

The California Legal Update

New and Amended Statutes Edition

Remember 9/11/2001: Support Our Troops; Support our Cops

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THIS EDITION’S WORDS OF WISDOM:

“No man has a good enough memory to be a successful liar.” (Abraham Lincoln)

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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 2016, nor the multiple Initiatives approved at the voters’ booth. Only those statutes believed to be of interest to most law enforcement officers, with the concerns of prosecutors in mind, are included. Sentencing rules, typically covered better in other publications, have been avoided except when important to the substance of a new or amended offense. Statutes that affect post-conviction (i.e., appellate) proceedings are also not included. Rewritten statutes, constituting cosmetic changes only, without any substantive changes to the elements of a crime, are not included. 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 “*Adult Use of Marijuana Act*,” Proposition 64), due to their importance and complexity, have been included, word-for-word (with some abbreviations and simplifications) 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, 2017, unless otherwise indicated.

NEW AND AMENDED STATUTES:

Alcohol:

Bus. & Prof. Code § 23003.1 (New): *Powdered Alcohol Defined:*

“*Powdered alcohol*” means an alcohol prepared or sold in a powder or crystalline form that is used for human consumption in that form or reconstituted as an alcoholic beverage when mixed with water or any other liquid. “*Powdered alcohol*” does not include “*vaporized alcohol*,” as defined in **B&P § 25621**.

Note: Powdered alcohol has been described as small amounts of alcohol enclosed in rings of sugar. When water or any liquid is added, the sugar dissolves and the alcohol is freed to drink.

Bus. & Prof. Code §§ 23004, 23005 (Amended): *Alcoholic Beverage and Distilled Spirits, Defined:*

Both sections are amended to reflect that “*alcoholic beverage*” and “*distilled spirits*,” respectively, do *not* include powdered alcohol.

Bus. & Prof. Code § 23794 (New): *Prohibition on Powdered Alcohol License:*

A license shall not be issued to any applicant to authorize the manufacture, distribution, or retail sale of powdered alcohol.

Bus. & Prof. Code § 24200.7 (New): *License Revocation:*

The Department of Alcoholic Beverage Control (ABC) shall revoke or suspend any license if the licensee or the agent or employee of the licensee manufactures, distributes, or offers for retail sale powdered alcohol.

Bus. & Prof. Code § 25623 (New): *Prohibition on Possession or Distribution of Powdered Alcohol:*

(a) A person shall not possess, purchase, sell, offer for sale, manufacture, distribute, or use powdered alcohol.

Punishment: Infraction; with a fine of up to \$500. (**Subd. (b)**)

But note the conflicting punishment in **B&P § 25623.5 (New)**, below.

Bus. & Prof. Code § 25623.5 (New): *Prohibition on Possession or Distribution of Powdered Alcohol:*

- (a) A person shall not possess, purchase, sell, offer for sale, manufacture, distribute, or use powdered alcohol.

Punishment: Infraction; with a fine of \$125. (**Subd. (b)**)

But note the conflicting punishment in **B&P § 25623** (New), above.

Animals:

Civ. Code § 43.100 (New): *Protection from Civil Liability for Rescuing Animals:*

Persons who force entry into a motor vehicle to rescue an animal which the person reasonably and in good faith believes is in danger of suffering, and who follows the six steps specified in **P.C. § 597.7(b)(2)**, is shielded from *civil liability* for trespass or any damage done to the motor vehicle.

Note: See **P.C. § 597.7** (Amended), below, for “*Protection from Criminal Liability for Rescuing Animals.*”

Pen. Code § 597.7 (Amended): *Protection from Criminal Liability for Rescuing Animals:*

New **subd. (b)(1)** provides that a person may take reasonable steps that are necessary to remove an animal from a motor vehicle if the person reasonably believes that the animal’s safety is in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability or death to the animal.

New **subd. (b)(2)** provides that a person who removes an animal from a vehicle in accordance with **paragraph (1)** is not criminally liable for actions taken reasonably and in good faith if the person does all of the following:

(A) Determines the vehicle is locked or there is otherwise no reasonable manner for the animal to be removed from the vehicle.

(B) Has a good faith belief that forcible entry into the vehicle is necessary because the animal is in imminent danger of suffering harm if it is not immediately removed from the vehicle, and, based upon the circumstances known to the person at the time, the belief is a reasonable one.

(C) Has contacted a local law enforcement agency, the fire department, animal control, or the “911” emergency service *prior* to forcibly entering the vehicle.

(D) Remains with the animal in a safe location, out of the elements but reasonably close to the vehicle, until a peace officer, humane officer, animal control officer, or another emergency responder arrives.

(E) Used no more force to enter the vehicle and remove the animal from the vehicle than was necessary under the circumstances.

(F) Immediately turns the animal over to a representative from law enforcement, animal control, or another emergency responder who responds to the scene.

Amended **subd. (d)** adds firefighters and “other emergency responders” to the list of those (peace officers, humane officers, and animal control officers) who may forcibly remove from a vehicle an animal that is in danger of suffering harm, take it to a place of safekeeping or a veterinarian, and who must leave written notice on the vehicle telling the owner where the animal can be claimed.

Note: See **Civ. Code § 43.100** (New), above, for “*Protection from Civil Liability for Rescuing Animals.*”

Health & Safety Code § 122380 (New): *Pet Boarding Facilities; Definitions:*

As used in this chapter, the following definitions apply:

(a) “*Enrichment*” means providing objects or activities, appropriate to the needs of the species, as well as the age, size, and condition of the pet, that stimulate the pet and promote the pet’s well-being.

(b) “*Permanent or fixed enclosure*” means a structure, including, but not limited to, an exercise run, kennel, or room, used to restrict a pet, that provides for the effective separation of a pet from the pet’s waste products.

(c) “*Person*” means an individual, partnership, firm, limited liability company, joint-stock company, corporation, association, trust, estate, or other legal entity.

(d) “*Pet*” means any nonhuman animal housed in the pet boarding facility, including, but not limited to, mammals, birds, reptiles, and amphibians. However, “pet” does not include a horse.

(e) “*Pet boarding facility*” means any lot, building, structure, enclosure, or premises, or a portion thereof, whereupon four or more dogs, cats, or other pets in any combination are boarded at the request of, and in exchange for compensation provided by, their owner. However, “pet boarding facility” does not include a city, county, or city and county animal control agency,

society for the prevention of cruelty to animals, or humane society that contracts for the care of stray or abandoned animals, or the premises of a veterinary facility that is registered pursuant to Section 4853 of the Business and Professions Code.

(f) “*Pet boarding facility operator*” or “*operator*” means a person who owns or operates, or both, a pet boarding facility.

(g) “*Temporary enclosure*” means a structure used to restrict a pet, including, but not limited to, a crate or cage, that does not provide for the effective separation of a pet from the pet’s waste products.

Health & Safety Code § 122381 (New): *Pet Boarding Facilities; Boarding Facility Operator’s Responsibilities:*

A pet boarding facility operator shall be responsible for all of the following:

(a) Ensuring that the entire pet boarding facility, including all equipment therein, is structurally sound and maintained in good repair.

(b) Ensuring that pests do not inhabit any part of the pet boarding facility in a number large enough to be harmful, threatening, or annoying to the pets.

(c) Ensuring the containment of pets within the pet boarding facility, and, in the event that a pet escapes, making reasonable efforts to immediately capture the escaped pet.

(d) If an escaped pet has not been captured despite reasonable efforts, ensuring that all material facts regarding the pet’s escape are reported to the local agency for animal control and to the owner.

(e) Ensuring that the pet boarding facility’s interior building surfaces, including walls and floors, are constructed in a manner that permits them to be readily cleaned and sanitized.

(f) Ensuring that light, by natural or artificial means, is distributed in a manner that permits routine inspection and cleaning, and the proper care and maintenance of the pets.

(g) If pet grooming services are offered by a pet boarding facility, separating the grooming work area from the pet boarding facility’s permanent or fixed and temporary enclosures and ensuring that the grooming areas are cleaned and sanitized at least once daily.

(h) Storing food in an area separate from permanent or fixed enclosures or temporary enclosures.

(i) Maintaining an area for isolating sick pets from healthy pets.

Health & Safety Code § 122382 (New): *Pet Boarding Facilities; Standards:*

(a) Each permanent or fixed and temporary enclosure shall comply with all of the following standards:

(1) Be structurally sound and maintained in good repair to protect the enclosed pet from injury, to contain the pet, to keep other animals out, and to promote the health and well-being of the pet.

(2) Be maintained in a comfortable and sanitary manner. When being cleaned in a manner or with a substance that is or may be harmful to a pet within the enclosure, that pet shall be removed from the enclosure.

(3) Be constructed of material suitable for regular cleaning and sanitizing.

(4) As needed to ensure the comfort and well-being of the pet, provide heating, cooling, lighting, ventilation, shade, and protection from the elements, including, but not limited to, the sun, wind, rain, and snow.

(5) Allow a pet to turn around freely, stand easily, and sit or lie down in a comfortable position.

(b) Each enclosure is either a permanent or fixed enclosure or a temporary enclosure.

(c) In addition to the requirements set forth in **subdivision (a)**, a permanent or fixed enclosure for a cat shall provide an elevated platform appropriate for the size of the cat.

(d) A pet may be contained in a temporary enclosure for a period not to exceed 4 hours during the day and 12 hours at night or the length of time that is humane for that particular pet, whichever is less. However, the pet shall remain outside the temporary enclosure for no less than the amount of time needed for the pet to eliminate its waste.

Health & Safety Code § 122383 (New): *Pet Boarding Facilities; Animal Care Requirements:*

A pet boarding facility operator shall comply with all of the following animal care requirements:

- (a)** House only one pet at a time in an enclosure unless otherwise consented to by the owner.
- (b)** Observe each pet as necessary, but no less than once every 24 hours, in order to recognize the signs of sickness, injury, or distress, and in order to ensure that the pet, food, and waste or debris is removed as necessary to prevent contamination or injury.
- (c)** Provide each pet with easy and convenient access to potable water at all times, or if the behavior of the pet makes unrestricted access to water impracticable, offer water as often as necessary to ensure the pet's health and well-being. However, water may be restricted as directed by the owner or a licensed veterinarian.
- (d)** Provide each pet with nutritious food in quantities and at intervals suitable for that pet.
- (e)** Provide each pet daily with enrichment sufficient to maintain the behavioral health of the pet.
- (f)** Maintain and abide by written policies and procedures that address animal care, management and safe handling, disease prevention and control, routine care, preventive care, emergency care, veterinary treatment, and disaster planning, evacuation, and recovery that are applicable to the location of the pet boarding facility. These procedures shall be reviewed with each employee who provides animal care and shall be present, in writing, either electronically or physically, in the facility and made available to all employees.
- (g)** Isolate those pets that have or are suspected of having a contagious condition.
- (h)** Ensure that each sick or injured pet is immediately provided with appropriate care and, if prudent, veterinary treatment.
- (i)** Ensure that the owner of a pet is notified immediately that his or her pet is sick or injured unless the owner has indicated in writing that notification of any, or a particular, type of illness or injury is not required.
- (j)** In the event of a natural disaster, an emergency evacuation, or other similar occurrence, ensure that the humane care and treatment of each animal is provided for, as required by this chapter, to the extent access to the pet is reasonably available.

Health & Safety Code § 122384 (New): *Pet Boarding Facilities; Required Information to Pet Owners:*

(a) A pet boarding facility operator shall provide each owner with written information describing all of the following:

(1) Days and times during which the pet boarding facility permits pets to be dropped off and picked up.

(2) Days and times during which personnel are onsite.

(3) The square footage of the permanent or fixed and temporary enclosures in which the species of pet that the owner is boarding is customarily contained.

(4) General observation practices during each 24-hour period for the species of pet that the owner is boarding is customarily observed by personnel.

(5) The pet boarding facility's customary daily activity schedule for the species of pet that the owner is boarding.

(b) If the pet boarding facility will materially deviate from the customary practices described in the written information required by **subdivision (a)** with respect to an owner's pet, the pet boarding facility operator shall disclose those deviations to the owner or patron, as appropriate.

Health & Safety Code § 122385 (New): *Pet Boarding Facilities; Fire Prevention:*

A pet boarding facility shall maintain either of the following:

(a) A fire alarm system that is connected to a central reporting station that alerts the local fire department in case of fire.

(b) A fire suppression sprinkler system.

Health & Safety Code § 122386 (New): *Pet Boarding Facilities; Notice to Correct Violations; Punishments:*

(a) An animal control officer, as defined in **P.C. § 830.9**, a humane officer qualified pursuant to **Corp. Code §§ 14502** or **14503**, or a peace officer who detects a violation of **H&S Code §§ 122380** to **122385**, inclusive, if he or she decides the violation warrants formal action, shall issue a single notice to correct that shall contain all of the following information:

(1) Specify each violation of this chapter found in the inspection.

(2) Identify the corrective action for each violation.

(3) Include a specific period of time during which the listed violation or violations are to be corrected.

(b) After issuing a notice to correct pursuant to this section, the officer or another qualified officer of the issuing agency shall verify compliance with this chapter by conducting a subsequent investigation of the pet boarding facility within a reasonable period of time.

(c) An exact, legible copy of the notice to correct shall be delivered to the pet boarding facility operator at the time he or she signs the notice. In the alternative, the issuing agency may personally deliver the notice to the operator within 48 hours of its issuance, excluding holidays and weekends. The signing of the notice is an acknowledgment of receipt and does not constitute an admission of guilt.

(d) A pet boarding facility operator who is verified to have complied with a notice to correct shall not be subject to **subdivision (g)**.

(e) A pet boarding facility operator who violates the same provision of this chapter on more than one occasion within a five-year period is not eligible to receive a notice to correct, and is guilty of an infraction on the second violation, and is guilty of a misdemeanor on the third or subsequent violation.

(f) Notwithstanding **subdivision (a)**, a pet boarding facility operator that causes or allows harm or injury to an animal, or allows an animal to be subject to an unreasonable risk of harm or injury is guilty of a misdemeanor.

(g) Except as provided in **subdivisions (e) and (f)**, a pet boarding facility operator who violates any provision of this chapter is guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) for the first violation and by a fine not to exceed one thousand dollars (\$1,000) for each subsequent violation. The court shall weigh the gravity of the offense in setting the penalty.

Health & Safety Code § 122387 (New): *Pet Boarding Facilities*;

(a) Nothing in this chapter shall be construed to in any way limit or affect the application or enforcement of any other law that protects animals or the rights of consumers, including, but not limited to **P.C. § 597**.

(b) Nothing in this chapter limits, or authorizes any act or omission that violates, **P.C. § 597**, or any other local, state, or federal law that protects animals or the rights of consumers.

Health & Safety Code § 122388 (New): *Pet Boarding Facilities; Local Ordinances:*

Pursuant to the **California Constitution, Article XI, § 7**, a city, county, or city and county may adopt ordinances that establish additional standards and requirements for a pet boarding facility.

Asset Forfeiture:

Health & Safety Code § 11471.2 (New): *Restrictions on Transferring Seized Property to a Federal Agency for Forfeiture:*

State and local law enforcement authorities are prohibited from referring or transferring property seized under California law to a federal agency for forfeiture under the federal **Controlled Substances Act**.

A state or local agency, however, may share in federally forfeited property if the state or local agency works with a federal agency in a joint investigation arising out of federal law. A state or local agency is prohibited, however, from actually receiving an equitable share of the forfeited property unless the defendant is first convicted in an underlying or related criminal action.

Exceptions to the requirement of a conviction, allowing for a state or local agency to receive an equitable share of forfeited property without a conviction:

- (1) When the forfeited property is cash or negotiable instruments of \$40,000 or more (See **H&S § 11488.4** (Amended)); *or*
- (2) When the defendant charged in an underlying or related criminal action willfully fails to appear in court, intentionally flees to evade prosecution, or dies.

Health & Safety Code § 11488.5 (Amended): *Claiming Seized Property:*

Amendment provides more time for a person to claim an interest in property subject to forfeiture by permitting a claim to be filed within 30 days from the date of the *last* published notice of seizure (instead of within 30 days of the first date of published notice), if the claimant was not personally served or served by mail.

In a case where no claim is filed, there is no requirement of a criminal conviction before forfeiture is ordered.

Autopsies:

Gov't. Code § 27521 (Amended): *Electronic Imaging Autopsies:*

An autopsy may now be performed through the use of an electronic imaging system in lieu of a traditional dissection autopsy, including when a surviving

spouse or next of kin requests an autopsy, or to assist in the performance of an inquest. However, if there is a reasonable basis to suspect that death was caused by or related to a criminal act and it is necessary to collect evidence for presentation in court, a traditional dissection autopsy *must* be performed.

Gov't. Code § 27522 (New): *Forensic Autopsies and Manner of Death Determinations:*

A “*forensic autopsy*” is to be conducted only by a licensed physician and surgeon.

The “*manner of death*” is to be determined by the coroner or medical examiner of a county. In determining the manner of death, it is required that the coroner or medical examiner consult with the licensed physician and surgeon who conducted the autopsy.

“*Forensic autopsy*” is defined as an examination of the body of a decedent to generate medical evidence for which the cause of death is determined.

“*Postmortem examination*” is defined as the external examination of the body where no manner or cause of death is determined.

All persons in the autopsy suite are to be informed about the risks of blood-borne pathogens and that they should wear protective gear. Only individuals directly involved in the investigation of the death of the decedent, or persons permitted to be present for educational and research purposes, are to be allowed into the autopsy suite. Law enforcement personnel who were involved in the decedent’s death are not allowed in the autopsy suite, nor may they be involved in the postmortem examination.

Police reports, crime scene information, videos, and lab tests that are in the possession of law enforcement and related to a death “that is incident to law enforcement activity” are required to be made available to the physician and surgeon who conducts the autopsy.

Bullying:

Ed. Code § 48900 (Amended): *Bullying by an Electronic Act and Cyber Sexual Bullying:*

Subd. (r)(2)(A): The definition of “*bullying by an electronic act*” is expanded to include communication by “*video*.” “*Video*” is added to the already-existing definition that includes, but is not limited to, messages, texts, sounds, and images, as grounds for suspension or expulsion from school pursuant to this section.

Subd. (r)(2)(A)(iii): The “*act of cyber sexual bullying*” is added to the types of bullying by an electronic act that are grounds for suspension or expulsion from school. “*Cyber sexual bullying*” is defined as:

(1) The dissemination of, or the solicitation or incitement to disseminate, a nude, semi-nude, or sexually explicit photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act;

(2) Where the photo or visual recording is of an identifiable minor; *and*

(3) The act has or can be reasonably predicted to have one or more of these effects (as already specified in the bullying section of **Ed. Code § 48900**):

(A) Placing a reasonable pupil in fear of harm to his or her person or property;

(B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health;

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance; or

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

Code Enforcement Officer Standards Act:

Health & Safety Code §§ 26205-26217 (New): *Code Enforcement Program:*

New division establishes a voluntary certification program for code enforcement officers.

The Board of Directors of the California Association of Code Enforcement Officers is to develop training, qualification, and experience requirements for applicants to qualify for the Certified Code Enforcement Officer (CCEO) designation. Training and competency requirements should include the areas of land use and zoning laws, health and safety codes, substandard housing abatement, environmental regulations, sign standards, public nuisance laws, applicable constitutional law, investigation and enforcement techniques, application of remedies, officer safety, and community engagement.

Computer Crimes:

Pen. Code § 523 (Amended): *Ransomware:*

New **subdivision (b)(1)** makes it a felony to introduce ransomware into a computer or computer system or network, with the intent to extort money or other consideration. No money or consideration need actually be obtained by the perpetrator.

The section applies to any person who directly places or introduces ransomware into a computer and any person who directs or induces another person to do so.

“*Ransomware*” is defined as a computer contaminant or lock, placed into computer, computer system, or computer network without authorization, that restricts access by an authorized user, where the perpetrator demands money or other consideration to remove the contaminant or lock and restore access to the computer.

A prosecution for a **P.C. § 523(b)(1)** does not prohibit or limit prosecution under any other law.

Punishment: Felony, punishable by 2, 3 or 4 years in prison or jail, pursuant to **P.C. § 1170(h)**. (**P.C. § 520**)

Contempt of Court:

Pen. Code § 166 (Amended): *Contempt of Court for a Domestic Violence Restraining Order Violation:*

A willful and knowing violation of an order made pursuant to **P.C. § 273.5(j)** (a domestic violence restraining order valid for up to 10 years) is added to the protective and stay-away order violations listed in **subdivision (c)** that constitute contempt of court

Punishment: Misdemeanor: One year in jail and/or a fine of up to \$1,000. A second or subsequent conviction within seven years for a violation of any order specified in **P.C. § 166(c)(1)** that involves violence or a credible threat of violence is punishable by 16 months, two years, or three years in jail or state prison pursuant to existing **P.C. § 166(c)(4)**.

Controlled Substances:

Health & Safety Code § 11350.5 (New): *Possession of a Controlled Substance with the Intent to Commit a Sexual Assault:*

(a) Except as otherwise provided in this division, every person who possesses a controlled substance specified in **H&S Code § 11054 (e)(3)** (see below) with the intent to commit sexual assault is guilty of a felony.

(b) For purposes of this section, “*sexual assault*” means conduct in violation of **P.C. §§ 243.4** (sexual battery), **261** (rape), **262** (spousal rape), **286** (sodomy), **288a** (oral copulation), or **289** (sexual penetration).

Punishment: Felony; 16 months, 2 or 3 years, in prison or county jail pursuant to **P.C. § 1170(h)**.

H&S § 11054(e)(3) specifies gamma hydroxybutyric acid (GHB), its precursors, isomers, salts, etc., for which an application has *not* been approved under the Federal Food, Drug, and Cosmetic Act.

Note: GHB is commonly known as a date rape drug.

Health & Safety Code § 11377.5 (New); Possession of a Controlled Substance with the Intent to Commit a Sexual Assault:

(a) Except as otherwise provided in this division, every person who possesses any controlled substance specified in **H&S Code § 11056(c)(11)**, or (g), or **11057(d)(13)**, with the intent to commit sexual assault is guilty of a felony.

(b) For purposes of this section, “*sexual assault*” means conduct in violation of **P.C. §§ 243.4** (sexual battery), **261** (rape), **262** (spousal rape), **286** (sodomy), **288a** (oral copulation), or **289** (sexual penetration).

Punishment: Felony; 16 months, 2 or 3 years, in prison or county jail pursuant to **P.C. § 1170(h)**.

H&S § 11056(c)(11): GHB; gamma hydroxybutyric acid, or its salts or isomers, contained in a drug product for which an application *has* been approved under the Federal Food, Drug, and Cosmetics Act.

H&S § 11056(g): Ketamine.

H&S § 11057(d)(13): Flunitrazepam, also known as Rohypnol.

Note: GHB, Ketamine, and Rohypnol are commonly known as date rape drugs.

Death Penalty Cases:

Pen. Code § 190.6 (Amended; Effective Nov. 9, 2016): *Speedy Appeal in Death Penalty Cases:*

New **subdivision (d):** The right of crime victims to a prompt and final conclusion to a criminal case as provided in the **California Constitution (article I, section 28(b)(9))** includes the right to have judgments of death carried out “*within a reasonable time.*”

The Judicial Council is required, within 18 months of *November 9, 2016* (the effective date of **Proposition 66**) to adopt rules and standards to expedite the processing of capital appeals and state habeas corpus review.

State courts are required to complete the state appeal and the initial state habeas corpus review in capital cases within five years of the adoption of rules by the Judicial Council or the entry of judgment, whichever is later.

The Judicial Council is to “continuously monitor” the timeliness of capital case review and to amend the rules and standards as necessary so that state appeal and initial state habeas corpus proceedings are completed within five years.

(e) The failure of the parties or of a court to comply with the time limits in existing **P.C. § 190.6(b)** (generally requiring the opening appellate brief in a capital case to be filed within seven months of the record being certified for completeness or appellant’s counsel receiving the completed record, whichever is later) does not affect the validity of a judgment or require dismissal of an appeal or habeas corpus petition.

Either party or a victim of the crime may file a petition for a writ of mandate if a court fails to comply with **P.C. § 190.6(b)** without extraordinary and compelling reasons justifying the delay. The court is required to act on such a petition within 60 days of filing.

Article I, section 28(c)(1), of the **California Constitution** regarding standing to enforce victims’ rights, applies to the time frames specified in **P.C. § 190.6(d)** and **(e)**.

Domestic Violence:

Evid. Code § 215 (New): “*Spouse*” is defined to include a “*registered domestic partner*” pursuant to **Fam. Code § 297.5**.

Note: **Fam. Code § 297.5** provides that a “*registered domestic partner*” has the same rights, protections, benefits, responsibilities, and duties as are granted to and imposed on spouses.

See also **P.C. § 7 (Amended)**: A definition of “*spouse*” is added, providing that a spouse includes a “*registered domestic partner*” pursuant to **Fam. Code § 297.5**.

Fam. Code § 6228 (Amended): *Stalking, Human Trafficking, Elder or Dependent Adult Abuse, and Domestic Violence Reports Provided to Victims:*

The victims in four categories of crimes; i.e., *stalking, human trafficking, elder or dependent adult abuse*, and a long list of *sexual assault crimes* from **P.C. §§ 261 to 311.4**, is added to those crimes (i.e., *domestic violence*) for which a state or

local law enforcement agency is required to provide to the victim or the victim's representative, *upon request and free of charge*, one copy of the incident report and one copy of the incident report face sheet. The requirement to supply one free copy of a sexual assault, human trafficking, stalking, or elder/dependent adult abuse report applies to a victim request made within *two years* of the completion of the report. The requirement to supply one free copy of a domestic violence report continues to apply to a victim request made within *five years* of the completion of the report. The section also provides that "*victim*" includes a minor age 12 or older.

Drones:

Gov't. Code §§ 853, 853.1; Civil. Code § 43.101 (New): *Destruction of Drones by Government Entities; Immunity From Liability:*

A local public entity and/or a public employee of a local public entity is immune from any damage they cause to an unmanned aircraft (e.g., a drone) that is interfering with the operation or support of emergency medical services, firefighting services, or search and rescue services provided by the local public entity.

Gov't. Code § 853.5 (New): *Drones; Definitions:*

The following definitions shall apply to this chapter:

(a) "*Unmanned aircraft*" means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

(b) "*Unmanned aircraft system*" means an unmanned aircraft and associated elements, including, but not limited to, communication links and the components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system.

Pen. Code § 402 (Amended): *Sightseeing at the Scene of an Emergency; Drones:*

(a)(2) The misdemeanor crime of sightseeing at the scene of an emergency is expanded to include a person, regardless of his or her location, who operates or uses an unmanned aerial vehicle, remote piloted aircraft, or drone at the scene of an emergency.

Punishment: Misdemeanor; 6 months in county jail and/or a fine of up to \$1,000. (P.C. § 19)

DUI; Water Vessels, Etc.:

Har. & Nav. Code § 655.1 (Amended): *Advisement Requirements for Persons Arrested for DUI, Water Vessels, Etc.:*

A person arrested for the crime of operating a vessel, skis, aquaplane, or similar water device while under the influence of alcohol and/or a drug, must be informed that the officer has the authority to seek a search warrant compelling the arrested person to submit a blood sample. (See **P.C. § 1524(a)(16)**.)

The arrested person must also be informed that a criminal complaint may be filed for operating a vessel, skis, aquaplane, or similar water device under the influence of alcohol and/or a drug and that chemical testing may be refused.

(The section *continues* to require that the arrested person be advised that he or she does not have the right to have an attorney present before deciding which chemical test to take or during the administration of the test.)

The section is amended to *eliminate* the requirement that the arrested person be informed that a refusal to submit to, or failure to complete a chemical test may be used against the person in court and may result in increased penalties, upon conviction. Instead, the officer is required to simply inform the arrested person that he or she has a right to refuse chemical testing.

Eavesdropping:

Pen. Code § 632.01 (New): *Disclosure or Distribution of Confidential Communications with a Health Care Provider:*

(a) It is a felony to intentionally disclose or distribute, in any manner, including but not limited to, Internet Web sites and social media, or for any purpose, the contents of a confidential communication with a health care provider, that was obtained in violation of **P.C. § 632(a)** (i.e., by using an electronic amplifying or recording device to eavesdrop upon or record a confidential communication without the consent of all parties).

In order for aiding and abetting principles to apply, the aider/abettor must violate or aid and abet both **P.C. §§ 632.01 and 632**.

(c) “*Health care provider*” is defined as any of the following:

(1) A person licensed or certified pursuant to **Bus. & Prof. Code §§ 500 et seq.**

(2) A person licensed pursuant to the **Osteopathic Initiative Act** or the **Chiropractic Initiative Act**.

- (3) A person certified pursuant to **H&S Code §§ 1797 et seq.**
- (4) A clinic, health dispensary, or health facility licensed or exempt from licensure pursuant to **H&S Code §§ 1200 et seq.**
- (5) An employee, volunteer, or contracted agent of any group practice prepayment health care service plan regulated pursuant to the **Knox-Keene Health Care Service Plan Act of 1975; H&S Code §§ 1340 et seq.**
- (6) An employee, volunteer, independent contractor, or professional student of a clinic, health dispensary, or health care facility or health care provider described in this subdivision.
- (7) A professional organization that represents any of the other health care providers described in this subdivision.

(d)(1) The recording/overhearing exceptions that already exist for **P.C. § 632** in current law apply. (E.g., Per **P.C. § 633** [general law enforcement exceptions], **P.C. § 633.02** [body-worn cameras or investigating sexual assault], **P.C. § 633.05** [city attorneys], **P.C. § 633.1** [incoming calls to airport law enforcement], **P.C. § 633.5** [obtaining evidence of a specified crime], **P.C. § 633.6** [recording by domestic violence victim with judicial permission], and **P.C. § 633.8** [hostage or barricade situations].)

(d)(2) This section does not affect the admissibility of any evidence that would otherwise be admissible pursuant to the authority of any section specified in **paragraph (d)(1)**.

Punishment: Felony; 16 months, 2 or 3 years in prison, and/or a fine of up to \$2,500 per violation, or up to \$10,000 per violation with a prior conviction for the same offense. (Subd. (b))

Note: This legislation is a knee-jerk reaction to the highly publicized Planned Parenthood eavesdropping situation.

Pen. Code § 633.5 (Amended): *Lawful Eavesdropping to Obtain Evidence of Listed Crimes:*

“Human trafficking” is added to the list of crimes (extortion, kidnapping, bribery, **P.C. § 653m** telephone harassment, and any felony involving violence against the person) for which it is permissible to record a confidential communication without the consent of all parties, when done for the purpose of obtaining evidence of these crimes.

See “*Pen Registers and Trap and Trace Devices*,” below.

Elder and Dependent Adult Abuse:

Fam. Code § 6228 (Amended): *Stalking, Human Trafficking, Elder or Dependent Adult Abuse, and Domestic Violence Reports Provided to Victims:*

The victims in four categories of crimes; i.e., *stalking, human trafficking, elder or dependent adult abuse*, and a long list of *sexual assault crimes* from **P.C. §§ 261 to 311.4**, are added to those crimes (i.e., *domestic violence*) for which a state or local law enforcement agency is required to provide to the victim or the victim's representative, *upon request and free of charge*, one copy of the incident report and one copy of the incident report face sheet. The requirement to supply one free copy of a sexual assault, human trafficking, stalking, or elder/dependent adult abuse report applies to a victim request made within *two years* of the completion of the report. The requirement to supply one free copy of a domestic violence report continues to apply to a victim request made within *five years* of the completion of the report. The section also provides that "*victim*" includes a minor age 12 or older.

End of Life Option Act:

Health & Safety Code § 443.17 (New; Effective 6/9/2016): *Obtaining Aid-In-Dying Drugs by Forgery; Coercion or Undue Influence:*

(a) It is the felony to knowingly alter or forge a request for an aid-in-dying drug to end an individual's life with the intent or effect of causing the individual's death, or, concealing or destroying a withdrawal or rescission of a request for an aid-in-dying drug with the intent or effect of causing the individual's death.

(b) It is the felony to knowingly coerce or exert 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.

(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) These penalties "do not preclude criminal penalties applicable under any law for conduct inconsistent with the provisions of this section." (E.g., murder)

Punishment: Felony; 16 months, 2 or 3 years in prison. (**P.C. § 18(a)**)

Note: For the entire “*End of Life Option Act*,” see H&S Code §§ 443 through 443.22.

Firearms & Ammunition:

Pen. Code § 148.5 (Amended): *False Report of the Theft or Loss of a Firearm:*

New **subdivision (f)** provides that reporting a firearm to be lost or stolen, knowing the report to be false, constitutes the misdemeanor crime of falsely reporting a crime.

Punishment: Misdemeanor; 6 months in county jail and/or a fine of up to \$1,000. (**P.C. § 19**)

Note: **P.C. § 29805** is also amended to add **P.C. § 148.5(f)** to the list of misdemeanor convictions that prohibit a defendant from owning, possessing, or controlling a firearm for 10 years.

Pen. Code § 490.2 (Amended; Effective Nov. 9, 2016): *Theft of a Firearm:*

The section, which makes the theft of property valued at \$950 or less a misdemeanor, is amended to provide that; “This section shall not apply to theft of a firearm.”

Note: The theft of any firearm after *November 9, 2016*, therefore, is a felony regardless of value per **P.C. § 487(d)(2)**. Pursuant to **P.C. § 489(a)**, it is a non-alternative felony punishable by 16 months, two years, or three years in state prison.

Pen. Code § 1524 (Amended): *Grounds for Issuance of a Search Warrant; Firearms:*

Subdivision (a)(15): Beginning *January 1, 2018*, the property or things authorized to be seized with a search warrant “include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to **P.C. §§ 29800** or **29805**, and the court has made a finding pursuant to **P.C. § 29810(c)(3)** (sic: **(4)**) that the person has failed to relinquish the firearm as required by law.”

Note: **P.C. § 29800** is the firearms prohibition that applies to convicted felons and narcotic drug addicts. **P.C. § 29805** is the 10-year firearms prohibition for persons convicted of a specified misdemeanor.

Note: **P.C. § 29810(c)(4)** (not **(3)**, as erroneously written into the statute) that requires the court to issue an order for the search and removal of

firearms upon a probable cause finding that the defendant has failed to relinquish firearms.

Previous **Subdivisions (a)(15)** and **(16)** have been renumbered to **(a)(16)** and **(a)(17)**, respectively.

Pen. Code § 16150 (Amended; Effective Nov. 9, 2016): *Ammunition, Defined:*

Except *as* provided in **P.C. § 30305(a)** and **P.C. § 30306**, “*ammunition*” means “one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles.” “*Ammunition*” does not include blanks.

Pen. Code § 16700 (Amended): *Imitation Firearm:*

The definition of “*imitation firearm*” is expanded to include a protective case for a cellular telephone that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the case is a firearm.

Pen. Code § 23910 (Amended): *Distinguishing Number or Mark of Identification Assigned to a Firearm:*

DOJ, upon request, shall assign a distinguishing number or mark of identification to a firearm that does not have a serial number or mark, pursuant to new **P.C. § 29182**.

Pen. Code § 25140 (New): *Securing Firearms in an Unattended Vehicle:*

Leaving a handgun in an unattended vehicle and failing to (1) lock the handgun in the vehicle’s trunk; or (2) lock the handgun in a locked container and place the container out of view; or (3) lock the handgun in a locked container that is permanently affixed to the vehicle’s interior and not in plain view is punishable as an infraction.

Punishment: Infraction; A fine of up to \$1,000.

A vehicle is unattended when a person who is *lawfully* carrying or transporting a handgun in a vehicle is not within close enough proximity to the vehicle to reasonably prevent unauthorized access to the vehicle or its contents.

This new section does not apply to a peace officer during circumstances requiring immediate aid or action within the course of official duties.

Pen. Code § 25250 (New; Effective July 1, 2017): *Failure to Report a Loss, Theft, or Recovery of a Firearm:*

Beginning *July 1, 2017*, new **Subdivision (a)** creates the new infraction/misdemeanor crime of an owner or possessor of a firearm failing to report its *loss or theft* to law enforcement within five days of the time he or she knew or reasonably should have known that the firearm was stolen or lost.

Beginning *July 1, 2017*, new **subdivision (b)** creates the new infraction/misdemeanor crime of failing to notify law enforcement within five days of *the recovery* of a firearm previously reported lost or stolen.

Subd. (c): Antique firearms are exempt from these reporting requirements.

Note: See **Pen. Code § 25255**, below, for other exceptions.

Punishment:

First Offense: *Infraction*, with a fine of up to \$100.

Second Offense: *Infraction*, with a fine of up to \$1,000.

Third and Subsequent Offense: *Misdemeanor*; 6 months in jail and/or by a fine of up to \$1,000. (**P.C. § 25265**).

Pen. Code § 25255 (New; Effective July 1, 2017): *Exceptions to the Reporting Requirements of Pen. Code § 25250:*

P.C. § 25250 (above) does *not* apply to the following persons:

(1) A peace officer acting within the scope of employment or official duties if he or she reports a lost or stolen firearm to his or her employing agency.

(2) A U.S. marshal or member of the Armed Forces of the U.S. or the National Guard, while engaged in his or her official duties.

(3) A federally licensed firearms dealer who reports a firearm theft or loss pursuant to **18 U.S.C. 923(g)(6)** (requiring a report to the Attorney General and appropriate local authorities within 48 hours of discovering a firearm theft or loss).

(4) Any person whose firearm was lost or stolen before July 1, 2017.

Pen. Code § 25275 (New; Effective Nov. 9, 2016): *False Report of a Lost or Stolen Firearm:*

It is an infraction to falsely report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false.

Punishment: Infraction:

First offense: A fine of up to \$250.

Second or subsequent offense: A fine of up to \$1,000.

Prosecution is not precluded under any other law.

Pen. Code §§ 25452, 25612 (New): *Peace Officers Securing Firearms in a Vehicle:*

A peace officer or honorably retired peace officer (**P.C. § 25452**) or any person (**P.C. § 25612**), when leaving a handgun in an unattended vehicle, must secure the handgun pursuant to new **P.C. § 25140** (above).

Punishment: Infraction; A fine of up to \$1,000.

Pen. Code § 27880 (Amended): *Loan of a Firearm:*

The circumstances under which a firearm may be loaned infrequently to a person for up to 30 days is narrowed by deleting language that permitted the loan between persons who are personally known to each other, and instead limiting such a loan to a spouse, registered domestic partner, parent, child, sibling, grandparent, or grandchild.

It is also now required that if the firearm being loaned is a handgun, the handgun must be registered to the person making the loan in order for the transaction to qualify as an exception to the licensed firearm dealer requirement in **P.C. § 27545**.

Note: This section is an exception to the general rule that a firearm transfer or loan must take place through a licensed firearms dealer, as provided for in **P.C. § 27545**.

Pen. Code § 30306 (Amended): *Providing Ammunition to Prohibited Persons:*

New **subdivision (b)** makes it a misdemeanor for a person, corporation, firm, or business to supply, sell, or give ammunition to a person the defendant knows or has cause to believe is not the actual purchaser or transferee of the ammunition, with knowledge or cause to believe that the ammunition is to be subsequently sold or transferred to a prohibited person.

Punishment: Misdemeanor; One year in jail and/or by a fine of up to \$1,000.

Note: Retains, in **subdivision (a)**, the misdemeanor crime of supplying, selling, or giving ammunition to a person the defendant knows, or, using reasonable care should know, is prohibited from possessing ammunition.

Pen. Code § 32310 (Amended; Effective July 1, 2017): *Large-Capacity Magazines*:

Effective *July 1, 2017*, new **subdivision (c)** makes it a misdemeanor/infraction to possess a large-capacity magazine regardless of the date it was acquired.

Effective *July 1, 2017*, new **subdivision (d)** requires persons who may not lawfully possess a large-capacity magazine on or after to do one of the following *before July 1, 2017*:

- (1) Remove the large-capacity magazine from California; *or*
- (2) Sell the large-capacity magazine to a licensed firearms dealer; *or*
- (3) Surrender the large-capacity to a law enforcement agency for destruction.

Punishment: Misdemeanor/Infraction: One year in jail and/or by a fine of up to \$100 per large-capacity magazine, or, it can be prosecuted as an infraction punishable by a fine of up to \$100 per large capacity magazine.

Note: Existing **P.C. § 16740** defines “*large-capacity magazine*” as “any ammunition feeding device with the capacity to accept more than 10 rounds.”

Specifically *not* included in this definition are:

- (1) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds;
- (2) A .22 caliber tube ammunition feeding device; and
- (3) A tubular magazine that is contained in a lever-action firearm.

Pen. Code §§ 32400 (Amended), **32405** (Amended), **32406** (New), **32410** (Amended), **32420** (Repealed), **32425** (Amended), **32430** (Amended), **32435** (Amended), & **32450** (Amended) (Effective Nov. 9, 2016, or Jan. 1, 2017): *Exceptions to the Prohibition on Possession of Large-Capacity Magazines*:

The following persons or agencies may possess large-capacity magazines notwithstanding the prohibition contained in **P.C. § 32310** (above):

- (1) Federal and state law enforcement agencies (amended **P.C. § 32400**).
- (2) Sworn peace officers and sworn federal law enforcement officers who are authorized to carry a firearm (amended **P.C. § 32405**).

- (3) Honorably retired sworn peace officers and honorably retired sworn federal law enforcement officers who were authorized to carry a firearm in the course of their duties (new **P.C. § 32406**).
- (4) Licensed firearm dealers (amended **P.C. § 32410**).
- (5) Licensed firearm dealers and gunsmiths, for the purpose of maintaining, repairing, or modifying them (amended **P.C. § 32425**).
- (6) Licensed firearms dealers with a permit from DOJ to engage in a large-capacity magazine transaction with an out-of-state client (amended **P.C. § 32430**).
- (7) Entities that operate an armored vehicle business and their employees, for purposes that pertain to the armored vehicle business (amended **P.C. § 32435**).
- (8) The holder of a special weapons permit, for use as a movie or television prop, for export pursuant to federal regulations, or for resale to law enforcement agencies, government agencies, or the military (amended **P.C. § 32450**).

Note: There are two versions of **P.C. § 32406**. If the legislative version, **SB 1446**, takes precedence over **Proposition 63's** version, then the following additional exceptions apply:

- (9) Possession by a historical society or museum if unloaded and properly secured;
- (10) Possession by a non-prohibited person who possesses the large capacity magazine no longer than necessary to get it to the nearest law enforcement agency;
- (11) Possession by a forensic laboratory in the course and scope of authorized activities;
- (12) The receipt or disposition of a large-capacity magazine by the trustee or executor of an estate;
- (13) Possession by a person lawfully in possession of a firearm that the person obtained before January 1, 2000, if no magazine that holds 10 or fewer rounds of ammunition is compatible with that firearm and the person possesses the large-capacity magazine solely for use with that firearm.

Gangs:

Pen. Code § 186.34 (Amended): *Removal of Names from a Shared Gang Database; Procedures:*

“*Adults*” are added to those persons (i.e., minors) who must be notified by law enforcement before they are designated as a suspected gang member or associate in a shared gang database. A procedure is created whereby persons who are *not* removed from a gang database after contesting a gang designation may appeal the law enforcement agency denial to the superior court.

A shared gang database includes the CalGang system.

The section continues to require that notice of inclusion in a shared gang database be in writing and specify the basis of the gang designation. As amended, notice must also include an explanation about how to contest a gang designation.

The section continues to permit a person to request information from a law enforcement agency about whether he or she has been designated a suspected gang member, but now requires that the request to be in writing. Also, a designated person is permitted to request information about the basis for the gang designation for the purpose of contesting the designation. Law enforcement is required to provide information within 30 calendar days and to respond in writing.

The section continues to permit a law enforcement agency to decline to provide information if doing so would compromise an active criminal investigation or compromise the health or safety of a minor.

The section also continues to provide that a person may contest a gang designation by submitting written documentation to a local law enforcement agency, but adds by this amendment that the agency must provide a written decision within 30 days instead of 60 days. A notice denying removal from the database is required to state the reason for denial.

An appeal of the denial is to be made to the superior court pursuant to new **P.C. § 186.35**. (See below)

P.C. § 186.35 (New): *Appeal Procedures for Denial of Request for Removal from a Gang Database:*

A person who has been denied removal from a gang database is to appeal that denial to superior court within 90 days. The record on appeal is limited to the law enforcement agency's statement about the basis for the gang designation and to the documentation submitted by the person contesting the designation.

The law enforcement agency is required to establish active gang membership, associate status, or affiliate status by "*clear and convincing evidence.*" Failure to do so will result in the removal of the name from the database.

Beginning *January 15, 2018*, and annually thereafter, any law enforcement agency that uses a shared gang database will be required to submit a report to the DOJ that contains the following information broken down by ZIP Code, race, gender, and age:

- (1) The number of persons included in the database on the day of the report;

- (2) The number of persons added to the database during the preceding 12 months;
- (3) The number of removal requests received in the preceding 12 months;
- (4) The number of removal requests granted in the preceding 12 months;
- and*
- (5) The number of persons automatically removed from the database in the preceding 12 months.

DOJ, beginning *February 15, 2018*, and annually thereafter, is to post each law enforcement agency's report on DOJ's Internet Web site.

Human Trafficking:

Evid. Code § 1107.5 (New): *Expert Testimony in Human Trafficking Cases:*

New section provides for the admissibility of expert testimony in a criminal case, by either the prosecution or the defense, regarding the effects of human trafficking on human trafficking victims, as described in **P.C. § 236.1**, including the "nature and effect of physical, emotional, or mental abuse on the beliefs, perceptions, or behavior of human trafficking victims." The foundation for admission of expert testimony is sufficient if the proponent "establishes its relevancy and the proper qualifications of the expert witness."

Fam. Code § 6228 (Amended): *Stalking, Human Trafficking, Elder or Dependent Adult Abuse, and Domestic Violence Reports Provided to Victims:*

The victims in four categories of crimes; i.e., *stalking, human trafficking, elder or dependent adult abuse*, and a long list of *sexual assault crimes* from **P.C. §§ 261 to 311.4**, are added to those crimes (i.e., *domestic violence*) for which a state or local law enforcement agency is required to provide to the victim or the victim's representative, *upon request and free of charge*, one copy of the incident report and one copy of the incident report face sheet. The requirement to supply one free copy of a sexual assault, human trafficking, stalking, or elder/dependent adult abuse report applies to a victim request made within *two years* of the completion of the report. The requirement to supply one free copy of a domestic violence report continues to apply to a victim request made within *five years* of the completion of the report. The section also provides that "*victim*" includes a minor age 12 or older.

Gov't. Code § 12930 (Amended): *Dept. of Fair Employment & Housing Authority in Human Trafficking Cases:*

The Dept. of Fair Employment & Housing (DFEH) is, by this amendment, authorized to receive, investigate, conciliate, mediate, and prosecute a complaint alleging human trafficking, and to bring a civil action pursuant to **Civ. Code § 52.5** on behalf of a victim of human trafficking for a violation of **P.C. § 236.1**.

Pen. Code § 236.13 (New): *Minor Victim; Human Trafficking Victim Assistance:*

In a human trafficking case (**P.C. § 236.1**) involving a minor victim, the minor victim be provided with assistance from the local county Victim Witness Assistance Center, if the minor so desires. This does *not*, however, require a local agency to operate a Victim Witness Assistance Center.

Pen. Code § 236.14 (New): *Vacatur Relief for Human Trafficking Victims of convictions and arrests:*

Procedures are set out for a person who was arrested for or convicted of a nonviolent offense committed while a victim of human trafficking, to petition the court for “*vacatur relief*” of convictions and arrests. Procedures are set out for vacating convictions, sealing, and destruction of records, applying to adult and juvenile offenses.

A “*nonviolent offense*” is defined as any offense *not* listed in **P.C. § 667.5(c)** (i.e., “violent felonies”).

Pen. Code § 236.23 (New): *Affirmative Defense as a Human Trafficking Victim:*

New section provides human trafficking victims with an affirmative defense to any crime *except* a serious felony (**P.C. § 1192.7(c)**), a violent felony (**P.C. § 667.5(c)**), or human trafficking (**P.C. § 236.1**), if “coerced to commit the offense as a direct result of being a human trafficking victim at the time of the offense and had a reasonable fear of harm.”

Pen. Code §§ 293, 293.5 (Amended): *Disclosure of Identity of Human Trafficking Victim and Family Prohibited:*

A law enforcement agency is prohibited from disclosing (except to prosecutors, parole officers, parole hearing officers, probation officers, and others as authorized by law) the name, address, or image of a human trafficking victim (per **P.C. § 236.1**) and that of the victim’s immediate family, other than a family member who is also a perpetrator. Law enforcement must orally inform a human trafficking victim of the right to have this information withheld and kept confidential pursuant to this section and **Gov’t. Code § 6254** (the **California Public Records Act**, which is also amended accordingly).

Pen. Code § 633.5 (Amended): *Lawful Eavesdropping to Obtain Evidence of Listed Crimes:*

“*Human trafficking*” is added to the list of crimes (extortion, kidnapping, bribery, **P.C. § 653m** telephone harassment, and any felony involving violence against the person) for which it is permissible to record a confidential communication

without the consent of all parties, for the purpose of obtaining evidence of these crimes.

Pen. Code § 679.11 (New): *Human Trafficking Victims and Procedures for Remaining in the United States:*

New section establishes a procedure for noncitizen victims of human trafficking to obtain a declaration of cooperation from law enforcement in order to help them obtain a “T Visa” so that they can remain in the U.S. (and later attempt to obtain permanent resident status).

A certifying entity (e.g., a state or local law enforcement agency, a prosecutor, a judge, or a representative from the Dept. of Industrial Relations) is required to certify victim cooperation on a “Form I-914 Supplement B declaration” when a victim of human trafficking has been cooperative, is being cooperative, or is likely to be cooperative. There is a rebuttable presumption of cooperation if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

“*Human trafficking*” is defined as:

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or, in which the person induced to perform such act was under age 18; *or*
- (2) Where the crime involves the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Human trafficking” also includes an attempt, a conspiracy, or solicitation to commit any of the above.

The “Form I-914 declaration” must include specific details about the crime and the victim’s cooperation. The form must be processed within 90 days of a request, unless the victim is in removal proceedings, in which case it must be processed within 14 days.

Note: A noncitizen victim of human trafficking is eligible for a T Visa if he or she was trafficked into the United States or its territories (as opposed to coming to the U.S. on vacation and then becoming a victim), and demonstrates that he or she would suffer extreme hardship involving unusual and severe harm if removed from the United States. T Visas may be available to family members of victims.

Illegal Aliens:

Gov't. Code §§ 7283, 7283.1, & 7283.2 (New): *TRUTH: The “Transparent Review of Unjust Transfers and Holds” Act:*

The so-call “**TRUTH Act**” limits Immigration & Customs Enforcement (ICE) access to criminals in jail by imposing new duties on local law enforcement, including requiring that local law enforcement provide a written consent form to an inmate before an ICE interview that explains the purpose of the interview, that it is voluntary, that the interview may be declined, and that the inmate can choose to be interviewed with an attorney present.

Also, a local law enforcement agency that receives an ICE hold, ICE notification, or ICE transfer request, must provide a copy of it to the inmate and to tell the inmate whether the local law enforcement agency intends to comply with the request.

If a local law enforcement agency is to provide ICE with a release date for an inmate, the agency must also provide notice of the release date to the inmate in writing and to the inmate’s attorney.

All records relating to ICE access provided by a local law enforcement agency, including all communication with ICE, are public records for purposes of the **California Public Records Act (Gov’t. Code §§ 6250–6276.48)**, “including the exemptions provided by that act,” and including the number of inmates to whom the agency provided ICE access, the date ICE access was provided, and whether ICE access was provided through a hold, transfer, or notification request.

Beginning January 1, 2018, the local governing body of a local law enforcement agency that provides ICE access to at least one individual in the previous year is to hold a community forum in order to provide information to the public about ICE’s access to inmates and to receive and consider public comment.

Gov’t. Code § 7283.2 (New) provides: “Nothing in this chapter shall be construed to provide, expand, or ratify the legal authority of any state or local law enforcement agency to detain an individual based upon an ICE hold request.”

Pen. Code § 679.11 (New): *Human Trafficking Victims and Procedures for Remaining in the United States:*

New section establishes a procedure for noncitizen victims of human trafficking to obtain a declaration of cooperation from law enforcement in order to help them obtain a “T Visa” so that they can remain in the U.S. (and later attempt to obtain permanent resident status).

A certifying entity (e.g., a state or local law enforcement agency, a prosecutor, a judge, or a representative from the Dept. of Industrial Relations) is required to certify victim cooperation on a “Form I-914 Supplement B declaration” when a victim of human trafficking has been cooperative, is being cooperative, or is likely to be cooperative. There is a rebuttable presumption of cooperation if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

“*Human trafficking*” is defined as:

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or, in which the person induced to perform such act was under age 18; *or*
- (2) Where the crime involves the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Human trafficking” also includes an attempt, a conspiracy, or solicitation to commit any of the above.

The “Form I-914 declaration” must include specific details about the crime and the victim’s cooperation. The form must be processed within 90 days of a request, unless the victim is in removal proceedings, in which case it must be processed within 14 days.

Note: A noncitizen victim of human trafficking is eligible for a T Visa if he or she was trafficked into the United States or its territories (as opposed to coming to the U.S. on vacation and then becoming a victim), and demonstrates that he or she would suffer extreme hardship involving unusual and severe harm if removed from the United States. T Visas may be available to family members of victims.

Industrial Hemp:

Food & Agri. Code §§ 81000 et seq. (Amended): ***Industrial Hemp:***

As a part of **Proposition 64** (but not effective until 1/1/2017), the possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, or transfer of hemp is regulated by **Division 24** of the **Food and Agricultural Code §§ 81000–81010**), and *not* by the **Uniform Controlled Substances Act (H&S §§ 11000–11651)** *or* the new **Division 10** in the **Business and Professions Code** created by **Proposition 64** to regulate nonmedical marijuana (**B&P §§ 26000–26211**). (See below)

Before **Proposition 64**, **Division 24** of the **Food and Agricultural Code** was not operative because **Food & Ag. Code § 81010** provided that the Division would

not be operative unless authorized under federal law. **Proposition 64** amended **Food & Ag. Code § 81010** to provide that **Division 24 (Food & Ag. Code §§ 81000–81010)** will be operative on January 1, 2017.

Food & Ag. Code § 81006 is amended to permit the growth of industrial hemp on plots as small as one-tenth of an acre, where before **Proposition 64**, five acres was the minimum plot size for growing industrial hemp if the grower was *not* an established agricultural research institution. **Food & Ag. Code § 81006** continues to prohibit ornamental and clandestine cultivation of industrial hemp and continues to require that all plots have adequate signage indicating they are industrial hemp. All of the other provisions in **Food & Ag. Code § 81006** remain the same, including those regarding laboratory test reports of THC levels.

Note: THC (i.e., “*Tetrahydrocannabinol*”) is the active chemical in cannabis.

Food & Ag. Code § 81007 is repealed, deleting the prohibition on possessing industrial hemp outside a field of lawful cultivation.

Health & Safety Code § 11018.5 (Amended); Effective 11/9/2016): *Regulation of Industrial Hemp*:

Industrial hemp is not subject to regulation under **H&S Code §§ 11000–11651** (Controlled Substances) or **B&P Code §§ 26000–26211** (Regulation of Nonmedical Marijuana), but instead shall be regulated by the Dept. of Food & Agriculture pursuant to **Food. & Ag. Code §§ 81000–81010**.

Interrogations:

Pen. Code § 859.5 (Amended): *Recording Murder Suspect Interrogations*:

The preexisting requirement to electronically record the custodial interrogation of a juvenile murder suspect who is in a fixed place of detention is expanded to include adult murder suspects.

The statute continues to require that the custodial interrogation of a juvenile murder suspect be *video* recorded, but permits the custodial interrogation of an adult murder suspect to be *audio or video* recorded although the Legislature specifically encourages law enforcement to use video recording whenever available.

The prosecution has the burden of proving that an exception to recording applies by clear and convincing evidence.

Statements that are not recorded may be admitted into evidence if admissible under applicable rules of evidence, if voluntary, if a recording exception is proved by the prosecution by clear and convincing evidence, and, if feasible, law enforcement made a contemporaneous audio, or audio and visual, recording of the reason for not making an electronic recording of the statements.

Jail Searches:

Pen. Code § 4030 (Amended); *Body Scanner Jail Searches:*

Amended **subdivision (d)(1)** adds “body scanners” to the types of searches (patdown searches, metal detector searches, and thorough clothing searches) that may be routinely done on persons arrested for misdemeanor or infraction offenses, or minors detained pending a detention hearing, to discover and retrieve weapons or contraband prior to being placed in a booking cell.

(d)(2): An agency using a body scanner must to try to avoid knowingly using a scanner on a pregnant woman.

(k)(2): Anyone within sight of the visual display of a body scanner be of the same gender as the person being scanned, except for physicians and licensed medical personnel.

Juveniles:

Pen. Code § 640 (Amended): *Public Transportation Violations and Minors:*

Criminal penalties have been eliminated for minors (under the age of 18) who commit a violation of **subdivision (c)(1)** (evading fare payment), **(c)(2)** (misuse of a pass or ticket with the intent to evade payment) or **(c)(3)** (the unauthorized use of a discount ticket) on a public transportation system. (Criminal penalties for other delinquent or prohibited activity remain.)

A public transportation agency is instead authorized to assess an “*administrative penalty*” of up to \$250 for a first or second violation, and up to \$400 for a third or subsequent violation.

Note: Existing **Pub. Utilities Code §§ 99580–99582** already permit a public transportation agency to enforce administrative penalties for the various acts prohibited by **P.C. § 640**, regardless of the age of the violator.

Pen. Code § 647(b) (Amended): *Soliciting or Engaging in an Act of Prostitution, as it Relates to Minors:*

Criminal penalties have been eliminated for minors (under the age of 18) who commit a violation of this section as it relates to soliciting, agreeing to engage in,

or engaging in, an act of prostitution by providing that the prohibitions of **section 647(b)** do *not apply* to a minor under age 18. Instead, a “commercially exploited child” may be taken into temporary custody pursuant to **W&I § 305(a)** (e.g., when the child is in immediate need of medical care or in immediate danger of physical or sexual abuse, or when the physical environment or the child being left unattended would pose an immediate threat to the child’s health or safety) and adjudged a dependent child of the court pursuant to **W&I § 300**.

Pen. Code § 653.22 (Amended): *Loitering with the Intent to Commit Prostitution, as it Relates to Minors*:

Criminal penalties have been eliminated for minors (under the age of 18) who commit a violation of this section as it relates to the crime of loitering in a public place with the intent to commit prostitution, by providing that it does *not apply* to a minor under age 18. Instead, “a commercially exploited child” may be taken into temporary custody pursuant to **W&I § 305(a)** (e.g., when the child is in immediate need of medical care or in immediate danger of physical or sexual abuse, or when the physical environment or the child being left unattended would pose an immediate threat to the child’s health or safety) and adjudged a dependent child of the court pursuant to **W&I § 300**.

Wel. & Insti. Code § 602 (Amended; Effective Nov. 9, 2016): *Direct Filing in Adult Court for Specified Juvenile Crimes*:

Subdivision (b), which mandates the direct filing in adult court of specified juvenile crimes (e.g., the personal commission of murder with special circumstances and the personal commission of specified forcible sex crimes, by a juvenile age 14 or older), is eliminated.

Note: See also **W&I § 707** (Amended) below.

Wel. & Insti. Code § 628 (Amended): *Limitations on a Probation Officer’s Authority to Detain a Minor*:

Four of the seven grounds upon which a probation officer may decide to detain a minor taken into custody, instead of releasing the minor to a parent, guardian, or responsible relative, have been eliminated. The four eliminated grounds are:

- (1) The minor is in need of proper and effective parental care or control and has no parent, legal guardian, or responsible relative available or willing to exercise care or control.
- (2) The minor is destitute, or is not provided the necessities of life, or is not provided with a home or suitable place of abode.

(3) The minor has an unfit home, by reason of neglect, cruelty, depravity, or physical abuse.

(4) The minor is physically dangerous to the public because of a mental or physical deficiency, disorder or abnormality.

Note: The three remaining circumstances that *do* support a decision by a probation officer to detain a minor are: (1) continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or reasonable necessity for the protection of the person or property of others; *or* (2) the minor is likely to flee the jurisdiction; *or* (3) the minor has violated an order of the juvenile court.

The authority of a probation officer to detain is limited to a minor who is currently a dependent child of the juvenile court or is the subject of a **W&I § 300** dependency petition, and has been removed from parental custody, by *prohibiting* a detention decision from being based on any of the following:

(1) The minor's status as a dependent of the juvenile court or as the subject of a **W&I § 300** dependency petition;

(2) A determination that continuance in the minor's current placement is contrary to the minor's welfare; *or*

(3) The child welfare service department's inability to provide a placement for the minor.

A probation officer is required to immediately release a minor who is a dependent child or the subject of dependency petition, to child welfare services or to the minor's current foster parent or caregiver, unless one of the three grounds for detention is met (above).

Nothing in **W&I § 628** limits a probation officer's authority to refer a minor to child welfare services.

Wel. & Insti. Code § 707 (Amended; Effective Nov. 9, 2016): *Discretionary Direct Filing in Adult Court for Specified Juvenile Crimes:*

Subdivision (d), which gave prosecutors the discretion to file a juvenile case involving a serious or violent crime in adult court, is eliminated.

A judge is required in all cases to decide whether a juvenile's case is transferred to adult court.

All presumptions are eliminated that a minor with a felony criminal history or a minor who commits a particular serious or violent felony is not fit to be prosecuted in juvenile court.

The following presumption, contained in **W&I § 707(a)(2)(B)**, is eliminated: A juvenile age 16 or older who commits a new felony and has two prior felonies committed when he/she was age 14 or older is presumed unfit to be prosecuted as a juvenile and is instead prosecuted as an adult.

The following presumption, contained in **W&I § 707(c)**, is eliminated: A juvenile age 14 or older who commits a serious or violent felony (a **W&I § 707(b)** offense) is presumed unfit to be prosecuted as a juvenile and is instead prosecuted as an adult.

The term “*fitness hearing*” is replaced with the term “*transfer hearing*” instead.

There are now two paths for transferring a juvenile case to adult court:

- (1) The commission of any felony crime by a minor age 16 or older; *or*
- (2) The commission of a **W&I § 707(b)** offense by a minor age 14 or 15.

Note: **W&I § 707(b)** contains a list of 30 serious and/or violent felonies including murder, attempted murder, arson, robbery, sexual assault, kidnapping, violent gang crimes, carjacking and torture.)

Note: See also **W&I § 602** (Amended) above.

Marijuana:

Bus. & Prof. Code § 19300 (Amended; Effective 6/27/2016): ***Medical Cannabis Regulation and Safety Act:***

The Title for **B&P §§ 19300 to 19360** is changed from “***Medical Marijuana Regulation and Safety Act***” to “***Medical Cannabis Regulation and Safety Act.***”

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

Added to the list of “*medical marijuana*” cultivation licenses the Department of Food and Agricultural may issue is: **Subd. (4)** Type 1C “*Specialty Cottage*” license, for cultivation using a combination of natural and supplemental artificial lighting, of 2,500 square feet or less of total canopy size for mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

Bus. & Prof. Code § 26000 (New: Effective Nov. 9, 2016): *Purpose and Intent:*

(a) The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of *nonmedical marijuana and marijuana products* for adults 21 years of age and over.

(b) In the furtherance of **subdivision (a)**, this division expands the power and duties of the existing state agencies responsible for controlling and regulating the medical cannabis industry pursuant to **B&P Code §§ 19300 et seq.**, to include the power and duty to control and regulate the commercial nonmedical marijuana industry.

(c) The Legislature may, by majority vote, enact laws to implement this division, provided such laws are consistent with the purposes and intent of the ***Control, Regulate and Tax Adult Use of Marijuana Act***.

Note: These provisions (i.e., **B&P Code §§ 26000 to 26211**, described in detail below), were enacted effective Nov. 9, 2016 as **Proposition 64**, passing by a majority popular vote of 57.13%, and is known as the “***Adult Use of Marijuana Act***.”

Bus. & Prof. Code § 26001 (New: Effective Nov. 9, 2016): *Definitions:*

(a) “*Applicant*” means the following:

(1) The owner or owners of a proposed licensee. “*Owner*” means all persons having (A) an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 20 percent or more in the licensee and (B) the power to direct or cause to be directed, the management or control of the licensee.

(2) If the applicant is a publicly traded company, “*owner*” includes the chief executive officer and any member of the board of directors and any person or entity with an aggregate ownership interest in the company of 20 percent or more. If the applicant is a nonprofit entity, “*owner*” means both the chief executive officer and any member of the board of directors.

(b) “*Bureau*” means the “*Bureau of Marijuana Control*” within the Department of Consumer Affairs.

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

- (d) “*Commercial marijuana activity*” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products as provided for in this division.
- (e) “*Cultivation*” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.
- (f) “*Customer*” means a natural person 21 years of age or over.
- (g) “*Day care center*” shall have the same meaning as in **H&S Code § 1596.76**.
- (h) “*Delivery*” means the commercial transfer of marijuana or marijuana products to a customer. “*Delivery*” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.
- (i) “*Director*” means the Director of the Department of Consumer Affairs.
- (j) “*Distribution*” means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this division.
- (k) “*Fund*” means the Marijuana Control Fund established pursuant to **B&P Code § 26210**.
- (l) “*Kind*” means applicable type or designation regarding a particular marijuana variant or marijuana product type, including, but not limited to, strain name or other grower trademark, or growing area designation.
- (m) “*License*” means a state license issued under this division.
- (n) “*Licensee*” means any person or entity holding a license under this division.
- (o) “*Licensing authority*” means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.
- (p) “*Local jurisdiction*” means a city, county, or city and county.
- (q) “*Manufacture*” means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.
- (r) “*Manufacturer*” means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana 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 marijuana or marijuana products or labels or re-labels its container, that holds a state license pursuant to this division.

(s) “*Marijuana*” has the same meaning as in **H&S Code § 11018**, except that it does *not* include marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under **B&P Code §§ 19300 et seq.**

(t) “*Marijuana accessories*” has the same meaning as in **H&S Code § 11018.2**.

(u) “*Marijuana products*” has the same meaning as in **H&S Code § 11018.1**, except that it does *not* include marijuana products manufactured, processed, transported, distributed, or sold for medical purposes under **B&P Code §§ 19300 et seq.**

(v) “*Nursery*” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.

(w) “*Operation*” means any act for which licensure is required under the provisions of this division, or any commercial transfer of marijuana or marijuana products.

(x) “*Package*” means any container or receptacle used for holding marijuana or marijuana products.

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

(z) “*Purchaser*” means the customer who is engaged in a transaction with a licensee for purposes of obtaining marijuana or marijuana products.

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

(bb) “*Testing service*” means a laboratory, facility, or entity in the state, that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility, or entity, and that is *both* of the following:

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

(2) Registered with the State Department of Public Health.

(cc) “*Unique identifier*” means an alphanumeric code or designation used for reference to a specific plant on a licensed premises.

(dd) “*Unreasonably impracticable*” means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.

(ee) “*Youth center*” shall have the same meaning as in **H&S Code §11353.1**.

Bus. & Prof. Code § 26010 (New: Effective Nov. 9, 2016): *Bureau of Marijuana Control*:

(a) “*The Bureau of Medical Marijuana Regulation*,” established in **B&P Code § 19302**, is renamed the “*Bureau of Marijuana Control*.” The director shall administer and enforce the provisions of this division in addition to the provisions of **Chapter 3.5 (B&P Code §§ 19300 et seq.)** of **Division 8**. The director shall have the same power and authority as provided by **B&P § 19302.1(a) & (b)**, for purposes of this division.

(b) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Medical Marijuana Regulation under **Chapter 3.5 (B&P Code § 19300 et seq.)** of **Division 8**.

(c) In addition to the powers, duties, purposes, responsibilities, and jurisdiction referenced in **subdivision (b)**, the bureau shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity as provided in this division.

(d) Upon the effective date of this section, whenever “*Bureau of Medical Marijuana Regulation*” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

Bus. & Prof. Code § 26011 (New: Effective Nov. 9, 2016): *Marijuana Control Appeals Panel; Prohibited Actions*:

Neither the chief of the bureau nor any member of the Marijuana Control Appeals Panel established under **B&P Code § 26040** shall do any of the following:

(a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division or **Chapter 3.5 (B&P §§ 19300 et seq.) of Division 8.**

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

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

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

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

Bus. & Prof. Code § 26012 (New: Effective Nov. 9, 2016): *Authority of the Various Departments:*

(a) It being a matter of statewide concern, except as otherwise authorized in this division:

(1) *The Department of Consumer Affairs* shall have the exclusive authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of marijuana within the state.

(2) *The Department of Food and Agriculture* shall administer the provisions of this division related to and associated with the cultivation of marijuana. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this division.

(3) *The State Department of Public Health* shall administer the provisions of this division related to and associated with the manufacturing and testing of marijuana. The State Department of Public Health shall have the authority to create, issue, and suspend or revoke manufacturing and testing licenses for violations of this division.

(b) The licensing authorities and the bureau shall have the authority to collect fees in connection with activities they regulate concerning marijuana. The bureau may create licenses in addition to those identified in this division that the bureau deems necessary to effectuate its duties under this division.

(c) Licensing authorities shall begin issuing licenses under this division by *January 1, 2018.*

Bus. & Prof. Code § 26013 (New: Effective Nov. 9, 2016): *Rulemaking and Regulation by Licensing Authorities:*

(a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with **Gov't. Code §§ 11340 et seq.** Such rules and regulations shall be consistent with the purposes and intent of the **Control, Regulate and Tax Adult Use of Marijuana Act.**

(b) Licensing authorities may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce their respective duties under this division. 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.

(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance unreasonably impracticable.

Bus. & Prof. Code § 26014 (New: Effective Nov. 9, 2016): *Advisory Committee on Standards and Regulations; Annual Public Report:*

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

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

(c) Commencing on *January 1, 2019*, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the bureau and licensing

authorities during the immediately preceding calendar year and whether those recommendations were implemented by the bureau or licensing authorities.

Bus. & Prof. Code § 26015 (New: Effective Nov. 9, 2016): *Conduct of Investigations by Licensing Authority:*

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

Bus. & Prof. Code § 26016 (New: Effective Nov. 9, 2016): *Hearings Before Licensing Authority; Delegation of Power to Administrative Law Judge:*

For any hearing held pursuant to this division, except a hearing held under Chapter 4 (**Bus. & Prof. Code §§ 26040 et seq.**), 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 § 26017 (New: Effective Nov. 9, 2016): *Hearings Before Licensing Authority; Reimbursement of Witness for Expenses:*

In any hearing before a licensing authority pursuant to this division, 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 § 26018 (New: Effective Nov. 9, 2016): *Hearings Before Licensing Authority; Penalty Review:*

A licensing authority 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 § 26030 (New: Effective Nov. 9, 2016): *Grounds for Disciplinary Action:*

Grounds for disciplinary action include:

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

(d) Failure to comply with any state law including, but not limited to, the payment of taxes as required under the **Revenue and Taxation Code**, except as provided for in this division or other California law.

(e) Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.

(f) Failure to comply with the requirement of a local ordinance regulating commercial marijuana activity.

(g) The intentional and knowing sale of marijuana or marijuana products by a licensee to a person under the legal age to purchase or possess.

Bus. & Prof. Code § 26031 (New: Effective Nov. 9, 2016): *Suspension or Revocation of License by Licensing Authority:*

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 § 26032 (New: Effective Nov. 9, 2016): *Disciplinary Action Against Licensee for Action of Employee or Agent:*

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

Bus. & Prof. Code § 26033 (New: Effective Nov. 9, 2016): *Notification of Bureau and other Licensing Authorities upon Suspension or Revocation of License:*

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

Bus. & Prof. Code § 26034 (New: Effective Nov. 9, 2016): *Accusations Against Licensees; Time Limitation:*

Accusations against licensees under this division shall be filed within the same time limits as specified in **B&P § 19314** or as otherwise provided by law.

Bus. & Prof. Code § 26035 (New: Effective Nov. 9, 2016): *Designation of Persons to Administer and Enforce Division; Qualified Peace Officers:*

The director shall designate the persons employed by the Department of Consumer Affairs for purposes of the administration and enforcement of this division. The director shall ensure that a sufficient number of employees are qualified peace officers for purposes of enforcing this division.

Bus. & Prof. Code § 26036 (New: Effective Nov. 9, 2016): *Existing Enforcement Authority of Other State Agencies:*

Nothing in this division shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority, including, but not limited to, under the **Fish and Game Code**, the **Food and Agricultural Code**, the **Government Code**, the **Health and Safety Code**, the **Public Resources Code**, the **Water Code**, or the application of those laws.

Bus. & Prof. Code § 26037 (New: Effective Nov. 9, 2016): *Actions Permitted Under License not Unlawful:*

(a) The actions of a licensee, its employees, and its agents that are (1) permitted under a license issued under this division and any applicable local ordinances and (2) conducted in accordance with the requirements of this division and regulations adopted pursuant to this division, 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 a state license and any 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 § 26038 (New: Effective Nov. 9, 2016): *Unlicensed Commercial Marijuana Activities; Civil Penalties:*

(a) A person engaging in commercial marijuana activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of marijuana associated with that violation in accordance with **H&S § 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 General Fund except as provided in **subdivision (b)**.

(b) If an action for civil penalties is brought against a licensee pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

(c) Notwithstanding **subdivision (a)**, criminal penalties shall continue to apply to an unlicensed person engaging in commercial marijuana activity in violation of this division.

Bus. & Prof. Code § 26040 (New: Effective Nov. 9, 2016): *Marijuana Control Appeals Panel*:

(a) There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by **Gov't. Code, §§ 11550 et seq.**

(b) The members of the panel may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty, corruption or incompetency.

(c) A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if 5 Members of the Senate, or 10 Members of the Assembly, join as authors.

Bus. & Prof. Code § 26041 (New: Effective Nov. 9, 2016): *Employment of Personnel; Equipment, Supplies, and Housing*:

All personnel of the panel shall be appointed, employed, directed, and controlled by the panel consistent with state civil service requirements. The director shall furnish the equipment, supplies, and housing necessary for the authorized activities of the panel and shall perform such other mechanics of administration as the panel and the director may agree upon.

Bus. & Prof. Code § 26042 (New: Effective Nov. 9, 2016): *Adoption of Appeals Procedures:*

The panel shall adopt procedures for appeals similar to the procedures used in **Article 3 (B&P Code §§ 23075 et seq.)** and **Article 4 (B&P §§ 23080 et seq.)** of **Chapter 1.5 of Division 9**. Such procedures shall be adopted in accordance with the **Administrative Procedure Act; Gov't. Code §§ 11340**.

Bus. & Prof. Code § 26043 (New: Effective Nov. 9, 2016): *Review of Decision Against Aggrieved Person:*

(a) When any person aggrieved thereby appeals from a decision of the bureau or any licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license provided for under this division, the panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the bureau or the licensing authority.

(b) Review by the panel of a decision of the bureau or a licensing authority shall be limited to the following questions:

(1) Whether the bureau or any licensing authority has proceeded without or in excess of its jurisdiction.

(2) Whether the bureau or any licensing authority has proceeded in the manner required by law.

(3) Whether the decision is supported by the findings.

(4) Whether the findings are supported by substantial evidence in the light of the whole record.

Bus. & Prof. Code § 26044 (New: Effective Nov. 9, 2016): *Remand for Evidentiary Concerns; Entry of Order:*

(a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the bureau or licensing authority, it may enter an order remanding the matter to the bureau or licensing authority for reconsideration in the light of such evidence.

(b) Except as provided in **subdivision (a)**, in all appeals, the panel shall enter an order either affirming or reversing the decision of the bureau or licensing authority. When the order reverses the decision of the bureau or licensing authority, the board may direct the reconsideration of the matter in the light of its order and may direct the bureau or licensing authority to take such further action

as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the bureau or licensing authority.

Bus. & Prof. Code § 26045 (New: Effective Nov. 9, 2016): *Judicial Review*:

Orders of the panel shall be subject to judicial review under **Code of Civ. Proc. § 1094.5** upon petition by the bureau or licensing authority or any party aggrieved by such order.

Bus. & Prof. Code § 26050 (New: Effective Nov. 9, 2016): *License Classification; Required Designation; Term; Issuance and Renewal; Temporary License*:

(a) The license classification pursuant to this division shall, at a minimum, be as follows:

- (1) Type 1--Cultivation; Specialty outdoor; Small.
- (2) Type 1A--Cultivation; Specialty indoor; Small.
- (3) Type 1B--Cultivation; Specialty mixed-light; Small.
- (4) Type 2--Cultivation; Outdoor; Small.
- (5) Type 2A--Cultivation; Indoor; Small.
- (6) Type 2B--Cultivation; Mixed-light; Small.
- (7) Type 3--Cultivation; Outdoor; Medium.
- (8) Type 3A--Cultivation; Indoor; Medium.
- (9) Type 3B--Cultivation; Mixed-light; Medium.
- (10) Type 4--Cultivation; Nursery.
- (11) Type 5--Cultivation; Outdoor; Large.
- (12) Type 5A--Cultivation; Indoor; Large.
- (13) Type 5B--Cultivation; Mixed-light; Large.
- (14) Type 6--Manufacturer 1.
- (15) Type 7--Manufacturer 2.
- (16) Type 8--Testing.
- (17) Type 10--Retailer.
- (18) Type 11--Distributor.
- (19) Type 12--Microbusiness.

(b) All licenses issued under this division shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under **B&P §§ 19300 et seq.** Examples of such a designation include, but are not limited to, “Type 1--Nonmedical,” or “Type 1NM.”

(c) A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.

(d) Each licensing authority shall establish procedures for the issuance and renewal of licenses.

(e) Notwithstanding **subdivision (c)**, a licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operative on *January 1, 2019*.

Bus. & Prof. Code § 26051 (New: Effective Nov. 9, 2016): *Factors to be Considered in Licensing Determinations:*

(a) In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:

- (1) Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power;
- (2) Perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;
- (3) Encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;
- (4) Result in an excessive concentration of licensees in a given city, county, or both;
- (5) Present an unreasonable risk of minors being exposed to marijuana or marijuana products; or
- (6) Result in violations of any environmental protection laws.

(b) A licensing authority may deny a license or renewal of a license based upon the considerations in subdivision (a).

(c) For purposes of this section, "excessive concentration" means when the premises for a retail license, microbusiness license, or a license issued under **B&P Code § 26070.5** is located in an area where either of the following conditions exist:

- (1) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products.

(2) The ratio of retail licenses, microbusiness licenses, or licenses under **B&P Code § 26070.5** to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under **B&P Code § 26200**.

Bus. & Prof. Code § 26052 (New: Effective Nov. 9, 2016): *Prohibited Actions by Licensee:*

(a) No licensee shall perform any of the following acts, or permit any such acts to be performed by any employee, agent, or contractor of such licensee:

(1) Make any contract in restraint of trade in violation of **B&P Code § 16600**;

(2) Form a trust or other prohibited organization in restraint of trade in violation of **B&P Code § 16720**;

(3) Make a sale or contract for the sale of marijuana or marijuana products, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of such seller, where the effect of such sale, contract, condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce;

(4) Sell any marijuana or marijuana products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers;

(5) Discriminate between different sections, communities, or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this state, by selling or furnishing marijuana or marijuana products at a lower price in one section, community, or city or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition; or

(6) Sell any marijuana or marijuana products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.

(b) Any person who, either as director, officer or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter,

assists or aids, directly or indirectly, in such violation is responsible therefor equally with the person, firm or corporation for which such person acts.

(c) A licensing authority may enforce this section by appropriate regulation.

(d) Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.

Bus. & Prof. Code § 26053 (New: Effective Nov. 9, 2016): *Issuance of Licenses to Persons Holding Commercial Cannabis Activity Licenses; Limitation on Licensure for Person Holding State Testing License:*

(a) The bureau and licensing authorities may issue licenses under this division to persons or entities that hold licenses under **B&P Code §§ 19300 et seq.**

(b) Notwithstanding **subdivision (a)**, a person or entity that holds a state testing license under this division or **B&P Code §§ 19300 et seq.** is prohibited from licensure for any other activity, except testing, as authorized under this division.

(c) Except as provided in **subdivision (b)**, a person or entity may apply for and be issued more than one license under this division.

Bus. & Prof. Code § 26054 (New: Effective Nov. 9, 2016): *Prohibition Against Licensing of Alcohol and Tobacco Retailers; Location of Licensee; Actions in Support of Research and Development:*

(a) A licensee shall not also be licensed as a retailer of alcoholic beverages under **B&P Code §§ 23000 et seq.** or of tobacco products.

(b) No licensee under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in **H&S Code § 11362.768(c)** unless otherwise provided by law.

(c) It shall be lawful under state and local law, and shall not be a violation of state or local law, for a business engaged in the manufacture of marijuana accessories to possess, transport, purchase or otherwise obtain small amounts of marijuana or marijuana products as necessary to conduct research and development related to such marijuana accessories, provided such marijuana and marijuana products are obtained from a person or entity licensed under this division or **B&P Code §§ 19300 et seq.** permitted to provide or deliver such marijuana or marijuana products.

Bus. & Prof. Code § 26054.1 (New: Effective Nov. 9, 2016): *Residency Requirement:*

(a) No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before *January 1, 2015*. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before *January 1, 2015*.

(b) **Subdivision (a)** shall cease to be operative on *December 31, 2019*, unless reenacted prior thereto by the Legislature.

Bus. & Prof. Code § 26054.2 (New: Effective Nov. 9, 2016): *Priority Licensing for Applicants Previously Operating in Compliance with **Compassionate Use Act** or **Medical Cannabis Regulation and Safety Act**:*

(a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the **Compassionate Use Act** and its implementing laws before *September 1, 2016*, or currently operates in compliance with **B&P Code §§ 19300 et seq.**

(b) The bureau shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the **Compassionate Use Act** and its implementing laws, and any applicable local laws. The bureau shall make the requested information available to licensing authorities.

(c) In addition to or in lieu of the information described in **subdivision (b)**, an applicant may furnish other evidence to demonstrate operation in compliance with the **Compassionate Use Act** or **B&P Code §§ 19300 et seq.** The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in **subdivision (a)**.

(d) This section shall cease to be operative on *December 31, 2019*, unless otherwise provided by law.

Bus. & Prof. Code § 26055 (New: Effective Nov. 9, 2016): *Issuance of License to Qualified Applicant; Separate Licenses for Multiple Locations; Alteration of Premises; Effect of Local Ordinances:*

(a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate within California until the licensing authority reinstates or reissues the state license.

(c) Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation.

(d) After issuance or transfer of a license, no licensee shall change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until prior written assent of the licensing authority or bureau has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

(e) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with **B&P Code § 26200**.

Bus. & Prof. Code § 26056 (New: Effective Nov. 9, 2016): *Compliance by Applicant with B&P Code § 19322:*

An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in **B&P Code § 19322** unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority, except as follows:

(a) Notwithstanding of **B&P Code § 19322(a)(2)**, an applicant need not provide documentation that the applicant has obtained a license, permit or other authorization to operate from the local jurisdiction in which the applicant seeks to operate;

(b) An application for a license under this division shall include evidence that the proposed location meets the restriction in **B&P Code § 26054(b)**; *and*

(c) For applicants seeking licensure to cultivate, distribute, or manufacture nonmedical marijuana or marijuana products, 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) The inventory process.

- (5) Quality control procedures.
- (6) The source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law.

(d) The applicant shall provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy including aggregate square footage and individual square footage of separate cultivation areas, if any.

Bus. & Prof. Code § 26056.5 (New: Effective Nov. 9, 2016): *Protocols Related to Environment and Natural Resources:*

The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, including but not limited to, the **California Environmental Quality Act (Pub. Res. Code §§ 21000 et seq.)**, the **California Endangered Species Act (F&G Code §§ 2050 et seq.)**, lake or streambed alteration agreements (**Chapter 6; F&G Code §§ 1600 et seq.**), the **Clean Water Act (33 U.S.C. §§ 1251 et seq.)**, the **Porter-Cologne Water Quality Control Act (Division 7; Water Code §§ 13000 et seq.)**, timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.

Bus. & Prof. Code § 26057 (New: Effective Nov. 9, 2016): *Denial of Application:*

(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 division.

(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 division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow and water quality.

(2) Conduct that constitutes grounds for denial of licensure under **B&P §§ 480 et seq.**, except as otherwise specified in this section and **B&P § 26059**.

(3) Failure to provide information required by the licensing authority.

(4) 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 violent felony conviction, as specified in **P.C. § 667.5(c)**.

(B) A serious felony conviction, as specified in **P.C. § 1192.7(c)**.

(C) A felony conviction involving fraud, deceit, or embezzlement.

(D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(E) A felony conviction for drug trafficking with enhancements pursuant to **B&P Code §§ 11370.4 or 11379.8**.

(5) Except as provided in **subparagraphs (D) and (E) of paragraph (4)** and notwithstanding **B&P §§ 480 et seq.**, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

(6) 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**.

(7) 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 unauthorized commercial marijuana activities or commercial medical cannabis activities, has had a license revoked under this division or **B&P Code §§ 19300 et seq.** in the three years immediately preceding the date the application is filed with the licensing authority, or has been sanctioned under **F&G Code §§ 12025 or 12025.1.**

(8) Failure to obtain and maintain a valid seller's permit required pursuant to **Rev. & Tax. Code §§ 6001 et seq.**

(9) Any other condition specified in law.

Bus. & Prof. Code § 26058 (New: Effective Nov. 9, 2016): *Notification of Applicant in Writing When License Denied:*

Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing.

Bus. & Prof. Code § 26059 (New: Effective Nov. 9, 2016): *Prohibited Reasons for Denial of State 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. §§ 4852.01 et seq.**

(b) A conviction that was subsequently dismissed pursuant to **P.C. §§ 1203.4, 1203.4a, or 1203.41** or any other provision allowing for dismissal of a conviction.

Bus. & Prof. Code § 26060 (New: Effective Nov. 9, 2016): *Applicability of Cultivation Site and Pesticide Regulations and Standards; License Conditions related to Water Diversion and Discharge; Requirements for Regulations:*

(a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, and mixed-light cultivation sites shall apply to licensed cultivators under this division.

(b) Standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign

object residue in harvested cannabis shall apply to licensed cultivators under this division.

(c) The Department of Food and Agriculture shall include conditions in each license requested by the Department of Fish and Wildlife and the State Water Resources Control Board to 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, and to otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(d) The regulations promulgated by the Department of Food and Agriculture under this division shall, at a minimum, address in relation to commercial marijuana activity, the same matters described in **B&P Code § 19332(e)**.

(e) 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, outdoor, or mixed light cultivation of marijuana meets standards equivalent to **Fd. & Agri. Code §§ 11401 et seq.** and its implementing regulations.

Bus. & Prof. Code § 26061 (New: Effective Nov. 9, 2016): *State Cultivator License Types*:

(a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law.

(b) Except as otherwise provided by law, Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis as specified in **B&P Code § 19332(g)**.

(c) Except as otherwise provided by law:

(1) Type 5, or “*outdoor*,” means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

(2) Type 5A, or “*indoor*,” means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(3) Type 5B, or “*mixed-light*,” means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(d) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

(e) Commencing on January 1, 2023, a Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold a Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not be eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

Bus. & Prof. Code § 26062 (New: Effective Nov. 9, 2016): *Certified Organic Designation and Organic Certification Program:*

The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in **B&P Code § 19332.5**.

Bus. & Prof. Code § 26063 (New: Effective Nov. 9, 2016): *Particular Appellation of Origin:*

(a) The bureau shall establish standards for recognition of a particular appellation of origin applicable to marijuana grown or cultivated in a certain geographical area in California.

(b) Marijuana shall not be marketed, labeled, or sold as grown in a California county when the marijuana was not grown in that county.

(c) The name of a California county shall not be used in the labeling, marketing, or packaging of marijuana products unless the marijuana contained in the product was grown in that county.

Bus. & Prof. Code § 26064 (New: Effective Nov. 9, 2016): *Fire and Combustion Risk Mitigation:*

Each licensed cultivator shall ensure that the licensed premises do not pose an unreasonable risk of fire or combustion. Each cultivator shall ensure that all lighting, wiring, electrical and mechanical devices, or other relevant property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.

Bus. & Prof. Code § 26065 (New: Effective Nov. 9, 2016): *Applicability of Wage Order No. 4-2001:*

An employee engaged in the cultivation of marijuana under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

Bus. & Prof. Code § 26066 (New: Effective Nov. 9, 2016): *Cultivation in Accordance with State and Local Land and Water Use laws; Environmental Impact Assessments:*

Indoor and outdoor marijuana cultivation by persons and entities licensed under this division 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 marijuana cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

Bus. & Prof. Code § 26067 (New: Effective Nov. 9, 2016): *Marijuana Cultivation Program; State License Requirement; Unique Identification Program for Marijuana:*

(a) The Department of Food and Agriculture shall establish a “Marijuana Cultivation Program” to be administered by the Secretary of Food and Agriculture. The secretary shall administer this section as it pertains to the cultivation of marijuana. For purposes of this division, marijuana is an agricultural product.

(b) A person or entity shall not cultivate marijuana without first obtaining a state license issued by the department pursuant to this section.

(c)

(1) The department, in consultation with, but not limited to, the bureau, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for 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. If a watershed cannot support additional cultivation, no new plant identifiers will be issued for that watershed.

(B) Cultivation will not negatively impact springs, riparian wetlands and aquatic habitats.

(2) The department shall establish a program for the identification of permitted marijuana plants at a cultivation site during the cultivation

period. A unique identifier shall be issued for each marijuana plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

(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 **B&P Code § 26170**.

(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each 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.

(d) Unique identifiers and associated identifying information administered by local jurisdictions shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(e)

(1) This section does not apply to the cultivation of marijuana in accordance with **H&S § 11362.1** or the **Compassionate Use Act**.

(2) **Subdivision (b)** does not apply to persons or entities licensed under either **B&P Code §§ 26070(a)(3)** or **26070.5(b)**.

(f) “*Department*” for purposes of this section means the Department of Food and Agriculture.

Bus. & Prof. Code § 26070 (New: Effective Nov. 9, 2016): *Retailers and Distributors*:

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

(1) “*Retailer*,” for the retail sale and delivery of marijuana or marijuana products to customers.

(2) “*Distributor*,” for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

(3) “Microbusiness,” for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to 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 flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. The transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which marijuana and marijuana products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

(c) Licensed retailers and microbusinesses, and licensed nonprofits under **B&P Code § 26070.5**, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises. These security measures shall include, but not be limited to, all of the following:

(1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the dispensary.

(2) Establishing limited access areas accessible only to authorized personnel.

(3) Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

Bus. & Prof. Code § 26070.5 (New: Effective Nov. 9, 2016): *Nonprofit Licenses; Feasibility Determination; Issuance of Temporary Local Licenses to Certain Nonprofit Entities*:

(a) The bureau shall, by *January 1, 2018*, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant

to **subdivision (b)**. The bureau shall consider factors including, but not limited to, the following:

- (1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?
- (2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?
- (3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low-income persons?

(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing wholeplant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low-income persons so long as the local jurisdiction:

- (1) Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities;
- (2) Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division;
- (3) Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and;
- (4) Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

(c) Temporary local licenses authorized under **subdivision (b)** shall expire after 12 months unless renewed by the local jurisdiction.

(d) The bureau may impose reasonable additional requirements on the local licenses authorized under **subdivision (b)**.

(e)

- (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

(2) If the bureau determines such licenses are feasible, no temporary license issued under **subdivision (b)** shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under **subdivision (b)**. The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under **subdivision (b)**.

Bus. & Prof. Code § 26080 (New: Effective Nov. 9, 2016): *Transportation and Distribution of Marijuana or Marijuana Products Outside State; Prohibition Against Prevention of Transportation by Local Jurisdiction:*

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

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

Bus. & Prof. Code § 26090 (New: Effective Nov. 9, 2016): *Delivery by Licensees:*

(a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under **B&P Code § 26070.5**.

(b) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.

(c) A local jurisdiction shall not prevent delivery of marijuana or marijuana products on public roads by a licensee acting in compliance with this division and local law as adopted under **B&P Code § 26200**.

Bus. & Prof. Code § 26100 (New: Effective Nov. 9, 2016): *Manufacturer and Testing Laboratory Licenses:*

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

(a) “*Manufacturing Level 1*,” for sites that manufacture marijuana products using nonvolatile solvents, or no solvents.

(b) “*Manufacturing Level 2*,” for sites that manufacture marijuana products using volatile solvents.

(c) “*Testing*,” for testing of marijuana and marijuana products. Testing licensees shall have their facilities or devices licensed according to regulations set forth by the department. A testing licensee shall not hold a license in another license category of this division and shall not own or have ownership interest in a non-testing facility licensed pursuant to this division.

(d) For purposes of this section, “*volatile solvents*” shall have the same meaning as in **H&S Code § 11362.3(d)** unless otherwise provided by law or regulation.

Bus. & Prof. Code § 26101 (New: Effective Nov. 9, 2016): *Mandatory Testing of Marijuana and Marijuana Products Prior to Sale:*

(a) Except as otherwise provided by law, no marijuana or marijuana products may be sold pursuant to a license provided for under this division unless a representative sample of such marijuana or marijuana product has been tested by a certified testing service to determine:

(1) Whether the chemical profile of the sample conforms to the labeled content of 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).

(2) That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

- (A) Residual solvent or processing chemicals, including explosive gases, such as Butane, propane, O₂ or H₂, and poisons, toxins, or carcinogens, such as Methanol, Isopropyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.
- (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.

(b) Residual levels of volatile organic compounds shall satisfy standards of the cannabis inflorescence monograph set by the United States Pharmacopeia (**U.S.P. Chapter 467**).

(c) The testing required by **paragraph (a)** shall be performed in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling, using standard methods established by the International Organization for Standardization, specifically **ISO/IEC 17020** and **ISO/IEC 17025** to test marijuana and marijuana products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.

(d) Any pre-sale inspection, testing transfer, or transportation of marijuana products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

Bus. & Prof. Code § 26102 (New: Effective Nov. 9, 2016): *Handling, Testing, or Analyzing of Marijuana or Marijuana Products by Licensed Testing Service:*

A licensed testing service shall not handle, test, or analyze marijuana or marijuana products unless the licensed testing laboratory meets the requirements of **B&P Code § 19343** or unless otherwise provided by law.

Bus. & Prof. Code § 26103 (New: Effective Nov. 9, 2016): *Certificate of Analysis by Licensed Testing Service:*

A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in **B&P Code § 19344** or unless otherwise provided by law.

Bus. & Prof. Code § 26104 (New: Effective Nov. 9, 2016): *Compliance by Licensed Testing Service; Development of Procedures:*

(a) A licensed testing service shall, in performing activities concerning marijuana and marijuana products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The State Department of Public Health shall develop procedures to:

(1) Ensure that testing of marijuana and marijuana products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under **B&P Code § 26070.5**;

(2) Specify how often licensees shall test marijuana and marijuana products, and that the cost of testing marijuana shall be borne by the licensed cultivators and the cost of testing marijuana products shall be borne by the licensed manufacturer, and that the costs of testing marijuana and marijuana products shall be borne by a nonprofit licensed under **B&P Code § 26070.5**; and

(3) 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 marijuana or marijuana products into compliance with quality assurance standards as promulgated by the State Department of Public Health.

Bus. & Prof. Code § 26105 (New: Effective Nov. 9, 2016): *Manufacturing Level 2 Licensees; Methods and Procedures to Limit Risks Created by Volatile Solvents:*

Manufacturing Level 2 licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents. The State Department of Public Health shall establish minimum standards concerning such methods and procedures for Level 2 licensees.

Bus. & Prof. Code § 26106 (New: Effective Nov. 9, 2016): *Applicability of Production and Labeling Standards:*

Standards for the production and labeling of all marijuana products developed by the State Department of Public Health shall apply to licensed manufacturers and microbusinesses, and nonprofits licensed under **B&P Code § 26070.5** unless otherwise specified by the State Department of Public Health.

Bus. & Prof. Code § 26110 (New: Effective Nov. 9, 2016): *Quality Assurance, Inspection, and Testing:*

(a) All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.

(b) All marijuana and marijuana products shall undergo quality assurance, inspection, and testing in the same manner as provided in **B&P Code § 19326**, except as otherwise provided in this division or by law.

Bus. & Prof. Code § 26120 (New: Effective Nov. 9, 2016): *Labeling and Packaging Requirements for Marijuana and Marijuana Products:*

(a) Prior to delivery or sale at a retailer, marijuana and marijuana products shall be labeled and placed in a resealable, child resistant package.

- (b) Packages and labels shall not be made to be attractive to children.
- (c) All marijuana and marijuana product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the State Department of Public Health:

- (1) Manufacture date and source.
- (2) The following statements, in bold print:

(A) For marijuana: “**GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.**”

(B) For marijuana products: “**GOVERNMENT WARNING: THIS PRODUCT CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF MARIJUANA PRODUCTS MAY BE DELAYED UP TO TWO HOURS. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.**”

- (3) For packages containing only dried flower, the net weight of marijuana in the package.
- (4) Identification of the source and date of cultivation, the type of marijuana or marijuana product and the date of manufacturing and packaging.
- (5) The appellation of origin, if any.
- (6) 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, and the potency of the marijuana or marijuana product by reference to the amount of tetrahydrocannabinol and cannabidiol in each serving.

- (7) For marijuana products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in **Code of Federal Regulations, Title 21, § 101.9**.
- (8) A list of any solvents, nonorganic pesticides, herbicides, and fertilizers that were used in the cultivation, production, and manufacture of such marijuana or marijuana product.
- (9) A warning if nuts or other known allergens are used.
- (10) Information associated with the unique identifier issued by the Department of Food and Agriculture.
- (11) Any other requirement set by the bureau or the State Department of Public Health.

(d) Only generic food names may be used to describe the ingredients in edible marijuana products.

(e) In the event the bureau determines that marijuana is no longer a schedule I controlled substance under federal law, the label prescribed in **subdivision (c)** shall no longer require a statement that marijuana is a schedule I controlled substance.

Bus. & Prof. Code § 26130 (New: Effective Nov. 9, 2016): *Health and Safety Requirements for Manufacture, Production, and Sale of Marijuana Products:*

(a) Marijuana products shall be:

- (1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.
- (2) Produced and sold with a standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.
- (3) Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana product in solid form.
- (4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.
- (5) Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, for preparation, storage, handling and sale of food products.

(6) Provided to customers with sufficient information to enable the informed consumption of such product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.

(b) Marijuana, including concentrated cannabis, included in a marijuana product manufactured in compliance with law is not considered an adulterant under state law.

Bus. & Prof. Code § 26140 (New: Effective Nov. 9, 2016): *Prohibitions Related to Persons Under 21 Years of Age; Use of Decoys:*

(a) No licensee shall:

(1) Sell marijuana or marijuana products to persons under 21 years of age.

(2) Allow any person under 21 years of age on its premises.

(3) Employ or retain persons under 21 years of age.

(4) Sell or transfer marijuana or marijuana products unless the person to whom the marijuana or marijuana product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish marijuana to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any marijuana while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase marijuana. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the **Administrative Procedure Act (Gov't. Code §§ 11340 et seq.)**

(c) Notwithstanding **subdivision (a)**, a licensee that is also a dispensary licensed under **B&P Code §§ 19300 et seq.** may:

(1) Allow on the premises any person 18 years of age or older who possesses a valid identification card under **H&S Code § 11362.71** and a valid government-issued identification card;

(2) Sell marijuana, marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card

under **H&S Code § 11362.71** and a valid government-issued identification card.

Bus. & Prof. Code § 26150 (New: Effective Nov. 9, 2016): *Definitions*:

For purposes of this chapter:

(a) “*Advertise*” means the publication or dissemination of an advertisement.

(b) “*Advertisement*” includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(1) Any label affixed to any marijuana or marijuana products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of this division.

(2) Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

(c) “*Advertising sign*” is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of marijuana or marijuana products which are not cultivated, manufactured, distributed, or sold on the same lot.

(d) “*Health-related statement*” means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of marijuana or marijuana products and health benefits, or effects on health.

(e) “*Market*” or “*Marketing*” means any act or process of promoting or selling marijuana or marijuana products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

Bus. & Prof. Code § 26151 (New: Effective Nov. 9, 2016): *Identification of Licensee in Advertising and Marketing; Placement in Communications with Specified Percentage of Audience 21 Years of Age or Older; Required Method of Age Affirmation for Certain Advertising and Marketing:*

- (a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.
- (b) Any advertising or marketing placed in broadcast, cable, radio, print and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.
- (c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee. For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.
- (d) All advertising shall be truthful and appropriately substantiated.

Bus. & Prof. Code § 26152 (New: Effective Nov. 9, 2016): *Truth in Advertising and Marketing:*

No licensee shall:

- (a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression;
- (b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;
- (c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the marijuana originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement;
- (d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or State Highway which crosses the border of any other state;

(e) Advertise or market marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products;

(f) Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption;
or

(g) Advertise or market marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

Bus. & Prof. Code § 26153 (New: Effective Nov. 9, 2016): *Prohibition Against Giving Away Marijuana or Marijuana Products:*

No licensee shall give away any amount of marijuana or marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity

Bus. & Prof. Code § 26154 (New: Effective Nov. 9, 2016): *Restrictions on Health-Related Statements in Advertising and Marketing:*

No licensee shall publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

Bus. & Prof. Code § 26155 (New: Effective Nov. 9, 2016): *Exceptions; Inapplicability of Restrictions to Noncommercial Speech:*

(a) The provisions of subdivision **B&P Code § 26152(g)** shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products.

(b) This chapter does not apply to any noncommercial speech.

Bus. & Prof. Code § 26160 (New: Effective Nov. 9, 2016): *Accurate Records of Commercial Marijuana Activity; Maintenance of Records; Examination of Books and Records and Inspection of Premises; Penalty for Violation:*

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

(b) All records related to commercial marijuana 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 division. 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 division.

(f) If a licensee, or an agent or 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 up to thirty thousand dollars (\$30,000) per individual violation.

Bus. & Prof. Code § 26161 (New: Effective Nov. 9, 2016): *Invoices and Receipts*:

(a) Every sale or transport of marijuana or marijuana products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the bureau or Board of Equalization and shall not be commingled with invoices covering other commodities.

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

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

Bus. & Prof. Code § 26170 (New: Effective Nov. 9, 2016): *Expansion of Track and Trace Program:*

(a) The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall expand the track and trace program provided for under **B&P Code §§ 19335 et seq.** to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis products, and in addition, the amount of the cultivation tax due pursuant to **Rev. & Tax. Code §§ 34010 et seq.** The expanded track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

(b) The department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in **subdivision (a)** to report the movement of marijuana and marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.

(c) Any software, database or other information technology system utilized by the department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

Bus. & Prof. Code § 26180 (New: Effective Nov. 9, 2016): *Establishment of Fee Scale:*

Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, 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 division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division 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 § 26170**, but shall not exceed the reasonable regulatory costs to the licensing authority.

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

(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 Marijuana Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

Bus. & Prof. Code § 26181 (New: Effective Nov. 9, 2016): *Establishment of Fees by Other Agencies to Cover Regulatory Costs:*

The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their marijuana regulatory programs.

Bus. & Prof. Code § 26190 (New: Effective Nov. 9, 2016): *Annual Reporting by Licensing Authority; Posting on Internet Web Site:*

Beginning on *March 1, 2020*, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities concerning commercial marijuana activities and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the same type of information specified in **B&P Code § 19353**, and a detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.

Bus. & Prof. Code § 26191 (New: Effective Nov. 9, 2016): *Annual Performance Audit and Report by State Auditor's Office:*

(a) Commencing *January 1, 2019*, and by January 1 of each year thereafter, the California State Auditor's Office shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

- (1) The actual costs of the program.
- (2) The overall effectiveness of enforcement programs.

(3) Any report submitted pursuant to this section shall be submitted in compliance with **Gov't Code § 9795**.

(b) The Legislature shall provide sufficient funds to the California State Auditor's Office to conduct the annual audit required by this section.

Bus. & Prof. Code § 26200 (New: Effective Nov. 9, 2016): *Local Regulation Not Superseded; Notification Upon Revocation of Local License; Smoking, Vaporizing, or Ingesting of Marijuana or Marijuana Products on Premises of Licensed Retailer or Microbusiness:*

(a) Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(b) Nothing in this division shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 10 days of being so informed by the bureau, the relevant licensing authorities shall commence proceedings under **B&P Code §§ 26030 et seq.** to determine whether a license issued to the licensee should be suspended or revoked.

(d) Notwithstanding **H&S Code § 11362.3(a)(1)**, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or marijuana products on the premises of a retailer or microbusiness licensed under this division if:

- (1) Access to the area where marijuana consumption is allowed is restricted to persons 21 years of age and older;
- (2) Marijuana consumption is not visible from any public place or non-age restricted area; and
- (3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

Bus. & Prof. Code § 26201 (New: Effective Nov. 9, 2016): *State Standards, Requirements, and Regulations as Minimum Standards:*

Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

Bus. & Prof. Code § 26202 (New: Effective Nov. 9, 2016): *Enforcement of Division by Local Jurisdiction:*

(a) A local jurisdiction may enforce this division and the regulations promulgated by the bureau or any licensing authority if delegated the power to do so by the bureau or a licensing authority.

(b) The bureau or any licensing authority shall implement the delegation of enforcement authority in **subdivision (a)** through a memorandum of understanding between the bureau or licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

Bus. & Prof. Code § 26210 (New: Effective Nov. 9, 2016): *Marijuana Control Fund:*

(a) The Medical Cannabis Regulation and Safety Act Fund established in **B&P Code § 19351** is hereby renamed the Marijuana Control Fund.

(b) Upon the effective date of this section, whenever “Medical Cannabis Regulation and Safety Act Fund” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Marijuana Control Fund.

Bus. & Prof. Code § 26211 (New: Effective Nov. 9, 2016): *Advancement of Funds from General Fund; Implementation of Public Information Program:*

(a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in **subdivision (c)**, and for the activities of the Board of Equalization under **Rev. & Tax. Code §§ 34010 et seq.** until *July 1, 2017*, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by **Rev. & Tax. Code §§ 34011 and 34012**, by *January 1, 2025*.

(1) 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 division, and

to the Board of Equalization, as necessary, to implement the provisions of **Rev. & Tax. Code §§ 34010**.

(2) Within 45 days of this section becoming operative:

(A) The Director of Finance shall determine an amount of the initial advance from the General Fund to the Marijuana Control Fund that does not exceed thirty million dollars (\$30,000,000); and

(B) There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the State Department of Health Care Services to provide for the public information program described in **subdivision (c)**.

(b) Notwithstanding **subdivision (a)**, the Legislature shall provide sufficient funds to the Marijuana Control Fund to support the activities of the bureau, state licensing authorities under this division, and the Board of Equalization to support its activities under **Rev. & Tax. Code §§ 34010**. It is anticipated that this funding will be provided annually beginning on *July 1, 2017*.

(c) The State Department of Health Care Services shall establish and implement a public information program no later than *September 1, 2017*. This public information program shall, at a minimum, describe the provisions of the **Control, Regulate and Tax Adult Use of Marijuana Act of 2016**, the scientific basis for restricting access of marijuana and marijuana products to persons under the age of 21 years, describe the penalties for providing access to marijuana and marijuana products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from marijuana use, the potential harms of using marijuana while pregnant or breastfeeding, and the potential harms of overusing marijuana or marijuana products.

Health & Safety Code § 11018 (Amended; Effective 11/9/2016): *Marijuana Defined*:

“*Marijuana*” is defined as “all parts of the plant *Cannabis sativa L.*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does *not* include: (a) industrial hemp, as defined in **H&S § 11018.5**; or (b) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.”

Health & Safety Code § 11018.1 (New; Effective 11/9/2016): *Marijuana Products Defined:*

“*Marijuana products*” are defined as “marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.”

Health & Safety Code § 11018.2 (New; Effective 11/9/2016): *Marijuana Accessories Defined:*

“*Marijuana accessories*” are defined as “any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.”

Health & Safety Code § 11018.5 (Amended; Effective 11/9/2016): *Regulation of Industrial Hemp:*

Industrial hemp is not subject to regulation under **H&S Code §§ 11000–11651** (Controlled Substances) or **B&P Code §§ 26000–26211** (Regulation of Nonmedical Marijuana), but instead shall be regulated by the Dept. of Food & Agriculture pursuant to **Food. & Ag. Code §§ 81000–81010**.

Health & Safety Code §§ 11357, 11358 (Amended; Effective 11/9/2016): *Possession or Cultivation of Marijuana or Concentrated Cannabis:*

The sections have been amended to eliminate the criminal punishment for possession of up to one ounce of marijuana or up to four grams of concentrated cannabis except when on K-12 school grounds when the school is open for classes or school-related programs, or the cultivation, planting, or harvesting of up to six plants marijuana plants, for an adult, age 21 years or older.

Health & Safety Code § 11362.1 (New; Effective 11/9/2016): *Lawful Activities Involving Marijuana for Persons 21 years of Age or Older:*

Permits adults age 21 and older to engage in the following marijuana activities:

- (1) possessing, processing, transporting, purchasing, obtaining, or giving away to a person age 21 or older without compensation, up to 28.5 grams (one ounce) of marijuana that is not concentrated cannabis and/or up to eight grams of concentrated cannabis;

(2) possessing, planting, cultivating, harvesting, drying, or processing up to six living marijuana plants and possessing the marijuana produced by them;

(3) smoking or ingesting marijuana or marijuana products; *and*

(4) possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away marijuana *accessories* to persons age 21 or older, without any compensation.

Provides that marijuana and marijuana products involved in lawful conduct are *not* contraband and are *not* subject to seizure, and provides that lawful conduct pursuant to **H&S § 11362.1** is *not* a basis for detention, search, or arrest.

Health & Safety Code § 11362.2 (New; Effective 11/9/2016): *Lawful Cultivation of Marijuana*:

The legal personal cultivation of marijuana is limited to six living plants within a single private residence, or upon the grounds of a private residence, at any one time.

The plants and any marijuana produced by them in excess of 28.5 grams are required to be kept within the residence or upon the grounds of the residence (e.g., in an outdoor garden area), and in a locked space, and not be visible “by normal unaided vision from a public place.”

The planting, cultivation, harvesting, drying, or processing of marijuana are required to be in accordance with any local ordinances that are adopted.

Punishment: If an adult; *Infraction:* A fine of up to \$250. (**H&S § 11362.4(e).**)

Cities and counties are authorized to enact and enforce reasonable regulations for personal cultivation. A city or county may completely prohibit *outdoor* cultivation, but may *not* completely bar cultivation *inside* a private residence or inside a fully enclosed and secure accessory structure on the grounds of a private residence.

“*Private residence*” is defined as a house, apartment unit, mobile home, or other similar dwelling.

A city or county’s authority to ban, and any ban already imposed on, the outdoor cultivation of marijuana on the grounds of a private residence, is deemed repealed upon a determination by the California Attorney General that nonmedical use of marijuana is lawful in California under federal law.

Punishment: See **H&S Code § 11362.4**, below.

Health & Safety Code § 11362.3 (New; Effective 11/9/2016): *Prohibited Uses of Marijuana*:

(a) Nothing in **H&S § 11362.1** (above) shall be construed to permit any of the following conduct related to marijuana:

(1) Smoking or ingesting marijuana in a public place.

(2) Smoking marijuana where tobacco smoking is prohibited.

(3) Smoking marijuana within 1,000 feet of a school, day care center, or youth center while children are present.

(4) Possessing an open container or open package of marijuana while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, or aircraft.

(5) Possessing, smoking, or ingesting marijuana in or upon the grounds of a school, day care center, or youth center while children are present.

(6) Manufacturing concentrated cannabis using a volatile solvent, without a license.

(7) Smoking or ingesting marijuana while driving or operating a motor vehicle, boat, vessel, or aircraft.

(8) Smoking or ingesting marijuana while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, or aircraft.

Note: See **H&S § 11362.4** (New; below) for punishments for violating **subd. (a)(1)** through **(6)**, above.

(b) “*Day care center*” has the same meaning as in **H&S § 1596.76**.

(c) To “*smoke*” means “to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form,” and “includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.”

(d) “*Volatile solvent*” means volatile organic compounds, including: **(1)** explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and **(2)** dangerous poisons, toxins, or carcinogens, such as Methanol,

Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Trichloro- ethylene.

(e) “*Youth center*” has the same meaning as in **H&S § 11353.1**.

(f) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the **Compassionate Use Act of 1996**.

Health & Safety Code § 11362.4 (New; Effective 11/9/2016): *Punishments for a Violation of H&S § 11362.3(a)(1) through (a)(6) & Cultivation Violations per H&S § 11362.2(a)*:

(a) *Punishment* for violating **H&S § 11362.3(a)(1)** (smoking in a public place):

Infraction: Fine of up to \$100 for a person of 18 years of age or older, and by drug education and community service of up to 10 hours if the person is under age 18.

(b) *Punishment* for violating **H&S § 11362.3(a)(2)** through **(a)(4)** (smoking where tobacco smoking is prohibited, within 1,000 feet of a school, etc., and having an open container within motor vehicle, boat, vessel, or aircraft, respectively):

Infraction; punishable by a fine of up to \$250 for a person of 18 years of age 18 or older, and by drug education and community service of up to 20 hours if the person is under age 18.

(c) *Punishment* for violating **H&S § 11362.3(a)(5)** (possessing or ingesting marijuana on school grounds): Punishable pursuant to existing **H&S Code § 11357(c)** or **(d)**:

Misdemeanor; punishable a fine for the first offense and by up to 10 days in jail for a second or subsequent offense if the person is age 18 or older.

Infraction; punishable by drug education and community service hours, if the person is under age 18.

(d) *Punishment* for violating **H&S § 11362.3(a)(6)** (manufacturing using a volatile solvent):

Felony; punishable pursuant to existing **H&S § 11379.6** (manufacturing a controlled substance); i.e., 3, 5, or 7 years in prison or county jail pursuant to **P.C. § 1170(h)**.

(e) *Punishment* for the personal cultivation restrictions for adults age 21 and older in **H&S § 11362.2(a)**, when committed by an adult:

Infraction; punishable by a fine of up to \$250.

Health & Safety Code § 11362.45 (New; Effective 11/9/2016): *Lawful Effect of H&S Code § 11362.1 on Other Laws*:

Nothing in **H&S Code § 11362.1** (which authorizes specified marijuana activity for adults age 21 and older) shall be construed or interpreted to amend, repeal, affect, restrict, or preempt:

(a) Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, marijuana or marijuana products, including, but not limited to, **V.C. § 23152(e)** (driving while under the influence of a drug), or the penalties prescribed for violating those laws.

(b) Laws prohibiting the sale, administering, furnishing, or giving away of marijuana, marijuana products, or marijuana accessories, or the offering to sell, administer, furnish, or give away marijuana, marijuana products, or marijuana accessories to a person younger than 21 years of age.

(c) Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under **H&S Code § 11362.1**.

(d) Laws pertaining to smoking or ingesting marijuana or marijuana products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in **P.C. § 4573**.

(e) Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting marijuana or marijuana products.

(f) The rights and obligations of public and private employers 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 marijuana in the workplace, or affect the ability of employers to have policies prohibiting the use of marijuana by employees and prospective employees, or prevent employers from complying with state or federal law.

(g) The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under **H&S Code § 11362.1** within a building owned, leased, or occupied by the state or local government agency.

(h) The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under **H&S Code § 11362.1** on the individual's or entity's privately owned property.

(i) Laws pertaining to the **Compassionate Use Act of 1996**.

Health & Safety Code § 11362.713 (New; Effective 11/9/2016): *Disclosure of Medical Marijuana Patient's Identifying Information:*

(a) Information identifying the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, received and contained in the records of the State Department of Public Health and by any county public health department are hereby deemed "medical information" within the meaning of the **Confidentiality of Medical Information Act (Civ. Code §§ 56 et seq.)** and shall not be disclosed by the department or by any county public health department except in accordance with the restrictions on disclosure of individually identifiable information under the Confidentiality of Medical Information Act.

(b) Within 24 hours of receiving any request to disclose the name, address, or social security number of a patient, their medical condition, or the name of their primary caregiver, the State Department of Public Health or any county public health agency shall contact the patient and inform the patient of the request and if the request was made in writing, a copy of the request.

(c) Notwithstanding **Civ. Code § 56.10**, neither the State Department of Public Health, nor any county public health agency, shall disclose, nor shall they be ordered by agency or court to disclose, the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, sooner than the 10th day after which the patient whose records are sought to be disclosed has been contacted.

(d) No identification card application system or database used or maintained by the State Department of Public Health or by any county department of public health or the county's designee as provided in **H&S § 11362.71** (the marijuana identification card program) shall contain any personal information of any qualified patient, including, but not limited to, the patient's name, address, social security number, medical conditions, or the names of their primary caregivers. Such an application system or database may only contain a unique user identification number, and when that number is entered, the only information that may be provided is whether the card is valid or invalid.

Health & Safety Code § 11362.755 (Amended; Effective 11/9/2016): *Medical Marijuana Card Fees:*

Amendments provide for a maximum \$100 fee that a county health department may charge for a medical marijuana ID card application or renewal (**subd. (b)**), and provides that the fee may be waived for the “medically indigent.” (**subd. (d)**)

Health & Safety Code § 11362.755 (Amended): *Marijuana Collectives and Cooperatives; Protection from Prosecution for Manufacturing a Controlled Substance:*

New amendment to this section (effective 1/1/2017) provides that medical marijuana collectives and cooperatives that manufacture medical cannabis are protected from prosecution pursuant to **H&S § 11379.6** (the crime of manufacturing a controlled substance by chemical extraction or chemical synthesis) so long as they adhere to specified safety standards, and does all of the following:

- (1) Uses processes that are either solventless or employ only nonflammable, nontoxic solvents; *or* uses solvents exclusively within a closed-loop system where the solvents are recognized as safe, the system is designed to prevent the off-gassing of solvents into the atmosphere to mitigate the risk of an explosion, a licensed engineer certifies the system is safe and built to code, and the system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified; *and*
- (2) Receives and maintains approval from the local fire official for the closed-loop system; *and*
- (3) Meets required fire, safety, and building codes; *and*
- (4) Possesses a valid seller’s permit issued by the Board of Equalization; and
- (5) Possesses a valid local license or permit to manufacture medical cannabis.

Health & Safety Code § 11362.777 (Amended; Effective 11/9/2016): *Regulation of Medical Marijuana Activity by Cities and Counties:*

Subdivision (c)(4), which had provided that if a city or county that does not have land use regulations or ordinances that regulate or prohibit the cultivation of medical marijuana, then beginning March 1, 2016, the Dept. of Food & Agriculture will be the sole licensing authority, is deleted.

The last sentence of **subdivision (g)** is amended to clarify that a city or county *cannot* ban medical marijuana activity by qualified patients and primary caregivers who are in compliance with state law by deleting the phrase that permitted cities and counties to regulate or ban cultivation, storage, manufacture, transportation, etc., of medical marijuana by patients or caregivers. Instead, cities and counties are not limited or prevented from exercising their “police authority under **section 7 of article XI** of the **California Constitution**.”

Note: Section 7 of article XI provides: “A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.”

Health & Safety Code § 11362.84 (New; Effective 11/9/2016): *Custodial or Parental Rights of a Medical Marijuana Patient:*

The “status and conduct” of a “qualified” medical marijuana patient who acts in accordance with the **Compassionate Use Act** (existing **H&S Code § 11362.5**) shall not, by itself, be used to restrict or abridge custodial or parental rights to minor children in any action or proceeding in family or juvenile court.

Health & Safety Code § 11362.85 (New; Effective 11/9/2016): *Conformance to Federal Law:*

Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify marijuana, the Legislature may amend or repeal the provisions of the Health and Safety Code, as necessary, to conform state law to such changes in federal law.

Health & Safety Code § 11362.9 (Amended): *The California Marijuana Research Program:*

The California Marijuana Research Program, operated by the University of California for the purpose of studying the medical safety and efficacy of marijuana, is amended to permit studies “to ascertain the effect of marijuana on motor skills.”

Health & Safety Code § 11375.7 (New; Effective 9/25/2016): *Pre-Guilty Plea Drug Court Program:*

(a) Unless otherwise excluded pursuant to this section, a person charged with a misdemeanor pursuant **H&S Code § 11357.5(b)(3)** or **H&S Code § 11375.5(b)(3)**, shall be eligible to participate in a pre-guilty plea drug court program, as described in **P.C. § 1000.5**.

(b) Notwithstanding any other law, a positive test for use of a controlled substance, any other drug that may not be possessed without a prescription, or

alcohol shall *not* be grounds for dismissal from the program, unless the person is not making progress in the program. The court shall consider any report or recommendation of the treatment provider in making this determination. It shall be presumed that a person engaged in a program is making progress, unless that presumption is defeated by clear and convincing evidence. The person may offer evidence or an argument that he or she would benefit from and make progress in a different program or mode. If the court so finds, it may place the person in a different treatment program.

(c) Notwithstanding any other law, the following persons are excluded from participation in the program under this section:

(1) Any person with a history of violence that indicates that he or she presents a current risk of violent behavior currently or during the treatment program. This ground for exclusion shall be established by clear and convincing evidence.

(2) Any person required to register as a sex offender pursuant to **P.C. § 290**, unless the court finds by clear and convincing evidence that the person does not present a substantial risk of committing sexual offenses currently or through the course of the program and the person would benefit from the program, including that treatment would reduce the risk that the person would sexually reoffend.

(3) Any person that the treatment provider concludes is unamenable to any and all forms of drug treatment. The defendant may present evidence that he or she is amenable to treatment and the court may retain the person in the program if the court finds that the person is amenable to treatment through a different provider or a different mode of treatment.

(d) Notwithstanding any other law, a prior conviction for an offense involving a controlled substance or drug that may not be possessed without a prescription, including a substance listed in **H&S Code §§ 11357.5 or 11375.5**, is not grounds for exclusion from the program, unless the court finds by clear and convincing evidence that the person is likely to engage in drug commerce for financial gain, rather than for purposes of obtaining a drug or drugs for personal use.

Rev. & Tax. Code § 34014 (New; Effective June 8 & Nov. 9, 2016): *Required Permit for Licensees; Security:*

(a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to **B&P Code §§ 19300 et seq. & 26000 et seq.** without a

permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

(b) The board may require every licensed dispensary, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on marijuana produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. “*Good cause*” includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation has been properly prepared, executed and submitted under this part.

(c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

Rev. & Tax. Code § 34015 (New; Effective June 8 & Nov. 9, 2016): *Return and Payment of Tax; Report of Inventory, Purchases, and Sales:*

(a) The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under **B&P Code §§ 19300 et seq. & 26000 et seq.** using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to **R&T Code § 34012(d)** the board may by regulation determine when and how the tax shall be paid.

(b) The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to **B&P Code §§ 19300 et seq. & 26000 et seq.** to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

Rev. & Tax. Code §§ 34010-34021.5 (New; Effective Nov. 9, 2016): *Marijuana Taxation Schedule*:

A comprehensive tax system for nonmedical and medical marijuana will begin on *January 1, 2018*. Failing to pay taxes subjects the violator to having a medical or nonmedical marijuana license revoked, and to a penalty of at least one-half the amount of taxes not paid. Requires licensed cultivators and retail sellers to obtain a separate permit from the State Board of Equalization.

R&T § 34011: Beginning *January 1, 2018*, a 15% excise tax will be imposed on the gross receipts of a medical marijuana dispensary, and on the gross receipts of a licensed nonmedical marijuana retailer, microbusiness, or nonprofit. Marijuana purchasers are required to pay this 15% tax at the time of the purchase. For sales of nonmedical marijuana only, this excise tax is in addition to any sales or use tax imposed by a state or a local government.

R&T § 34012: Beginning *January 1, 2018*, a cultivation tax will be imposed on all harvested marijuana that enters the commercial market, both medical and nonmedical. Marijuana cultivators are responsible for paying the tax, and are prohibited from selling any marijuana until the tax is paid. Marijuana flowers will be taxed at \$9.25 per dry-weight ounce. Marijuana leaves will be taxed at \$2.75 per dry-weight ounce. Specifically exempted from this tax is marijuana cultivated for personal use pursuant to new **H&S § 11362.1** and marijuana cultivated by a medical marijuana patient or caregiver in accordance with the **Compassionate Use Act (H&S § 11362.5)**. The Board of Equalization is authorized to adjust cultivation tax rates for inflation starting *January 1, 2020*.

R&T § 34014(a): Establishes a new misdemeanor crime of engaging as a cultivator, dispensary, retailer, microbusiness, or nonprofit involving medical or nonmedical marijuana, without a permit from the State Board of Equalization or after a permit has been canceled, suspended, or revoked. It applies to persons and to officers of a corporation.

R&T § 34016:

(a) Any peace officer or board employee granted limited peace officer status pursuant to **P.C. § 830.11(a)(6)**, upon presenting appropriate credentials, is authorized to enter any place as described in **paragraph (3)** and to conduct inspections in accordance with the following paragraphs, inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

(3) Inspections shall be requested or conducted no more than once in a 24-hour period.

(b) Any person who fails or refuses to allow an inspection shall be guilty of a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.

(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in **R&T Code §§ 30436 through 30449**, inclusive.

(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

(f) All moneys remitted to the board under this part shall be credited to the California Marijuana Tax Fund.

R&T § 34019: The State Controller is required to disburse, from the California Marijuana Tax Fund, \$10 million per year from fiscal year 2018-2019 to fiscal year 2028-2029, to California universities to research and evaluate the implementation and effect of **Proposition 64** and make recommendations for amending it. The universities that receive money are required to publish a report at least every two years. The research areas to be covered include impacts on public health, public safety issues, and marijuana use rates. The University of California San Diego Center for Medicinal Cannabis Research will receive \$2 million per year to study the efficacy and adverse effects of marijuana as a pharmacological agent. CHP will receive \$3 million from fiscal year 2018-2019 to 2022-2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana

or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The State Controller, over five years, is required to disburse \$10 million (2018-2019), \$20 million (2019-2020), \$30 million (2020-2021), \$40 million (2021-2022), and then \$50 million (2022-2023) to the Governor’s Office of Business & Economic Development, to administer a “community reinvestments grants program” to local health departments and community-based nonprofit organizations to support job placement, mental health treatment, substance abuse 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.”

R&T § 34021: Taxes on marijuana are in addition to any other tax imposed by a city or county.

Pawnbrokers and Secondhand Dealers:

Bus. & Prof. Code § 21627.5 (New): *The California Pawn and Secondhand Dealer System:*

“CAPSS” means the “*California Pawn and Secondhand Dealer System*,” which is a single, statewide, uniform electronic reporting system that receives secondhand dealer reports and is operated by the Department of Justice.

Bus. & Prof. Code § 21628 (Amended; Effective Nov. 8, 2016): *Reporting Requirements:*

Requires secondhand dealers and coin dealers to electronically transmit reports to CAPSS no later than the next business day after the date of the transaction excluding weekends and holidays. The section provides that if transmission is not possible due to an electrical, telecommunications, or other malfunction, transmission must be as soon as is reasonable. The information related to the seller and the property being pledged that must be reported is described.

Bus. & Prof. Code § 21630 (Amended; Effective Nov. 8, 2016): *Reporting Requirements:*

(a) A secondhand dealer or coin dealer shall electronically transmit to CAPSS no later than the next business day after the date of transaction excluding weekends and holidays or, if not then possible due to an electrical, telecommunications, or other malfunction, as soon as reasonable thereafter, the report of acquisition of tangible personal property as required by **Section 21628**.

(b) Notwithstanding **Section 21628**, submission of a tangible property acquisition report is not required if the report of an acquisition of the same property from the same customer has been submitted within the preceding 12 months.

Bus. & Prof. Code § 21642.5 (Amended: Effective Nov. 8, 2016): *Licensure and renewal fees:*

Amended section established the required fees for Pawnbrokers licensees under **B&P 21641** or **Fin. Code § 21301**.

Pen Registers and Trap and Trace Devices:

Pen. Code § 638.52 (Amended; Effective Sept. 23, 2016): *Use of Pen Registers and Trap and Trace Devices; Compensation for Providing Facilities or Assistance:*

Subdivision (g) is amended to provide: “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 the order, including any extensions, expires, and that the person owning or leasing the line to which the pen register or trap and trace device is attached 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.”

New **subdivision (j)** is added, providing: “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.”

Previous **subdivisions (j)** and **(k)** were re-lettered as **(k)** and **(l)**, respectively.

Pen. Code § 638.54 (New; Effective Sept. 23, 2016): *Notification of Target of a Pen Register or Trap and Trace Device:*

Law enforcement is required to notify the target or targets of a pen register or trap and trace device within 30 days after the order for a device expires. The notice shall state “with reasonable specificity the nature of the government investigation.”

Law enforcement is required, before the 30-day period expires, to request that notification to targets be delayed and that the unsealing of an order for a pen register or trap and trace device be delayed for up to 90 days so that targets need not be notified by law enforcement and so that a person owning or leasing the line to which a device is attached (e.g., a service provider) would continue to be prohibited from disclosing the existence of the device to the customer. Permits the court to grant the delay if the court finds that notification may have an adverse result. The court may grant further extensions of up to 90 days on the same grounds.

If notice is delayed, targets must be notified within three (3) days of the expiration of the extension, and the notice must include a copy of all electronic information

obtained or a summary of that information, including 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 granting a delay in notification.

If there is no identified target, law enforcement must provide notice, as described above, to DOJ within three days of the expiration of the order. DOJ is required to publish these reports on its Internet Web site and is authorized to redact names and personal identifying information.

Pen. Code § 638.55 (New; Effective Sept. 23, 2016): *Suppression Remedies:*

New section provides suppression remedies, specifying that; “any person in a trial, hearing, or proceeding” may move to suppress any wire or electronic information obtained or retained in violation of **P.C. §§ 630–638.55** or in violation of the **Fourth Amendment** to the United States Constitution, using the procedures set out in **P.C. § 1538.5(b)–(q)**.

The Attorney General may commence a civil action to compel any government entity to comply with **P.C. §§ 630–638.53**.

An individual whose information is targeted, or a service provider or other recipient of a warrant or order, may petition the court to “void or modify” the warrant or order, or to order the destruction of information obtained in violation of **P.C. §§ 630–638.55** or in violation of the California or United States Constitutions.

Pen. Code § 1546.1 (Amended; Effective Sept. 23, 2016): *Search Warrants and Pen Registers and Trap and Trace Devices:*

Effective *September 23, 2016*, pen register and trap and trace court orders (**P.C. §§ 638.50–638.55**) is added as **subdivisions (b)(5) and (c)(12)** to the list of warrants and orders authorized by the **CalECPA** for the obtaining of electronic communication information, so that it is clear that **P.C. §§ 638.50–638.55** are effective provisions and may be used by law enforcement without running afoul of the **CalECPA**.

Note: The amendments to **P.C. § 1546.1(b) and (c)** permit a government entity to compel production of communication information from a service provider, to compel the production of or access to electronic device information from a person or entity other than the authorized possessor of the device, and to access electronic device information by means of physical interaction or electronic communication with the device, pursuant to an order for a pen register or trap and trace device, or both.

Privileged Communications:

Evid. Code § 917 (Amended): *Husband and Wife Privileged Communications:*

A communication made in confidence in the course of a marriage is presumed to have been made in confidence. As amended, this now includes any marital or domestic partnership.

Note: **Fam. Code § 297.5** provides that a “*registered domestic partner*” has the same rights, protections, benefits, responsibilities, and duties as are granted to and imposed on spouses.

Evid. Code § 980 (Amended): *Spousal Privilege not to Disclose Confidential Communications:*

The section is amended to change “*husband and wife*” to “*spouses*” and adds a reference to “*domestic partnerships*.”

Note: **Fam. Code § 297.5** provides that a “*registered domestic partner*” has the same rights, protections, benefits, responsibilities, and duties as are granted to and imposed on spouses.

Prosecutors:

Pen. Code § 141 (Amended): *A Prosecutor Withholding Exculpatory Evidence:*

Addition of new **subdivision (c)** provides that “(a) prosecuting attorney who intentionally and in bad faith alters, modifies, or withholds any physical matter, digital image, video recording, or relevant exculpatory material or information, knowing that it is relevant and material to the outcome of the case, with the specific intent that the physical matter, digital image, video recording, or relevant exculpatory material or information will be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry, is guilty of a felony”

Punishment: *Felony*; 16 months, 2 or 3 years in prison or county jail pursuant to **P.C. § 1170(h)**.

Note: While already grounds for reversal of a conviction or other court-imposed sanctions against the prosecution (See ***Brady v. Maryland*** (1963) 373 U.S. 83; generically referred to as a “*Brady Violation*.”), a prosecutor intentionally withholding exculpatory evidence is now a felony offense. Peace officers doing the same (per **subd. (b)**) is already a felony offense, but with a greater punishment; 2, 3 or 5 years in prison. For anyone else, the offense is a misdemeanor (**subd. (a)**).

Public Transportation Violations:

Pen. Code § 640 (Amended): *Public Transportation Violations and Minors:*

Criminal penalties have been eliminated for minors who commit a violation of **subdivision (c)(1)** (evading fare payment), **(c)(2)** (misuse of a pass or ticket with the intent to evade payment) or **(c)(3)** (the unauthorized use of a discount ticket) on a public transportation system. (Criminal penalties for other delinquent or prohibited activity remain.)

A public transportation agency is instead authorized to assess an “*administrative penalty*” of up to \$250 for a first or second violation, and up to \$400 for a third or subsequent violation.

Note: Existing **Pub. Utilities Code §§ 99580–99582** already permit a public transportation agency to enforce administrative penalties for the various acts prohibited by **P.C. § 640**, regardless of the age of the violator.

Search Warrants:

Evid. Code § 1560 (Amended): *Search Warrants for Business Records; Admissibility in Criminal Proceedings:*

New **subd. (f)** provides that where a search warrant for business records is served upon the custodian of records or other qualified witness of a business in compliance with **P.C. § 1524** (listing the various lawful grounds for issuance of a search warrant) regarding a criminal investigation in which the business is neither a party nor the place where any crime is alleged to have occurred, and the search warrant provides that the warrant will be deemed executed if the business causes the delivery of records described in the warrant to the law enforcement agency ordered to execute the warrant, it is sufficient compliance therewith, making such records admissible in evidence if the custodian or other qualified witness delivers by mail or otherwise a true, legible, and durable copy of all of the records described in the search warrant to the law enforcement agency ordered to execute the search warrant, together with the affidavit as described in **Evid. Code § 1561** (below) within five days after the receipt of the search warrant or within such other time as is set forth in the warrant.

Evid. Code § 1561 (Amended): *Affidavit of Custodian Of Records for Business Records Obtained via Subpoena Duces Tecum or Search Warrant:*

This section that allows for the admissibility in a criminal proceeding of business records when obtained via a “subpoena duces tecum” and when accompanied by an affidavit of the custodian or other qualified witness, laying the evidentiary foundation for the admissibility of such records as described in the section, is

amended in **subd. (a)(2)** to include records obtained by a search warrant, as described in **Evid. Code § 1560**, above.

Pen. Code § 1524 (Amended): *Grounds for Issuance of a Search Warrant:*

Subdivision (a)(15): Beginning *January 1, 2018*, the property or things authorized to be seized with a search warrant “include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to **P.C. §§ 29800** or **29805**, and the court has made a finding pursuant to **P.C. § 29810(c)(3)** (sic: **(4)**) that the person has failed to relinquish the firearm as required by law.”

Note: **P.C. § 29800** is the firearms prohibition that applies to convicted felons and narcotic drug addicts. **P.C. § 29805** is the 10-year firearms prohibition for persons convicted of a specified misdemeanor.

Note: **P.C. § 29810(c)(4)** (not **(3)**, as erroneously written into the statute) that requires the court to issue an order for the search and removal of firearms upon a probable cause finding that the defendant has failed to relinquish firearms.

Previous **Subdivisions (a)(15)** and **(16)** have been renumbered to **(a)(16)** and **(a)(17)**, respectively.

Pen. Code § 1524.4 (New): *Service Providers and Law Enforcement Contact Process:*

(a) This section applies to a service provider that is subject to the **Electronic Communications Privacy Act (P.C. §§ 1546 et seq.)** and that operates in California. This section does not apply to a service provider that does not offer services to the general public.

(b)

(1) Every service provider described in **subdivision (a)** shall maintain a law enforcement contact process that meets the criteria set forth in **paragraph (2)**.

(2) Every service provider described in **subdivision (a)** shall ensure, at a minimum, that its law enforcement contact process meets all of the following criteria:

(A) Provides a specific contact mechanism for law enforcement personnel.

(B) Provides continual availability of the law enforcement contact process.

(C) Provides a method to provide status updates to a requesting law enforcement agency on a request for assistance.

(3) Every service provider described in **subdivision (a)** shall, by *July 1, 2017*, file a statement with the Attorney General describing the law enforcement contact process maintained pursuant to **paragraph (1)**. If a service provider makes a material change to its law enforcement contact process, the service provider shall, as soon as practicable, file a statement with the Attorney General describing its new law enforcement contact process.

(c) The Attorney General shall consolidate the statements received pursuant to this section into one discrete record and regularly make that record available to local law enforcement agencies.

(d) The exclusive remedy for a violation of this section shall be an action brought by the Attorney General for injunctive relief. Nothing in this section shall limit remedies available for a violation of any other state or federal law.

(e) A statement filed or distributed pursuant to this section is confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the **California Public Records Act (Gov't. Code §§ 6250 et seq.)**

Pen. Code § 1534 (Amended): *Installation of Tracking Devices and Search Warrant:*

Subdivision (b)(4)(A) and (B) is amended to provide that an officer who executed a tracking device warrant shall notify the person who was tracked or whose property was tracked pursuant to **P.C. § 1546.2(a)**, and that such notice may be delayed pursuant to **P.C. § 1546.2(b)**. The referred to **P.C. § 1546.2** is a part of the **California Electronic Communications Privacy Act (CalECPA)**. Pursuant to **CalECPA's** provisions, within 10 days after use of a tracking device has ended, the officer must notify the person about the nature of the government investigation and provide a copy of the warrant. In addition, the provisions of **P.C. 1546.2(b)** now apply to permit a delay in notification of the target if the court determines that there is reason to believe that notification may have an adverse result.

Pen. Code § 1546 (Amended): *An Electronic Device, Defined:*

Subdivision (f) is amended to add: "An electronic device does *not* include the magnetic strip on a driver's license or an identification card."

Note: Thus, a government or law enforcement entity accessing information from the magnetic strip of a driver's license or identification card is not governed by the **California Electronic Communications Privacy Act (CalECPA) (P.C. 1546–1546.4)**, which controls how government entities may access electronic

communications information and devices. This means that an officer can swipe a driver's license or identification card in an intoxilyzer alcohol testing machine in order to populate information about an arrestee on an intoxilyzer test printout in a driving under the influence investigation.

Pen. Code § 1546.1 (Amended; Effective Sept. 13, 2016, Sept. 23, 2016, and Jan. 1, 2017): *Search Warrants and Electronic Devices*:

Effective *September 13, 2016*, new **subdivision (j)** is added, clarifying that a search warrant is *not* necessary for the collection of data related to “smart meters,” stating that “(t)his section does not limit the authority of the Public Utilities Commission or the State Energy Resources Conservation and Development Commission to obtain energy or water supply and consumption information pursuant to the powers granted to them under the **Public Utilities Code** or the **Public Resources Code** and other applicable state laws.”

Effective *September 23, 2016*, pen register and trap and trace court orders (**P.C. §§ 638.50–638.55**) is added as **subdivisions (b)(5)** and **(c)(12)** to the list of warrants and orders authorized by the **CalECPA** for the obtaining of electronic communication information, so that it is clear that **P.C. §§ 638.50–638.55** are effective provisions and may be used by law enforcement without running afoul of the **CalECPA**.

Note: The amendments to **P.C. § 1546.1(b)** and **(c)** permit a government entity to compel production of communication information from a service provider, to compel the production of or access to electronic device information from a person or entity other than the authorized possessor of the device, and to access electronic device information by means of physical interaction or electronic communication with the device, pursuant to an order for a pen register or trap and trace device, or both.

Effective *January 1, 2017*, search warrants for tracking devices (**P.C. § 1524(a)(12)**) are added to the list of warrants and orders authorized by the **CalECPA** for accessing electronic device information by means of physical interaction or electronic communication with the device.

Also added are several specific exceptions to the requirement that a government entity obtain a warrant or court order in order to access electronic device information by means of physical interaction or electronic communication with the device:

- (1) A government entity accessing information concerning the location or telephone number of an electronic device in order to respond to a 911 emergency call from that device.

(2) A device seized from a person who is subject to an electronic device search condition while on probation, mandatory supervision, or pre-trial release.

(3) A device seized from a parolee or a person on postrelease community supervision (PRCS).

(4) The exception for a device seized from an inmate or an inmate area of a state prison facility is expanded to apply also to a device seized from an inmate in a local detention facility or inmate area, and the device is not believed to belong to a visitor.

Subdivision (d) is amended to permit a court to *not* specify a particular time period in a search warrant because of the circumstances of the investigation, including, but not limited to, the nature of the device to be searched.

Information obtained pursuant to a warrant that is *not* related to the objective of the warrant to be disclosed without a court order in order to comply with discovery obligations pursuant to existing **P.C. §§ 1054.1 and 1054.7**.

Subdivision (g) is amended to *not* require destruction after 90 days of recorded prison, jail, or juvenile facility phone calls where all participants to the electronic communication were informed, prior to the communication, that the service provider may disclose the information to a government entity.

Subdivision (h) is amended to change three days to three *court* days, so that if a government entity obtains electronic information on an emergency basis, it has three *court* days after obtaining the information to file an application with the court for a warrant or order.

New **subdivision (k)** is added to provide that the **CalECPA** shall *not* be construed to alter the authority of a government entity that owns an electronic device to compel an employee to return the device to the government entity's possession.

Pen. Code § 1546.2 (Amended): *Notification of a Target of an Investigation When Electronic Information is Obtained:*

Amendment increases from three days to three *court* days the amount of time a government entity has, pursuant to the **California Electronic Communications Privacy Act (CalECPA)**, to notify the target in a situation where electronic information was obtained on an emergency basis.

Sex Offender Registration:

Pen. Code §§ 290.012, 290.014 (Amended): *Internet Identifiers Supplied to Law Enforcement:*

The provisions related to registered sex offenders supplying their “*Internet identifiers*” to law enforcement are amended as follows:

- (1) The requirement that a sex offender provide a list of Internet service providers used is eliminated;
- (2) Requiring a sex offender to provide a list of all Internet identifiers “*actually used,*” instead of identifiers “*established and used;*”
- (3) Any change of Internet identifiers is to be reported to law enforcement within 30 working days (instead of within 24 hours);
- (4) Law enforcement is prohibited from disclosing an offender’s Internet identifiers to a non-law enforcement entity or person, except by court order; *and* (5) The types of sex offenders required to register Internet identifiers is narrowed.

Note: These changes were made in order to conform to the Ninth Circuit Court of Appeals’ decision in *Doe v. Harris* (9th Cir. 2014) 772 F.3rd 563.

Pen Code § 290.015 (Amended): *Venue for Prosecution of a Failure to Register as a Sex Offender:*

Subdivision (c)(2) is amended to add postrelease community supervision (PRCS) and mandatory supervision (MS) to those forms of supervision (parole and probation) that govern which district attorney’s office may prosecute an offender for failure to register.

As amended, if a person fails to register, the district attorney in the county where the offender was is subject to PRCS, MS, parole, or probation, may prosecute for failure to register.

Pen. Code § 290.018 (Amended): *Failure to Provide Internet Identifiers; Punishment:*

New **subdivision (i)** provides that, “(a) person who fails to provide his or her Internet identifiers, as required by (P.C. § 290.015(a)(4)), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable in a county jail not exceeding six months.”

Note: Previous **subdivisions (i)** through **(k)** are renumbered accordingly to **(j)** through **(l)**.

Punishment: Misdemeanor; 6 months in county jail.

Pen. Code § 290.024 (Amended): *Registration of Internet Identifiers; Internet Identifier Defined:*

Sex offenders convicted of a felony on or after *January 1, 2017*, are required to register Internet identifiers if a court at sentencing finds that any one of the following applies:

- (1) The defendant used the Internet to collect any private information to identify the victim of the crime;
- (2) The defendant was convicted of human trafficking pursuant to **P.C. § 236.1(b)** (sex trafficking) or **P.C. § 236.1(c)** (sex trafficking involving minors) and used the Internet to traffic the victim; *or*
- (3) The defendant was convicted of a felony involving obscene matter (**P.C. §§ 311 through 311.12**) and used the Internet to prepare, publish, distribute, send, exchange, or download the obscene matter or matter depicting a minor engaging in sexual conduct.

“*Internet identifier*” is defined as “any electronic mail address or user name used for instant messaging or social networking that is actually used for direct communication between users on the Internet in a manner that makes the communication not accessible to the general public.” An Internet identifier does *not* include passwords, date of births, social security numbers, or PIN numbers.

Pen. Code § 290.45 (Amended): *Non-Disclosure of Internet Identifiers to the Public:*

Law enforcement is prohibited from disclosing an offender’s Internet identifiers to a non-law enforcement entity or person, except by court order (as an exception to the right of law enforcement to disclose information about a sex offender when necessary to ensure public safety).

A law enforcement agency may use an Internet identifier submitted with a sex offender’s registration or to release it to another law enforcement agency *only* for the purpose of investigating a sex-related crime, a kidnapping, or human trafficking.

Sexual Assault Crimes:

Fam. Code § 6228 (Amended): *Stalking, Human Trafficking, Elder or Dependent Adult Abuse, and Domestic Violence Reports Provided to Victims:*

The victims in four categories of crimes; i.e., *stalking, human trafficking, elder or dependent adult abuse*, and a long list of *sexual assault crimes* from **P.C. §§ 261 to 311.4**, are added to those crimes (i.e., *domestic violence*) for which a state or local law enforcement agency is required to provide to the victim or the victim’s

representative, *upon request and free of charge*, one copy of the incident report and one copy of the incident report face sheet. The requirement to supply one free copy of a sexual assault, human trafficking, stalking, or elder/dependent adult abuse report applies to a victim request made within *two years* of the completion of the report. The requirement to supply one free copy of a domestic violence report continues to apply to a victim request made within *five years* of the completion of the report. The section also provides that “*victim*” includes a minor age 12 or older.

Health & Safety Code § 11350.5 (New): *Possession of a Controlled Substance with the Intent to Commit a Sexual Assault:*

(a) Except as otherwise provided in this division, every person who possesses a controlled substance specified in **H&S Code § 11054 (e)(3)** (see below) with the intent to commit sexual assault is guilty of a felony.

(b) For purposes of this section, “*sexual assault*” means conduct in violation of **P.C. §§ 243.4** (sexual battery), **261** (rape), **262** (spousal rape), **286** (sodomy), **288a** (oral copulation), or **289** (sexual penetration).

Punishment: Felony; 16 months, 2 or 3 years, in prison or county jail pursuant to **P.C. § 1170(h)**.

H&S § 11054(e)(3) specifies gamma hydroxybutyric acid (GHB), its precursors, isomers, salts, etc., for which an application has *not* been approved under the Federal Food, Drug, and Cosmetic Act.

Note: GHB is commonly known as a date rape drug.

Health & Safety Code § 11375.5 (Amended; Effective 9/25/2016): *Using or Possessing a Synthetic Stimulant Compound or Derivative:*

The punishments for a second and third offense (**subd (b)(2) & (3)**) of using or possessing a synthetic stimulant compound or derivative is increased to an infraction punishable by a fine of up to \$250 *or* a misdemeanor punishable by up to six months in jail and/or by a fine of up to \$500, for a second offense, and a misdemeanor punishable by up to six months in jail and/or by a fine of up to \$1,000, for a third offense.

The definition of a synthetic stimulant is expanded by, among other things, adding analogs. (**subd. (c)**)

Health & Safety Code § 11377.5 (New); *Possession of a Controlled Substance with the Intent to Commit a Sexual Assault:*

(a) Except as otherwise provided in this division, every person who possesses any controlled substance specified in **H&S Code § 11056(c)(11)**, or (g), or **11057(d)(13)**, with the intent to commit sexual assault is guilty of a felony.

(b) For purposes of this section, “*sexual assault*” means conduct in violation of **P.C. §§ 243.4** (sexual battery), **261** (rape), **262** (spousal rape), **286** (sodomy), **288a** (oral copulation), or **289** (sexual penetration).

Punishment: Felony; 16 months, 2 or 3 years, in prison or county jail pursuant to P.C. § 1170(h).

H&S § 11056(c)(11): GHB; gamma hydroxybutyric acid, or its salts or isomers, contained in a drug product for which an application *has* been approved under the Federal Food, Drug, and Cosmetics Act.

H&S § 11056(g): Ketamine.

H&S Code § 11057(d)(13): Flunitrazepam, also known as Rohypnol.

Note: GHB, Ketamine, and Rohypnol are commonly known as date rape drugs.

Health & Safety Code §§ 11400, 11401 (Amended): *Controlled Substance Analogs:*

The definition of a controlled substance analog is expanded to add synthetic cannabinoid compounds. For purposes of penalty and punishment (in **H&S Code §§ 11350–11392**), a controlled substance analog is to be treated the same as the controlled substance of which it is an analog.

Health & Safety Code § 11470.1 (Amended): *Recovery of Expenses of Seizing, Eradicating, or Destroying Illegally Manufactured or Cultivated Controlled Substances:*

This section that previously permitted obtaining a pre-conviction civil judgment to recover the *expenses* of seizing, eradicating, or destroying a controlled substance from a person who illegally manufactured or cultivated a controlled substance or its precursors is amended to provide that a conviction for unlawfully manufacturing or cultivating a controlled substance or its precursors is required before the entry of judgment for the recovery of expenses.

Note: Existing **H&S Code § 11470.2** is still in effect and continues to permit a prosecuting attorney to seek recovery of expenses after obtaining a criminal conviction.

Pen. Code §§ 799, 801.1, 803 (Amended): *Statute of Limitations for Sexual Assault Cases:*

The statute of limitations for just almost all sexual assault crimes has been eliminated so that their prosecution (like offenses punishable by death or life in prison, or involving the embezzlement of public money) may now be commenced at any time. This applies to crimes committed on or after *January 1, 2017*, and to crimes for which the statute of limitations has not run as of January 1, 2017. Sex crimes that are already time-barred as of January 1, 2017, are *not* revived.

Sightseeing at Emergency Scenes:

Pen. Code § 402 (Amended): *Sightseeing at the Scene of an Emergency; Drones:*

(a)(2) The misdemeanor crime of sightseeing at the scene of an emergency is expanded to include a person, regardless of his or her location, who operates or uses an unmanned aerial vehicle, remote piloted aircraft, or drone at the scene of an emergency.

Punishment: Misdemeanor; 6 months in county jail and/or a fine of up to \$1,000. (P.C. § 19)

Stalking:

Fam. Code § 6228 (Amended): *Stalking, Human Trafficking, Elder or Dependent Adult Abuse, and Domestic Violence Reports Provided to Victims:*

The victims in four categories of crimes; i.e., *stalking, human trafficking, elder or dependent adult abuse*, and a long list of *sexual assault crimes* from **P.C. §§ 261 to 311.4**, are added to those crimes (i.e., *domestic violence*) for which a state or local law enforcement agency is required to provide to the victim or the victim's representative, *upon request and free of charge*, one copy of the incident report and one copy of the incident report face sheet. The requirement to supply one free copy of a sexual assault, human trafficking, stalking, or elder/dependent adult abuse report applies to a victim request made within *two years* of the completion of the report. The requirement to supply one free copy of a domestic violence report continues to apply to a victim request made within *five years* of the completion of the report. The section also provides that "*victim*" includes a minor age 12 or older.

Statute of Limitations:

Pen. Code §§ 799, 801.1, 803 (Amended): *Statute of Limitations for Sexual Assault Cases:*

The statute of limitations for just almost all sexual assault crimes has been eliminated so that their prosecution (like offenses punishable by death or life in prison, or involving the embezzlement of public money) may now be commenced at any time. This applies to crimes committed on or after *January 1, 2017*, and to crimes for which the statute of limitations has not run as of January 1, 2017. Sex crimes that are already time-barred as of January 1, 2017, are *not* revived.

Subpoenas:

Gov't. Code § 53060.4 (New): *Issuance of Subpoenas by City & County Officials:*

A legislative body of a city or county may delegate to a county or city official or department head the authority to issue subpoenas and to report noncompliance thereof to a superior court judge, in order to enforce any local law or ordinance, including, but not limited to, local wage laws.

Terrorism:

Gov't. Code § 8587.6 (New): *Identifying and Reporting Terrorist Activity:*

The Office of Emergency Services (OES) is required by *January 1, 2018* to adopt a public education program to enhance the public's knowledge about how to identify and report suspected terrorist activity. OES is to post the program on its Internet Web site.

Theft:

Pen. Code § 148.5 (Amended): *False Report of the Theft or Loss of a Firearm:*

New **subdivision (f)** provides that reporting a firearm to be lost or stolen, knowing the report to be false, constitutes the misdemeanor crime of falsely reporting a crime.

Punishment: Misdemeanor; 6 months in county jail and/or a fine of up to \$1,000. (P.C. § 19)

Note: P.C. § 29805 is also amended to add P.C. § 148.5(f) to the list of misdemeanor convictions that prohibit a defendant from owning, possessing, or controlling a firearm for 10 years.

Pen. Code § 396 (Amended): *Price Gouging During a State of Emergency*:

The misdemeanor crime of “*price gouging during a state of emergency*” is expanded by adding towing services to the types of goods and services (i.e., food, emergency supplies, construction services, medical supplies, building supplies, gasoline, transportation, and housing) to which price gouging applies.

Also “*housing*” is expanded to include rental housing with an initial lease term of no longer than one year, instead of defining “*housing*” as rental housing leased on a month to month term.

The definitions of “*state of emergency*” and “*local emergency*” is expanded by adding “drought, plant or animal infestation or disease, or other natural or manmade disaster” to the events already listed (i.e., earthquake, flood, fire, riot, and storm).

Pen. Code § 490.2 (Amended; Effective Nov. 9, 2016): *Theft of a Firearm*:

The section, which makes the theft of property valued at \$950 or less a misdemeanor, is amended to provide that; “This section shall not apply to theft of a firearm.”

Note: The theft of any firearm after November 9, 2016, therefore, is a felony regardless of value per **P.C. § 487(d)(2)**. Pursuant to **P.C. § 489(a)**, it is a non-alternative felony punishable by 16 months, two years, or three years in state prison.

Pen. Code § 25250 (New; Effective July 1, 2017): *Failure to Report a Loss, Theft, or Recovery of a Firearm*:

Beginning *July 1, 2017*, new **Subdivision (a)** creates the new infraction/misdemeanor crime of an owner or possessor of a firearm failing to report its *loss or theft* to law enforcement within five days of the time he or she knew or reasonably should have known that the firearm was stolen or lost.

Beginning *July 1, 2017*, new **subdivision (b)** creates the new infraction/misdemeanor crime of failing to notify law enforcement within five days of *the recovery* of a firearm previously reported lost or stolen.

Punishment:

First Offense: *Infraction*, with a fine of up to \$100.

Second Offense: *Infraction*, with a fine of up to \$1,000.

Third and Subsequent Offense: *Misdemeanor*; 6 months in jail and/or by a fine of up to \$1,000. (**P.C. § 25265**).

Tobacco:

Bus. & Prof. Code § 22950.5 (Amended: Effective June 9, 2016): *Definitions:*

New **subdivisions (c) and (d)** are added, with the following definitions:

(c) “*Smoking*” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoking” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

(d)

(1) “*Tobacco product*” means any of the following:

(A) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.

(B) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

(C) Any component, part, or accessory of a tobacco product, whether or not sold separately.

(2) “*Tobacco product*” does *not* include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

Bus. & Prof. Code § 22951 (Amended: Effective June 9, 2016): *Legislative Findings and Declarations:*

The “*Legislative Findings and Declarations*” has been amended to include any person under the age of 21 years, as opposed to “*minors*.”

“The Legislature finds and declares that reducing and eventually eliminating the illegal purchase and consumption of tobacco products by any person under 21 years of age is critical to ensuring the long-term

health of our state's citizens. Accordingly, California must fully comply with federal regulations, particularly the 'Synar Amendment,' that restrict tobacco sales to minors and require states to vigorously enforce their laws prohibiting the sale and distribution of tobacco products to persons under 18 years of age. Full compliance and vigorous enforcement of the "Synar Amendment" requires the collaboration of multiple state and local agencies that license, inspect, or otherwise conduct business with retailers, distributors, or wholesalers that sell tobacco."

Bus. & Prof. Code § 22952 (Amended: Effective June 9, 2016): *Duties of the Department of Health; Sting Operations:*

The section is amended to show that enforcement activities are to prevent the selling of tobacco products to persons under the age of 21 years, as opposed to 18 years, and regulating the use of persons under the age of 21 years in sting operations.

Bus. & Prof. Code § 22956 (Amended: Effective June 9, 2016): *Identification Check Prior to Sale of Tobacco:*

The section is amended to require that "(a)ll persons engaging in the retail sale of tobacco products shall check the identification of tobacco purchasers, to establish the age of the purchaser, if the purchaser reasonably appears to be under 21 years of age," as opposed to 18 years of age.

Bus. & Prof. Code § 22958 (Amended: Effective June 9, 2016): *Civil Penalties:*

New **subdivision (a)(1)** is added, providing:

"An enforcing agency may assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under 21 years of age, any tobacco, cigarette, cigarette papers, any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, tobacco products, or any controlled substance, according to the following schedule: (i.e., \$400 to \$6,000, depending upon the subject's prior history for violations of the same; see **subd. (a)(2)**)."'

"21 years of age" is substituted for "18 years of age" throughout the section.

The term "tobacco products" is substituted for any reference to "products prepared from tobacco."

Bus. & Prof. Code § 22962 (Amended: Effective June 9, 2016): *Definitions:*

Subd. (a)(3) is amended to read: “*Tobacco product*” means a product or device as defined in **subdivision (d)** of **Section 22950.5** of the **Business and Professions Code.**” (See above)

Bus. & Prof. Code § 22963 (Amended: Effective June 9, 2016): *Prohibition of Distribution of Tobacco Products Through the Mail to Persons Under the Age of 21:*

“21 years” is substituted for any references to persons under the age of “18 years” of age.

Bus. & Prof. Code § 22964 (New: Effective June 9, 2016): *Local Restrictions on the Purchase or Possession of Tobacco Products:*

New section provides that “(t)his division sets forth minimum state restrictions with respect to the legal age to purchase or possess tobacco products and does not preempt or otherwise prohibit the adoption of a local standard that imposes a more restrictive legal age to purchase or possess tobacco products. A local standard that imposes a more restrictive legal age to purchase or possess tobacco products shall control in the event of any inconsistency between this division and a local standard.”

Health & Safety Code § 104495 (Amended; Effective June 9, 2016): *Tobacco Products:*

The definition of tobacco products and smoking is expanded to include electronic smoking devices that deliver nicotine or other vaporized liquids.

Beginning January 1, 2017, this section is further amended to create the new infraction crime of being in a park or facility where a youth sports event is taking place and using a tobacco product within 250 feet of the youth sports event.

A “*youth sports event*” is defined as a practice, game, or related activity organized by any entity at which athletes up to 18 years of age are present.

The section retains the existing infraction crimes that prohibit smoking and tobacco littering within 25 feet of a playground or tot lot sandbox.

Punishment: Infraction; a \$250 fine.

Pen. Code § 308 (Amended; Effective June 9, 2016): *Tobacco Products & Minors:*

The section has been amended to eliminate any penal sanctions for minors possessing cigarettes or other smoking paraphernalia. The amended section now covers only the criminal and civil sanctions for any “person, firm, or corporation”

to furnish tobacco products to anyone under the age of 21 (raised from 18, with the exception of active military personnel). It also expands the term “*cigarette*” to include “*electronic cigarettes*,” as defined in amended **B&P Code § 22950.5(d)** (see above). Lastly, provisions for using minors in undercover sting cigarette purchasing operations have been deleted from **P.C. § 308** and are now covered exclusively, and in more detail, in **B&P Code § 22952**.

Tow Truck Companies:

Veh. Code § 22513 (Amended): *Regulation of Unsolicited Tow Company Services:*

(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, or alleging it was 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, or alleging it was 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 **subparagraph (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, or alleging it was 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 **subparagraphs (A), (B), and (C)**.

(4) A towing company or the owner or operator of a tow truck summoned or requested, or alleging it was 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 **subdivision (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 **paragraph (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 **paragraph (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) **Paragraph (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 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 **subdivision (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 (Amended): *Businesses Taking Possession of a Towed Vehicle from a Tow Company:*

(a)

(1) A business taking possession of a vehicle from a tow truck during hours the business is open to the public shall document all of the following:

(A) The name, address, and telephone number of the towing company.

(B) The name and driver's license number, driver's identification number issued by a motor club, as defined in **Ins. Code § 12142**, or other government authorized unique identifier of the tow truck operator.

(C) The make, model, and license plate or Vehicle Identification Number.

(D) The date and time that possession was taken of the vehicle.

(2) For purposes of **subparagraph (B)** of **paragraph (1)**, if a tow truck operator refuses to provide information described in **subparagraph (B)** of **paragraph (1)** to a new motor vehicle dealer, as defined in **V.C. § 426**, a new motor vehicle dealer is in compliance with this section if the new motor vehicle dealer documents the reasonable efforts made to obtain this information from the tow truck operator.

(b) A business taking possession of a vehicle from a tow truck when the business is closed to the public shall document all of the following:

(1) The make, model, and license plate or vehicle identification number.

(2) The date and time that the business first observed the vehicle on its property.

(3) The reasonable effort made by the business to contact the towing company, if identifying information was left with the vehicle, and the vehicle's owner or operator to obtain and document both of the following:

(A) The name, address, and telephone number of the towing company.

(B) The name and driver's license number, driver's identification number issued by a motor club, as defined in **Ins. Code § 12142**,

or other government authorized unique identifier of the tow truck operator.

(c) 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, a 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.

(d) For purposes of this section, a new motor vehicle dealer, as defined in V.C. § 426, is not open to the public during hours its repair shop is closed to the public.

(e) 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 Violations:

Veh. Code § 21655.1 (New): *Operating a Vehicle in a Bus Zone:*

A driver is prohibited from operating a vehicle on the portion of a highway designated for the exclusive use of public transit buses, except as directed by a peace officer or traffic control device, or except as required to make a right or left turn.

Veh. Code § 21658.1 (New): *Lane-Splitting:*

The California Highway Patrol is authorized to develop educational guidelines for lane splitting that will ensure the safety of both motorcyclists and drivers of other vehicles on the road.

“*Lane splitting*” is defined as driving a motorcycle between rows of stopped or moving vehicles in the same lane, on divided or undivided streets, roads, or highways.

Note: The legislative history of this bill states that no law currently prohibits lane splitting and thus it is permitted without restrictions.

Veh. Code § 22500 (Amended): *Stopping, Parking, or Leaving a Vehicle in a Bus Zone:*

Stopping, parking, or leaving of a vehicle in a portion of a highway designated for the exclusive use of public transit buses, except as directed by a peace officer or traffic control device, is prohibited.

Veh. Code § 23123.5 (Repealed and Added): *Operation of Any Electronic Wireless Communications Device While Driving:*

The “*Texting While Driving*” regulations have been deleted and replaced with the broader provisions, below:

(a) A person shall not drive a motor vehicle while holding and operating a handheld wireless telephone or an electronic wireless communications device unless the wireless telephone or electronic wireless communications device is specifically designed and configured to allow voice-operated and hands-free operation, and it is used in that manner while driving.

(b) This section shall not apply to manufacturer-installed systems that are embedded in the vehicle.

(c) A handheld wireless telephone or electronic wireless communications device may be operated in a manner requiring the use of the driver’s hand while the driver is operating the vehicle only if both of the following conditions are satisfied:

(1) The handheld wireless telephone or electronic wireless communications device is mounted on a vehicle’s windshield in the same manner a portable Global Positioning System (GPS) is mounted pursuant to **V.C. § 26708(b)(12)** or is mounted on or affixed to a vehicle’s dashboard or center console in a manner that does not hinder the driver’s view of the road.

(2) The driver’s hand is used to activate or deactivate a feature or function of the handheld wireless telephone or wireless communications device with the motion of a single swipe or tap of the driver’s finger.

(d) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.

(e) This section does not apply to an emergency services professional using an electronic wireless communications device while operating an authorized emergency vehicle, as defined in **V.C. § 165**, in the course and scope of his or her duties.

(f) For the purposes of this section, “*electronic wireless communications device*” includes, but is not limited to, a broadband personal communication device, a specialized mobile radio device, a handheld

device or laptop computer with mobile data access, a pager, or a two-way messaging device.

Veh. Code § 27317 (Repealed and Added): *Airbag Fraud*:

(a) A person shall not knowingly and intentionally manufacture, import, install, reinstall, distribute, sell, or offer for sale any device intended to replace a supplemental restraint system component in any motor vehicle if the device is a counterfeit supplemental restraint system component or a nonfunctional airbag, or does not meet federal safety requirements as provided in **Fed. Code of Regulations § 571.208**.

(b) A person shall not knowingly and intentionally sell, install, or reinstall in a vehicle, any device that causes the vehicle's diagnostic systems to fail to warn when the vehicle is equipped with a counterfeit supplemental restraint system component or nonfunctional airbag, or when no airbag is installed.

(c) A violation of **subdivision (a)** or **(b)** is a misdemeanor punishable by a fine of up to five thousand dollars (\$5,000) or by imprisonment in a county jail for up to one year, or by both the fine and imprisonment.

(d) An installation or reinstallation shall not have occurred for purposes of this section until the work is complete.

(e) The following definitions shall apply for purposes of this section:

(1) "*Airbag*" means a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system.

(2) "*Counterfeit supplemental restraint system component*" means a replacement supplemental restraint system component, including, but not limited to, an airbag that displays a mark identical or substantially similar to the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without authorization from that manufacturer or supplier, respectively.

(3) "*Nonfunctional airbag*" means a replacement airbag that meets any of the following criteria:

(A) The airbag was previously deployed or damaged.

(B) The airbag has an electric fault that is detected by the vehicle's airbag diagnostic systems when the installation procedure is completed and the vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred.

(C) The airbag includes a part or object, including, but not limited to, a supplemental restraint system component installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed.

(D) The airbag is subject to the prohibitions of **49 U.S.C. § 30120(j)**.

(4) “*Supplemental restraint system*,” commonly referred to as an “*SRS*,” means a passive inflatable motor vehicle occupant crash protection system designed for use in conjunction with active restraint systems, as defined in **Federal Code of Regulations 49 U.S.C. § 571.208**. A supplemental restraint system includes one or more airbags and all components required to ensure that an airbag works as designed by the vehicle manufacturer, including both of the following:

(A) The airbag operates in the event of a crash.

(B) The airbag is designed in accordance with federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed.

(f) This section does not affect any duties, rights, or remedies otherwise available at law.

(g) This section does not preclude prosecution under any other law.

Veh. Code § 27360 (Amended): *Child Vehicle Restraint Systems*:

A child under age two who is riding in a motor vehicle must be in a *rear*-facing child passenger restraint system unless the child weighs 40 or more pounds or is 40 or more inches tall.

Note: The section continues to require that a child under age eight be secured in a child passenger restraint system in the rear of a vehicle, unless any of the exceptions in existing **V.C. § 27363** are met (e.g., child weighs more than 40 pounds or is at least four feet nine inches tall.)

Veh. Code §§ 27425, 27426, 27427 (New): *Charter Bus Regulations; Emergency Lighting Fixtures*:

Charter buses designed to carry 39 or more passengers and manufactured on or after July 1, 2020, are required to be equipped with emergency lighting fixtures that will turn on in the event of an impact or collision.

Veh. Code §§ 34505.8 (New): *Charter Bus Regulations; Safety Instructions to Passengers:*

The driver of a charter bus designed to carry 39 or more passengers is required to instruct or play a video for passengers on the safety equipment and emergency exits before any trip, and to provide each passenger with written or video instructions that demonstrate the location and operation of all exits and the importance of wearing seatbelts, if available.

The California Highway Patrol, by *July 1, 2018*, is to adopt standards and criteria for the implementation of the above safety requirements.

Victims:

Fam. Code § 6228 (Amended): *Stalking, Human Trafficking, Elder or Dependent Adult Abuse, and Domestic Violence Reports Provided to Victims:*

The victims in four categories of crimes; i.e., *stalking, human trafficking, elder or dependent adult abuse*, and a long list of *sexual assault crimes* from **P.C. §§ 261 to 311.4**, are added to those crimes (i.e., *domestic violence*) for which a state or local law enforcement agency is required to provide to the victim or the victim's representative, *upon request and free of charge*, one copy of the incident report and one copy of the incident report face sheet. The requirement to supply one free copy of a sexual assault, human trafficking, stalking, or elder/dependent adult abuse report applies to a victim request made within *two years* of the completion of the report. The requirement to supply one free copy of a domestic violence report continues to apply to a victim request made within *five years* of the completion of the report. The section also provides that "*victim*" includes a minor age 12 or older.

Pen. Code § 190.6 (Amended; Effective Nov. 9, 2016): *Speedy Appeal in Death Penalty Cases:*

(d) The right of crime victims to a prompt and final conclusion to a criminal case as provided in the **California Constitution (article I, section 28(b)(9))** includes the right to have judgments of death carried out "within a reasonable time."

The Judicial Council is required, within 18 months of *November 9, 2016* (the effective date of **Proposition 66**) to adopt rules and standards to expedite the processing of capital appeals and state habeas corpus review.

State courts are required to complete the state appeal and the initial state habeas corpus review in capital cases within five years of the adoption of rules by the Judicial Council or the entry of judgment, whichever is later.

The Judicial Council is to “continuously monitor” the timeliness of capital case review and to amend the rules and standards as necessary so that state appeal and initial state habeas corpus proceedings are completed within five years.

(e) The failure of the parties or of a court to comply with the time limits in existing **subdivision (b)** of **P.C. § 190.6** (generally requiring the opening appellate brief in a capital case to be filed within seven months of the record being certified for completeness or appellant’s counsel receiving the completed record, whichever is later) does not affect the validity of a judgment or require dismissal of an appeal or habeas corpus petition.

Either party or a victim of the crime may file a petition for a writ of mandate if a court fails to comply with **P.C. § 190.6(b)** without extraordinary and compelling reasons justifying the delay. The court is required to act on such a petition within 60 days of filing.

Article I, section 28(c)(1), of the **California Constitution** regarding standing to enforce victims’ rights, applies to the time frames specified in **P.C. § 190.6(d)** and **(e)**.

See “*Human Trafficking*,” above.