. The prohibition contained in this subdivision does not apply to the discharge of a firearm to the extent that the conditions of para (c)(1) are satisfied.

(e) As used in this section, the following definitions shall apply:

> **(1)** "*Concealed firearm*" has the same meaning as that term is given in **P.C. §§ 25400** and **25610**.
> **(2)** "*Firearm*" has the same meaning as that term is given in **P.C. § 16520 (a)** to **(d)**, inclusive.
> **(3)** "*Locked container*" has the same meaning as that term is given in **P.C. § 16850**.

(4) "*School zone*" means an area in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet from the grounds of the public or private school.

(f)

(1) Any person who violates **subd. (b)** by possessing a firearm in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished by imprisonment pursuant to **P.C. § 1170(h)** for two, three, or five years.
(2) Any person who violates **subd. (b)** by possessing a firearm within a distance of 1,000 feet from the grounds of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished as follows:

(A) By imprisonment pursuant to **P.C. § 1170(h)** for two, three, or five years, if any of the following circumstances apply:

(i) If the person previously has been convicted of any felony, or of any crime made punishable by any provision listed in **P.C. § 16580**.
(ii) If the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to **P.C. §§ 29800 et seq**. or **P.C. §§ 29900 et seq**. or **Wel. & Insti. Code §§ 8100** or **8103**.
(iii) If the firearm is any pistol, revolver, or other firearm capable of being concealed upon the person and the offense is punished as a felony pursuant to **P.C. § 25400**.

(B) By imprisonment in a county jail for not more than one year or by imprisonment pursuant to **P.C. § 1170(h)** for two, three, or five years, in all cases other than those specified in **subpara. (A)**.

(3) Any person who violates **subd. (d)** shall be punished by imprisonment pursuant to **P.C. § 1170(h)** for three, five, or seven years.

(g)

(1) Every person convicted under this section for a misdemeanor violation of **subd. (b)** who has been convicted previously of a misdemeanor offense enumerated in **P.C. § 23515** shall be punished by imprisonment in a county jail for not less than three months, or if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(2) Every person convicted under this section of a felony violation of **subd. (b)** or **(d)** who has been convicted previously of a misdemeanor offense enumerated in **P.C. § 23515**, if probation is granted or if the execution of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.
(3) Every person convicted under this section for a felony violation of **subd. (b)** or **(d)** who has been convicted previously of any felony, or of any crime made punishable by any provision listed in **P.C. § 16580**, if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.
(4) The court shall apply the three-month minimum sentence specified in this subdivision, except in unusual cases where the interests of justice would best be served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the execution or imposition of sentence with conditions other than those set forth in this subdivision, in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

(h) Notwithstanding **P.C. § 25605**, any person who brings or possesses a loaded firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to **P.C. § 1170(h)** for two, three, or four years. Notwithstanding **subd. (k)**, a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(i) Notwithstanding **P.C. § 25605**, any person who brings or possesses a firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to **P.C. § 1170(h)** for one, two, or three years. Notwithstanding **subd. (k)**, a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(j) For purposes of this section, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm,

including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(k) This section does not require that notice be posted regarding the proscribed conduct.

(*l*) This section does not apply to a duly appointed peace officer as defined in **P.C. §§ 830 et seq**., a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, or an armored vehicle guard, engaged in the performance of his or her duties, as defined in **Bus. & Prof. Code § 7582.1(d)**.

(m) This section does not apply to a security guard authorized to carry a loaded firearm pursuant to **P.C. §§ 26000 et seq**.

(n) This section does not apply to an existing shooting range at a public or private school or university or college campus.

(o) This section does not apply to an honorably retired peace officer authorized to carry a concealed or loaded firearm pursuant to any of the following:

(1) P.C. §§ 25450.
(2) P.C. § 25650.
(3) P.C. §§ 25900 to **25910**, inclusive.
(4) P.C. § 26020.
(5) P.C. § 26300(c)(2).

(p) This section does not apply to a peace officer appointed pursuant to **P.C. § 830.6** who is authorized to carry a firearm by the appointing agency.

P.C. § 16250 (Amended): *BB Device*:

The definition of a "*BB Device*" is expanded by deleting the requirement that the projectile it expels be no larger than six millimeters in diameter. Without any limitations as to the size of the projectile, a "*BB Device*" is defined as "any instrument that expels a projectile, such as a BB or pellet, through the force of air pressure, gas pressure, or spring action, or any spot marker gun."

Note: This, in turn, by eliminating the size requirements of the projectile, affects any other statute making reference to BB devices, such as **P.C. § 19910**, selling a BB device to a minor, **P.C. § 19915**, and furnishing a BB

device to a minor without the parent's permission. A BB device with a projectile of any size also meets the legal definition of an "*imitation firearm*," per **P.C. §§ 16700** (requiring distinctive markings) and **16250**.

P.C. § 16700 (Amended): *Imitation firearms*:

(a) The definition of "*imitation firearm*" is now expanded to include all BB devices, no matter the size of the projectile expelled, and therefore must have distinctive markings pursuant to existing federal law so they do not look like real guns.

Note: Existing sections pertaining to imitation firearms (**P.C. §§ 20150–20180** (Amended) now apply to a BB device that shoots any size projectile.

(b) Added to the list of devices that are *not* imitation firearms for purposes of **P.C. § 20165** (which provides for a civil fine of up to $10,000 for the unauthorized manufacture, purchase, sale, shipping, transport, distribution, or receipt of an imitation firearm) are the following: (1) A BB device that expels a projectile that is other than 6mm or 8 mm caliber; (2) a spot marker gun that expels a projectile greater than 10 mm caliber; and (3) a BB device that is an airsoft gun that expels a projectile that is 6mm or 8mm caliber and that in addition to the blaze orange ring on the barrel required by federal law, has a fluorescent-colored trigger guard and has a two-centimeter wide fluorescent adhesive band around the pistol grip, the buttstock, or a protruding ammunition magazine or clip.

P.C. § 18100 et seq. (New): *Gun Violence Restraining Orders*:

See "Restraining Orders," below.

P.C. §§ 28010-28024 (New): *Registration and Assignment of Firearms by Private Patrol Operators*:

A new chapter in the Penal Code entitled "*Registration and Assignment of Firearms by Private Patrol Operators*" deals with ownership and registration of firearms by a private patrol operator business, as opposed to individuals. A private patrol operator business that provides armed private contract security services is permitted to assign firearms to its employees who are licensed to carry firearms. Such an assignment does not constitute a loan, sale, or transfer of a firearm.

Key Provisions:

A security guard acquiring a firearm under the provisions of this chapter must first possess a valid firearm qualification permit issued by the Bureau of Security & Investigative Services.

The Department of Justice is to create a "*Certificate of Assignment*" to identify an employee who has been assigned a private patrol operator-owned firearm and to enter the information in the Automated Firearms System, and to charge reasonable fees to pay for the system.

P.C. § 28020 (New): *Security Guards*:

It is illegal for a security guard who has been assigned a firearm by his private patrol operator employer (see above) to fail to return the firearm to his employer within 48 hours of separating from employment, or within 48 hours of any employer requesting the return of the firearm.

Punishment: *Misdemeanor*; Six months in county jail and/or a $1,000 fine. (**P.C. § 19**)

P.C. § 30310 (Amended): *Firearm Ammunition on School Grounds*:

As amended, a person holding a concealed carry firearm license pursuant to **P.C. § 26150**, and when carrying ammunition in a motor vehicle within a locked container or within a locked vehicle trunk, are added to the list of exceptions to the general prohibition for carrying ammunition onto school grounds.

See also **P.C. § 626.9** (Amended), above.

Interfering with Law Enforcement:

P.C. § 69 (Amended): *Audio & Video Recordings and Interfering with an Executive Officer*:

(b) The audio or video recording, or taking a photograph, of a law enforcement officer while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has a right to be, does *not* constitute, in and of itself, a violation of this section.

P.C. § 148 (Amended): *Audio & Video Recordings and Interfering with an Officer in the Performance of His Duties*:

(g) The audio or video recording, or taking a photograph, of a law enforcement officer while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has a right to be, does *not* constitute, in and of itself, reasonable suspicion to detain, or probable cause to arrest, a person.

Juveniles:

P.C. § 1170.17 (Amended): *Criteria for Charging Juveniles as Adults*:

The five criteria ((A) through (E), below) for charging juveniles as adults (where they otherwise qualify) have been expanded upon, providing examples for each as follows:

(b) Where the conviction is for the type of offense which, in combination with the person's age at the time the offense was committed, makes the person eligible for transfer to a court of criminal jurisdiction, pursuant to a rebuttable presumption that the person is not a fit and proper subject to be dealt with under the juvenile court law, and the prosecution for the offense could not lawfully be initiated in a court of criminal jurisdiction, then either of the following shall apply:

(2) Upon a motion brought by the person, the court shall order the probation department to prepare a written social study and recommendation concerning the person's fitness to be dealt with under the juvenile court law and the court shall either conduct a fitness hearing or suspend proceedings and remand the matter to the juvenile court to prepare a social study and make a determination of fitness. The person shall receive a disposition under the juvenile court law only if the person demonstrates, by a preponderance of the evidence, that he or she is a fit and proper subject to be dealt with under the juvenile court law, based upon each of the following five criteria:

(A) The degree of criminal sophistication exhibited by the person. This may include, but is not limited to, giving weight to the person's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the offense, the person's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the person's actions, and the effect of the person's family and community environment and childhood trauma on the person's criminal sophistication.
(B) Whether the person can be rehabilitated prior to the expiration of the juvenile court's jurisdiction. This may include, but is not limited to, giving weight to the minor's potential to grow and mature.
(C) The person's previous delinquent history. This may include, but is not limited to, giving weight to the seriousness of the person's previous delinquent history and the effect of the person's family and community

environment and childhood trauma on the person's previous delinquent behavior.
(D) Success of previous attempts by the juvenile court to rehabilitate the person. This may include, but is not limited to, giving weight to an analysis of the adequacy of the services previously provided to address the person's needs.
(E) The circumstances and gravity of the offense for which the person has been convicted. This may include, but is not limited to, giving weight to the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development.

The same additions have been made to **Wel. & Insti. Code § 707(a)(2)(B)(i)** through **(v)** (Amended).

P.C. § 4031 (New): *Searches of Minors Detained in a Juvenile Detention Center*:

(a) This section applies to all minors detained in a juvenile detention center on the grounds that he or she is a person described in **W&I §§ 300**, **601**, or **602**, and all minors adjudged a ward of the court and held in a juvenile detention center on the grounds he or she is a person described in **W&I §§ 300**, **601**, or **602**.

(b) Persons conducting a strip search or a visual body cavity search shall not touch the breasts, buttocks, or genitalia of the person being searched.

(c) A physical body cavity search shall be conducted under sanitary conditions, and only by a physician, nurse practitioner, registered nurse, licensed vocational nurse, or emergency medical technician Level II licensed to practice in this state. A physician engaged in providing health care to detainees, wards, and inmates of the facility may conduct physical body cavity searches.

(d) A person conducting or otherwise present or within sight of the inmate during a strip search or visual or physical body cavity search shall be of the same sex as the person being searched, except for physicians or licensed medical personnel.

(e) All strip searches and visual and physical body cavity searches shall be conducted in an area of privacy so that the search cannot be observed by persons not participating in the search. Persons are considered to be participating in the search if their official duties relative to search procedure require them to be present at the time the search is conducted.

(f) A person who knowingly and willfully authorizes or conducts a strip searches and visual or physical body cavity search in violation of this section is guilty of a misdemeanor.

(g) Nothing in this section shall be construed as limiting the common law or statutory rights of a person regarding an action for damages or injunctive relief, or as precluding the prosecution under another law of a peace officer or other person who has violated this section.

(h) Any person who suffers damage or harm as a result of a violation of this section may bring a civil action to recover actual damages, or one thousand dollars ($1,000), whichever is greater. In addition, the court may, in its discretion, award punitive damages, equitable relief as it deems necessary and proper, and costs, including reasonable attorney's fees.

(i) This section does not limit the protections granted by **P.C. § 4030** to individuals described in **subd. (b)** of that section.

Medical Marijuana:

Bus. & Prof. Code § 2525 (New): *Medical Marijuana Recommendations*:

(a) It is a misdemeanor for a physician or surgeon or an immediate family member who has a "*financial interest*" (defined in **subd. (b)**, which refers to **B&P Code § 650.01**) in a facility licensed pursuant to **B&P Code §§ 19300-19360** (New; see below) and who recommends cannabis to a patient for a medical purpose, to accept, solicit, or offer any form of remuneration from or to such facility.

> **B&P Code § 650.01(b)(2):** A "*financial interest*" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service.

(c) Misdemeanor: One year in county jail and/or a $5,000 fine, or a civil penalty of $5,000. A violation constitutes "*unprofessional conduct*."

Bus. & Prof. Code § 2525.1 (New): *Medical Guidelines for Use of Medical Marijuana*:

The Medical Board of California shall consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to **H&S § 11362.9**, on developing and adopting medical guidelines for the appropriate administration and use of medical cannabis.

Bus. & Prof. Code § 2525.2 (New): *Attending Physician Requirement*:

> An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by **H&S § 11362.7(a)** (below).

Bus. & Prof. Code § 2525.3 (New): *Unprofessional Conduct; Prior Examination*:

> Recommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

Bus. & Prof. Code § 2525.4 (New): *Unprofessional Conduct; Agreements with Medical Marijuana Dispensers*:

> It is unprofessional conduct for any attending physician recommending medical cannabis to be employed by, or enter into any other agreement with, any person or entity dispensing medical cannabis.

Bus. & Prof. Code § 2525.5 (New): *Advertising*:

> **(a)** A person shall not distribute any form of advertising for physician recommendations for medical cannabis in California unless the advertisement bears the following notice to consumers:
>
> > "NOTICE TO CONSUMERS: The **Compassionate Use Act of 1996** ensures that seriously ill Californians have the right to obtain and use cannabis for medical purposes where medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of medical cannabis. Recommendations must come from an attending physician as defined in **Section 11362.7 of the Health and Safety Code**. Cannabis is a Schedule I drug according to the federal **Controlled Substances Act**. Activity related to cannabis use is subject to federal prosecution, regardless of the protections provided by state law."
>
> **(b)** Advertising for attending physician recommendations for medical cannabis shall meet all of the requirements in **B&P Code § 651**. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discounts, premiums, gifts, or statements of a similar nature.

Bus. & Prof. Code § 19300 (New): *Medical Marijuana Regulation and Safety Act*:

This act shall be known and may be cited as the **Medical Marijuana Regulation and Safety Act**.

Bus. & Prof. Code § 19300.5 (New): *Definitions*:

For purposes of this chapter, the following definitions shall apply:

(a) "*Accrediting body*" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.

(b) "*Applicant*," for purposes of **Bus. & Prof. Code §§ 19319**, means the following:

(1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.
(2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.
(3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

(c) "*Batch*" means a specific quantity of medical cannabis or medical cannabis products that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

(d) "*Bureau*" means the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs. (See also **B&P Code § 101(ao)** (Amended))

(e) "*Cannabinoid*" or "*phytocannabinoid*" means a chemical compound that is unique to and derived from cannabis.

(f) "*Cannabis*" means:

1. 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.

2. The separated resin, whether crude or purified, obtained from marijuana.
3. Marijuana as defined by **H&S § 11018**.

"*Cannabis*" does *not*:

1. *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.
2. *Mean*, for purposes of **this chapter**, "*industrial hemp*" as defined by **Food and Agri. Code § 81000** or **H&S § 11018.5**.

(g) "*Cannabis concentrate*" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency. An edible medical cannabis product is *not* considered food, as defined by **H&S § 109935**, or a drug, as defined by **H&S § 109925**.

(h) "*Caregiver*" or "*primary caregiver*" has the same meaning as that term is defined in **H&S § 11362.7**.

(i) "*Certificate of accreditation*" means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

(j) "*Chief*" means Chief of the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

(k) "*Commercial cannabis activity*" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in **B&P Code § 19319**, related to qualifying patients and primary caregivers.

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

(m) "*Delivery*:"

1. *Means* the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in **H&S § 11362.7**, or a testing laboratory.

2. *Includes* the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(n) "*Dispensary*" means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.

(o) "*Dispensing*" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(p) "*Distribution*" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.

(q) "*Distributor*" means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

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

(s) "*Edible cannabis product*" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by **H&S § 109935** or a drug as defined by **H&S § 109925**.

(t) "*Fund*" means the "**Medical Marijuana Regulation and Safety Act** Fund" established pursuant to **B&P Code § 19351**.

(u) "*Identification program*" means the universal identification certificate program for commercial medical cannabis activity authorized by this chapter.

(v) "*Labor peace agreement*" means an agreement between a licensee and a 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.

(w) "*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 license.

(x) "*Cultivation site*" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

(y) "*Manufacturer*" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in **subd. (ae)**, or medical 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 medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

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

> **(1)** Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.
> **(2)** Registered with the State Department of Public Health.

(aa) "*Transporter*" means a person issued a state license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between facilities that have been issued a state license pursuant to this chapter.

(ab) "*Licensee*" means a person issued a state license under this chapter to engage in commercial cannabis activity.

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

(ad) "*Lot*" means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, "*lot*" means a specifically identified amount produced in a unit of time or a quantity in a manner that ensures its having uniform character and quality within specified limits.

(ae) "*Manufactured cannabis*" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(af) "*Manufacturing site*" means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

(ag) "*Medical cannabis*," "*medical cannabis product*," or "*cannabis product*" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the **Compassionate Use Act of 1996** (**Proposition 215**), found at **H&S § 11362.5**. For the purposes of **this chapter**, "*medical cannabis*" does *not* include "*industrial hemp*" as defined by **Food & Agri. Code § 81000** or **H&S § 11018.5**.

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

(ai) "*Permit*," "*local license*," or "*local permit*" means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

(aj) "*Person*" means an 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 includes the plural as well as the singular number.

(ak) "*State license*," "*license*," or "*registration*" means a state license issued pursuant to **this chapter**.

(a*l*) "*Topical cannabis*" means a product intended for external use. A topical cannabis product is *not* considered a drug as defined by **H&S § 109925**.

(am) "*Transport*" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

Bus. & Prof. Code § 19300.7 (New): *License Classifications*:

License classifications pursuant to this chapter are as follows:

(a) *Type 1* = Cultivation; Specialty outdoor; Small.
(b) *Type 1A* = Cultivation; Specialty indoor; Small.
(c) *Type 1B* = Cultivation; Specialty mixed-light; Small.
(d) *Type 2* = Cultivation; Outdoor; Small.
(e) *Type 2A* = Cultivation; Indoor; Small.
(f) *Type 2B* = Cultivation; Mixed-light; Small.
(g) *Type 3* = Cultivation; Outdoor; Medium.
(h) *Type 3A* = Cultivation; Indoor; Medium.
(i) *Type 3B* = Cultivation; Mixed-light; Medium.
(j) *Type 4* = Cultivation; Nursery.
(k) *Type 6* = Manufacturer 1.
(l) *Type 7* = Manufacturer 2.
(m) *Type 8* = Testing.
(n) *Type 10* = Dispensary; General.
(o) *Type 10A* = Dispensary; No more than three retail sites.
(p) *Type 11* = Distribution.
(q) *Type 12* = Transporter.

Bus. & Prof. Code § 19302 (New): *The Bureau of Medical Marijuana*:

There is in the Department of Consumer Affairs the Bureau of Medical Marijuana Regulation, under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

See also **B&P Code § 101** (Amended), **subd. (ao)**

Bus. & Prof. Code § 19302.1 (New): *Appointment of Bureau Chief and Employees; Authority of the Departments of Consumer Affairs and Food and Agriculture*:

(a) The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the director with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

(b) Every power granted to or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy or assistant director or by the chief, subject to conditions and limitations that the director may prescribe. In addition to every power granted or duty imposed with this chapter, the director shall have all other powers and duties generally applicable in relation to bureaus that are part of the Department of Consumer Affairs.

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

(d) The Department of Consumer Affairs shall have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of medical marijuana within the state and to collect fees in connection with activities the bureau regulates. The bureau may create licenses in addition to those identified in this chapter that the bureau deems necessary to effectuate its duties under this chapter.

(e) The Department of Food and Agriculture shall administer the provisions of this chapter related to and associated with the cultivation of medical cannabis. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this chapter. The State Department of Public Health shall administer the provisions of this chapter related to and associated with the manufacturing and testing of medical cannabis.

Bus. & Prof. Code § 19303 (New): *Protection of the Public*:

Protection of the public shall be the highest priority for the bureau in exercising its licensing, regulatory, and disciplinary functions under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Bus. & Prof. Code § 19304 (New): *Power to Prescribe Reasonable and Necessary Rules*:

The bureau shall make and prescribe reasonable rules as may be necessary or proper to carry out the purposes and intent of this chapter and to enable it to exercise the powers and duties conferred upon it by this chapter, not inconsistent

with any statute of this state, including particularly this chapter and **Gov't. Code §§ 11340 et seq.** For the performance of its duties, the bureau has the power conferred by **Gov't. Code §§ 11180** to **11191**.

Bus. & Prof. Code § 19305 (New): *Notice of Action of the Licensing Authority*:

Notice of any action of the licensing authority required by this chapter to be given may be signed and given by the director or an authorized employee of the department and may be made personally or in the manner prescribed by **Code of Civ. Proc. § 1013**.

Bus. & Prof. Code § 19306 (New): *Advisory Committee*:

(a) The bureau may convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this chapter, including best practices and guidelines to ensure qualified patients have adequate access to medical cannabis and medical cannabis products. The advisory committee members shall be determined by the chief.

(b) The advisory committee members may include, but not be limited to, representatives of the medical marijuana industry, representatives of medical marijuana cultivators, appropriate local and state agencies, appropriate local and state law enforcement, physicians, environmental and public health experts, and medical marijuana patient advocates.

Bus. & Prof. Code § 19307 (New): *Investigations*:

A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this chapter.

Bus. & Prof. Code § 19308 (New): *Delegation to an Administrative Law Judge*:

For any hearing held pursuant to this chapter, the director, or a licensing authority, may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in **Gov't. Code §§ 11500 et seq**.

Bus. & Prof. Code § 19309 (New): *Witness Remuneration*:

In any hearing before a licensing authority pursuant to this chapter, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

Bus. & Prof. Code § 19310 (New): *Penalty Assessment Review*:

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

Bus. & Prof. Code § 19311 (New): *Grounds for Disciplinary Action*:

Grounds for Disciplinary Action:

(a) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.

(b) Conduct that constitutes grounds for denial of licensure pursuant to **B&P Code §§ 490 et seq**.

(c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this chapter.

(d) Failure to comply with any state law, except as provided for in this chapter or other California law.

Bus. & Prof. Code § 19312 (New): *License Suspensions or Revocations*:

Each licensing authority may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with **Gov't. Code §§ 11500 et seq**., and the director of each licensing authority shall have all the powers granted therein.

Bus. & Prof. Code § 19313 (New): *Disciplinary Actions*:

Each licensing authority may take disciplinary action against a licensee for any violation of this chapter when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial cannabis activity.

Bus. & Prof. Code § 19313.5 (New): *Informing the Bureau upon Revocation of a License*:

Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities and the Department of Food and Agriculture.

Bus. & Prof. Code § 19314 (New): *Filing of Accusations by the Licensing Authority*:

All accusations against licensees shall be filed by the licensing authority within five years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the licensing authority, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within five years after such discovery.

Bus. & Prof. Code § 19315 (New): *Not Intended to Limit State or Local Authority*:

(a) Nothing in this chapter shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements.

(b) Nothing in this chapter shall be interpreted to require the Department of Consumer Affairs to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

(c) Nothing in this chapter shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority under the **Fish and Game Code**, the **Water Code**, the **Food and Agricultural Code**, or the **Health and Safety Code**.

Bus. & Prof. Code § 19316 (New): *Local Regulation*:

(a) Pursuant to of **Art. XI**, **§ 7** of the **California Constitution**, a city, county, or city and county may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, security, and worker protections established by the state shall be the minimum standards for all licensees statewide.

(b) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this chapter and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding **H&S Code §§ 101375**, **101400**, and **101405**, or any contract entered into pursuant thereto, or any other law, the city shall further assume complete responsibility for any regulatory function relating to those licensees within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(c) Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, **Art. XI**, **§ 7** of the **California Constitution**.

Bus. & Prof. Code § 19317 (New): *Actions of a Licensee, etc. as Lawful Acts*:

(a) The actions of a licensee, its employees, and its agents that are (1) permitted pursuant to both a state license and a license or permit issued by the local jurisdiction following the requirements of the applicable local ordinances, and (2) conducted in accordance with the requirements of this chapter and regulations adopted pursuant to this chapter, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to both a state license and a local license or permit following the requirements of the applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

Bus. & Prof. Code § 19318 (New): *Civil and Criminal Penalties for Violations*:

(a) A person engaging in commercial cannabis activity without a license required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the court may order the destruction of medical cannabis associated with that violation in accordance with **H&S Code § 11479**. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the "Medical Cannabis Fines and Penalties Account" established pursuant to **B&P Code § 19351**.

(b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General on behalf of the people, the penalty collected shall be deposited into the "Medical Cannabis Fines and Penalties Account" established pursuant to **B&P Code § 19351**. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city or city and county in which the judgment was entered. If the action is brought by a city attorney and is adjudicated in a superior court located in the unincorporated area or another city in the same county, the penalty shall be paid one-half to the treasurer of the city in which the complaining attorney has

jurisdiction and one-half to the treasurer of the county in which the judgment is entered.

(c) Notwithstanding **subd. (a)**, criminal penalties shall continue to apply to an unlicensed person engaging in commercial cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under **H&S Code § 11362.7**.

Bus. & Prof. Code § 19319 (New): *Exemptions for Qualified Patients and Primary Caregivers with Limited Use or Production of Cannabis*:

(a) A qualified patient, as defined in **H&S Code § 11362.7**, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this chapter.

(b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of **H&S Code § 11362.7**, but who does not receive remuneration for these activities except for compensation in full compliance with **H&S Code § 11362.765(c)**, is exempt from the licensure requirements of this chapter.

Bus. & Prof. Code § 19320 (New): *Requirement for a State License and Local Permit*:

(a) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(b) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other required authorization. Local authorities shall notify the bureau upon revocation of a local license. The bureau shall inform relevant licensing authorities.

(c) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license. Each licensee shall obtain a separate license for each

location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport, or any equipment that is not currently transporting medical cannabis or medical cannabis products, permanently resides.

(d) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(e) Nothing in this chapter shall be construed to supersede or limit state agencies, including the State Water Resources Control Board and Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

Bus. & Prof. Code § 19321 (New): *Promulgation of Rules by the Department of Consumer Affairs, Department of Food and Agriculture, the State Department of Public Health; Annual Renewal of Licenses; Compliance with Zoning Ordinances; City of Los Angeles Proposition D*:

(a) The Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health shall promulgate regulations for implementation of their respective responsibilities in the administration of this chapter.

(b) A license issued pursuant to this section shall be valid for 12 months from the date of issuance. The license shall be renewed annually. Each licensing authority shall establish procedures for the renewal of a license.

(c) Notwithstanding **B&P Code § 19320(a)**, a facility or entity that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter. In issuing licenses, the licensing authority shall prioritize any facility or entity that can demonstrate to the authority's satisfaction that it was in operation and in good standing with the local jurisdiction by January 1, 2016.

(d) Issuance of a state license or a determination of compliance with local law by the licensing authority shall in no way limit the ability of the City of Los Angeles to prosecute any person or entity for a violation of, or otherwise enforce, **Proposition D**, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, or the city's zoning laws. Nor may issuance of a license or determination of compliance with local law by the licensing authority be deemed to establish, or be relied upon, in determining satisfaction with the immunity requirements of **Proposition D** or local zoning law, in court or in any other context or forum.

Bus. & Prof. Code § 19322 (New): *Licensing Requirements*:

(a) A person or entity shall not submit an application for a state license issued by the department pursuant to this chapter unless that person or entity has received a license, permit, or authorization by a local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:

(1) Electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

(A) The Department of Justice shall provide a response to the licensing authority pursuant to **P.C. § 11105(p)(1)**.
(B) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to **P.C. § 11105.2**, for applicants.
(C) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

(2) Provide documentation issued by the local jurisdiction in which the proposed business is operating certifying that the applicant is or will be in compliance with all local ordinances and regulations.

(3) Provide evidence of the legal right to occupy and use the proposed location. For an applicant seeking a cultivator, distributor, manufacturing, or dispensary license, provide a statement from the owner of real property or their agent where the cultivation, distribution, manufacturing, or dispensing commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit cultivation, distribution, manufacturing, or dispensary activities to be conducted on the property by the tenant applicant.

(4) If the application is for a cultivator or a dispensary, provide evidence that the proposed location is located beyond at least a 600-foot radius from a school, as required by **H&S Code § 11362.768**.

(5) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

(6)

(A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.
(B) For the purposes of this paragraph, "*employee*" does not include a supervisor.
(C) For purposes of this paragraph, "*supervisor*" means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(7) Provide the applicant's seller's permit number issued pursuant to **Rev. & Tax. Code §§ 6001 et seq**., or indicate that the applicant is currently applying for a seller's permit.

(8) Provide any other information required by the licensing authority.

(9) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the **Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975** (**Lab. Code §§ 1140 et seq**.), to the extent not prohibited by law.

(10) For an applicant seeking licensure as a testing laboratory, register with the State Department of Public Health and provide any information required by the State Department of Public Health.

(11) Pay all applicable fees required for licensure by the licensing authority.

(b) For applicants seeking licensure to cultivate, distribute, or manufacture medical cannabis, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

(1) Cultivation.
(2) Extraction and infusion methods.
(3) The transportation process.
(4) Inventory procedures.
(5) Quality control procedures.

Bus. & Prof. Code § 19323 (New): *Grounds for Denying a License*:

(a) The licensing authority shall deny an application if either the applicant or the premises for which a state license is applied do not qualify for licensure under this chapter.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to **B&P Code § 19332(a)**.
(2) Conduct that constitutes grounds for denial of licensure pursuant to **B&P Code §§ 489 et seq**.
(3) A local agency has notified the licensing authority that a licensee or applicant within its jurisdiction is in violation of state rules and regulation relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for termination or revocation of the license. The licensing authority shall have the authority to collect reasonable costs, as determined by the licensing authority, for investigation from the licensee or applicant.
(4) The applicant has failed to provide information required by the licensing authority.
(5) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.
(B) A "*violent felony*" conviction, as specified in **P.C. § 667.5(c)**.
(C) A "*serious felony*" conviction, as specified in **P.C. § 1192.7**.
(D) A felony conviction involving fraud, deceit, or embezzlement.

(6) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to **H&S § 11362.7**.
(7) The applicant or any of its officers, directors, or owners has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to **F&G Code §§ 12025** or **12025.1**.

> **F&G Code § 12025** (Amended) imposes certain civil penalties of up to $40,000 for illegally dumping or depositing waste matter and/or hazardous substances. **Section 12025** deals with the illegal use of devices that impede fish in certain districts.

(8) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed commercial medical cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.
(9) Failure to obtain and maintain a valid seller's permit required pursuant to **Rev. & Tax. Code §§ 6001 et seq**.

Bus. & Prof. Code § 19324 (New): *Appeal of Denial of a License*:

Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with **Gov't. Code §§ 11500 et seq**., and the director of each licensing authority shall have all the powers granted therein.

Bus. & Prof. Code § 19325 (New): *Exceptions to Grounds for Denial of a License*:

An applicant shall *not* be denied a state license if the denial is based solely on any of the following:

(a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to **P.C. § P.C. §§ 4852.01 et seq**.

(b) A conviction that was subsequently dismissed pursuant to **P.C. §§ 1203.4**, **1203.4a**, or **1203.41**.

Bus. & Prof. Code § 19326 (New): *Transportation of Medical Cannabis; Quality Assurance Testing*:

(a) A person other than a licensed transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.

(b) All licensees holding cultivation or manufacturing licenses shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in **B&P Code § 19300.5**, for quality assurance and inspection by the Type 11 licensee and for a batch testing by a Type 8 licensee prior to distribution to a dispensary. Those licensees holding a Type 10A license in addition to a cultivation license or a manufacturing license shall send all medical cannabis and medical cannabis products to a Type 11 licensee for presale inspection and for a batch testing by a Type 8 licensee prior to dispensing any product. The licensing authority shall fine a licensee who violates this subdivision in an amount determined by the licensing authority to be reasonable.

(c)

(1) Upon receipt of medical cannabis or medical cannabis products by a holder of a cultivation or manufacturing license, the Type 11 licensee shall first inspect the product to ensure the identity and quantity of the product and then ensure a random sample of the medical cannabis or medical cannabis product is tested by a Type 8 licensee prior to distributing the batch of medical cannabis or medical cannabis products.
(2) Upon issuance of a certificate of analysis by the Type 8 licensee that the product is fit for manufacturing or retail, all medical cannabis and medical cannabis products shall undergo a quality assurance review by the Type 11 licensee prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state. Licensed cultivators and manufacturers shall package or seal all medical cannabis and medical cannabis products in tamper-evident packaging and use a unique identifier, as prescribed by the Department of Food and Agriculture, for the purpose of identifying and tracking medical cannabis or medical cannabis products. Medical cannabis and medical cannabis products shall be labeled as required by **B&P Code § 19347**. All packaging and sealing shall be completed prior to medical cannabis or medical cannabis products being transported or delivered to a licensee, qualified patient, or caregiver.
(3) This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed. However, a Type 11 licensee responsible for executing the contract is authorized to collect a fee for the services rendered, including, but not limited to, costs incurred by a Type 8 licensee, as well as applicable state or local taxes and fees.

(d) Medical cannabis and medical cannabis products shall be tested by a registered testing laboratory, prior to retail sale or dispensing, as follows:

(1) Medical cannabis from dried flower shall, at a minimum, be tested for concentration, pesticides, mold, and other contaminants.
(2) Medical cannabis extracts shall, at a minimum, be tested for concentration and purity of the product.
(3) This chapter shall not prohibit a licensee from performing on-site testing for the purposes of quality assurance of the product in conjunction with reasonable business operations. On-site testing by the licensee shall not be certified by the State Department of Public Health.

(e) All commercial cannabis activity shall be conducted between licensees, when these are available.

Bus. & Prof. Code § 19327 (New): *Required Records of Commercial Cannabis Activity*:

(a) A licensee shall keep accurate records of commercial cannabis activity.

(b) All records related to commercial cannabis activity as defined by the licensing authorities shall be maintained for a minimum of seven years.

(c) The bureau may examine the books and records of a licensee and inspect the premises of a licensee as the licensing authority or a state or local agency deems necessary to perform its duties under this chapter. All inspections shall be conducted during standard business hours of the licensed facility or at any other reasonable time.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing agency upon request.

(e) A licensee or its agent, or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section has engaged in a violation of this chapter.

(f) If a licensee or an employee of a licensee fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of thirty thousand dollars ($30,000) per individual violation.

Bus. & Prof. Code § 19328 (New): *License Types Held*:

(a) A licensee may only hold a state license in up to two separate license categories, as follows:

(1) Type 1, 1A, 1B, 2, 2A, or 2B licensees may also hold either a Type 6 or 7 state license.
(2) Type 6 or 7 licensees, or a combination thereof, may also hold either a Type 1, 1A, 1B, 2, 2A, or 2B state license.
(3) Type 6 or 7 licensees, or a combination thereof, may also hold a Type 10A state license.
(4) Type 10A licensees may also hold either a Type 6 or 7 state license, or a combination thereof.
(5) Type 1, 1A, 1B, 2, 2A, or 2B licensees, or a combination thereof, may also hold a Type 10A state license.
(6) Type 10A licensees may apply for Type 1, 1A, 1B, 2, 2A, or 2B state license, or a combination thereof.
(7) Type 11 licensees shall apply for a Type 12 state license, but shall not apply for any other type of state license.
(8) Type 12 licensees may apply for a Type 11 state license.
(9) A Type 10A licensee may apply for a Type 6 or 7 state license and hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses are valid. All cultivation pursuant to this section shall comply with local ordinances. This paragraph shall become inoperative on January 1, 2026.

(b) Except as provided in **subd. (a)**, a person or entity that holds a state license is prohibited from licensure for any other activity authorized under this chapter, and is prohibited from holding an ownership interest in real property, personal property, or other assets associated with or used in any other license category.

(c)

(1) In a jurisdiction that adopted a local ordinance, prior to July 1, 2015, allowing or requiring qualified businesses to cultivate, manufacture, and dispense medical cannabis or medical cannabis products, with all commercial cannabis activity being conducted by a single qualified business, upon licensure that business shall not be subject to **subd. (a)** if it meets all of the following conditions:

(A) The business was cultivating, manufacturing, and dispensing medical cannabis or medical cannabis products on July 1, 2015, and has continuously done so since that date.

(B) The business has been in full compliance with all applicable local ordinances at all times prior to licensure.
(C) The business is registered with the State Board of Equalization.

(2) A business licensed pursuant to **para. (1)** is not required to conduct all cultivation or manufacturing within the bounds of a local jurisdiction, but all cultivation and manufacturing shall have commenced prior to July 1, 2015, and have been in full compliance with applicable local ordinances.

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

Bus. & Prof. Code § 19329 (New): *Licensee as a Retailer of Alcoholic Beverages*:

A licensee shall not also be licensed as a retailer of alcoholic beverages pursuant to **B&P Code §§ 23000 et seq**.

Bus. & Prof. Code § 19330 (New): *Employer's Right and Obligation to a Drug and Alcohol Free Workplace*:

This chapter and **H&S Code §§ 11357 et seq**., and **§§ 11362.7 et seq**., shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

Bus. & Prof. Code § 19331 (New): *Pesticides*:

Findings and proposal for the Department of Pesticide Regulation to provide guidance, on whether the pesticides currently used at most cannabis cultivation sites are actually safe for use on cannabis intended for human consumption.

Bus. & Prof. Code § 19332 (New): *Licensing of Cultivation Sites*:

(a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor cultivation sites.

(b) The Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, shall develop standards for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis.

(c) The State Department of Public Health shall develop standards for the production and labeling of all edible medical cannabis products.

(d) The Department of Food and Agriculture, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, shall ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

(e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:

> **(1)** Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to **B&P Code §§ 12001 et seq**.
> **(2)** Require that cannabis cultivation by licensees is conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters. Nothing in this chapter, and no regulation adopted by the department, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.
> **(3)** Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to **B&P §§ 19337 et seq**. All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.
> **(4)** Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to **B&P §§ 19337 et seq**.

(f) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis meets standards equivalent to **Food & Agri. Code §§ 11401 et seq**.

(g) State cultivator license types issued by the Department of Food and Agriculture include:

> **(1)** *Type 1*, or "*specialty outdoor*," for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) *Type 1A*, or "*specialty indoor*," for indoor cultivation using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises.
(3) *Type 1B*, or "*specialty mixed-light*," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than or equal to 5,000 square feet of total canopy size on one premises.
(4) *Type 2*, or "*small outdoor*," for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.
(5) *Type 2A*, or "*small indoor*," for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.
(6) *Type 2B*, or "*small mixed-light*," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.
(7) *Type 3*, or "*outdoor*," for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.
(8) *Type 3A,* or "*indoor*," for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.
(9) *Type 3B*, or "*mixed-light*," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.
(10) *Type 4*, or "*nursery*," for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

Bus. & Prof. Code § 19332.5 (New): *Certified Organic Designation and Certification Program for Medical Marijuana*:

(a) Not later than January 1, 2020, the Department of Food and Agriculture in conjunction with the bureau, shall make available a certified organic designation and organic certification program for medical marijuana, if permitted under federal law and the National Organic Program (**The Federal Organic Foods Production Act of 1990 § 6517** (**7 U.S.C. §§ 6501 et seq**.)), and **H&S §§ 110810 et seq**.

(b) The bureau may establish appellations of origin for marijuana grown in California.

(c) It is unlawful for medical marijuana to be marketed, labeled, or sold as grown in a California county when the medical marijuana was not grown in that county.

(d) It is unlawful to use the name of a California county in the labeling, marketing, or packaging of medical marijuana products unless the product was grown in that county.

Bus. & Prof. Code § 19333 (New): *Employee Wages*:

An employee engaged in commercial cannabis cultivation activity shall be subject to **Wage Order 4-2001** of the Industrial Welfare Commission.

Bus. & Prof. Code § 19334 (New): *State licenses issued by the Department of Consumer Affairs; Transportation Security Requirements; Reporting of Theft Losses*:

(a) State licenses to be issued by the Department of Consumer Affairs are as follows:

(1) "*Dispensary*," as defined in this chapter. This license shall allow for delivery pursuant to **B&P Code § 19340**.
(2) "*Distributor*," for the distribution of medical cannabis and medical cannabis products from manufacturer to dispensary. A Type 11 licensee shall hold a Type 12, or transporter, license and register each location where product is stored for the purposes of distribution. A Type 11 licensee shall not hold a license in a cultivation, manufacturing, dispensing, or testing license category and shall not own, or have an ownership interest in, a facility licensed in those categories other than a security interest, lien, or encumbrance on property that is used by a licensee. A Type 11 licensee shall be bonded and insured at a minimum level established by the licensing authority.
(3) "*Transport*," for transporters of medical cannabis or medical cannabis products between licensees. A Type 12 licensee shall be bonded and insured at a minimum level established by the licensing authority.
(4) "*Special dispensary status*" for dispensers who have no more than three licensed dispensary facilities. This license shall allow for delivery where expressly authorized by local ordinance.

(b) The bureau shall establish minimum security requirements for the commercial transportation and delivery of medical cannabis and products.

(c) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:

(1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.
(2) Establishing limited access areas accessible only to authorized dispensary personnel.
(3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.

(d) A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

(1) Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.
(2) Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary.
(3) The loss or unauthorized alteration of records related to cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents.
(4) Any other breach of security.

Bus. & Prof. Code § 19335 (New): *Unique Identifier and Track and Trace Program*:

(a) The Department of Food and Agriculture, in consultation with the bureau, shall establish a "*track and trace program*" for reporting the movement of medical marijuana items throughout the distribution chain that utilizes a unique identifier pursuant to **H&S § 11362.777**, and secure packaging and is capable of providing information that captures, at a minimum, all of the following:

(1) The licensee receiving the product.
(2) The transaction date.
(3) The cultivator from which the product originates, including the associated unique identifier, pursuant to **H&S § 11362.777**.

(b)

(1) The Department of Food and Agriculture shall create an electronic database containing the electronic shipping manifests which shall include, but not be limited to, the following information:

(A) The quantity, or weight, and variety of products shipped.
(B) The estimated times of departure and arrival.
(C) The quantity, or weight, and variety of products received.
(D) The actual time of departure and arrival.

(E) A categorization of the product.
(F) The license number and the unique identifier pursuant to **H&S § 11362.777** issued by the licensing authority for all licensees involved in the shipping process, including cultivators, transporters, distributors, and dispensaries.

(2)

(A) The database shall be designed to flag irregularities for all licensing authorities in this chapter to investigate. All licensing authorities pursuant to this chapter may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding **B&P § 30**.
(B) The Department of Food and Agriculture shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.

(3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.
(4) The bureau shall have 24-hour access to the electronic database administered by the Department of Food and Agriculture.
(5) The Department of Food and Agriculture shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the Department of Food and Agriculture.
(6) Information received and contained in records kept by the Department of Food and Agriculture or licensing authorities for the purposes of administering this section are confidential and shall not be disclosed pursuant to the **California Public Records Act** (**Gov't. Code §§ 6250 et seq**.), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter or a local ordinance.
(7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this chapter.

Bus. & Prof. Code § 19336 (New): *Application of the **Revenue and Taxation Code***:

(a) Rev. & Tax. Code §§ 55121 et seq. shall apply with respect to the bureau's collection of the fees, civil fines, and penalties imposed pursuant to this chapter.

(b) Rev. & Tax. Code §§ 55381 et seq. shall apply with respect to the disclosure of information under this chapter.

Bus. & Prof. Code § 19337 (New): *Regulation of Licensed Transporters*:

(a) A licensee authorized to transport medical cannabis and medical cannabis products between licenses shall do so only as set forth in this chapter.

(b) Prior to transporting medical cannabis or medical cannabis products, a licensed transporter of medical cannabis or medical cannabis products shall do both of the following:

(1) Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest must include the unique identifier, pursuant to Section 11362.777 of the Health and Safety Code, issued by the Department of Food and Agriculture for the original cannabis product.
(2) Securely transmit the manifest to the bureau and the licensee that will receive the medical cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in **B&P § 19335**.

(c) During transportation, the licensed transporter shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the Department of Consumer Affairs and law enforcement officers.

(d) The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to the Department of Consumer Affairs and any law enforcement officers.

(e) Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing agency a record verifying receipt of the shipment and the details of the shipment.

(f) Transporting, or arranging for or facilitating the transport of, medical cannabis or medical cannabis products in violation of this chapter is grounds for disciplinary action against the license.

Bus. & Prof. Code § 19338 (New): *Transporting Out of State and on Public Roads*:

(a) This chapter shall not be construed to authorize or permit a licensee to transport or cause to be transported cannabis or cannabis products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of medical cannabis or medical cannabis products on public roads by a licensee transporting medical cannabis or medical cannabis products in compliance with this chapter.

Bus. & Prof. Code § 19340 (New): *Deliveries of Medical Cannabis*:

(a) Deliveries, as defined in this chapter, can only be made by a dispensary and in a city, county, or city and county that does not explicitly prohibit it by local ordinance.

(b) Upon approval of the licensing authority, a licensed dispensary that delivers medical cannabis or medical cannabis products shall comply with both of the following:

(1) The city, county, or city and county in which the licensed dispensary is located, and in which each delivery is made, do not explicitly by ordinance prohibit delivery, as defined in **B&P Code § 19300.5**.
(2) All employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current license authorizing those services with them during deliveries and the employee's government-issued identification, and shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.

(c) A county shall have the authority to impose a tax, pursuant to **B&P Code §§ 19348 et seq**., on each delivery transaction completed by a licensee.

(d) During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

(e) The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the licensing authority and law enforcement officers.

(f) A local jurisdiction shall not prevent carriage of medical cannabis or medical cannabis products on public roads by a licensee acting in compliance with this chapter.

Bus. & Prof. Code § 19341 (New): *Licensing of Cannabis Manufacturers & Testing Laboratories by the State Department of Public Health*:

The State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers and testing laboratories. Licenses to be issued are as follows:

(a) "*Manufacturing level 1*," for manufacturing sites that produce medical cannabis products using nonvolatile solvents.

(b) "*Manufacturing level 2*," for manufacturing sites that produce medical cannabis products using volatile solvents. The State Department of Public Health shall limit the number of licenses of this type.

(c) "*Testing*," for testing of medical cannabis and medical cannabis products. Testing licensees shall have their facilities licensed according to regulations set forth by the division. A testing licensee shall not hold a license in another license category of this chapter and shall not own or have ownership interest in a facility licensed pursuant to this chapter.

Bus. & Prof. Code § 19342 (New): *Testing of Medical Cannabis and Products by Licensed Testing Laboratories*:

(a) For the purposes of testing medical cannabis or medical cannabis products, licensees shall use a licensed testing laboratory that has adopted a standard operating procedure using methods consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the "International Organization for Standardization," specifically "ISO/IEC 17020" and "ISO/IEC 17025," to test medical cannabis and medical cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.

(b) An agent of a licensed testing laboratory shall obtain samples according to a statistically valid sampling method for each lot.

(c) A licensed testing laboratory shall analyze samples according to either of the following:

(1) The most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.
(2) Scientifically valid methodology that is demonstrably equal or superior to **para. (1)**, in the opinion of the accrediting body.

(d) If a test result falls outside the specifications authorized by law or regulation, the licensed testing laboratory shall follow a standard operating procedure to confirm or refute the original result.

(e) A licensed testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis.

Bus. & Prof. Code § 19343 (New): *Licensing Laboratory Minimum Requirements*:

A licensed testing laboratory shall not handle, test, or analyze medical cannabis or medical cannabis products unless the licensed testing laboratory meets all of the following:

(a) Is registered by the State Department of Public Health.

(b) Is independent from all other persons and entities involved in the medical cannabis industry.

(c) Follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis or medical cannabis products. The testing lab shall also comply with any other requirements specified by the State Department of Public Health.

(d) Notifies the State Department of Public Health within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

(e) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the licensed testing laboratory for testing.

Bus. & Prof. Code § 19344 (New): *Certificate of Analysis Requirements*:

(a) A licensed testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:

(1) Whether the chemical profile of the lot conforms to the specifications of the lot for compounds, including, but not limited to, all of the following:

(A) Tetrahydrocannabinol (THC).
(B) Tetrahydrocannabinolic Acid (THCA).
(C) Cannabidiol (CBD).
(D) Cannabidiolic Acid (CBDA).
(E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.
(F) Cannabigerol (CBG).
(G) Cannabinol (CBN).
(H) Any other compounds required by the State Department of Public Health.

(2) That the presence of contaminants does not exceed the levels that are the lesser of either the most current version of the "American Herbal Pharmacopoeia monograph" or the State Department of Public Health. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals.
(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.
(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, P. aeruginosa, aspergillus spp., s. aureus, aflatoxin B1, B2, G1, or G2, or ochratoxin A.
(D) Whether the batch is within specification for odor and appearance.

(b) Residual levels of volatile organic compounds shall be below the lesser of either the specifications set by the United States Pharmacopeia (**U.S.P. Chapter 467**) or those set by the State Department of Public Health.

Bus. & Prof. Code § 19345 (New): *Receipt of Medical Cannabis or Products from Other Than Licensed Facilities*:

(a) Except as provided in this chapter, a licensed testing laboratory shall not acquire or receive medical cannabis or medical cannabis products except from a licensed facility in accordance with this chapter, and shall not distribute, sell, deliver, transfer, transport, or dispense medical cannabis or medical cannabis products, from which the medical cannabis or medical cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(b) A licensed testing laboratory may receive and test samples of medical cannabis or medical cannabis products from a qualified patient or primary caregiver only if he or she presents his or her valid recommendation for cannabis for medical purposes from a physician. A licensed testing laboratory shall not certify samples from a qualified patient or caregiver for resale or transfer to another party or licensee. All tests performed by a licensed testing laboratory for a qualified patient or caregiver shall be recorded with the name of the qualified patient or caregiver and the amount of medical cannabis or medical cannabis product received.

(c) The State Department of Public Health shall develop procedures to ensure that testing of cannabis occurs prior to delivery to dispensaries or any other business, specify how often licensees shall test cannabis and that the cost of testing shall be borne by the licensed cultivators, and require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards

promulgated by the State Department of Public Health, unless remedial measures can bring the cannabis into compliance with quality assurance standards as promulgated by the State Department of Public Health.

(d) The State Department of Public Health shall establish a licensing fee, and laboratories shall pay a fee to be licensed. Licensing fees shall not exceed the reasonable regulatory cost of the licensing activities.

Bus. & Prof. Code § 19347 (New): *Labeling of Medical Cannabis Products*:

(a) Prior to delivery or sale at a dispensary, medical cannabis products shall be labeled and in a tamper-evident package. Labels and packages of medical cannabis products shall meet the following requirements:

(1) Medical cannabis packages and labels shall not be made to be attractive to children.
(2) All medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:

(A) Manufacture date and source.
(B) The statement "SCHEDULE I CONTROLLED SUBSTANCE."
(C) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.
(D) The statement "FOR MEDICAL USE ONLY."
(E) The statement "THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS."
(F) The statement "THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."
(G) For packages containing only dried flower, the net weight of medical cannabis in the package.
(H) A warning if nuts or other known allergens are used.
(I) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total.
(J) Clear indication, in bold type, that the product contains medical cannabis.
(K) Identification of the source and date of cultivation and manufacture.
(L) Any other requirement set by the bureau.
(M) Information associated with the unique identifier issued by the Department of Food and Agriculture pursuant to **H&S § 11362.777**.

Note: Why no warnings concerning use by pregnant women?

(b) Only generic food names may be used to describe edible medical cannabis products.

Bus. & Prof. Code § 19348 (New): *Taxation*:

(a)

(1) A county may impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by a licensee operating pursuant to this chapter.
(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.
(3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.
(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in **para. (1)**, as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.

(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.

(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in **subd. (a)** as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of **Rev. & Tax. Code §§ 7202** & **7203**.

Bus. & Prof. Code § 19350 (New): *Scale of Application, Licensing, & Renewal Fees*:

Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this chapter. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this chapter as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to **B&P Code § 19335**, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this chapter shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this chapter.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the "Medical Marijuana Regulation and Safety Act Fund." Moneys in the licensing authority fee accounts shall be used, upon appropriation of the Legislature, by the designated licensing authority for the administration of this chapter.

Bus. & Prof. Code § 19351 (New): *The Medical Marijuana Regulation and Safety Act Fund*:

(a) The Medical Marijuana Regulation and Safety Act Fund is hereby established within the State Treasury. Moneys in the fund shall be available upon appropriation by the Legislature. Notwithstanding **Gov't. Code § 16305.7**, the fund shall include any interest and dividends earned on the moneys in the fund.

(b)

(1) Funds for the establishment and support of the regulatory activities pursuant to this chapter shall be advanced as a General Fund or special fund loan, and shall be repaid by the initial proceeds from fees collected pursuant to this chapter or any rule or regulation adopted pursuant to this chapter, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the "Medical Cannabis Fines and Penalties Account" shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

(2) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this chapter.
(3) The Director of Finance may provide an initial operating loan from the General Fund to the "Medical Marijuana Regulation and Safety Act Fund" that does not exceed ten million dollars ($10,000,000).

(c) Except as otherwise provided, all moneys collected pursuant to this chapter as a result of fines or penalties imposed under this chapter shall be deposited directly into the "Medical Marijuana Fines and Penalties Account," which is hereby established within the fund, and shall be available, upon appropriation by the Legislature to the bureau, for the purposes of funding the enforcement grant program pursuant to **subd. (d)**.

(d)

(1) The bureau shall establish a grant program to allocate moneys from the "Medical Cannabis Fines and Penalties Account" to state and local entities for the following purposes:

(A) To assist with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to cannabis activities.
(B) For allocation to state and local agencies and law enforcement to remedy the environmental impacts of cannabis cultivation.

(2) The costs of the grant program under this subdivision shall, upon appropriation by the Legislature, be paid for with moneys in the "Medical Cannabis Fines and Penalties Account."

(3) The grant program established by this subdivision shall only be implemented after the loan specified in this section is repaid.

Bus. & Prof. Code § 19352 (New): *Appropriation of Operating Funds*:

The sum of ten million dollars ($10,000,000) is hereby appropriated from the "Medical Marijuana Regulation and Safety Act Fund" to the Department of Consumer Affairs to begin the activities of the Bureau of Medical Marijuana Regulation. Funds appropriated pursuant to this section shall not include moneys received from fines or penalties.

Bus. & Prof. Code § 19353 (New): *Annual Reports of the Licensing Authorities*:

Beginning on March 1, 2023, and on or before March 1 of each following year, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities and post the report on the authority's Internet

Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

(a) The amount of funds allocated and spent by the licensing authority for medical cannabis licensing, enforcement, and administration.

(b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.

(c) The average time for processing state license applications, by state license category.

(d) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the bureau.

(e) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

Bus. & Prof. Code § 19354 (New): *Study of Effect Upon Motor Skills*:

The bureau shall contract with the California Marijuana Research Program, known as the "Center for Medicinal Cannabis Research," authorized pursuant to **H&S Code § 11362.9**, to develop a study that identifies the impact that cannabis has on motor skills.

Bus. & Prof. Code § 19355 (New): *Confidentiality of Patient Records*:

(a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the **California Public Records Act** (**Gov't. Code §§ 6250 et seq**.), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

(b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with **H&S Code §§ 123100 et seq**., **Civil Code §§ 56 et seq**., and other state and federal laws relating to confidential patient information.

(c) Nothing in this section precludes the following:

(1) Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.
(2) Notifications from the bureau or any licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.
(3) Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.
(4) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.

(d) Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

Bus. & Prof. Code § 19360 (New): *Civil & Criminal Penalties for Violations*:

(a) A person engaging in cannabis activity without a license and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the department, state or local authority, or court may order the destruction of medical cannabis associated with that violation. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section shall be deposited into the "Marijuana Production and Environment Mitigation Fund" established pursuant to **Rev. & Tax. Code § 31013**.

(b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city or city and county in which the judgment was entered. If the action is brought by a city attorney and is adjudicated in a superior court located in the unincorporated area or another city in the same county, the penalty shall be paid one-half to the treasurer of the city in which the complaining attorney has jurisdiction and one-half to the treasurer of the county in which the judgment is entered.

(c) Notwithstanding **subd. (a)**, criminal penalties shall continue to apply to an unlicensed person or entity engaging in cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under **H&S § 11362.7**.

Fish & Game Code § 12029 (New): *Watershed Enforcement Program*:

> Finding that illegal marijuana cultivation has a detrimental effect on fish and wildlife and their habitat (**subd. (a)(1)**), and that remediation of existing cultivation sites is often complex, requiring greater department staff time and personnel expenditures (**Subd. (a)(2)**), the Department of Fish and Wildlife shall establish the "*watershed enforcement program*" in order to facilitate the investigation, enforcement, and prosecution of illegal marijuana cultivation. (**Subd (b)**).
>
> Also, the Department of Fish and Wildlife, in coordination with the State Water Resources Control Board, shall establish a permanent multiagency task force to address the environmental impacts of marijuana cultivation, which is tasked with enforcing the reduction of such adverse impacts on fish and wildlife and their habitats (**Subd. (c)**), and while shall adopt regulations to the effect. (**Subd. (d)**)

H&S Code § 11362.769 (New): *Compliance with State and Local Environmental Regulations*:

> Indoor and outdoor medical marijuana cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical marijuana cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

H&S Code § 11362.755 (Amended): *Protections from Criminal Liability*:

> The existing provisions protecting from criminal liability those who otherwise are in violation of for **H&S §§ 11357** (*possession*), **11358** (*cultivation*), **11359** (*possession for sale*), **11360** (*transportation*), **11366** (*maintaining a place used for selling*), **11366.5** (*managing a place used for selling*), **11570** (*abatement of a nuisance*), shall, pursuant to new **subd. (b)**, remain in effect only until one year after the Bureau of Medical Marijuana Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the **Medical Marijuana Regulation and Safety Act** (**Bus. & Prof. Code §§ 19300 et seq**.; effective 1/1/2016), and is repealed upon issuance of licenses.

H&S Code § 11362.777 (New): *Medical Cannabis Cultivation Program; Licensing and Permit Requirements; Identification Program*:

(a) The Department of Food and Agriculture shall establish a "*Medical Cannabis Cultivation Program*" to be administered by the secretary, except as specified in **subd. (c)**, shall administer this section as it pertains to the cultivation of medical marijuana. For purposes of this section and **B&P Code §§ 19300 et seq**., medical cannabis is an agricultural product.

(b)

(1) A person or entity shall not cultivate medical marijuana without first obtaining both of the following:

(A) A license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.
(B) A state license issued by the department pursuant to this section.

(2) A person or entity shall not submit an application for a state license issued by the department pursuant to this section unless that person or entity has received a license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.
(3) A person or entity shall not submit an application for a state license issued by the department pursuant to this section if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.

(c)

(1) Except as otherwise specified in this subdivision, and without limiting any other local regulation, a city, county, or city and county, through its current or future land use regulations or ordinance, may issue or deny a permit to cultivate medical marijuana pursuant to this section. A city, county, or city and county may inspect the intended cultivation site for suitability prior to issuing a permit. After the city, county, or city and county has approved a permit, the applicant shall apply for a state medical marijuana cultivation license from the department. A locally issued cultivation permit shall only become active upon licensing by the department and receiving final local approval. A person shall not cultivate medical marijuana prior to obtaining both a permit from the city, county,

or city and county and a state medical marijuana cultivation license from the department.
(2) A city, county, or city and county that issues or denies conditional licenses to cultivate medical marijuana pursuant to this section shall notify the department in a manner prescribed by the secretary.
(3) A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the department's state licensing requirements.
(4) If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county.

(d)

(1) The secretary may prescribe, adopt, and enforce regulations relating to the implementation, administration, and enforcement of this part, including, but not limited to, applicant requirements, collections, reporting, refunds, and appeals.
(2) The secretary may prescribe, adopt, and enforce any emergency regulations as necessary to implement this part. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with **Gov't. Code §§ 11340 et seq**., and, for purposes of that chapter, including **Gov't. Code § 11349.6**, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.
(3) The secretary may enter into a cooperative agreement with a county agricultural commissioner to carry out the provisions of this chapter, including, but not limited to, administration, investigations, inspections, licensing and assistance pertaining to the cultivation of medical marijuana. Compensation under the cooperative agreement shall be paid from assessments and fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner for associated costs.

(e)

(1) The department, in consultation with, but not limited to, the Bureau of Medical Marijuana Regulation, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for medical marijuana. In implementing the program, the department shall consider issues, including, but not limited

to, water use and environmental impacts. In implementing the program, the department shall ensure that:

(A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.
(B) Cultivation will not negatively impact springs, riparian wetlands, and aquatic habitats.

(2) The department shall establish a program for the identification of permitted medical marijuana plants at a cultivation site during the cultivation period. The unique identifier shall be attached at the base of each plant. A unique identifier, such as, but not limited to, a zip tie, shall be issued for each medical marijuana plant.

(A) Unique identifiers will only be issued to those persons appropriately licensed by this section.
(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 19335 of the Business and Professions Code.
(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each medical marijuana plant.
(D) The department may promulgate regulations to implement this section.

(3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

(f)

(1) A city, county, or city and county that issues or denies licenses to cultivate medical marijuana pursuant to this section shall notify the department in a manner prescribed by the secretary.
(2) Unique identifiers and associated identifying information administered by a city or county shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(g) This section does not apply to a qualified patient cultivating marijuana pursuant to **H&S Code § 11362.5** if the area he or she uses to cultivate marijuana does not exceed 100 square feet and he or she cultivates marijuana for his or her personal medical use and does not sell, distribute, donate, or provide marijuana to

any other person or entity. This section does not apply to a primary caregiver cultivating marijuana pursuant to **H&S Code § 11362.5** if the area he or she uses to cultivate marijuana does not exceed 500 square feet and he or she cultivates marijuana exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of **H&S Code § 11362.7** and does not receive remuneration for these activities, except for compensation provided in full compliance with **H&S Code § 11362.765(c)**. For purposes of this section, the area used to cultivate marijuana shall be measured by the aggregate area of vegetative growth of live marijuana plants on the premises. Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from regulating or banning the cultivation, storage, manufacture, transport, provision, or other activity by the exempt person, or impair the enforcement of that regulation or ban.

Rev. & Tax. Code § 31020 (New): *Taxation of Commercial Cannabis*:

The board, in consultation with the Department of Food and Agriculture, shall adopt a system for reporting the movement of commercial cannabis and cannabis products throughout the distribution chain. The system shall not be duplicative of the electronic database administered by the Department of Food and Agriculture specified in **Bus. & Prof. Code § 19335**. The system shall also employ secure packaging and be capable of providing information to the board. This system shall capture, at a minimum, all of the following:

(a) The amount of tax due by the designated entity.
(b) The name, address, and license number of the designated entity that remitted the tax.
(c) The name, address, and license number of the succeeding entity receiving the product.
(d) The transaction date.
(e) Any other information deemed necessary by the board for the taxation and regulation of marijuana and marijuana products.

Water Code § 13276 (New): *Environmental Impacts of Cannabis Cultivation*:

(a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by marijuana cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on water quality and on fish and wildlife throughout the state.

(b) Each regional board shall, and the State Water Resources Control Board may, address discharges of waste resulting from medical marijuana cultivation and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to **Water Code § 13269**. In

addressing these discharges, each regional board shall include conditions to address items that include, but are not limited to, all of the following:

(1) Site development and maintenance, erosion control, and drainage features.
(2) Stream crossing installation and maintenance.
(3) Riparian and wetland protection and management.
(4) Soil disposal.
(5) Water storage and use.
(6) Irrigation runoff.
(7) Fertilizers and soil.
(8) Pesticides and herbicides.
(9) Petroleum products and other chemicals.
(10) Cultivation-related waste.
(11) Refuse and human waste.
(12) Cleanup, restoration, and mitigation.

Mental Health Commitments:

Wel. & Inst. Code § 5150 (Amended): *Mental Health Commitments; Factors to Consider*:

Subd. (b) is added which provides that when determining if a person should be taken into custody pursuant to **subd. (a)** (i.e., danger to self, others, or gravely disabled), the individual making that determination (i.e., the law enforcement officer) shall apply the provisions of **Wel. & Inst. Code § 5150.05** and shall *not* be limited to consideration of the danger of imminent harm.

Note: **Wel. & Inst. Code § 5150.05** provides that in evaluating the existence of probable cause, the officer or other authorized person shall consider available relevant "*information about the historical course of the person's mental disorder*," so far as it relates to whether the person is a danger to others, or to himself or herself, or is gravely disabled (**Subd. (a)**), and that "*information about the historical course of the person's mental disorder*" includes evidence presented by the person who has provided or is providing mental health or related support services to the person, evidence presented by one or more members of the family of that person, and evidence presented by the person him or herself or anyone else designated by that person. (**Subd. (b)**)

Pen Register and Trap & Trace Devices:

P.C. § 638.50 (New): *Definitions*

(a) "*Wire communication*" and "*electronic communication*" have the same meanings as set forth in **P.C. § 629.51(a)**; i.e.:

> **(1)** "*Wire communication*" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of a like connection in a switching station), furnished or operated by any person engaged in providing or operating these facilities for the transmission of communications.
>
> **(2)** "*Electronic communication*" means any transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system, but does not include any of the following:
>
> > **(A)** Any wire communication defined in **para. (1)**.
> > **(B)** Any communication made through a tone-only paging device.
> > **(C)** Any communication from a tracking device.
> > **(D)** Electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(b) "*Pen register*" means a device or process that records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, but not the contents of a communication. "*Pen register*" does not include a device or process used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider, or a device or process used by a provider or customer of a wire communication service for cost accounting or other similar purposes in the ordinary course of its business.

(c) "*Trap and trace device*" means a device or process that captures the incoming electronic or other impulses that identify the originating number or other dialing, routing, addressing, or signaling information reasonably likely to identify the source of a wire or electronic communication, but not the contents of a communication.

P.C. § 638.51 (New): *Prohibitions on Installation of Pen Registers and Trap & Trace Devices; Exceptions*:

(a) Except as provided in **subd. (b)**, a person may *not* install or use a pen register or a trap and trace device without first obtaining a court order pursuant to **P.C. §§ 638.52** or **638.53**.

(b) A provider of electronic or wire communication service may use a pen register or a trap and trace device for any of the following purposes:

(1) To operate, maintain, and test a wire or electronic communication service.
(2) To protect the rights or property of the provider.
(3) To protect users of the service from abuse of service or unlawful use of service.
(4) To record the fact that a wire or electronic communication was initiated or completed to protect the provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful, or abusive use of service.
(5) If the consent of the user of that service has been obtained.

(c) A violation of this section is punishable by a fine not exceeding $2,500, or by imprisonment in the county jail not exceeding one year, or by imprisonment pursuant to **P.C. § 1170(h)** (i.e., 16 months, 2 or 3 years in state prison or county jail), or by both that fine and imprisonment.

(d) A good faith reliance on an order issued pursuant to **P.C. § 638.52**, or an authorization made pursuant to **P.C. § 638.53**, is a complete defense to a civil or criminal action brought under this section or under this chapter.

P.C. § 638.52 (New): *Court Orders*:

(a) A peace officer may make an application to a magistrate for an order or an extension of an order authorizing or approving the installation and use of a pen register or a trap and trace device. The application shall be in writing under oath or equivalent affirmation, and shall include the identity of the peace officer making the application and the identity of the law enforcement agency conducting the investigation. The applicant shall certify that the information likely to be obtained is relevant to an ongoing criminal investigation and shall include a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates.

(b) The magistrate shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device if he or she finds that the information likely to be obtained by the installation and use of a pen register or a trap and trace device is relevant to an ongoing investigation and that there is

"*probable cause*" to believe that the pen register or trap and trace device will lead to any of the following:

(1) Recovery of stolen or embezzled property.
(2) Property or things used as the means of committing a felony.
(3) Property or things in the possession of a person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.
(4) Evidence that tends to show a felony has been committed, or tends to show that a particular person has committed or is committing a felony.
(5) Evidence that tends to show that sexual exploitation of a child, in violation of **P.C. § 311.3**, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of **P.C. § 311.11**, has occurred or is occurring.
(6) The location of a person who is unlawfully restrained or reasonably believed to be a witness in a criminal investigation or for whose arrest there is probable cause.
(7) Evidence that tends to show a violation of **Labor Code § 3700.5**, or tends to show that a particular person has violated **Labor Code § 3700.5**.
(8) Evidence that does any of the following:

(A) Tends to show that a felony, a misdemeanor violation of the **Fish and Game Code**, or a misdemeanor violation of the **Public Resources Code**, has been committed or is being committed.
(B) Tends to show that a particular person has committed or is committing a felony, a misdemeanor violation of the **Fish and Game Code**, or a misdemeanor violation of the **Public Resources Code**.
(C) Will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the **Fish and Game Code**, or a misdemeanor violation of the **Public Resources Code**.

(c) Information acquired solely pursuant to the authority for a pen register or a trap and trace device shall not include any information that may disclose the physical location of the subscriber, except to the extent that the location may be determined from the telephone number. Upon the request of the person seeking the pen register or trap and trace device, the magistrate may seal portions of the application pursuant to ***People v. Hobbs*** (1994) 7 Cal.4th 948, and **Evid. Code §§ 1040**, **1041**, and **1042**.

(d) An order issued pursuant to **subd. (b)** shall specify all of the following:

(1) The identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached.
(2) The identity, if known, of the person who is the subject of the criminal investigation.
(3) The number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order.
(4) A statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates.
(5) The order shall direct, if the applicant has requested, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device.

(e) An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed 60 days.

(f) Extensions of the original order may be granted upon a new application for an order under **subds. (a)** and **(b)** if the officer shows that there is a continued probable cause that the information or items sought under this subdivision are likely to be obtained under the extension. The period of an extension shall not exceed 60 days.

(g) An order or extension order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that the order be sealed until otherwise ordered by the magistrate who issued the order, or a judge of the superior court, and that the person owning or leasing the line to which the pen register or trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber or to any other person, unless or until otherwise ordered by the magistrate or a judge of the superior court, or for compliance with **P.C. §§ 1054.1** and **1054.7**.

(h) Upon the presentation of an order, entered under **subds. (b)** or **(f)**, by a peace officer authorized to install and use a pen register, a provider of wire or electronic communication service, landlord, custodian, or other person shall immediately provide the peace officer all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services provided to the party with respect to whom the installation and use is to take place, if the assistance is directed by the order.

(i) Upon the request of a peace officer authorized to receive the results of a trap and trace device, a provider of a wire or electronic communication service, landlord, custodian, or other person shall immediately install the device on the appropriate line and provide the peace officer all information, facilities, and technical assistance, including installation and operation of the device unobtrusively and with a minimum of interference with the services provided to the party with respect to whom the installation and use is to take place, if the installation and assistance is directed by the order.

(j) Unless otherwise ordered by the magistrate, the results of the pen register or trap and trace device shall be provided to the peace officer at reasonable intervals during regular business hours for the duration of the order.

(k) The magistrate, before issuing the order pursuant to **subd. (b)**, may examine on oath the person seeking the pen register or the trap and trace device, and any witnesses the person may produce, and shall take his or her affidavit or their affidavits in writing, and cause the affidavit or affidavits to be subscribed by the parties making them.

P.C. § 638.53 (New): *Emergency Court Orders*:

(a) Except as otherwise provided in this chapter, upon an oral application by a peace officer, a magistrate may grant oral approval for the installation and use of a pen register or a trap and trace device, without an order, if he or she determines all of the following:

(1) There are grounds upon which an order could be issued under **P.C. § 638.52**.
(2) There is "*probable cause*" to believe that an emergency situation exists with respect to the investigation of a crime.
(3) There is "*probable cause*" to believe that a substantial danger to life or limb exists justifying the authorization for immediate installation and use of a pen register or a trap and trace device before an order authorizing the installation and use can, with due diligence, be submitted and acted upon.

(b)

(1) By midnight of the second full court day after the pen register or trap and trace device is installed, a written application pursuant to **P.C. § 638.52** shall be submitted by the peace officer who made the oral application to the magistrate who orally approved the installation and use of a pen register or trap and trace device. If an order is issued pursuant to **P.C. § 638.52**, the order shall also recite the time of the oral approval under subdivision (a) and shall be retroactive to the time of the original oral approval.

(2) In the absence of an authorizing order pursuant to **para. (1)**, the use shall immediately terminate when the information sought is obtained, when the application for the order is denied, or by midnight of the second full court day after the pen register or trap and trace device is installed, whichever is earlier.

(c) A provider of a wire or electronic communication service, landlord, custodian, or other person who provides facilities or technical assistance pursuant to this section shall be reasonably compensated by the requesting peace officer's law enforcement agency for the reasonable expenses incurred in providing the facilities and assistance.

Prisoners:

P.C. § 849 (Amended): *Release of Prisoners*:

New **subd. (b)(4)** adds as a legal basis for releasing a prisoner prior to booking or without citation when; "(t)he person was arrested for driving under the influence of alcohol or drugs and the person is delivered to a hospital for medical treatment that prohibits immediate delivery before a magistrate."

P.C. § 4030 (Amended): *Searches of Pre-Arraignment Misdemeanor Jail Prisoners*:

The section has been reorganized to include the four definitions of body searches into **subd. (c)**:

(c)(1): "*Body Cavity*" means the stomach or rectal cavity of a person, and vagina of a female person.

(c)(2): "*Physical Body Cavity Search*" means physical intrusion into a body cavity for the purpose of discovering any object concealed in the body cavity.

Note: Often referred to as a "*manual body cavity search*" in federal cases.

(c)(3): "*Strip Search*" means any search which requires the officer to remove or arrange some or all of that person's clothing so as to permit a visual inspection of the underclothing, breasts, buttocks, or genitalia of the person.

(c)(4): "*Visual Body Cavity Search*" means visual inspection of a body cavity.

Any person within sight of an inmate during any of these searches, except for medical personnel, must be of the same gender as the inmate being searched and the person conducting the search be of the same gender.

It is a misdemeanor crime to knowingly and willfully authorize or conduct a search in violation of **P.C. § 4030**.

See **P.C. § 4031** (New), under "Juveniles," for *Searches of Minors Detained in a Juvenile Detention Center*."

Profiling:

Gov't Code § 12525.5 (New; but see initial reporting dates, below): *The Racial and Identity Profiling Act of 2015; Mandated Reporting*:

(a)

(1) Each state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year.
(2) Each agency that employs 1,000 or more peace officers shall issue its first round of reports on or before *April 1, 2019*.
Each agency that employs 667 or more but less than 1,000 peace officers shall issue its first round of reports on or before *April 1, 2020*.
Each agency that employs 334 or more but less than 667 peace officers shall issue its first round of reports on or before *April 1, 2022*.
Each agency that employs one or more but less than 334 peace officers shall issue its first round of reports on or before *April 1, 2023*.

(b) The reporting shall include, at a minimum, the following information for each stop:

(1) The time, date, and location of the stop.
(2) The reason for the stop.
(3) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.
(4) If a warning or citation was issued, the warning provided or violation cited.
(5) If an arrest was made, the offense charged.
(6) The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. For motor vehicle stops, this paragraph only applies to the driver, unless any actions specified under paragraph (7) apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for him or her.

(7) Actions taken by the peace officer during the stop, including, but not limited to, the following:

(A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.
(B) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.
(C) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.

(c) If more than one peace officer performs a stop, only one officer is required to collect and report to his or her agency the information specified under **subd. (b)**.

(d) State and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section. Notwithstanding any other law, the data reported shall be available to the public, except for the badge number or other unique identifying information of the peace officer involved, which shall be released to the public only to the extent the release is permissible under state law.

(e) Not later than *January 1, 2017*, the Attorney General, in consultation with stakeholders, including the Racial and Identity Profiling Advisory Board (RIPA) established pursuant to **P.C. § 13519.4(j)(1)**, federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations, shall issue regulations for the collection and reporting of data required under **subd. (b)**. The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies. To the best extent possible, such regulations should be compatible with any similar federal data collection or reporting program.

(f) All data and reports made pursuant to this section are public records within the meaning of **P.C. § 6252(e)**, and are open to public inspection pursuant to **P.C. §§ 6253** and **6258**.

(g)

(1) For purposes of this section, "*peace officer*," as defined in **P.C. §§ 830 et seq**., is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions. "*Peace officer*," as used in this section, does *not* include probation officers and officers in a custodial setting.

(2) For purposes of this section, "*stop*" means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.

P.C. § 13012 (Amended): *Reporting Requirements for the Department of Justice*:

(a) The annual report of the Department of Justice provided for in **P.C. § 13010** (see below) shall contain statistics showing all of the following:

(1) The amount and the types of offenses known to the public authorities.
(2) The personal and social characteristics of criminals and delinquents.
(3) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.
(4) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.
(5)

(A) The total number of each of the following:

(i) Citizen complaints received by law enforcement agencies under **P.C. § 832.5**.
(ii) Citizen complaints alleging criminal conduct of either a felony or misdemeanor.
(iii) Citizen complaints alleging racial or identity profiling, as defined in **P.C. § 13519.4(e)**. These statistics shall be disaggregated by the specific type of racial or identity profiling alleged, such as based on a consideration of race, color, ethnicity, national origin, religion, gender identity or expression, sexual orientation, or mental or physical disability.

(B) The statistics reported under this paragraph shall provide, for each category of complaint identified under **subpara. (A)**, the number of complaints within each of the following disposition categories:

(i) "*Sustained*," which means that the investigation disclosed sufficient evidence to prove the truth of allegation in the complaint by preponderance of evidence.

(ii) "*Exonerated*," which means that the investigation clearly established that the actions of the personnel that formed the basis of the complaint are not a violation of law or agency policy.
(iii) "*Not sustained*," which means that the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation in the complaint.
(iv) "*Unfounded*," which means that the investigation clearly established that the allegation is not true.

(C) The reports under **subpara. (A)** and **(B)** shall be made available to the public and disaggregated for each individual law enforcement agency.

(b) It shall be the duty of the Department of Justice to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall also include statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

(c) Each year, on an annual basis, the Racial and Identity Profiling Board (RIPA), established pursuant to **P.C. § 13519.4(j)(1)**, shall analyze the statistics reported pursuant to **subd. (a)(5)(A)** & **(B)** of this section. RIPA's analysis of the complaints shall be incorporated into its annual report as required by **P.C. § 13519.4(j)(3)**. The reports shall not disclose the identity of peace officers.

Note: **P.C. § 13010**, effective on 1/1/2010, mandates certain data collection requirements for the Department of Justice.

P.C. § 13519.4 (Amended): *Racial and Identity Profiling; Guidelines, Training, and Legislative Findings*:

(a) & **(b)**: Amended section mandates the development and dissemination of guidelines and training for all peace officers on the racial and cultural differences among residents, stressing the understanding and respect for racial, identity, and cultural differences and the development of effective, non-combative methods of carrying out law enforcement duties in a diverse racial, identity, and cultural environment. The training is to include instruction on racial, identity, and cultural diversity, fostering a mutual respect and cooperation between law enforcement and members of all racial, identity, and cultural groups.

(c) Definitions are provided as follows:

(1) "*Disability*," "*gender*," "*nationality*," "*religion*," and "*sexual orientation*" have the same meaning as in **P.C. § 422.55**.
(2) "*Culturally diverse*" and "*cultural diversity*" include, but are not limited to, disability, gender, nationality, religion, and sexual orientation issues.
(3) "*Racial*" has the same meaning as "race or ethnicity" in **P.C. § 422.55**.
(4) "*Stop*" has the same meaning as in **Gov't Code § 12525.5(g)(2)**.

(d) The Legislature finds and declares as follows:

(1) The working men and women in California law enforcement risk their lives every day. The people of California greatly appreciate the hard work and dedication of peace officers in protecting public safety. The good name of these officers should not be tarnished by the actions of those few who commit discriminatory practices.
(2) Racial or identity profiling is a practice that presents a great danger to the fundamental principles of our Constitution and a democratic society. It is abhorrent and cannot be tolerated.
(3) Racial or identity profiling alienates people from law enforcement, hinders community policing efforts, and causes law enforcement to lose credibility and trust among the people whom law enforcement is sworn to protect and serve.
(4) Pedestrians, users of public transportation, and vehicular occupants who have been stopped, searched, interrogated, and subjected to a property seizure by a peace officer for no reason other than the color of their skin, national origin, religion, gender identity or expression, housing status, sexual orientation, or mental or physical disability are the victims of discriminatory practices.
(5) It is the intent of the Legislature in enacting the changes to this section made by the act that added this paragraph that additional training is required to address the pernicious practice of racial or identity profiling and that enactment of this section is in no way dispositive of the issue of how the state should deal with racial or identity profiling.

(e) "*Racial or identity profiling*," for purposes of this section, is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any

property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.

(f) A peace officer shall not engage in racial or identity profiling.

(g) Every peace officer in this state shall participate in expanded training as prescribed and certified by the Commission on Peace Officers Standards and Training.

(h) The curriculum shall be evidence-based and shall include and examine evidence-based patterns, practices, and protocols that make up racial or identity profiling, including implicit bias. This training shall prescribe evidenced-based patterns, practices, and protocols that prevent racial or identity profiling. In developing the training, the commission shall consult with the Racial and Identity Profiling Advisory Board established pursuant to **subd. (j)**. The course of instruction shall include, but not be limited to, significant consideration of each of the following subjects:

> **(1)** Identification of key indices and perspectives that make up racial, identity, and cultural differences among residents in a local community.
> **(2)** Negative impact of intentional and implicit biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations and contributed to injury, death, disparities in arrest detention and incarceration rights, and wrongful convictions.
> **(3)** The history and role of the civil and human rights movement and struggles and their impact on law enforcement.
> **(4)** Specific obligations of peace officers in preventing, reporting, and responding to discriminatory or biased practices by fellow peace officers.
> **(5)** Perspectives of diverse, local constituency groups and experts on particular racial, identity, and cultural and police-community relations issues in a local area.
> **(6)** The prohibition against racial or identity profiling in **subd. (f)**.

(i) Once the initial basic training is completed, each peace officer in California as described in **P.C. § 13510(a)** who adheres to the standards approved by the commission shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing racial, identity, and cultural trends.

(j)

> **(1)** Beginning *July 1, 2016*, the Attorney General shall establish the "*Racial and Identity Profiling Advisory Board*" (RIPA) for the purpose of

eliminating racial and identity profiling, and improving diversity and racial and identity sensitivity in law enforcement.
(2) RIPA shall include the members as specifically listed in **subpara. (A)** through **(M)**, with duties and limitations as listed in **subpara. (3)(A)** through **(F)** and **subpara. (4)** through **(8)**. (See the section)

Prosecutorial Issues:

Bus. & Prof. Code § 6086.7 (Amended): *Brady Violations*:

A bad faith, intentional withholding of relevant or material exculpatory evidence or information in violation of law by a prosecuting attorney, as listed in **P.C. § 1424.5** (New), if the court finds the withholding contributed to a guilty verdict or a guilty or nolo contendere plea, or, if identified before the end of trial, seriously limited the ability of a defendant to present a defense, is added to the list of things regarding attorneys that the court is required to report to the State Bar.

Note: Under ***Brady v. Maryland*** (1963) 373 U.S. 83, and its progeny, the prosecution (and law enforcement in general) has a constitutional duty to disclose to the defense material exculpatory evidence, including potential impeaching evidence.

See also **P.C. § 1424.5** (New), below.

Gov't. Code § 11135 (Amended): *Preemptory Juror Challenges*:

The personal characteristics that may *not* be used to justify a preemptory challenge of a prospective juror as the basis of an assumption that the juror is biased merely because he or she possesses one or more of these characteristic are the juror's (1) race, (2) color, (3) religion, (4) sex, (5) national origin, (6) sexual orientation, "or similar grounds." (Former **CCP § 231.5** (Amended)) The following characteristics are added to this list by this amendment; (7) ethnic group identification, (8) age, (9) genetic information, and (10) disability.

"*Disability*" includes any mental or physical disability. (**Subd. (c)(1)**)

"*Genetic Information*" is as defined in **CC § 51(e)(2)**: "Information about an individual's genetic tests; the genetic tests of a family member; the manifestation of a disease or disorder in a family member; or any requests for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or family members." (**Subd. (g)**)

Note: These requirements apply to counsel for both the prosecution and the defense.

P.C. § 1016.3 (New): *Plea Bargains and Immigration Consequences*:

(a) Defense counsel shall provide accurate and affirmative advice about the immigration consequences of a proposed disposition, and when consistent with the goals of and with the informed consent of the defendant, and consistent with professional standards, defend against those consequences.

(b) *The prosecution*, in the interests of justice, and in furtherance of the findings and declarations of **P.C. § 1016.2**, shall consider the avoidance of adverse immigration consequences in the plea negotiation process as one factor in an effort to reach a just resolution.

Note: **P.C. § 1016.2** lists certain legislative findings relative to a defense counsel's duties in advising his or her client concerning potential immigration consequences of his or her pending criminal case, in conformity with the U.S. Supreme Court case of ***Padilla v. Kentucky*** (2010) 559 U.S. 356.

(c) This code section shall not be interpreted to change the requirements of **P.C. § 1016.5**, including the requirement that no defendant shall be required to disclose his or her immigration status to the court.

Note: **P.C. § 1016.5** describes a trial court's duties in advising a defendant of the potential immigration consequences of a plea of guilty.

Note: **Subd. (b)** may be seen by some as a step towards moving California to becoming a "*sanctuary state*."

P.C. § 1424.5 (New): *Brady Violations; Motion to Disqualify Prosecutor or Prosecutor's Office*:

(a)

(1) Upon receiving information that a prosecuting attorney may have "*deliberately and intentionally*" withheld relevant or material exculpatory evidence or information in violation of law, a court may make a finding, supported by clear and convincing evidence, that a violation occurred. If the court finds such a violation, the court shall inform the State Bar of California of that violation if the prosecuting attorney acted in bad faith and the impact of the withholding contributed to a guilty verdict, guilty or nolo contendere plea, or, if identified before conclusion of trial, seriously limited the ability of a defendant to present a defense.

(2) A court may hold a hearing to consider whether a violation occurred pursuant to **para. (1)**.

(b)

(1) If a court finds, pursuant to **subd. (a)**, that a violation occurred in bad faith, the court may disqualify an individual prosecuting attorney from a case.

(2) Upon a determination by a court to disqualify an individual prosecuting attorney pursuant to **para. (1)**, the defendant or his or her counsel may file and serve a notice of a motion pursuant to **P.C. § 1424 (**Motion to disqualify district attorney or city attorney from performing authorized duty) to disqualify the prosecuting attorney's office if there is sufficient evidence that other employees of the prosecuting attorney's office knowingly and in bad faith participated in or sanctioned the intentional withholding of the relevant or material exculpatory evidence or information and that withholding is part of a pattern and practice of violations.

(c) This section does not limit the authority or discretion of, or any requirement placed upon, the court or other individuals to make reports to the State Bar of California regarding the same conduct, or otherwise limit other available legal authority, requirements, remedies, or actions.

Note: Under ***Brady v. Maryland*** (1963) 373 U.S. 83, and its progeny, the prosecution (and law enforcement in general) has a constitutional duty to disclose to the defense material exculpatory evidence, including potential impeaching evidence.

See **Bus. & Prof. Code § 6086.7** (Amended), above.

Restraining Orders:

P.C. § 1542.5 (New): *Seizure of a Restrained Person's Firearms and Ammunition During the Execution of a Search Warrant*:

(a) The law enforcement officer executing the warrant shall take custody of any firearm or ammunition that is in the restrained person's custody, control, or possession, or that is owned by the restrained person, which is discovered pursuant to a consensual or other lawful search.

(b)

(1) If the location to be searched during the execution of the warrant is jointly occupied by the restrained person and one or more other persons and a law enforcement officer executing the warrant finds a firearm or ammunition in the restrained person's custody or control or possession, but that is owned by a person other than the restrained person, the firearm

or ammunition shall not be seized if both of the following conditions are satisfied:

(A) The firearm or ammunition is removed from the restrained person's custody or control or possession and stored in a manner that the restrained person does not have access to or control of the firearm or ammunition.
(B) There is no evidence of unlawful possession of the firearm or ammunition by the owner of the firearm or ammunition.

(2) If the location to be searched during the execution of the warrant is jointly occupied by the restrained person and one or more other persons and a locked gun safe is located that is owned by a person other than the restrained person, the contents of the gun safe shall not be searched except in the owner's presence, and with his or her consent or with a valid search warrant for the gun safe.

P.C. § 18100 (New): *Gun Violence Restraining Order*:

A gun violence restraining order is an order, in writing, signed by the court, prohibiting and enjoining a named person from having in his or her custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition. This division establishes a civil restraining order process to accomplish that purpose.

P.C. § 18105 (New): *Petitions and Orders*:

The Judicial Council shall prescribe the form of the petitions and orders and any other documents, and shall promulgate any rules of court, necessary to implement this division.

P.C. § 18107 (New): *Petition; Contents*:

A petition for a gun violence restraining order shall describe the number, types, and locations of any firearms and ammunition presently believed by the petitioner to be possessed or controlled by the subject of the petition.

P.C. § 18109 (New): *Law Enforcement Discretion*:

Nothing in this division shall be interpreted to require a law enforcement agency or a law enforcement officer to seek a gun violence restraining order in any case, including, but not limited to, in a case in which the agency or officer concludes, after investigation, that the criteria for issuance of a gun violence restraining order are not satisfied.

P.C. § 18110 (New): *Searches Pursuant to Court Order*:

Prior to a hearing on the issuance, renewal, or termination of an order under **P.C. §§ 18150 et seq**. or **P.C. § 18170 et seq**., the court shall ensure that a search as described in **Fam. Code § 6306(a)** is conducted. After issuing its ruling, the court shall provide the advisement described in **Fam. Code § 6306(c)** and shall keep information obtained from a search conducted pursuant to this section confidential in accordance with subdivision **Fam. Code § 6306(d)**.

P.C. § 18115 (New): *Notification to the Department of Justice and Entry into the California Restraining and Protective Order System*:

(a) The court shall notify the Department of Justice when a gun violence restraining order has been issued or renewed under this division no later than one court day after issuing or renewing the order.

(b) The court shall notify the Department of Justice when a gun violence restraining order has been dissolved or terminated under this division no later than five court days after dissolving or terminating the order. Upon receipt of either a notice of dissolution or a notice of termination of a gun violence restraining order, the Department of Justice shall, within 15 days, note document the updated status of any order issued under this division.

(c) The notices required to be submitted to the Department of Justice pursuant to this section shall be submitted in an electronic format, in a manner prescribed by the department.

(d) When notifying the Department of Justice pursuant to **subds. (a)** or **(b)**, the court shall indicate in the notice whether the person subject to the gun violence restraining order was present in court to be informed of the contents of the order or if the person failed to appear. The person's presence in court shall constitute proof of service of notice of the terms of the order.

(e)

(1) Within one business day of service, a law enforcement officer who served a gun violence restraining order shall submit the proof of service directly into the California Restraining and Protective Order System, including his or her name and law enforcement agency, and shall transmit the original proof of service form to the issuing court.

(2) Within one business day of receipt of proof of service by a person other than a law enforcement officer, the clerk of the court shall submit the proof of service of a gun violence restraining order directly into the California Restraining and Protective Order System, including the name of the person who served the order. If the court is unable to provide this

notification to the Department of Justice by electronic transmission, the court shall, within one business day of receipt, transmit a copy of the proof of service to a local law enforcement agency. The local law enforcement agency shall submit the proof of service directly into the California Restraining and Protective Order System within one business day of receipt from the court.

P.C. § 18120 (New): *Restrictions on Gun Possession and Surrender Requirements by Person Subject to a Gun Violence Restraining Order*:

(a) A person subject to a gun violence restraining order issued pursuant to this division shall not have in his or her custody or control, own, purchase, possess, or receive any firearms or ammunition while that order is in effect.

(b)

(1) Upon issuance of a gun violence restraining order issued pursuant to this division, the court shall order the restrained person to surrender to the local law enforcement agency all firearms and ammunition in the restrained person's custody or control, or which the restrained person possesses or owns.

(2) The surrender ordered pursuant to **para. (1)** shall occur by immediately surrendering all firearms and ammunition in a safe manner, upon request of any law enforcement officer, to the control of the officer, after being served with the restraining order. A law enforcement officer serving a gun violence restraining order that indicates that the restrained person possesses any firearms or ammunition shall request that all firearms and ammunition be immediately surrendered. Alternatively, if no request is made by a law enforcement officer, the surrender shall occur within 24 hours of being served with the order, by either surrendering all firearms and ammunition in a safe manner to the control of the local law enforcement agency, or by selling all firearms and ammunition to a licensed gun dealer, as specified in **P.C. §§ 26700 et seq.** and **26800 et seq**. The law enforcement officer or licensed gun dealer taking possession of any firearms or ammunition pursuant to this subdivision shall issue a receipt to the person surrendering the firearm or firearms or ammunition or both at the time of surrender. A person ordered to surrender all firearms and ammunition pursuant to this subdivision shall, within 48 hours after being served with the order, do both of the following:

(A) File with the court that issued the gun violence restraining order the original receipt showing all firearms and ammunition have been surrendered to a local law enforcement agency or sold to a licensed gun dealer. Failure to timely file a receipt shall constitute a violation of the restraining order.

(B) File a copy of the receipt described in **subpara. (A)** with the law enforcement agency that served the gun violence restraining order. Failure to timely file a copy of the receipt shall constitute a violation of the restraining order.

(c)

(1) Any firearms or ammunition surrendered to a law enforcement officer or law enforcement agency pursuant to this section shall be retained by the law enforcement agency until the expiration of any gun violence restraining order that has been issued against the restrained person. Upon expiration of any order, any firearms or ammunition shall be returned to the restrained person in accordance with the provisions of **P.C. §§ 33850 et seq**. Firearms or ammunition that are not claimed are subject to the requirements of **P.C. § 34000**.

(2) A restrained person who owns any firearms or ammunition that are in the custody of a law enforcement agency pursuant to this section and who does not wish to have the firearm or firearms or ammunition returned is entitled to sell or transfer title of any firearms or ammunition to a licensed dealer provided that the firearm or firearms or ammunition are otherwise legal to own or possess and the restrained person otherwise has right to title of the firearm or firearms or ammunition.

(d) If a person other than the restrained person claims title to any firearms or ammunition surrendered pursuant to this section, and he or she is determined by the law enforcement agency to be the lawful owner of the firearm or firearms or ammunition, the firearm or firearms or ammunition shall be returned to him or her pursuant to **P.C. §§ 33850 et seq**.

P.C. § 18200 (New): *Gun Violence Restraining Order Based Upon False Information*:

It is a misdemeanor to file a petition for an ex parte gun violence restraining order while knowing the information in the petition is false, or with the intent to harass.

Punishment: *Misdemeanor*; Six months in county jail and/or a $1,000 fine. (**P.C. § 19**)

P.C. § 18205 (New): *Gun Violence Restraining Order*:

It is a misdemeanor to own or possess a firearm or ammunition, while knowing that to do so is prohibited by a temporary gun violence restraining order, an ex parte gun violence restraining order, or a gun violence restraining order issued after notice and a hearing. A violation of this section triggers a five-year prohibition on controlling, owning, purchasing, possessing, or receiving, or

attempting to purchase or receive a firearm or ammunition, beginning upon the expiration of the restraining order.

Punishment: *Misdemeanor*; Six months in county jail and/or a $1,000 fine. (**P.C. § 19**)

Wel. & Inst. Code § 8105 (Amended): *Confidentiality of Mental Health Information and Firearms Ownership Eligibility*:

Amendment adds persons who are the subject of a petition for a gun violence restraining order (i.e., **P.C. § 18100–18205**, see above) to this section which requires the Department of Justice (DOJ) to keep confidential information it receives identifying persons subject to the firearms prohibition in **W&I § 8100** (undergoing treatment for a mental disorder or making a serious threat of physical violence against an identifiable victim), thus allowing DOJ to use this information only to determine the person's eligibility to acquire, carry, or possess firearms, destructive devices, or explosives.

Search Warrants:

P.C. § 1524(a) (Amended): *Grounds for Issuance of a Search Warrant*:

Added to the grounds for obtaining a search warrant are the following:

(14) When the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to **P.C. §§ 18100 et seq**., if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully serviced with that order, and the person has failed to relinquish the firearm as required by law.

(15) When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance pursuant to the authority in **H&S § 11472**.

Note: **H&S § 11472** provides: "Controlled substances and any device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance, which are possessed in violation of this division, may be seized by any peace officer and in the aid of such seizure a search warrant may be issued as prescribed by law."

(16) When a sample of the blood of a person constitutes evidence that tends to show a violation of operating a boat or a specified water device under the influence of alcohol or a drug, or with a blood alcohol level of 0.04 percent or more, or while addicted to any drug (**Harb. & Nav. Code § 655(b)**, **(c)**, **(d)**, **(e)**, and **(f)**), and the person has refused an officer's request to submit to, or has failed to complete, a blood test; and the sample will be drawn in a "reasonable, medically approved manner."

This subdivision also provides that this is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

P.C. § 1524.3 (Amended): *Records of Foreign Corporations Providing Electronic Communications or Remote Computing Services*:

(a) Foreign corporations providing *electronic communications* or *remote computing services* must disclose to a governmental prosecuting or investigating agency, when served with a search warrant issued by a California court pursuant to **P.C. § 1524(a)(7)** (i.e., in misdemeanor cases), records revealing the *name*, *address*, local and long distance telephone *toll billing records*, *telephone number* or other *subscriber number or identity*, and *length of service* of a subscriber to or customer of that service, the *types of services* the subscriber or customer utilized, and *the contents of communication* originated by or addressed to the service provider when the governmental entity is granted a search warrant pursuant to **P.C. § 1524(a)(7)**.

(b): The search warrant shall be limited to only that information necessary to achieve the objective of the warrant, including by specifying the target individuals or accounts, the applications or services, the types of information, and the time periods covered, as appropriate.

(c) Information obtained through the execution of a search warrant pursuant to this section that is unrelated to the objective of the warrant shall be sealed and not be subject to further review without an order from the court.

(d)

(1) A governmental entity receiving subscriber records or information under this section shall provide notice to a subscriber or customer upon receipt of the requested records. The notification may be delayed by the court, in increments of 90 days, upon a showing that there is reason to believe that notification of the existence of the search warrant may have an "*adverse result*."

(2) An "*adverse result*" for purposes of **para. (1)** means any of the following:

(A) Endangering the life or physical safety of an individual.
(B) Flight from prosecution.
(C) Tampering or destruction of evidence.
(D) Intimidation of a potential witness.
(E) Otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(e) Upon the expiration of the period of delay for the notification, the governmental entity shall, by regular mail or email, provide a copy of the process or request and a notice, to the subscriber or customer. The notice shall accomplish all of the following:

(1) State the nature of the law enforcement inquiry with reasonable specificity.
(2) Inform the subscriber or customer that information maintained for the subscriber or customer by the service provider named in the process or request was supplied to or requested by the governmental entity, and the date upon which the information was supplied, and the request was made.
(3) Inform the subscriber or customer that notification to the subscriber or customer was delayed, and which court issued the order pursuant to which the notification was delayed.
(4) Provide a copy of the written inventory of the property that was taken that was provided to the court pursuant to **P.C. § 1537**.

(f) A court issuing a search warrant pursuant to **P.C. § 1524(a)(7)**, on a motion made promptly by the service provider, may quash or modify the warrant if the information or records requested are unusually voluminous in nature or compliance with the warrant otherwise would cause an undue burden on the provider.

(g) A provider of wire or electronic communication services or a remote computing service, upon the request of a peace officer, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a search warrant or a request in writing and an affidavit declaring an intent to file a warrant to the provider. Records shall be retained for a period of 90 days, which shall be extended for an additional 90-day period upon a renewed request by the peace officer.

(h) No cause of action shall be brought against any provider, its officers, employees, or agents for providing information, facilities, or assistance in good faith compliance with a search warrant.

P.C. § 1524.5 (New): *Procedures for Execution of a Gun Violence Restraining Order Search Warrant*:

A police officer executing a search warrant for firearms or ammunition owned, possessed, or controlled by a person who is subject to a gun violence restraining order shall take custody of such firearms or ammunition.

If the firearms or ammunition is owned by someone other than the restrained person, they shall not be seized if (1) they are removed and stored in a manner that the restrained person does not have access to, or control of them; and (2) there is no evidence of unlawful possession of the firearm or ammunition by the owner.

If the location to be searched is jointly occupied by the restrained person and one or more other persons, and a locked gun safe is located that is owned by a person other than the restrained person, the contents of the safe *cannot* be searched "except in the owner's presence, and with his or her consent or with a valid search warrant for a gun safe."

P.C. § 1526 (Amended): *Telephonic Search Warrants*:

(a) The magistrate, before issuing the warrant, may examine on oath the person seeking the warrant and any witnesses the person may produce, and shall take his or her affidavit or their affidavits in writing, and cause the affidavit or affidavits to be subscribed by the party or parties making them.

(b) In lieu of the written affidavit required in **sub. (a)**, the magistrate may take an oral statement under oath under one of the following conditions:

(1) The oath shall be made under penalty of perjury and recorded and transcribed. The transcribed statement shall be deemed to be an affidavit for the purposes of this chapter. In these cases, the recording of the sworn oral statement and the transcribed statement shall be certified by the magistrate receiving it and shall be filed with the clerk of the court. In the alternative in these cases, the sworn oral statement shall be recorded by a certified court reporter and the transcript of the statement shall be certified by the reporter, after which the magistrate receiving it shall certify the transcript which shall be filed with the clerk of the court.

(2) The oath is made using telephone and facsimile transmission equipment, telephone and electronic mail, or telephone and computer server, as follows:

(A) The oath is made *during* a telephone conversation with the magistrate, *after* the affiant has signed his or her affidavit in

support of the application for the search warrant and transmitted the proposed search warrant and all supporting affidavits and documents to the magistrate. The affiant's signature may be in the form of a digital signature or electronic signature if electronic mail or computer server is used for transmission to the magistrate.
(B) The magistrate shall confirm with the affiant the receipt of the search warrant and the supporting affidavits and attachments. The magistrate shall verify that all the pages sent have been received, that all pages are legible, and that the affiant's signature, digital signature, or electronic signature is acknowledged as genuine.
(C) If the magistrate decides to issue the search warrant, he or she shall:

(i) Sign the warrant. The magistrate's signature may be in the form of a digital signature or electronic signature if electronic mail or computer server is used for transmission by the magistrate.
(ii) Note on the warrant the exact date and time of the issuance of the warrant.
(iii) Indicate on the warrant that the oath of the affiant was administered orally over the telephone.

(D) The magistrate shall transmit via facsimile transmission equipment, electronic mail, or computer server, the signed search warrant to the affiant. The completed search warrant, as signed by the magistrate and received by the affiant, shall be deemed to be the original warrant. The original warrant and any affidavits or attachments in support thereof shall be returned as provided in **P.C. § 1534**.

Note: This amended version alters the timing of when the oath is to be administered, eliminates the requirement that the affiant telephonically acknowledge receipt of the signed search warrant, and eliminates all references to a "duplicate original."

P.C. § 1542.5 (New): *Seizure of a Restrained Person's Firearms During the Execution of a Search Warrant*:

See "Restraining Orders," above.

Solicitation of Crimes:

P.C. § 653f (Amended): *Solicitation of Computer-Related Crimes*:

New **subd. (f)** adds to the offenses for which it is a crime to solicit, or offer to solicit, as indicated under **subpara. (1)** and **(2)** below. **Subpara (3)**, describing

the punishment, is added. New **subd. (h)** is also added. Former **subd. (f)** is amended and moved to **subd. (g)**.

> **(1)** Every person who, with the intent that the crime be committed, solicits another to commit an offense set forth in **P.C. § 502** (i.e., computer-related crimes) shall be punished as set forth in **para. (3)**.
>
> **(2)** Every person who, with the intent that the crime be committed, offers to solicit assistance for another to conduct activities in violation of **P.C. § 502** shall be punished as set forth in **para. (3)**. This includes persons operating Internet Web sites that offer to assist others in locating hacking services. For the purposes of this section "*hacking services*" means assistance in the unauthorized access to computers, computer systems, or data in violation of **P.C. § 502**.
>
> **(3)** Every person who violates this subdivision shall be punished by imprisonment in a county jail for a period not to exceed six months. Every subsequent violation of this subdivision by that same person shall be punished by imprisonment in a county jail not exceeding one year.

(g) An offense charged in violation of **subds. (a)**, **(b)**, or **(c)** shall be proven by the testimony of two witnesses, or of one witness and corroborating circumstances. An offense charged in violation of **subds. (d)**, **(e)**, or (the new) **(f)** shall be proven by the testimony of one witness and corroborating circumstances.

(h) Nothing in this section precludes prosecution under any other law that provides for a greater punishment.

Tobacco:

H&S Code § 118916 (Effective 12/1/2016; New): *Smokeless Tobacco in Professional Baseball Parks*:

> **(a)** Purpose, in general, is to eliminate the "role model effect" of professional baseball players' use of smokeless tobacco on youth.
>
> **(b)** Effective *December 1, 2016*, the use or possession of smokeless tobacco products at any time on the playing field of a baseball stadium is prohibited.
>
> **(c)** Definitions:
>
> > **(1)** A "*baseball stadium*" is defined as the physical area in which a professional baseball game or practice is occurring.
> >
> > **(2)** A "*playing field*" is defined as the area in which a baseball game is played, including dugouts, bullpens, and team bench areas.

(3) "*Professional baseball*" means baseball games played in connection with Major League Baseball or minor league baseball.

(4) "*Smokeless tobacco*" is defined as a product that contains cut, ground, powdered, or leaf tobacco, and is intended to be placed in the oral or nasal cavity, including, but not limited to, snuff, chewing tobacco, dipping tobacco, dissolvable tobacco products, and snus.

(d) The section specifically provides that more restrictive local ordinances, including a complete ban on such products in baseball parks, may be enacted.

See also **H&S Code § 24600** (New), *Non-Nicotine Devices*, under "Cigarettes," above.

Tow Truck Regulations:

Veh. Code § 21719 (New): *Tow Truck Operation at Emergencies*:

(a) Notwithstanding any other law, in the event of an emergency occurring on a roadway that requires the rapid removal of impediments to traffic or rendering of assistance to a disabled vehicle obstructing a roadway, a tow truck driver who is either operating under an agreement with the law enforcement agency responsible for investigating traffic collisions on the roadway or summoned by the owner or operator of a vehicle involved in a collision or that is otherwise disabled on the roadway may utilize the center median or right shoulder of a roadway if all of the following conditions are met:

(1) A peace officer employed by the investigating law enforcement agency is at the scene of the roadway obstruction and has determined that the obstruction has caused an unnecessary delay to motorists using the roadway.
(2) A peace officer employed by the investigating law enforcement agency has determined that a tow truck can provide emergency roadside assistance by removing the disabled vehicle and gives explicit permission to the tow truck driver allowing the utilization of the center median or right shoulder of the roadway.
(3) The tow truck is not operated on the center median or right shoulder at a speed greater than what is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the roadway, and in no event at a speed that endangers the safety of persons or property.
(4) The tow truck displays flashing amber warning lamps to the front, rear, and both sides while driving in the center median or right shoulder of a roadway pursuant to this section.

(b) For purposes of this section, "*utilize the center median*" includes making a U-turn across the center median.

Veh. Code § 22513 (Amended): *Tow Truck Company Regulations*:

(a)

(1) It is a misdemeanor for a towing company or the owner or operator of a tow truck to stop or cause a person to stop at the scene of an accident or near a disabled vehicle for the purpose of soliciting an engagement for towing services, either directly or indirectly, to furnish towing services, to move a vehicle from a highway, street, or public property when the vehicle has been left unattended or when there is an injury as the result of an accident, or to accrue charges for services furnished under those circumstances, unless requested to perform that service by a law enforcement officer or public agency pursuant to that agency's procedures, or unless summoned to the scene or requested to stop by the owner or operator of a disabled vehicle.

(2)

(A) A towing company or the owner or operator of a tow truck summoned to the scene by the owner or operator of a disabled vehicle shall possess all of the following information in writing prior to arriving at the scene:

(i) The first and last name and working telephone number of the person who summoned it to the scene.
(ii) The make, model, year, and license plate number of the disabled vehicle.
(iii) The date and time it was summoned to the scene.
(iv) The name of the person who obtained the information in **clauses (i)**, **(ii)**, and **(iii)**.

(B) A towing company or the owner or operator of a tow truck summoned to the scene by a motor club, as defined by **Ins. Code § 12142**, pursuant to the request of the owner or operator of a disabled vehicle is exempt from the requirements of **subpara. (A)**, provided it possesses all of the following information in writing prior to arriving at the scene:

(i) The business name of the motor club.
(ii) The identification number the motor club assigns to the referral.
(iii) The date and time it was summoned to the scene by the motor club.

(3) A towing company or the owner or operator of a tow truck requested to stop at the scene by the owner or operator of a disabled vehicle shall possess all of the following information in writing upon arriving at the scene:

(A) The first and last name and working telephone number of the person who requested the stop.
(B) The make, model, and license plate number, if one is displayed, of the disabled vehicle.
(C) The date and time it was requested to stop.
(D) The name of the person who obtained the information in **subparas. (A)**, **(B)**, and **(C)**.

(4) A towing company or the owner or operator of a tow truck summoned or requested by a law enforcement officer or public agency pursuant to that agency's procedures to stop at the scene of an accident or near a disabled vehicle for the purpose of soliciting an engagement for towing services, either directly or indirectly, to furnish towing services, or that is expressly authorized to move a vehicle from a highway, street, or public property when the vehicle has been left unattended or when there is an injury as the result of an accident, shall possess all of the following in writing before leaving the scene:

(A) The identity of the law enforcement agency or public agency.
(B) The log number, call number, incident number, or dispatch number assigned to the incident by law enforcement or the public agency, or the surname and badge number of the law enforcement officer, or the surname and employee identification number of the public agency employee.
(C) The date and time of the summons, request, or express authorization.

(5) For purposes of this section, "*writing*" includes electronic records.

(b) The towing company or the owner or operator of a tow truck shall make the written information described in **subd. (a)** available to law enforcement, upon request, from the time it appears at the scene until the time the vehicle is towed and released to a third party, and shall maintain that information for three years. The towing company or owner or operator of a tow truck shall make that information available for inspection and copying within 48 hours of a written request from any officer or agent of a police department, sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, a district attorney's office, or a city attorney's office.

(c)

(1) Prior to attaching a vehicle to the tow truck, if the vehicle owner or operator is present at the time and location of the anticipated tow, the towing company or the owner or operator of the tow truck shall furnish the vehicle's owner or operator with a written itemized estimate of all charges and services to be performed. The estimate shall include all of the following:

(A) The name, address, telephone number, and motor carrier permit number of the towing company.
(B) The license plate number of the tow truck performing the tow.
(C) The first and last name of the towing operator, and if different than the towing operator, the first and last name of the person from the towing company furnishing the estimate.
(D) A description and cost for all services, including, but not limited to, charges for labor, special equipment, mileage from dispatch to return, and storage fees, expressed as a 24-hour rate.

(2) The tow truck operator shall obtain the vehicle owner or operator's signature on the itemized estimate and shall furnish a copy to the person who signed the estimate.

(3) The requirements in **para. (1)** may be completed after the vehicle is attached and removed to the nearest safe shoulder or street if done at the request of law enforcement or a public agency, provided the estimate is furnished prior to the removal of the vehicle from the nearest safe shoulder or street.

(4) The towing company or the owner or operator of a tow truck shall maintain the written documents described in this subdivision for three years, and shall make them available for inspection and copying within 48 hours of a written request from any officer or agent of a police department, sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, a district attorney's office, or a city attorney's office.

(5) This subdivision does not apply to a towing company or the owner or operator of a tow truck summoned to the scene by a motor club, as defined by **Ins. Code § 12142**, pursuant to the request of the owner or operator of a disabled vehicle.

(6) This subdivision does not apply to a towing company or the owner or operator of a tow truck summoned to the scene by law enforcement or a public agency pursuant to that agency's procedures, and operating at the

scene pursuant to a contract with that law enforcement agency or public agency.

(d)

(1) Except as provided in **para. (2)**, a towing company or the owner or operator of a tow truck shall not charge a fee for towing or storage, or both, of a vehicle in excess of the greater of the following:

(A) The fee that would have been charged for that towing or storage, or both, made at the request of a law enforcement agency under an agreement between a towing company and the law enforcement agency that exercises primary jurisdiction in the city in which the vehicle was, or was attempted to be, removed, or if not located within a city, the law enforcement agency that exercises primary jurisdiction in the county in which the vehicle was, or was attempted to be, removed.

(B) The fee that would have been charged for that towing or storage, or both, under the rate approved for that towing operator by the Department of the California Highway Patrol for the jurisdiction from which the vehicle was, or was attempted to be, removed.

(2) Para. (1) does not apply to the towing or transportation of a vehicle or temporary storage of a vehicle in transit, if the towing or transportation is performed with the prior consent of the owner or operator of the vehicle.

(3) No charge shall be made in excess of the estimated price without the prior consent of the vehicle owner or operator.

(4) All services rendered by a tow company or tow truck operator, including any warranty or zero cost services, shall be recorded on an invoice, as described in subdivision **V.C. § 22651.07(e)**. The towing company or the owner or operator of a tow truck shall maintain the written documents described in this subdivision for three years, and shall make the documents available for inspection and copying within 48 hours of a written request from any officer or agent of a police department, sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, a district attorney's office, or a city attorney's office.

(e) A person who willfully violates **subd. (b)**, **(c)**, or **(d)** is guilty of a *misdemeanor*, punishable by a fine of not more than two thousand five hundred dollars ($2,500), or by imprisonment in a county jail for not more than three months, or by both that fine and imprisonment.

(f) This section shall *not* apply to the following:

(1) A vehicle owned or operated by, or under contract to, a motor club, as defined by **Ins. Code § 12142**, which stops to provide services for which compensation is neither requested nor received, provided that those services may not include towing other than that which may be necessary to remove the vehicle to the nearest safe shoulder. The owner or operator of that vehicle may contact a law enforcement agency or other public agency on behalf of a motorist, but may not refer a motorist to a tow truck owner or operator, unless the motorist is a member of the motor club, the motorist is referred to a tow truck owner or operator under contract to the motor club, and, if there is a dispatch facility that services the area and is owned or operated by the motor club, the referral is made through that dispatch facility.

(2) A tow truck operator employed by a law enforcement agency or other public agency.

(3) A tow truck owner or operator acting under contract with a law enforcement or other public agency to abate abandoned vehicles, or to provide towing service or emergency road service to motorists while involved in freeway service patrol operations, to the extent authorized by law.

Veh. Code § 22513.1 (New): *Businesses Taking Possession of a Vehicle From a Tow Truck*:

(a) A business taking possession of a vehicle from a tow truck shall document the name, address, and telephone number of the towing company, the name and driver's license number of the tow truck operator, the make, model, and license plate or Vehicle Identification Number, and the date and time that possession was taken of the vehicle. If the vehicle was dropped off after hours, the business shall obtain the information from the towing company the next day.

(b) The information required in this section shall be maintained for three years and shall be available for inspection and copying within 48 hours of a written request by any officer or agent of a police department, sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, the Bureau of Automotive Repair, a district attorney's office, or a city attorney's office.

(c) A person who willfully violates this section is guilty of a misdemeanor, and is punishable by a fine of not more than two thousand five hundred dollars ($2,500), or by imprisonment in a county jail for not more than three months, or by both that fine and imprisonment.

Vehicle Code Citations:

V.C. § 40302 (Amended): *Mandatory Appearance Before a Magistrate*:

Subd: (a) is amended to require the taking into custody of a motorist stopped for a **Vehicle Code** infraction or misdemeanor; "(w)hen the person arrested fails to present *both* his or her driver's license or other satisfactory evidence of his or her identity *and* an unobstructed view of his or her full face for examination."

Vehicles; Electric and Manually Operated:

Veh. Code § 312.5 (New): *Electric Bicycle*:

(a) An "*electric bicycle*" is a bicycle equipped with fully operable pedals and an electric motor of less than 750 watts.

(1) A "*class 1 electric bicycle*," or "*low-speed pedal-assisted electric bicycle*," is a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.
(2) A "*class 2 electric bicycle*," or "*low-speed throttle-assisted electric bicycle*," is a bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.
(3) A "*class 3 electric bicycle*," or "*speed pedal-assisted electric bicycle*," is a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour, and equipped with a speedometer.

(b) A person riding an electric bicycle, as defined in this section, is subject to **V.C. §§ 21200**.

Note: **V.C. § 21200(a)** provides as follows: A person riding a bicycle or operating a pedicab upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division, including, but not limited to, provisions concerning driving under the influence of alcoholic beverages or drugs, and by **V.C. §§ 20000 et seq**., **27400**, **39000 et seq**., **40000.1 et seq**., and **42000 et seq**., except those provisions which by their very nature can have no application.

Veh. Code § 313.5 (New): *Electrically Motorized Board; Definition*:

An "*electrically motorized board*" is any wheeled device that has a floorboard designed to be stood upon when riding that is not greater than 60 inches deep and 18 inches wide, is designed to transport only one person, and has an electric

propulsion system averaging less than 1,000 watts, the maximum speed of which, when powered solely by a propulsion system on a paved level surface, is no more than 20 miles per hour. The device may be designed to also be powered by human propulsion.

Note: See **V.C. §§ 21290–21296** (New) below.

Veh. Code § 467.5 (Amended): *Pedicabs; Defined*:

The definition of "*pedicab*" is expanded in new **subd. (c)** to include a four-wheeled device that is primarily or exclusively pedal-powered, has a seating capacity for eight or more passengers, cannot travel over 15 miles per hour, and is used for transporting passengers for hire.

Note: See also **V.C. §§ 21215-21215.5** (New), below.

Veh. Code § 21201 (Amended): *Bicycle Lighting*:

Amendment authorizes for use on a bicycle a solid or flashing red light with a built-in reflector on the rear of a bicycle, instead of a red reflector only.

Veh. Code § 21207.5 (Amended): *Operation of Class 3 Electric Bicycle on Bike Paths*:

Amendment prohibits the operation of a *class 3 electric bicycle* on a bicycle path, bikeway, or bicycle lane, unless it is within or adjacent to a roadway, and permits a local authority to prohibit the operation of *class 1* and *class 2 electric bicycles* on bicycle paths and trails.

Note: See **V.C. §312.5** (New), above, for definitions of the various classes of electric bicycles, and **V.C. § 21290** (New), below, referencing **Str. & Hwy. Code § 890.4**, for definitions of "*Bikeways*."

Veh. Code § 21213 (New): *Operation of a Class 3 Electric Bicycle; Age and Helmet Restrictions*:

(a) A person under 16 years of age shall not operate a *class 3 electric bicycle*.

(b) A person shall not operate a *class 3 electric bicycle*, or ride upon a *class 3 electric bicycle* as a passenger, upon a street, bikeway as defined **Str. & Hwy. Code § 890.4**, or any other public bicycle path or trail, unless that person is wearing a properly fitted and fastened bicycle helmet that meets the standards of either the American Society for Testing and Materials (ASTM) or the United States Consumer Product Safety Commission (CPSC), or standards subsequently established by those entities. This helmet requirement also applies to a person who rides upon a class 3 electric bicycle while in a restraining seat that is attached to the bicycle or in a trailer towed by the bicycle.

Note: See **V.C. §312.5** (New), above, for definitions of the various classes of electric bicycles, and **V.C. § 21290** (New), below, referencing **Str. & Hwy. Code § 890.4**, for definitions of "*Bikeways*."

Veh. Code § 21215 (New): *Pedicab; Operation*:

(a) A *pedicab* as defined in **V.C. § 467.5(c)** (Amended; above) shall operate subject to all of the following requirements:

(1) The pedicab shall have a seating capacity for not more than 15 passengers.
(2) The pedicab shall be authorized by local ordinance or resolution to operate within the applicable local jurisdiction.
(3) The operator of the pedicab shall be at least 21 years of age, with a valid California driver's license.
(4) The pedicab shall be equipped with seatbelts for all passengers, seat backs, brakes, reflectors, headlights, and grab rails. The pedicab shall be inspected annually for compliance with the requirements of this paragraph by an entity designated by the local jurisdiction that authorized the pedicab to operate. The entity may charge a reasonable fee to cover the costs of the inspection. A pedicab that does not meet these requirements shall meet these requirements by January 1, 2017, in order to continue operation.
(5) The operator of the pedicab shall at all times be able to establish financial responsibility in a minimum amount of one million dollars ($1,000,000) general liability insurance coverage and an additional five hundred thousand dollars ($500,000) general umbrella insurance that covers the pedicab. The local jurisdiction that authorized the pedicab to operate may require additional proof of financial responsibility.
(6) A pedicab shall not operate on any highway under the jurisdiction of the local authority unless authorized by resolution or ordinance. A pedicab shall not operate on any freeway and shall not operate on any highway with a posted speed limit in excess of 30 miles per hour, except to cross the highway at an intersection.
(7) The operator of the pedicab shall annually report to the Department of the California Highway Patrol, commencing on *January 1, 2016*, any accidents caused or experienced by the pedicabs.
(8) The pedicab shall not load or unload passengers on roadways or in the middle of highways.
(9) Pedicabs shall be operated as close as practicable to the right-hand curb or edge of the roadway, except when necessary to overtake another vehicle, to avoid a stationary object, or when preparing to make a left turn.

(b) This article only applies to pedicabs defined by **V.C. § 467.5(c)** (Amended; above), and does *not* apply to pedicabs defined in **V.C. § 467.5(a)** or **(b)**.

Veh. Code § 21215.2 (New): *Pedicabs; Alcoholic Beverages*:

(a) If alcoholic beverages are consumed on board the pedicab, a pedicab defined in **V.C. § 467.5(c)** (Amended; above) shall additionally operate subject to all of the following requirements:

(1) The consumption of alcoholic beverages onboard the pedicab shall be authorized by local ordinance or resolution.
(2) An onboard safety monitor who is 21 years of age or older shall be present whenever alcohol is being consumed by passengers during the operation of the pedicab. The onboard safety monitor shall not be under the influence of any alcoholic beverage and shall be considered as driving the pedicab for purposes of **V.C. §§ 23152 et seq**. during the operation of the pedicab.
(3) Both the operator and safety monitor shall have completed either the Licensee Education on Alcohol and Drugs (LEAD) program implemented by the Department of Alcoholic Beverage Control or a training course utilizing the curriculum components recommended by the Responsible Beverage Service Advisory Board established by the Director of Alcoholic Beverage Control.
(4) Alcoholic beverages shall not be provided by the operator or onboard safety monitor or any employee or agent of the operator or onboard safety monitor of the pedicab. Alcoholic beverages may only be supplied by the passengers of the pedicab. All alcoholic beverages supplied by passengers of the pedicab shall be in enclosed, sealed, and unopened containers that have been labeled pursuant to **Bus. & Prof. Code §§ 25170 et seq**. prior to their consumption on board the pedicab.
(5) Alcoholic beverages may be consumed by a passenger of the pedicab only while he or she is physically on board and within the pedicab.
(6) All passengers shall be 21 years of age or older if alcohol is consumed during the operation of the pedicab.
(7) For purposes of this subdivision, passengers who are pedaling the device are not operators.

(b) A license or permit from the Department of Alcoholic Beverage Control shall not be required of the operator or onboard safety monitor, so long as neither they, nor their employees or agents sell, serve, or furnish any alcoholic beverage to any passenger.

(c) For purposes of this section, "alcoholic beverage" has the same meaning as defined in **Bus. & Prof. Code § 23004**.

(d) This section shall remain in effect only until *January 1, 2020*, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

Note: See also **V.C. § 23229** (Amended), adding pedicabs to those vehicles (buses, taxicabs, limousines for hire) where the prohibition against alcohol in the possession of a passenger (**V.C. §§ 23221** & **23223**) does not apply and where the prohibition against a driver or owner keeping alcohol in a vehicle (**V.C. § 23225**) does not apply, unless a passenger is under age 21.

Veh. Code § 21215.5 (New): *Pedicabs; More Restrictive Local Ordinances*:

This article does not preclude a local authority from imposing more stringent operating or equipment requirements on a pedicab subject to this article.

Veh. Code § 21290 (New): *Electrically Motorized Boards; Definitions*:

(a) For purposes of this article, "*bikeway*" is defined in **Str. & Hwy. Code § 890.4**.

Note: **Str. & Hwy. Code § 890.4:** As used in this article, "*bikeway*" means all facilities that provide primarily for, and promote, bicycle travel. For purposes of this article, bikeways shall be categorized as follows:

(a) Bike paths or shared use paths, also referred to as "Class I bikeways," which provide a completely separated right-of-way designated for the exclusive use of bicycles and pedestrians with crossflows by motorists minimized.

(b) Bike lanes, also referred to as "Class II bikeways," which provide a restricted right-of-way designated for the exclusive or semi-exclusive use of bicycles with through travel by motor vehicles or pedestrians prohibited, but with vehicle parking and crossflows by pedestrians and motorists permitted.

(c) Bike routes, also referred to as "Class III bikeways," which provide a right-of-way on-street or off-street, designated by signs or permanent markings and shared with pedestrians and motorists.

(d) Cycle tracks or separated bikeways, also referred to as "Class IV bikeways," which promote active transportation and provide a right-of-way designated exclusively for bicycle travel adjacent to a roadway and which are separated from vehicular traffic. Types of separation include, but are not limited to, grade separation, flexible posts, inflexible physical barriers, or on-street parking.

(b) For purposes of this article, an "*electrically motorized board*" is defined in **Veh. Code § 313.5**. (New; above)

Veh. Code. § 21291 (New): *Electrically Motorized Board; Age of Operator*:

An electrically motorized board shall be operated only by a person who is 16 years of age or older.

Veh. Code. § 21292 (New): *Electrically Motorized Board; Helmets*:

A person shall not operate an electrically motorized board upon a highway, bikeway, or any other public bicycle path, sidewalk, or trail, unless that person is wearing a properly fitted and fastened bicycle helmet that meets the standards described in **V.C. § 21212**.

Veh. Code. § 21293 (New): *Electrically Motorized Board; Lighting*:

(a) Every electrically motorized board operated upon a highway during darkness shall be equipped with all of the following:

(1) Except as provided in **subd. (b)**, a lamp emitting a white light that, while the electrically motorized board is in motion, illuminates the highway in front of the operator and is visible from a distance of 300 feet in front of the electrically motorized board.
(2) Except as provided in **subd. (c)**, a red reflector on the rear that is visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle.
(3) Except as provided in **subd. (d)**, a white or yellow reflector on each side that is visible from a distance of 200 feet from the sides of the electrically motorized board.

(b) A lamp or lamp combination, emitting a white light, attached to the operator and visible from a distance of 300 feet in front of the electrically motorized board, may be used in lieu of the lamp required by **subd. (a)(1)**.

(c) A red reflector, or reflectorizing material meeting the requirements of **V.C. § 25500**, attached to the operator and visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of the reflector required by **subd. (a)(2)**.

(d) A white or yellow reflector, or reflectorizing material meeting the requirements of **V.C. § 25500**, attached to the operator and visible from a distance of 200 feet from the sides of the electrically motorized board, may be used in lieu of the reflector required by **subd. (a)(3)**.

Veh. Code. § 21294 (New): *Electrically Motorized Board; Operation*:

(a) Electrically motorized boards shall only operate upon a highway designated with a speed limit of 35 miles per hour or less, unless the electrically motorized board is operated entirely within a designated Class II or Class IV bikeway.

(b) A person shall not operate an electrically motorized board upon a highway, bikeway, or any other public bicycle path, sidewalk, or trail, at a speed in excess of 15 miles per hour.

(c) Notwithstanding **subd. (b)**, a person shall not operate an electrically motorized board at a speed greater than is reasonable or prudent having due regard for weather, visibility, pedestrian and vehicular traffic, and the surface and width of the highway, bikeway, public bicycle path, sidewalk, or trail, and in no event at a speed that endangers the safety of any person or property.

Veh. Code. § 21295 (New): *Electrically Motorized Board; Traffic Safety Report*:

The Commissioner of the California Highway Patrol shall submit a report to the Legislature, on or before *January 1, 2021*, to assist in determining the effect that the use of electrically motorized boards has on traffic safety. The report shall include detailed statewide traffic collision data involving electrically motorized boards, including property damage only, injury, and fatal traffic collisions. The report shall be submitted in compliance with **Gov't. Code § 9795**. Pursuant to **Gov't. Code § 10231.5**, this section is repealed on *January 1, 2025*.

Veh. Code. § 21296 (New): *Electrically Motorized Board; Operating While Under the Influence of Alcohol or Drugs*:

(a) It is unlawful for a person to operate an electrically motorized board upon a highway while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug.

(b) A person arrested for a violation of this section may request to have a chemical test made of his or her blood or breath for the purpose of determining the alcoholic or drug content of that person's blood pursuant to **V.C. § 23612(d)**, and, if so requested, the arresting officer shall have the test performed.

(c) A conviction for a violation of this section shall be punished by a fine of not more than two hundred fifty dollars ($250).

Victims:

Civ. Code § 1708.5.5 (New): *Sexual Battery in a Civil Case*:

> Consent of a victim who is a minor in a sexual battery case is *not* a defense in a civil case if the person who commits a sexual battery is an adult who is in a position of authority over the minor. An adult suspect is in a position of authority if he or she is able to exercise undue influence over the minor, including an adult who is a natural parent, step-parent, foster parent, relative, partner of a parent or relative, caretaker, youth leader, recreational director, athletic manager, coach, teacher, counselor, therapist, religious leader, doctor, employee of any of the above, or coworker. "*Undue influence*" is defined as "excessive persuasion that causes another person to act or refrain from acting by overcoming that person's free will and results in inequity."
>
> *Note*: Under **Evid. Code § 1106** (Amended), evidence of the minor plaintiff/victim's sexual conduct with the defendant/adult in a civil case is inadmissible to prove consent, but may be admitted on the issue of credibility.

Educ. Code § 67380 (Amended): *Violent or Sexual Crimes, or Hate Crimes, on College or University Campuses; Notification to Local Law Enforcement*:

> Any California State University, University of California, community college, or other post-secondary education institution which is receiving public funds for student financial assistance, is required to disclose to a local law enforcement agency the identity of an assailant alleged to have committed a specified violent crime (i.e., willful homicide, forcible rape, robbery, or aggravated assault), sexual assault or hate crime, with or without the victim's consent to being identified, *if* the institution determines (1) that the assailant represents a serious or ongoing threat to the safety of students, employees, or the institution, *and* (2) that the immediate assistance of the local law enforcement is necessary to contact or detain the assailant. The victim must be notified of such disclosure.

P.C. § 679.10 (New): *Form I-918 Supplement B Certification and Victims of Crime*:

> **(e)** Upon the request of the victim or victim's family member, a certifying official (**see subd. (b)**) from a certifying entity (see **subd. (a)**) shall certify victim helpfulness on a "*Form I-918 Supplement B*" certification, when the victim was a victim of a qualifying criminal activity (see **subds. (c)** & **(d)**) and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity.
>
> > **Subd. (a)** lists a "*certifying entity*" as **(1)** a state or local law enforcement agency, **(2)** a prosecutor, **(3)** a judge, **(4)** any other authority that has responsibility for the detection or investigation or prosecution of a qualifying crime or criminal activity, and **(5)** agencies that have criminal

detection or investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations.

Subd. (b) describes a "*certifying official*" as **(1)** the head of the certifying entity, **(2)** a person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency, **(3)** a judge, and **(4)** any other certifying official defined under **Code of Federal Regulations § 214.14(a)**.

Subd. (c) defines "*Qualifying criminal activity*" as qualifying criminal activity pursuant to **Immigration and Nationality Act § 01(a)(15)(U)(iii)** which includes, but is not limited to, the following: **(1)** rape, **(2)** torture. **(3)** human trafficking, **(4)** incest, **(5)** domestic violence, **(6)** sexual assault, **(7)** abusive sexual conduct, **(8)** prostitution, **(9)** sexual exploitation, **(10)** female genital mutilation, **(11)** being held hostage, **(12)** peonage, **(13)** perjury, **(14)** involuntary servitude, **(15)** slavery, **(16)** kidnaping, **(17)** abduction, **(18)** unlawful criminal restraint, **(19)** false imprisonment, **(20)** blackmail, **(21)** extortion, **(22)** manslaughter, **(23)** murder, **(24)** felonious assault, **(25)** witness tampering, **(26)** obstruction of justice, **(27)** fraud in foreign labor contracting, and **(28)** stalking.

Subd. (d): A "*qualifying crime*" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal activity described in **subd. (c)**, and the attempt, conspiracy, or solicitation to commit any of those offenses.

(f) For purposes of determining helpfulness pursuant to **subd. (e)**, there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

(g) The certifying official shall fully complete and sign the Form I-918 Supplement B certification and, regarding victim helpfulness, include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity.

(h) A certifying entity shall process an I-918 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within 14 days of request.

(i) A current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the Form I-918 Supplement B certification from a certifying official.

(j) A certifying official may only withdraw the certification if the victim refuses to provide information and assistance when reasonably requested.

(k) A certifying entity is prohibited from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the Form I-918 Supplement B certification.

(*l*) A certifying entity that receives a request for a Form I-918 Supplemental B certification shall report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested Form I-918 Form B certifications from the entity, the number of those certification forms that were signed, and the number that were denied. A report pursuant to this subdivision shall comply with **Gov't. Code § 9795**.

Note: A "*Form I-918 Supplemental B certification*" is a prerequisite for a crime victim to obtain a federal U-Visa to be able to stay in the United States despite his or her otherwise illegal status, which is necessary in order to obtain that victim's testimony at trial.

Yellow Alert:

Gov't. Code § 8594.15 (New): *Hit and Run Resulting in Death or Serious Bodily Injury*:

A "*Yellow Alert*" system is created for the apprehension of persons committing vehicular hit-and-runs resulting in death or serious bodily injury which may be activated by the California Highway Patrol if:

(1) A person has been killed or suffered serious bodily injury because of a hit-and-run; *and*

(2) There is an indication that the suspect has fled the scene using the state highway system, or is likely to be observed by the public on a state highway system; *and*

(3) The investigating law enforcement agency has additional information concerning the suspect, or the suspect's vehicle, including, but not limited to:

(a) The complete license plate of the vehicle; *or*
(b) A partial license plate and additional characteristics such as the make, model, and color of the vehicle; *or*

(c) The identity of the suspect; *and*

(4) Public dissemination of available information could help avert further harm or accelerate apprehension of the suspect.

"*Yellow Alert*" is defined as a notification system designed to issue and coordinate alerts for a hit-and-run resulting in death or serious bodily injury as described in **V.C. § 20001**.

"*Serious Bodily Injury*" is defined as an injury that involves a substantial risk of serious and permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part of the body, or a break, fracture, or burn of the second or third degree.

Note: A "*Yellow Alert*" is added to the already existing alerts; i.e.:

Govt. Code § 8594: *Amber Alert*; for when a minor 17 years of age or younger has been abducted.
Govt. Code § 8594.5: *Blue Alert*; for when a law enforcement officer has been attacked.
Govt. Code § 8594.10: *Silver Alert*; for elderly persons who are missing.