

1 An act to amend Section 11362.785 of, and to add Section 11362.787  
2 to, the Health and Safety Code, relating to medical marijuana.  
3 AB 2279, as amended,  
4

5 Existing law, the Compassionate Use Act of 1996, provides that a  
6 patient or a patient's primary caregiver who possesses or cultivates  
7 marijuana for personal medical purposes of the patient upon the  
8 written or oral recommendation or approval of a physician is not  
9 subject to conviction for offenses relating to possession and  
10 cultivation of marijuana.

11  
12 Existing law requires the State Department of Public Health to  
13 establish and maintain a voluntary program for the issuance of  
14 identification cards to patients qualified to use marijuana for their  
15 personal medical purposes, and to their primary caregivers, if any.  
16

17  
18 THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS  
19 FOLLOWS:  
20

21 The definitions in this section apply throughout this chapter unless the  
22 context clearly requires otherwise.  
23

24 “Defined relationship” means that the parties have agreed to become  
25 collective members and shall cultivate, manufacture, sell, dispense,  
26 distribute, transport, or deliver marijuana and marijuana products on behalf  
27 of other members who are qualified patients and/or primary caregivers, as  
28 provided by as provided for under California Health and Safety Code  
29 11362.765  
30

31 “The Department” means the California Department of Food and  
32 Agriculture.  
33

34 “The Division” means the Inspection Services Division of the California  
35 Department of Food and Agriculture.  
36

37 "Dispense" means the selection, measuring, packaging, labeling, delivery, or  
38 distribution or sale of marijuana by a Medical Cannabis Dispensing  
39 Collective, a Medical Cannabis Delivery Collective, a Medical Cannabis

1 Manufacturer, or a Medical Cannabis Cultivator, as defined by this act, to a  
2 qualifying patient or a primary caregiver.

3  
4 "Labeling" means all labels and other written, printed, or graphic matter (a)  
5 upon any marijuana intended for medical use, or (b) accompanying such  
6 marijuana.

7  
8 "Medical Cannabis Cultivator" means any individual or not for profit entity  
9 organized to cultivate, dispense, and deliver marijuana and marijuana  
10 products for medical use to Medical Cannabis Delivery Collectives, Medical  
11 Cannabis Dispensing Collectives, or Medical Cannabis Product  
12 Manufacturers, or their own qualifying patients and/or primary caregiver  
13 members.

14  
15 "Medical Cannabis Delivery Collective" means any not for profit entity  
16 organized to cultivate, dispense, and deliver marijuana and marijuana  
17 products for medical use to patients and their primary caregivers who are  
18 members.

19  
20 "Medical Cannabis Dispensing Collective" means any not for profit entity  
21 organized to cultivate and dispense marijuana and marijuana products  
22 through storefronts for medical use to patients and their primary caregivers  
23 who are members.

24  
25 "Medical cannabis products" means products that contain marijuana or  
26 marijuana extracts, and are intended for human consumption or application,  
27 including, but not limited to, edible products, tinctures, and lotions.

28  
29 "Medical Cannabis Product Manufacturer" means any person or not for  
30 profit entity organized to manufacture medical cannabis products meant for  
31 dispensing within Medical Cannabis Dispensing Collectives and/or Medical  
32 Cannabis Delivery Collectives and/or directly to the manufacturer's  
33 qualified patient and/or primary caregiver members, if organized as a  
34 collective. Medical Cannabis Product Manufacturers shall be members or  
35 have a defined relationship with Medical Cannabis Dispensing Collectives  
36 and/or Medical Cannabis Delivery Collectives, as provided for under  
37 California Health and Safety Code 11362.765(b)(3). Medical Cannabis  
38 Product Manufacturers may be members or have a defined relationship with  
39 Medical Cannabis Cultivators. Medical Cannabis Product Manufacturers do  
40 not include qualified patients and primary caregivers who produce medical

1 cannabis products for their own individual use or for the use of a patient  
2 under their care.

3  
4 “Visiting Qualified Patient” means a person with a medical condition who is  
5 currently participating in another state’s medical marijuana program, and is  
6 in possession of a valid out-of-state medical marijuana program  
7 identification card or its equivalent.

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10 **EMPLOYMENT**

11  
12 SECTION 1. Section 11362.785 of the Health and Safety Code is  
13 amended to read:

14 11362.785. (a) Nothing in this article shall require any  
15 accommodation of any medical use of marijuana on the property or  
16 premises of any place of employment or during the hours of  
17 employment, except as provided in Section 11362.787, or on the  
18 property or premises of any jail, correctional facility, or other  
19 type of penal institution in which prisoners reside or persons under  
20 arrest are detained.

21 (b) Nothing in this article shall require a governmental, private,  
22 or any other health insurance provider or health care service plan  
23 to be liable for any claim for reimbursement for the medical use of  
24 marijuana.

25 SEC. 2. Section 11362.787 is added to the Health and Safety Code,  
26 to read:

27 11362.787. (a) Notwithstanding subdivision (a) of Section  
28 11362.785, and except as provided in subdivision (c), it is unlawful  
29 for an employer to discriminate against a person in hiring,  
30 termination, or any term or condition of employment or otherwise  
31 penalize a person, if the discrimination is based solely  
32 upon either of the following:

33 (1) The person's status as a qualified patient or a designated  
34 primary caregiver.

35 (2) The person's positive drug test for marijuana, provided the  
36 person is a qualified patient and the medical use of marijuana, as  
37 defined in Section 11362.7, does not occur on the property or  
38 premises of the place of employment or during the hours of  
39 employment, as required by Section 11362.785.

40 (b) A person who has suffered discrimination in violation of

1 subdivision (a) may institute and prosecute in his or her own name  
2 and on his or her own behalf a civil action for damages, injunctive  
3 relief, and any other appropriate equitable relief to protect the  
4 peaceable exercise of the right or rights secured.

5 (c) (1) Paragraph (2) of subdivision (a) shall not apply when an  
6 employer employs a person in a safety-sensitive position.

7 (2) For purposes of this section, a safety-sensitive position  
8 means a position in law  
9 enforcement, as defined in subdivision (d) of Section 13951 of the  
10 Government Code, or a position in which medical  
11 marijuana-affected performance could clearly endanger the health and  
12 safety of others. A safety-sensitive position shall have all of the  
13 following general characteristics:

14 (A) Its duties involve a greater than normal level of trust,  
15 responsibility for, or impact on the health and safety of others.

16 (B) Errors in judgment, inattentiveness, or diminished  
17 coordination, dexterity, or composure while performing its duties  
18 could clearly result in mistakes that would endanger the health and  
19 safety of others.

20 (C) An employee in a position of this nature works independently,  
21 or performs tasks of a nature that it cannot safely be assumed that  
22 mistakes like those described in subparagraph (B) could be prevented  
23 by a supervisor or another employee.

## 24 25 **DUI MJ**

26  
27 **SECTION 2.** Section 23152 of the Vehicle Code, subdivision (b) is  
28 amended to include:

29  
30 Nothing in this chapter shall authorize the operation of a vehicle while under  
31 the influence of marijuana.

32  
33 A qualified patient shall not be considered to be operating a vehicle under  
34 the influence solely for having marijuana metabolites in his or her system,  
35 being a qualified patient, or being in possession of marijuana.

## 36 37 **HOUSING**

38  
39 **SECTION 3.** Add Section 11362.84 to the Health and Safety Code:  
40 A qualified patient or primary caregiver shall not be subject to any civil

1 penalty, including but not limited to the loss of property, or eviction solely  
2 for one or more of the following:  
3 1)testing positive for marijuana use, or  
4 2)for being a qualified patient or primary caregiver, or  
5 3)for exercising rights as defined by Section 11358 of the Health and Safety  
6 Code, or  
7 4)for use of marijuana, or  
8 5)as an employee or agent of a Medical Cannabis Dispensing Collective,  
9 Medical Cannabis Delivery Collective, Medical Cannabis Cultivator, or  
10 Medical Cannabis Product Manufacturer.

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12 **CHILD CUSTODY**

13  
14 SECTION 4. Section 3011 of the California Family Code, subdivision (d),  
15 is amended to read: The habitual or continual illegal use of controlled  
16 substances or habitual or continual abuse of alcohol by either parent. Before  
17 considering these allegations, the court may first require independent  
18 corroboration, including, but not limited to, written reports from law  
19 enforcement agencies, courts, probation departments, social welfare  
20 agencies, medical facilities, rehabilitation facilities, or other public agencies  
21 or nonprofit organizations providing drug and alcohol abuse services. As  
22 used in this subdivision, "controlled substances" has the same meaning as  
23 defined in the California Uniform Controlled Substances Act, Division 10  
24 (commencing with Section 11000) of the Health and Safety Code. As used  
25 in this subdivision, "habitual or continual illegal use of controlled  
26 substances" does not include the following:

27 1)testing positive for marijuana use, or  
28 2)for being a qualified patient or primary caregiver, or  
29 3)for exercising rights as defined by Section 11358 of the Health and Safety  
30 Code, or  
31 4)for use of marijuana, or  
32 5)as an employee or agent of a Medical Cannabis Dispensing Collective,  
33 Medical Cannabis Delivery Collective, Medical Cannabis Cultivator, or  
34 Medical Cannabis Product Manufacturer.

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37 **RECIPROCITY**

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39 SECTION 5. Add Section 11362.85 to the Health and Safety Code:  
40 A visiting qualified patient shall have the same rights and privileges under

1 California law as a qualified patient.

2  
3 **SEARCH, SEIZURE, FORFEITURE**

4 SECTION 6. Add Section 11362.86 to the Health and Safety Code:

5 The fact that a person is a qualified patient or primary caregiver, or is the  
6 employee or agent of a Medical Cannabis Dispensing Collective, Medical  
7 Cannabis Delivery Collective, Medical Cannabis Cultivator, or Medical  
8 Cannabis Product Manufacturer does not, alone:

9 (a) Constitute probable cause to search the person or the person's  
10 property; or

11 (b) Subject the person or the person's property to inspection by any  
12 governmental agency.

13 Except as otherwise provided in this subsection, if officers of a state or local  
14 law enforcement agency seize marijuana, drug paraphernalia or other related  
15 property from a person engaged or assisting in the medical use of marijuana:

16 (a) The law enforcement agency shall ensure that the marijuana, drug  
17 paraphernalia or other related property is not destroyed while in the  
18 possession of the law enforcement agency.

19 (b) Any property interest of the person from whom the marijuana, drug  
20 paraphernalia or other related property was seized must not be forfeited  
21 pursuant to any provision of law providing for the forfeiture of property,  
22 except as part of a sentence imposed after conviction of a criminal offense.

23 (c) Upon a determination by the district attorney of the county in which  
24 the marijuana, drug paraphernalia or other related property was seized, or the  
25 district attorney's designee, that the person from whom the marijuana, drug  
26 paraphernalia or other related property was seized is engaging in or assisting  
27 in the medical use of marijuana in accordance with the provisions of this  
28 chapter, the law enforcement agency shall immediately return to that person  
29 any usable marijuana, marijuana plants, drug paraphernalia or other related  
30 property that was seized.

31 For the purposes of paragraph (c) of subsection 2, the determination of a  
32 district attorney or the district attorney's designee that a person is engaging  
33 in or assisting in the medical use of marijuana in accordance with the  
34 provisions of this chapter shall be deemed to be evidenced by:

35 (a) A decision not to prosecute;

36 (b) The dismissal of charges; or

37 (c) Acquittal.

38  
39 **TRANSPLANTS**

1 SECTION 7. Add Section 11362.87 to the Health and Safety Code:  
2 For the purposes of medical care, including organ and tissue transplants, a  
3 qualified patient's authorized use of marijuana shall be considered the  
4 equivalent of the authorized use of any other medication used at the  
5 direction of a physician, and shall not constitute the use of an illicit  
6 substance.

7  
8 **COLLECTIVE MEMBERS' DUTIES**

9  
10 SECTION 8. Add Section 11362.776 to the Health and Safety Code:  
11 Qualified patients and primary caregivers who associate within the State of  
12 California in order to collectively or cooperatively cultivate marijuana for  
13 medical purposes as stated in section 11362.775, may share responsibility  
14 for acquiring and supplying the resources required to produce and process  
15 marijuana for medical use such as, for example, money, a location for a  
16 collective garden; equipment, supplies, and labor necessary to plant, grow,  
17 and harvest marijuana; marijuana plants, seeds, and cuttings; and equipment,  
18 supplies, and labor necessary for proper construction, plumbing, wiring, and  
19 ventilation of a garden of marijuana plants. It is the sole discretion of the  
20 collective or cooperative to determine the requirements for membership  
21 within the collective or cooperative, and responsibilities and duties may be  
22 carried out by any or all members of the collective or cooperative. It is also  
23 within the discretion of the collective or cooperative to determine allocation  
24 of the costs and benefits of the efforts of the collective or cooperative,  
25 including the allocation of reasonable compensation for services rendered  
26 amongst those associated.

27  
28 **FEES**

29  
30 SECTION 9. Add Section 11362.711 to the Health and Safety Code:  
31 Any and all governmental fees and taxes related to the registration or  
32 regulation of qualified patients and primary caregivers or Medical Cannabis  
33 Dispensing Collective shall be used only to recover the cost of the services  
34 provided, including education, inspections, and civil enforcement of  
35 standards under this article. No fees or taxes may be levied to generate  
36 funds for any other service or program within the State of California.

37  
38 **MEDICAL CANNABIS DISPENSING COLLECTIVES**

39  
40 SECTION 10. Add Section 11362.891 to the Health and Safety Code:

1  
2 Cities and counties within the State of California may enact regulations and  
3 ordinances governing Medical Cannabis Dispensing Collectives, and the  
4 manufacture and labeling of medical marijuana products. These regulations  
5 and ordinances shall not ban, either explicitly or implicitly, the operation of  
6 Medical Cannabis Dispensing Collectives. Any violation of these  
7 regulations and ordinances shall not be deemed a violation of California  
8 Health and Safety Code 11362.765  
9

10 Nothing in this article shall prevent a city or other local governing body  
11 from adopting and enforcing laws consistent with this article.  
12

### 13 **SALES**

14  
15 SECTION 11. Add Section 11362.892  
16 Retail sales between Medical Cannabis Dispensing Collectives, Medical  
17 Cannabis Delivery Collectives, Cultivators, Medical Cannabis Product  
18 Manufacturers, and qualified patients and primary caregivers shall be  
19 permitted under this chapter.  
20

### 21 **MEDICAL CANNABIS DELIVERY COLLECTIVES**

22  
23 SECTION 12. Add Section 11362.893 to the Health and Safety Code:  
24

25 Cities and counties within the State of California may enact regulations and  
26 ordinances governing Medical Cannabis Delivery Collectives. These  
27 regulations and ordinances shall not ban, either explicitly or implicitly, the  
28 operation of Medical Cannabis Delivery Collectives. Any violation of these  
29 regulations and ordinances shall not be deemed a violation of California  
30 Health and Safety Code 11362.765.  
31

32 Nothing in this article shall prevent a city or other local governing body  
33 from adopting and enforcing laws consistent with this article.  
34

### 35 36 **MEDICAL CANNABIS PRODUCT MANUFACTURING**

37  
38 Section 13. Add Section 11362.894 to the Health and Safety Code:  
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1 (a) Cities and counties within the State of California may enact regulations  
2 and ordinances governing the manufacturing and labeling of medical  
3 cannabis products.

4  
5 (b) The manufacture of edible medical cannabis products shall be regulated  
6 as the type of food or beverage being manufactured, and no additional  
7 requirements made. The same exemptions made by the California Retail  
8 Food Code shall apply, both as to the size of manufacture and the intent of  
9 the manufacturer.

10  
11 (c) Enforcement of Section 11362.893 shall be determined by California  
12 Retail Food Code 113713. Any violation of these regulations and  
13 ordinances shall not be deemed a violation of California Health and Safety  
14 Code 11362.765.

15  
16 Nothing in this article shall prevent a city or other local governing body  
17 from adopting and enforcing laws consistent with this article.

18  
19  
20 **CULTIVATION**

21  
22 Section 14. Add Section 11362.895 to the Health and Safety Code:

23  
24 (a) Medical Cannabis Cultivators fall within three classes. Class 2 and Class  
25 3 registration shall be renewable annually. Registration classes are as  
26 follows:

27  
28 (1) Class 1. Less than 25 qualified patients and primary caregivers  
29 wishing to collectively cultivate marijuana plants and manufacture  
30 medical cannabis products for exclusive use by their members are  
31 exempt from registration with the Department of Food and  
32 Agriculture's Inspection Services Division.

33  
34 (b) Class 2. Collectives of qualified patients and primary caregivers  
35 with between 25 and 50 members, the collective shall register with the  
36 Department.

37  
38 The application for a Class 2 registration shall include the name of at  
39 least 1 collective or cooperative member, the address and contact  
40 information for that member, a statement that the collective wishes to

1 cultivate collectively and is seeking a Class 2 registration, and any  
2 accompanying fees necessary, as determined by the Department.  
3 Accompanying this application, the collective shall submit copies of  
4 each collective member's recommendation, or, in the alternative,  
5 documentation of a defined relationship with one or more Medical  
6 Cannabis Dispensing Collective(s) and/or Medical Cannabis Delivery  
7 Collective(s) and/or Medical Cannabis Product Manufacturer(s).  
8 Renewal procedures shall be determined by the Department.  
9

10 (c)Class 3. Collectives of qualified patients and primary caregivers  
11 with more than 51 members, the collective shall register with the  
12 Department.  
13

14 The application for a Class 3 registration shall include the name of at  
15 least 5 collective or cooperative members, the address and contact  
16 information for those members, a statement that the collective wishes  
17 to cultivate collectively and is seeking a Class 3 registration, and any  
18 accompanying fees necessary, as determined by the Department. The  
19 Department shall determine a graduated fee scale for Class 3  
20 registration applicants. Accompanying this application, the collective  
21 shall submit copies of each collective member's recommendation, or,  
22 in the alternative, documentation of a defined relationship with one or  
23 more Medical Cannabis Dispensing Collective(s) and/or Medical  
24 Cannabis Delivery Collective(s) and/or Medical Cannabis Product  
25 Manufacturer(s).  
26

27 The Department shall promulgate regulations in order to regulate  
28 Class 3 registrations. These regulations may include inspections and  
29 quality controls as well as requirements for defined contractual  
30 relationships with Medical Cannabis Dispensaries and security  
31 requirements.  
32

### 33 **RESCHEDULING**

34  
35 **SECTION 15.** Add Section 11362.85 to the Health and Safety Code:  
36 The State Board of Pharmacy shall classify marijuana as a controlled  
37 substance in Schedule III, IV or V. The State Board of Pharmacy shall  
38 classify marijuana no later than 180 days after the effective date of this  
39 chapter.