



To: CHEAC General Membership
From: [Michelle Gibbons](#), Executive Director
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Date: June 29, 2017
RE: State Budget Cannabis Trailer Bill Summary

As we reported to you when the budget package was passed two weeks ago, the Legislature also passed a substantial cannabis trailer bill that creates a unified state regulatory system for both medicinal and adult-use cannabis. Governor Brown signed the trailer bill, [SB 94/Chapter 27, Statutes of 2017](#), on Tuesday. Below, please find a detailed summary of the changes made to current cannabis statute.

General Provisions

- Under the Department of Consumer Affairs, the Bureau of Marijuana Control is renamed the Bureau of Cannabis Control (Bureau).
- Adds language that the protection of the public shall be the highest priority for all licensing authorities.

Medicinal Cannabis

- Maintains the State-operated system of issuing medicinal marijuana identification cards with local health departments continuing to process applications for the program at the local level.
- As under existing law, in order to qualify for the sales tax exemption for medicinal cannabis, a qualified patient must provide their state-issued identification card and a valid government-issued identification card.
- Qualified patients, under medical cannabis provisions, are exempt from all licensing rules if they cultivate, possess, store, manufacture, or transport cannabis exclusively for their own personal use. Also holds true for primary caregivers who provide care to no more than five specified qualified patients.
- Adds language on the confidentiality of information identifying the names of patients, their medical conditions, or the names of their primary care providers.
- Adds language that deems as medical information any information in a physician's recommendation for cannabis use and that information may not be disclosed by a licensee.

Licensing

- Allows for the issuance of temporary licenses until January 1, 2019. Applications for these temporary licenses must include a copy of a current valid license, permit, or other authorization issues by a local jurisdiction.
- Any applicants for any state licenses must submit, among other things, fingerprints to the Department of Justice, provide evidence of their legal right to occupy their proposed location, provide evidence their location is not also licensed as a retailer of alcohol or tobacco products, provide proof of bond to cover the costs of the destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements, water

sources to be used for cultivation, and a complete detailed diagram of their proposed premises.

- All commercial cannabis activity must occur between licensees.
- State testing labs are prohibited from having any license other than a testing license.
- Other licensees may apply for and be issued more than one license type, provided the licensed premises are separate and distinct.
- Separate licenses are required for each location where a licensee engages in commercial cannabis activity.
- Licensees are strictly prohibited from selling alcoholic beverages or tobacco products on or at any premise they have licensed.

Local Jurisdictions

- Local jurisdictions are required to provide to the Bureau a copy of any ordinance or regulation related to commercial cannabis activity they have adopted along with the name and contact information for the person who will serve as the contact in that jurisdiction for state licensing authorities. If they do not provide a local contact name, the Bureau will assume the clerk of that jurisdiction's legislative body is the contact person.
- Local jurisdictions are required to notify the Bureau whenever a change is made to local ordinances or regulations. The Bureau will share this information with other state licensing authorities.
- Prior to issuing a state license for any commercial cannabis activity, licensing authorities are required to notify the contact person for the local jurisdiction in which the licensee will operate.
- Locals may notify the Bureau that the applicant is not in compliance with local rules, and the Bureau will deny that application. Locals may also notify the Bureau that the applicant is in compliance, and the Bureau will proceed with the licensing process. If locals do not notify the Bureau of compliance or noncompliance within 60 business days, the Bureau will presume the applicant is in compliance. At any time after the expiration of that 60-day period, local jurisdictions may notify the Bureau of noncompliance and may commence disciplinary action.
- Any presumption by a licensing authority of compliance of an applicant will not prevent, impair, or preempt the local government from enforcing all applicable local ordinances or regulations against the applicant.
- Maintains language from MCRSA (medical cannabis) that these provisions do not supersede or limit existing local authority for law enforcement, enforcing local zoning laws or ordinances, or enforcement of local licenses, permits, or other authorizations required.
- Maintains language that cities, if delegated enforcement authority by the state, must assume complete responsibility for any regulatory function within their limits that would otherwise be performed by the county, including by the local health officer. These provisions are inserted notwithstanding existing local health officer enforcement of all orders and quarantine regulations and statutes relating to public health in cities.
- Under existing delegation authority, allows local jurisdictions to enforce provisions if delegated by the state through an agreement rather than an MOU.

Retailers and Deliveries

- Requires retailers to have a licensed premise that is a physical location from which commercial cannabis activities are conducted. Allows for a retailer to conduct sales exclusively by delivery.
- Specific provisions now state cannabis or cannabis products shall not leave a licensed retail premises unless they are placed in an opaque package.
- In terms of deliveries, new language has been added to statute that says for any employee delivering cannabis, they must carry a copy of the licensee's current state license as well as personal identification. They must also have a physical copy of the delivery request with them during delivery.
- Allows licensees to sell cannabis or cannabis products on January 1, 2018, that have not been tested, for a limited and finite time determined by the Bureau.
 - Cannabis and cannabis products must have a label affixed to each package that clearly states "*This product has not been tested as required by the Medicinal and Adult-Use Cannabis Regulation and Safety Act.*"

Testing

- The Bureau will decide which batches will be tested. All testing of samples must be performed on the final form in which the cannabis or cannabis product will be consumed or used.
- The Bureau is allowed to add any other compounds or contaminants to be tested if warranted.
- Labs must destroy the remains of samples they use after completion of their analysis.
- Licensees are allowed to do onsite testing for quality assurance purposes, but the Bureau will not certify that activity nor will it exempt them from existing testing requirements.
- A new provision has been added that allows testing labs to test samples for qualified patients or primary care givers so long as they provide their valid physician recommendation to the lab. These samples may not be certified by the lab for resale or be transferred to another party or licensee.
- Requirements for quality assurance and testing, prior to the sale of all cannabis and cannabis products, have been added to statute.
- After testing is conducted, distributors are required to conduct quality assurance reviews, prior to distribution, to ensure the labeling and packaging of cannabis and cannabis products is in conformance with state law.
- The Bureau will also employ quality assurance compliance monitors who are required to conduct random QA reviews at distributor's licensed premises before distribution to also ensure labeling and packaging of cannabis and cannabis products conform with requirements.
- These monitors will have access to all licensee records and test results. They must verify tax payments collected and paid are accurate. They will also have access to the inputs and assumptions in the licensee's track and trace system to verify their accuracy and that the information is commensurate with tax payments.
- After testing, all cannabis and cannabis products fit for sale may only be transported from the distributor's premises to the premises of a licensed retailer, microbusiness, or non-profit.

Manufacturing (CDPH)

- New provisions have been added that CDPH has the authority to not only develop standards for the labeling of cannabis products, but also the production and packaging of cannabis products. This will apply to all licensed manufacturers, microbusinesses and non-profit licensees under their authority.
- Licensees are not required to sell cannabis or cannabis products to distributors and may directly contract for sales with licensees authorized to sell these products.
- For cannabis or cannabis products, they must be placed not only in a resealable child-resistant package, but the packaging must also be tamper-evident and include a unique identifier for the purposes of identifying and tracking these products.
- Provisions requiring that cannabis products must also include a list of all ingredients and nutritional information have been removed; however, these requirements remain in regulations (as currently drafted).
- For all medicinal cannabis products sold at a retailer, packages must include a statement on the label that reads “*For Medical Use Only.*”
- Adds language that delineates what a misbranded product would be including one manufactured or packed in a manufacturing premises not duly licensed, if its labeling is false or misleading, or its labeling or packaging does not conform to requirements.
- Clarifies that edible products must be manufactured and sold under sanitation standards that are similar to standards for the preparation, storage, handling, and sale of food products.
- All edible cannabis products must now be marked with a universal symbol as determined by CDPH in regulations.
- Allows for peace officers, including ones within CDPH or the Bureau, to seize cannabis or cannabis products when 1) the cannabis or cannabis products are subject to a recall or embargo by any licensing authority, 2) the cannabis or cannabis products are subject to destruction orders, and 3) the cannabis or cannabis products are seized relating to an investigation or disciplinary action for violations.

Advertising/Marketing

- Adds new provisions that require all advertisements and marketing, including internet ads, to include the licensee’s license number. Any outdoor advertising must also include a license number.
- No licensee shall publish or disseminate advertisements or marketing that is attractive to children. Language has been removed from statute specifying the prohibition of symbols, language, music, gestures or cartoon characters.
- In addition to provisions prohibiting health related claims on any licensee’s advertising and marketing, adds a new provision that a licensee cannot include any of these claims on the label of any of their products as well.

Other Provisions

- Tasks the Secretary of Business, Consumer Affairs & Housing Agency, working with the Legislature, the Department of Consumer Affairs, the California Department of Food & Agriculture, and CDPH to ensure there is a safe viable way to collect cash payments for taxes and fees related to cannabis activity.
- Licensing authorities must, starting March 1, 2023, prepare and submit annual reports to the Legislature on their activities including:

- Amount of funds allocated and spent on licensing, enforcement, and administration
- Number of state licenses issued, renewed, denied, suspended, and revoked, by licensing category
- Average time for processing applications
- Number of appeals from the denial of state licenses or other disciplinary actions taken
- Number of complaints submitted by citizens or by representatives from cities or counties regarding licensees, provided both statewide and by geographical regions
- Number of type of enforcement activities they conduct as well as those by local law enforcement
- Number, type, and amount of penalties, fines, or other disciplinary actions taken
- Detailed list of petitions for regulatory relief or rulemaking changes received from licensees requesting modifications to enforcement of rules
- Also, when first producing this report in 2023, they must prepare a joint report on the state of the cannabis market in CA including identifying statutory or regulatory changes necessary to ensure no:
 - Unfair competition or creation of monopoly power
 - Perpetuation of an illegal market in or out of the state
 - Encouragement of underage use or adult abuse, and illegal diversion out of the state
 - Excessive concentration of licensees in cities, counties, or both
 - Unreasonable risks of minors being exposed
 - Violations of any environmental protection laws
- Allows for the issuance of a state temporary event license to licensees authorizing onsite cannabis sales to those over 21 at a county fair or district agricultural association event, but only in those local jurisdictions that authorize such events.
- Establishes an office to collect fees and taxes in Humboldt, Trinity and Mendocino counties.
- Adds new provisions to allow for the creation of Cannabis Cooperative Associations.
- Adds the CDPH Public Health Officer to the Statewide Research Advisory Panel to study cannabis and its effects.
- Adds provision in Health & Safety code, in the statutory definition of a drug, to say cannabis products are not drugs.
- Tasks the CHP Commissioner with appointing an impaired driving task force including exploring testing technologies. Requires a report to the Legislature by January 1, 2021.
- Appropriates \$3 million to the CHP for training drug recognition experts.
- Clarifies in statute that anyone who has in their possession or on their person, while driving a motor vehicle, any receptacle containing any cannabis or cannabis products which have been opened or has a broken seal or any loose cannabis flower not in a container is guilty of an infraction and subject to a fine of no more than \$100. Infractions will not apply to anyone who has cannabis or cannabis products in the trunk of their vehicle.
 - These provisions do not apply for a qualified patient if they are carrying their current identification card or physician's recommendation and the cannabis or cannabis products are contained in a container that is sealed, resealed or closed.