

**The Tax, Regulate, and Control Cannabis Act of 2010**

**Section 1: Name**

This Act shall be known as the “The Tax, Regulate, and Control Cannabis Act of 2010.”

**Section 2: Findings**

This Act, adopted by the People of the State of California, is intended to:

- a. Prohibit furnishing cannabis to minors below the age of 21, unless for medical use.
- b. Repeal all existing state and local laws that criminally prohibit or punish cannabis and associated cannabis related activities.
- c. Permit the possession, use, sharing, cultivation, transportation, and other activities related to cannabis by persons over the age of 21.
- d. Mandate the State government to adopt reasonable laws to permit, license, control and issue taxes for the commercial cultivation and sales of cannabis.
- e. Permit the cultivation, processing, sales, transportation and distribution of industrial hemp.
- f. Authorize local governments to adopt ordinances, rules and regulations regarding such licensed businesses, including appropriate zoning, permits, licenses, safety, and environmental laws to protect the general health and welfare of the public.
- g. Punish those who violate this Act and prevent any state or local agency from prohibiting or obstructing the terms or spirit of this Act
- h. Make cannabis available for scientific, medical, industrial and research purposes.
- i. Permit the State of California to fulfill obligations under the United States Constitution to enact laws concerning health, morals, public welfare and safety.
- j. Continue to enforce all laws relating to driving and contributing to the delinquency of a minor.

**Section 3: Definitions**

For purposes of this Act:

- a. “Cannabis” means all parts from plants of the Genus Cannabis, whether growing or not; seeds thereof; resin extracted from any part of the plant; concentrated cannabis; edible products containing cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The terms “Marijuana” and “Cannabis” are interchangeable for the purposes of this Act.
- b. “Industrial hemp” means an agricultural field crop that is limited to non-psychoactive varieties of the Cannabis plant having no more than three-tenths of one percent tetrahydrocannabinol contained in the dried flowering tops, that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin or flowering tops extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

## **Section 4: Cannabis Control, Decriminalization, Regulation, and Taxation**

*Article 5 of Chapter 5 of Division 10 of the Health and Safety Code, commencing with section 11300 is added to read:*

### *Section 11300: Laws Permitting Cannabis Activities by Adults Aged 21 and Over*

- (a) It is lawful, and not a crime or public offense under California law for persons aged 21 and older to engage in the following acts or activities related to the plant genus cannabis: possession, transportation, use, furnishing, sales, cultivation, or processing.
  - (1) Persons aged 21 and over may cultivate reasonable amounts of cannabis for their personal use. Amounts cultivated beyond personal use needs are subject to commercial restrictions, taxes and fees imposed pursuant to this Act.
  - (2) All persons aged 21 and over may possess objects, items, tools, equipment, products and material associated with activities permitted under this Act. This includes scales or other weighing devices.
- (b) This Act hereby repeals all state laws that prohibit cannabis possession, sales, transportation, production, processing, and cultivation, and removes cannabis from any other statutes pertaining to the regulation of controlled substances, whether now existing or enacted in the future, including but not limited to the following:
  - (1) Health and Safety Code Sections 11014.5 and 11364 [relating to drug paraphernalia]; 11054 [relating to cannabis or tetrahydrocannabinols]; 11357 [relating to possession]; 11358 [relating to cultivation]; 11359 [relating to possession for sale]; 11360 [relating to transportation and sales]; 11361 [related to minors]; 11366 and 11366.5 [related to maintaining a place for cultivation, sales]; 11370 [relating to punishment]; 11379.6 [relating to processing]; 11470 [relating to forfeiture]; 11479 [relating to seizure and destruction]; 11703 [relating to definitions regarding illegal substances]; 11705 [actions for use of illegal controlled substance]; Vehicle Code sections 23222 and 40000.15 [relating to possession].
- (c) This act is not intended to affect the application California Vehicle Code §23152 [relating to driving while impaired] and Penal Code §272 [relating to contributing to the delinquency of a minor].
- (d) This Act strictly prohibits all sales of cannabis outside the State of California unless such sales are not inconsistent with federal or international law.
- (e) This Act shall be retroactive, and by operation of law expunges the conviction of anyone previously convicted of a cannabis offense.
- (f) The Act prohibits any person from being denied any right or privilege for conduct in accordance with this article. No person shall be discriminated against regarding, but not limited to, healthcare, education, employment, retirement, and insurance, for conduct permitted by this Act.

*Section 11301: State and Local laws to Control and Regulate Commercial Cannabis*

California state and local governments shall adopt reasonable ordinances, regulations, or other acts having the force of law to control, license, regulate, permit or otherwise authorize the following:

- (a) Commercial cultivation, production, processing, distribution, and sales of cannabis for commercial and personal uses, including:
  - (1) Establishments, open to the public, that sell and/or allow on-premises smoking and other use of cannabis, and;
  - (2) Locations engaged in the commercial propagation, cultivation, processing and/or distribution of cannabis, and;
  - (3) Any other entity or location needed to further activities permitted and/or mandated by this Act.
- (b) Local governments may create regulations of any such establishment in accordance with this article including but not limited to environmental, accessibility, and zoning ordinances.
- (c) Local governments are prohibited from banning establishments, businesses, and other entities engaged in any conduct allowed by this Act.
- (d) The State shall create appropriate regulations to ensure uniform and orderly implementation of this Act including regulations, laws, and other acts having the force of law, requiring that any such permitted or licensed business, facility or premises:
  - (1) prevent any harm to the environment,
  - (2) have appropriate controls to ensure protection of minors,
  - (3) permit or license the commercial cultivation and sale of Cannabis,
  - (4) create and levy appropriate taxes or fees pursuant to section 11302,
  - (5) enact laws or create agencies consistent with the purposes of this Act.
- (e) The State shall enact labeling requirements in order to inform the public for all cannabis sold or offered for sale to the public that includes:
  - (1) City, county, or other appellation, and;
  - (2) Species, strain(s) and/or variety(ies) of packaged cannabis, and;
  - (3) General THC content, and;
  - (4) Organic certification, or, if not certified as organically grown, a listing of pesticides, herbicides, and/or additives used;
  - (5) Certification that the Cannabis is not genetically modified.

*Section 11302: Imposition and Collection of Taxes and Fees*

- (a) The Legislature shall create a system for the fair and orderly taxation of commercial production, sales and other cannabis business related activities within one year of the passage of this Act. The rate of taxation shall be initially set at no less than Fifty United States Dollars per ounce of Cannabis.
- (b) State and local governments shall create a system for the fair and orderly issuance of licenses or permits, and the collection of licensing or permitting fees.

- (c) In order to foster environmentally responsible practices for cannabis production, cultivation, processing, and other related activities, the Legislature shall enact preferential regulatory and tax treatment for entities engaged in organic and/or sustainable practices.
- (d) Taxes imposed pursuant to this Act must be spent on public education, healthcare, environmental programs, public works, and state parks.
- (e) Only Cannabis that is commercially cultivated, distributed, and/or sold shall be taxed.

*Section 11303: Industrial Hemp*

- (a) This Act hereby provides for the decriminalization of industrial hemp. The state and local governments shall enact laws and regulations promoting the cultivation, production, processing, sales, distribution, regulation, and taxation of industrial hemp and all derivatives thereof.

*Section 11304: Penalties for Violation of this Act*

- (a) Penalties for the furnishing of cannabis to a minor shall be consistent with penalties for similar alcohol related offenses in a manner to be determined by the Legislature.
- (b) Penalties to the minor for cannabis related offenses shall be non-custodial as determined by the Legislature.
- (c) Nothing in the Act shall permit the smoking of Cannabis:
  - (1) In or within 500 feet of the grounds of a school (other than university or college), or youth center, unless the personal use occurs within a residence.
  - (2) On a school bus.
  - (3) By the operator of a motorized vehicle, vessel, or aircraft during operation.
- (d) The unauthorized sale of cannabis shall be subject to civil and regulatory penalties to be determined by the Legislature.
- (e) Establishments, facilities, individuals and other entities that maliciously and repeatedly violate this Act are subject to civil, regulatory, and licensing penalties to be determined by the Legislature.
- (f) All civil penalties for violations of these new cannabis regulations shall be spent on public education, healthcare, environmental programs, public works, and state parks.

*Section 11305: Severability*

If any section, subdivision, sentence, clause, phrase, or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion thereof.