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An act to add Section 26039 to the Business and Professions Code, and to amend Section 34019 of the Revenue and Taxation Code, relating to cannabis, and making an appropriation therefor.



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

## SECTION 1. The Legislature finds and declares all of the following:

(a) The Medical Marijuana Regulation and Safety Act, enacted in 2015, created a regulatory framework for the licensing and enforcement of the cultivation, manufacture, transportation, storage, and distribution of medicinal cannabis in California. Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), enacted by the voters at the November 8, 2016, statewide general election, legalized the nonmedicinal use of cannabis by persons 21 years of age or older, and made it legal to sell and distribute cannabis as a regulated business beginning on January 1, 2018.

(b) AUMA levied new excise taxes on the cultivation and retail sale of both nonmedicinal and medicinal cannabis as of January 1, 2018. Those funds are deposited in the California Cannabis Tax Fund, created in Section 34018 of the Revenue and Taxation Code. Recreational cannabis is also subject to state and local sales taxes, while medical cannabis is exempt from existing state and local sales taxes.

(c) AUMA allocated revenues in the California Cannabis Tax Fund for various purposes, including regulatory costs, youth substance use programs, environmental cleanup resulting from the illegal cannabis cultivation, programs to reduce driving under the influence of cannabis and other drugs, and to reduce negative impacts on public health or safety resulting from the legalization of nonmedicinal cannabis.

(d) The administration continues to implement the regulatory framework for the cannabis industry to protect consumers, the environment, and public safety. Various state entities, including the Department of Fish and Wildlife and the California Military Department, currently provide cannabis enforcement on public lands. These state entities work with local law enforcement, as needed, in efforts to confiscate illegal cultivation operations, as well as property and resources used for these operations, and to conduct cleanup activities to protect the environment and waterways. A robust state and local law enforcement effort is necessary to impede the illegal cultivation, manufacture, and sale of cannabis and to incentivize individuals and businesses to enter the legal market. Additional resources for law enforcement may also help prevent cannabis from being exported outside California, an activity historically associated with tax evasion, and a factor the federal government has looked to when determining whether to prosecute violations of federal law.

(e) Local law enforcement has primary responsibility for enforcing unlicensed cannabis activities in their respective jurisdictions. This bill is not intended to interfere with local law enforcement activities that are strictly local in nature.

SEC. 2. Section 26039 is added to the Business and Professions Code, to read:

26039. (a) In furtherance of efforts to mitigate the illegal cannabis market, beginning July 1, 2018, and subject to the availability of funds provided exclusively pursuant to Section 34019 of the Revenue and Taxation Code, the Department of Justice shall have primary responsibility for the statewide enforcement of large-scale illegal cannabis activities. The Department of Justice shall coordinate with other state entities and local law enforcement as necessary.

(b) To protect the legal cannabis market and avoid the diversion of cannabis outside of California, the Department of Justice shall help to combat the illegal cannabis market by protecting against intrastate and interstate diversion activities by criminal



organizations. Cannabis enforcement activities conducted by the Department of Justice shall include, but not be limited to:

(1) Intercepting shipments of cannabis.

(2) Developing leads and conducting investigations on the intrastate and interstate transportation of cannabis by unlicensed entities.

(3) Developing leads and conducting investigations regarding tax evasion and money laundering by criminal organizations involved in unlicensed cannabis activity.

(4) Detecting, identifying, and confiscating illegally cultivated cannabis as part of an effort to disrupt cannabis distribution networks utilized by criminal organizations.

(c) At the request of other state or local law enforcement entities, and to the extent adequate resources are available for this activity, the Department of Justice shall make available any data or information that may assist those entities in enforcing illegal cannabis activities.

(d) (1) Commencing September 1, 2019, and, notwithstanding Section 10231.5 of the Government Code, annually thereafter, the Department of Justice shall provide a report to the Department of Finance, the Governor's office, and the Legislature on all enforcement activities and outcomes achieved during the prior fiscal year, including, but not limited to:

(A) The status of establishing any law enforcement teams to engage in the effort of combating the illegal cannabis, as set forth in this section, including hiring of peace officers and support staff.

(B) Investigations initiated by the Department of Justice with respect to illegal cannabis activities, including the crimes being investigated and the duration of each investigation.

(C) Assistance provided to other state entities or local law enforcement in combating illegal cannabis activities, including any assistance provided in executing search warrants.

(D) The number of search warrants initiated and executed by the Department of Justice, by case or investigation.

(E) The number of arrests made as a result of the Department of Justice's efforts to combat illegal cannabis activities.

(F) The number of criminal cases filed as a direct result of a Department of Justice investigation into illegal cannabis activities, including the jurisdiction where the complaint was filed and the primary charges brought against the defendant, as well as any other outcomes, such as plea agreements or settlements reached with a defendant.

(G) The amount and description of assets seized during investigations.

(H) Other pertinent information that the Department of Justice believes will inform the administration and the Legislature as to enforcement efforts in the illegal cannabis market.

(2) The report required pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 3. Section 34019 of the Revenue and Taxation Code is amended to read:

34019. (a) Beginning with the 2017-18 fiscal year, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this



section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, ~~such~~ those costs shall not exceed 4 percent of tax revenues received.

(2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code. This paragraph shall remain operative through the 2022–23 fiscal year.

(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(5) Reasonable costs incurred by the Department of Finance for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

(7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(8) Reasonable costs incurred by the Department of Justice for enforcing laws related to the illegal cannabis market.

(9) Reasonable costs incurred by the Franchise Tax Board for collecting income tax and corporation tax from licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with the 2018–19 fiscal year until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall ~~include~~ include, but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with cannabis use, as well as whether cannabis use is associated with an increase or decrease in use of alcohol or other drugs.



(2) The impact of treatment for maladaptive cannabis use and the effectiveness of different treatment programs.

(3) Public safety issues related to cannabis use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of cannabis and cannabis products, and studying the health-related effects among users of varying potency levels of cannabis and cannabis products.

(4) Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis rates of cannabis-related substance use disorders.

(5) Cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax cannabis based on potency, and the structure and function of licensed cannabis businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the adult-use cannabis industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

(9) Environmental issues related to cannabis production and the criminal prohibition of cannabis production.

(10) The geographic location, structure, and function of licensed cannabis businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for cannabis-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of cannabis or cannabis products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning with the 2018–19 fiscal year and increasing ten million dollars (\$10,000,000)



each fiscal year thereafter until the 2022–23 fiscal year, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center, including the enhanced understanding of the efficacy and adverse effects of cannabis as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in the 2018–19 fiscal year, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their ~~families~~ families, and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, ~~fostereare~~ foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.



(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other cooccurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, ~~caregivers~~ caregivers, and all their children.

(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance ~~use~~ use, including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I) Construction of community-based youth treatment facilities.

(J) The departments may contract with each county behavioral health program for the provision of services.

(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments, or submitted reports prepared by the applicable county to demonstrate and validate need.

(L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M) The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation, and oversight of the programs.

(N) If the Department of Finance ever determines that funding pursuant to cannabis taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling



providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2) Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by cannabis cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale, and use of cannabis and cannabis products on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal cultivation, production, sale, and use of cannabis or cannabis products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency ~~task force~~ task force established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of cannabis cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3) Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of cannabis. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions;





and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments ~~which that~~ have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of cannabis or cannabis products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D) For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before the 2022–23 fiscal year pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f). Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in the 2027–28 fiscal year. ~~Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).~~



## LEGISLATIVE COUNSEL'S DIGEST

Bill No. \_\_\_\_\_  
as introduced, \_\_\_\_\_.  
General Subject: Cannabis: enforcement of illegal activity.

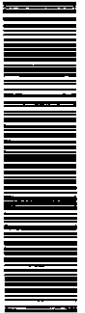
Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which includes the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), enacted by the voters at the November 8, 2016, statewide general election, provides for the licensure and regulation of commercial cannabis activity. AUMA also establishes the California Cannabis Tax Fund as a continuously appropriated fund consisting of specified taxes, interest, penalties, and other amounts imposed by AUMA. Existing law, the California Uniform Controlled Substances Act, makes the cultivation, manufacture, transportation, possession, and sale of cannabis, except as specifically provided in MAUCRSA and in limited amounts for personal use by adults 21 years of age or older, a crime.

This bill, subject to the availability of funds provided exclusively from the California Cannabis Tax Fund, would give the Department of Justice primary responsibility for the statewide enforcement of large-scale illegal cannabis activities, as specified. The bill, commencing September 1, 2019, and annually thereafter, would require the department to provide a report to the Department of Finance, the Governor's office, and the Legislature on all enforcement activities and outcomes achieved during the prior fiscal year.

AUMA requires the Controller to disburse funds from the California Cannabis Tax Fund in a specified manner, including the reasonable costs incurred by the Franchise Tax Board for administering and collecting the cannabis-related taxes imposed, reasonable costs incurred by the Bureau of Cannabis Control, the State Department of Public Health, and the Department of Food and Agriculture for implementing and enforcing the regulatory and licensing scheme, and other state costs of administering the cannabis licensure program. Existing law requires the Controller to disburse the remaining funds for various programs, as specified.

AUMA authorizes the Legislature to amend AUMA to further the purposes and intent of AUMA with a  $\frac{2}{3}$  vote of the membership of both houses of the Legislature, except as provided. AUMA prohibits the Legislature from changing specified allocations from the California Cannabis Tax Fund prior to July 1, 2028.

This bill would amend AUMA by and appropriation funds requiring the Controller, in addition to the existing specified distributions, to distribute funds from



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the California Cannabis Tax Fund to the Department of Justice for the reasonable costs of enforcing laws related to the illegal cannabis market and to the Franchise Tax Board for the reasonable costs of collecting income tax and corporation tax collection from commercial cannabis licensees.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.



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