



Staff Notes (Organized Thematically)

Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)

Updated 9/24/17

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Abbreviations

BPC = Business and Professions Code
 RTC = Revenue and Taxation Code
 HSC = Health and Safety Code

Page Numbers

Unless otherwise specified, page numbers refer to the text of SB 94.

SMALL BUSINESS FOCUS

The Adult Use of Marijuana Act (which was folded into MAUCRSA) was designed to encourage small business participation by prohibiting certain large operator license types initially and incorporating anti-monopoly provisions.

AUMA Section 2(J) (p. 2)
 The Adult Use of Marijuana Act ensures the nonmedical marijuana industry in California will be built around small and medium sized businesses by prohibiting large-scale cultivation licenses for the first five years. The Adult Use of Marijuana Act also protects consumers and small businesses by imposing strict anti-monopoly restrictions for businesses that participate in the nonmedical marijuana industry.

TAXATION

Excise Tax

The excise tax (15% of the average market price) is in addition to state and local sales and use taxes.

RTC Section 34011 (pp. 24-25 of AB 133)

(1) Effective January 1, 2018, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. A purchaser's liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

(2) Each cannabis retailer shall provide a purchaser with an invoice, receipt, or other document that includes a statement that reads: "The cannabis excise taxes are included in the total amount of this invoice."

(3) The department may prescribe other means to display the cannabis excise tax on an invoice, receipt, or other document from a cannabis retailer given to the purchaser.

(c) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(d) Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use tax under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

(e) Cannabis or cannabis products shall not be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(f) The sales and use taxes imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical cannabis as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

Medicinal Cannabis Sales/Use Tax Exemption

Retail sales of medicinal cannabis and cannabis products are exempt from sales and use taxes (8.75% in San Francisco) imposed for adult use cannabis sales.

RTC Section 34011 (p. 130)

(f) The sales and use taxes imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical cannabis as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

Businesses with both A and M licenses will need to set up point of sale systems accordingly.

Collection of the Cultivation Tax

The initial cultivation tax is \$9.25 per dry-weight ounce of cannabis flowers and \$2.75 per dry-weight ounce for cannabis leaves. The Board of Equalization may require utilization of tax stamps or state-issued product bags to indicate that the tax has been paid. A distributor or manufacturer will collect the tax from the cultivator. All product removed from the cultivator's premises is taxable, except plant waste.

RTC Section 34012 (pp. 25-27 of AB 133)

(a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested cannabis that enters the commercial market upon all cultivators. The tax shall be due after the cannabis is harvested and enters the commercial market.

(1) The tax for cannabis flowers shall be nine dollars and twenty-five cents (\$9.25) per dry-weight ounce.

(2) The tax for cannabis leaves shall be set at two dollars and seventy-five cents (\$2.75) per dry-weight ounce.

(b) The department may adjust the tax rate for cannabis leaves annually to reflect fluctuations in the relative price of cannabis flowers to cannabis leaves.

(c) The department may from time to time establish other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with cannabis flowers.

(d) The department may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the cannabis is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications, and denominations as may be prescribed by the department and may be purchased by any licensee under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the department may by regulation provide that cannabis shall not be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26068 of the Business and Professions Code.

(h) Cultivators shall be responsible for payment of the tax pursuant to regulations adopted by the department. A cultivator's liability for the tax is not extinguished until the tax has been paid to this state except that an invoice, receipt, or other document from a distributor or manufacturer given to the cultivator pursuant to paragraph (3) is sufficient to relieve the cultivator from further liability for the tax to which the invoice, receipt, or other document refers. Cannabis shall not be sold unless the tax has been paid as provided in this part.

(1) A distributor shall collect the cultivation tax from a cultivator on all harvested cannabis that enters the commercial market. This paragraph shall not apply where a cultivator is not required to send, and does not send, the harvested cannabis to a distributor.

(2) (A) A manufacturer shall collect the cultivation tax from a cultivator on the first sale or transfer of unprocessed cannabis by a cultivator to a manufacturer. The manufacturer shall

remit the cultivation tax collected on the cannabis product sold or transferred to a distributor for quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code. This paragraph shall not apply where a distributor collects the cultivation tax from a cultivator pursuant to paragraph (1).

(B) Notwithstanding subparagraph (A), the department may prescribe a substitute method and manner for collection and remittance of the cultivation tax under this paragraph, including a method and manner for collection of the cultivation tax by a distributor.

(3) A distributor or manufacturer shall provide to the cultivator, and a distributor that collects the cultivation tax from a manufacturer pursuant to paragraph (2) shall provide to the manufacturer, an invoice, receipt, or other similar document that identifies the licensee receiving the product, the cultivator from which the product originates, including the associated unique identifier, the amount of cultivation tax, and any other information deemed necessary by the department. The department may authorize other forms of documentation under this paragraph.

(4) The department may adopt regulations prescribing procedures for the refund of cultivation tax collected on cannabis or cannabis product that fails quality assurance, inspection, and testing as described in Section 26110 of the Business and Professions Code.

(i) All cannabis removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all cannabis cultivated in the state pursuant to rules and regulations promulgated by the department, but shall not apply to cannabis cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code).

(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the department annually thereafter for inflation.

(l) The Department of Food and Agriculture is not responsible for enforcing any provisions of the cultivation tax.

RTC 34010 Section (p. 24 of AB 133)

(m) "Enters the commercial market" shall mean cannabis or cannabis product, except for immature cannabis plants and seeds, that complete and comply with a quality assurance review and testing, as described in Section 26110 of the Business and Professions Code.

Collection of Excise Taxes

The bill would require distributors, instead of retailers and cultivators, to obtain permits from the State Board of Equalization. Distributors would collect the tax from the retailer, and then report and remit the cannabis excise tax to the board.

RTC Section 34011 (p. 130)

(b) (1) A distributor in an arm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer. A distributor in a nonarm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer, or at the time of retail sale by the cannabis retailer, whichever is earlier. A distributor shall report and remit the cannabis excise tax to the board pursuant to Section 34015. A cannabis retailer shall be responsible

for collecting the cannabis excise tax from the purchaser and remitting the cannabis excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the board.

(2) A distributor shall provide an invoice, receipt, or other similar document to the cannabis retailer that identifies the licensee receiving the product, the distributor from which the product originates, including the associated unique identifier, the amount of cannabis excise tax, and any other information deemed necessary by the board. The board may authorize other forms of documentation under this paragraph.

RTC Section 34010 (p. 128)

(a) “Arm’s length transaction” shall mean a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

(b) “Average market price” shall mean:

(1) In an arm’s length transaction, the average market price means the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the board on a biannual basis in six-month intervals.

(2) In a nonarm’s length transaction, the average market price means the cannabis retailer’s gross receipts from the retail sale of the cannabis or cannabis products.

Taxation penalty

A person required to be licensed who fails to pay taxes (excise and cultivation taxes) will owe the amount of unpaid taxes plus a penalty of at least 50% of that amount, and subject to license revocation. The person may be granted relief from the penalty under certain circumstances.

RTC Section 34013 (p. 133)

(e) Any person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code.

(f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board’s request, the Attorney General shall bring the actions.

RTC Section 55044 (pp. 27-28 of AB 133)

(a) If the department finds that a person’s failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person’s control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 34013, 55042, 55050, and 55086.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the department a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

(c) The department shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

LICENSES

Emergency Rulemaking

The state's emergency rulemaking process allows licensing authorities to bypass the normal public hearing phase in order to meet the January 1, 2018 deadline to begin issuing licenses. With the passage of SB 94 (MAUCRSA), which reconciles differences between medicinal and adult use cannabis laws, state agencies decided to withdraw proposed regulations for medicinal cannabis (released in April 2017) and revise them to incorporate the legislative changes. They anticipate publication of the new emergency regulations (for both medicinal and adult use cannabis) in fall of 2017. The Bureau of Cannabis Control has stated that it will still use and respond to the public comments already received to inform the emergency regulations, as well as other discussions with stakeholders during the previous 12+ months. Emergency regulations may be in effect no more than 180 days, by which time final regulations should be in place.

BPC Section 26013 (pp. 22-23)

- (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 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Those rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.
- (b) (1) Each licensing authority may adopt emergency regulations to implement this division.
(2) Each licensing authority may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted as authorized by this section. Any such readoption shall be limited to one time for each regulation.
- (3) Notwithstanding any other law, the initial adoption of emergency regulations and the readoption of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readopted emergency regulations authorized by this section shall be each submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations may be adopted.
- (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 so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent businessperson.

Priority Licensing

License applicants operating in compliance with the Compassionate Use Act of 1996 before September 1, 2016 will receive priority in licensing. Local jurisdictions may identify potential priority applicants, but applicants may also provide evidence independently of the local jurisdiction to establish priority eligibility. Priority licensing ends on December 31, 2019.

BPC Section 26054.2 (p. 35)

- (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 of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws before September 1, 2016.
- (b) The licensing authorities shall request that local jurisdictions identify for the licensing authorities potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws, and any applicable local laws.
- (c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence as deemed appropriate by the licensing authority to demonstrate operation in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code). The 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.

SBC may wish to recommend that good-neighbor practices and history of community relations also be considered in prioritizing applicants.

Residency Requirement

(MAUCRSA/SB 94, p. 5)

AUMA prohibited licenses for non-residents (of California) until 12/31/19. MAUCRSA repealed the residency requirement.

Temporary License

Temporary licenses may be issued until January 1, 2019, with no guarantee thereafter that a non-temporary license will be granted.

BPC Section 26050 (pp. 30-31)

(a) Notwithstanding subdivision (c) of Section 26050, until January 1, 2019, a licensing authority may, in its sole discretion, issue a temporary license if the applicant submits all of the following:

- (1) A written request to the licensing authority in a manner prescribed by the licensing authority.
- (2) A copy of a valid license, permit, or other authorization, issued by a local jurisdiction, that enables the applicant to conduct commercial cannabis activity at the location requested for the temporary license.
- (3) The temporary license application fee, if any, required by the licensing authority.

(b) Temporary licenses issued pursuant to this section are subject to the following conditions:

- (1) Except as provided for in paragraph (4) below, the temporary license shall be valid for a period of 120 days and may be extended for additional 90-day periods at the discretion of the licensing authority. Temporary licenses shall only be eligible for an extension of the expiration date if the applicant has submitted a complete application for licensure pursuant to regulations adopted under this division.
 - (2) A temporary license is a conditional license and authorizes the holder thereof to engage in commercial cannabis activity as would be permitted under the privileges of the license for which the applicant has submitted an application to the licensing authority.
 - (3) Refusal by the licensing authority to issue or extend a temporary license shall not entitle the applicant to a hearing or appeal of the decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to temporary licenses.
 - (4) A temporary license does not obligate the licensing authority to issue a nontemporary license nor does the temporary license create a vested right in the holder to either an extension of the temporary license or to the granting of a subsequent nontemporary license.
- (c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

Verification of compliance with local laws

State and local licensing authorities will collaborate to ensure that applicants comply with both state and local ordinances and regulations. Newly approved legislation (AB 133) allows the state licensing authority to presume that an applicant that has submitted proof of local authorization is in compliance with local ordinances. Such presumption is rebuttable.

BPC Section 26055 (pp. 10- of AB 133)

(d) 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 Section 26200.

(e) An applicant may voluntarily provide proof of a license, permit, or other authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction. An applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction shall be presumed to be in compliance with all local

ordinances unless the licensing authority is notified otherwise by the local jurisdiction. The licensing authority shall notify the contact person for the local jurisdiction of any applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction.

(f) (1) A local jurisdiction shall provide to the bureau a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. If a local jurisdiction does not provide a contact person, the bureau shall assume that the clerk of the legislative body of the local jurisdiction is the contact person.

(2) Whenever there is a change in a local ordinance or regulation adopted pursuant to Section 26200 or a change in the contact person for the jurisdiction, the local jurisdiction shall provide that information to the bureau.

(3) The bureau shall share the information required by this subdivision with the other licensing authorities.

(g) (1) The licensing authority shall deny an application for a license under this division for a commercial cannabis activity that the local jurisdiction has notified the bureau is prohibited in accordance with subdivision (f). The licensing authority shall notify the contact person for the local jurisdiction of each application denied due to the local jurisdiction's indication that the commercial cannabis activity for which a license is sought is prohibited by a local ordinance or regulation.

(2) Prior to issuing a state license under this division for any commercial cannabis activity, if an applicant has not provided adequate proof of compliance with local laws pursuant to subdivision (e):

(A) The licensing authority shall notify the contact person for the local jurisdiction of the receipt of an application for commercial cannabis activity within their jurisdiction.

(B) A local jurisdiction may notify the licensing authority that the applicant is not in compliance with a local ordinance or regulation. In this instance, the licensing authority shall deny the application.

(C) A local jurisdiction may notify the licensing authority that the applicant is in compliance with all applicable local ordinances and regulations. In this instance, the licensing authority may proceed with the licensing process.

(D) If the local jurisdiction does not provide notification of compliance or noncompliance with applicable local ordinances or regulations, or otherwise does not provide notification indicating that the completion of the local permitting process is still pending, within 60 business days of receiving the inquiry from a licensing authority submitted pursuant to subparagraph (A), the licensing authority shall make a rebuttable presumption that the applicant is in compliance with all local ordinances and regulations adopted in accordance with Section 26200, except as provided in subparagraphs (E) and (F).

(E) At any time after expiration of the 60-business-day period set forth in subparagraph (D), the local jurisdiction may provide written notification to the licensing authority that the applicant or licensee is not in compliance with a local ordinance or regulation adopted in accordance with Section 26200. Upon receiving this notification, the licensing authority shall not presume that the applicant or licensee has complied with all local ordinances and regulations adopted in accordance with Section 26200, and may commence disciplinary action in accordance with Chapter 3 (commencing with Section 26030). If the licensing

authority does not take action against the licensee before the time of the renewal of the license, the license shall not be renewed until and unless the local jurisdiction notifies the licensing authority that the licensee is once again in compliance with local ordinances.

(F) A presumption by a licensing authority pursuant to this paragraph that an applicant has complied with all local ordinances and regulations adopted in accordance with Section 26200 shall not prevent, impair, or preempt the local government from enforcing all applicable local ordinances or regulations against the applicant, nor shall the presumption confer any right, vested or otherwise, upon the applicant to commence or continue operating in any local jurisdiction except in accordance with all local ordinances or regulations.

Population, geography, and licensing

Prevention against monopolies and against excessive concentration (of retail, microbusiness, and cannabis-focused nonprofits) could affect licensing decisions, including the geographic distribution of such licenses.

BPC 26051 (p. 31)

(a) The Cartwright Act, the Unfair Practices Act, the Unfair Competition Law, and the other provisions of Part 2 (commencing with Section 16600) of Division 7 apply to all licensees regulated under this division.

(b) It shall be unlawful for any person to monopolize, or attempt to monopolize, or to combine or conspire with any person or persons, to monopolize any part of the trade or commerce related to cannabis. The Attorney General shall have the sole authority to enforce the provisions of this subdivision.

(c) In determining whether to grant, deny, or renew a license for a retail license, microbusiness license, or a license issued under Section 26070.5, the bureau shall consider if an excessive concentration exists in the area where the licensee will operate. For purposes of this section “excessive concentration” applies when 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 cannabis or cannabis products.

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

BPC Section 26070.5 concerns nonprofit licensing (p. 51).

License types merged from AUMA & MCRSA

Specialty cottage cultivation, microbusiness, and (starting 2023) large cultivation licenses will be allowed for both adult-use and medicinal commercial cannabis activity.

Medicinal and Adult-Use Licenses at Same Premises (“Co-Location”)

A person may apply for and be issued more than one type of license (except testing). A separate license is required for each location. AB-133 removed the condition that licensed premises are separate and distinct, thereby allowing for vertical integration and co-location of medicinal and adult use activities.

BPC Section 26053 (pp. 9-10 of AB 133)

(a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this division.

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

(d) Each applicant or licensee shall apply for, and if approved, shall obtain, a separate license for each location where it engages in commercial cannabis activity.

BPC Section 26001(ap) (p. 20)

“Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

Testing Laboratory Licensing

Testing laboratories must be independent from other activities.

BPC Section 26053 (p. 9 of AB 133)

(b) A person that holds a state testing laboratory license under this division is prohibited from licensure for any other activity, except testing, as authorized under this division. A person that holds a state testing laboratory license shall not employ an individual who is also employed by any other licensee that does not hold a state testing laboratory license.

Non-storefront retailers

Delivery-only retail is allowed. A retailer must have a physical location, but a storefront is not required.

BPC Section 26070 (p. 48)

(a) State licenses to be issued by the bureau related to the sale and distribution of cannabis and cannabis products are as follows:

(1) “Retailer,” for the retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. A retailer’s premises may be closed to the public. A retailer may conduct sales exclusively by delivery.

BPC Section 26001(p) (p. 8 of AB 133)

(p) “Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform

Alcohol & Tobacco Licensees

Alcohol and tobacco retailers will not be able to hold a cannabis license for the same premises.

BPC Section 26054 (p. 34)

(a) A licensee shall not sell alcoholic beverages or tobacco products on or at any premises licensed under this division.

Cottage manufacturing not permitted

No license was created for cottage manufacturing, and the CA Department of Public Health has clarified that cannabis may not be manufactured under any of the following permits: the Cottage Food permit, Temporary Food Facility Permit, Certified Farmers Market permit nor Mobile Food Facility permit.

Accessory Use

As written, state law does not facilitate the sale of cannabis as an accessory use.

Temporary Events

Temporary event licenses may be issued to allow for consumption by adults at a county fair or district agricultural association event.

BPC Section 26200 (p. 71)

(e) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that the activities, at a minimum, comply with the requirements of paragraphs (1) to (3), inclusive, of subdivision (g), that all participants are licensed under this division, and that the activities are otherwise consistent with regulations promulgated and adopted by the bureau governing state temporary event licenses. These temporary event licenses shall only be issued in local jurisdictions that authorize such events.

Nonprofit licenses

The Bureau is charged with investigating the feasibility of nonprofit licensing. In the meantime, local governments may issue temporary local nonprofit licenses.

BPC Section 26070.5 (pp. 51-52)

(a) The bureau shall, by January 1, 2020, 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 cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons?
- (b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant cannabis and cannabis products and a diversity of cannabis strains

and seed stock to low-income persons so long as the local jurisdiction does all of the following:

(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.

(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).

STATE - LOCAL

No offense under state law

BPC Section 26032 (p. 25)

(a) The actions of a licensee, its employees, and its agents 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 if they are all of the following:

(1) Permitted pursuant to a state license.

(2) Permitted pursuant to a local authorization, license, or permit issued by the local jurisdiction, if any.

(3) Conducted in accordance with the requirements of this division and regulations adopted pursuant to this division.

(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, if required by the applicable local ordinances, a local license or permit, 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.

Communication of Local Laws to State

Local governments shall inform the bureau of cannabis laws, keep the bureau updated whenever there are changes to a local ordinance or regulation, and designate a contact person for state licensing authorities.

BPC Section 26055 (p. 36)

(f) (1) A local jurisdiction shall provide to the bureau a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. If a local jurisdiction does not provide a contact person, the bureau shall assume that the clerk of the legislative body of the local jurisdiction is the contact person.

Local enforcement authority

The state may delegate full power and authority to enforce MAUCRSA and its associated regulations to cities.

BPC Section 26202 (pp. 71-72)

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

(b) A licensing authority shall implement the delegation of enforcement authority in subdivision (a) through an agreement between the licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

BUSINESS PRACTICES & SAFETY

Untested products may be sold for a finite time

BPC Section 26070 (p. 50)

(l) Beginning January 1, 2018, a licensee may sell cannabis or cannabis products that have not been tested for a limited and finite time as determined by the bureau. The cannabis and cannabis products must have a label affixed to each package containing cannabis or cannabis products that clearly states “This product has not been tested as required by the Medicinal and Adult-Use Cannabis Regulation and Safety Act” and must comply with any other requirement as determined by the bureau.

Testing Prior to Sale

Testing is required prior to distribution to retailers, microbusinesses, or nonprofits. The BCC will specify testing frequency for cannabis and cannabis products. Costs are borne by cultivators or manufacturers.

BPC Section 26104 (p. 18 of AB 133)

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

(b) The bureau shall develop procedures to do all of the following:

(1) Ensure that testing of cannabis and cannabis products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5.

(2) Specify how often licensees shall test cannabis and cannabis products, and that the cost of testing cannabis shall be borne by the licensed cultivators and the cost of testing cannabis products shall be borne by the licensed manufacturer, and that the costs of testing cannabis and cannabis products shall be borne by a nonprofit licensed under Section 26070.5.

(3) Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by the bureau, unless remedial measures can bring the cannabis or cannabis products into compliance with quality assurance standards as specified by law and implemented by the bureau.

(4) Ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor’s premises for testing required by this division and that the testing laboratory employee transports the sample to the testing laboratory.

State regulations: Will microbusinesses need to maintain a separate facility (to keep product during the testing process) if they engage in distribution activities?

Storage of cannabis during testing process

Distributors will store cannabis batches through the testing process and facilitate testing by the laboratory as well as quality assurance reviews by a quality assurance compliance monitor of the bureau. Cannabis will remain on the distributor's premises until testing is complete. If the representative sample passes testing, it may be transported to the licensed retailer. If it fails, it will be destroyed or transported to the manufacturer for remediation.

BPC Section 26110 (p. 55)

- (a) Cannabis batches are subject to quality assurance and testing prior to sale at a retailer, microbusiness, or nonprofit licensed under Section 26070.5, except for immature cannabis plants and seeds, as provided for in this division.
- (b) A licensee that holds a valid distributor license may act as the distributor for the licensee's cannabis and cannabis products.
- (c) The distributor shall store, as determined by the bureau, the cannabis batches on the premises of the distributor before testing and continuously until either of the following occurs:
 - (1) The cannabis batch passes the testing requirements pursuant to this division and is transported to a licensed retailer.
 - (2) The cannabis batch fails the testing requirements pursuant to this division and is destroyed or transported to a manufacturer for remediation as allowed by the bureau or the Department of Public Health.
- (d) The distributor shall arrange for a testing laboratory to obtain a representative sample of each cannabis batch at the distributor's licensed premises. After obtaining the sample, the testing laboratory representative shall maintain custody of the sample and transport it to the testing laboratory.
- (e) Upon issuance of a certificate of analysis by the testing laboratory that the cannabis batch has passed the testing requirements pursuant to this division, the distributor shall conduct a quality assurance review before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.
- (f)
 - (1) There shall be a quality assurance compliance monitor who is an employee or contractor of the bureau and who shall not hold a license in any category or own or have an ownership interest in a licensee or the premises of a licensee.
 - (2) The quality assurance compliance monitor shall conduct random quality assurance reviews at a distributor's licensed premises before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.
 - (3) The quality assurance compliance monitor shall have access to all records and test results required of a licensee by law in order to conduct quality assurance analysis and to confirm test results. All records of inspection and verification by the quality assurance compliance monitor shall be provided to the bureau. Failure to comply shall be noted by the quality assurance compliance monitor for further investigation. Violations shall be reported to the bureau. The quality assurance compliance monitor shall also verify the tax payments collected and paid under Sections 34011 and 34012 of the Revenue and Tax Code are accurate. The monitor shall also have access to the inputs and assumptions in the track and trace system and shall be able to verify the accuracy of those and that they are commensurate with the tax payments.

- (g) After testing, all cannabis and cannabis products fit for sale may be transported only from the distributor’s premises to the premises of a licensed retailer, microbusiness, or nonprofit.
- (h) A licensee is not required to sell cannabis or cannabis products to a distributor and may directly contract for sale with a licensee authorized to sell cannabis and cannabis products to purchasers.
- (i) A distributor performing services pursuant to this section may collect a fee from the licensee for the services provided. The fee may include, but is not limited to, the costs incurred for laboratory testing. A distributor may also collect applicable state or local taxes and fees.
- (j) This section does not prohibit a licensee from performing testing on the licensee’s premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. The testing conducted on the licensee’s premises by the licensee does not meet the testing requirements pursuant to this division.

Track and Trace System

To facilitate the administration of the track and trace program, DFA in consultation with BOE shall establish an electronic database, including an electronic seed to sale software tracking system to record data points for the different stages of commercial activity (cultivation, harvest, processing, distribution, inventory, sale, etc.). The program must be capable of tracking the amount of the cultivation tax due.

BPC Section 26067 (pp. 45-46)

- (a) The department, in consultation with the bureau, shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier pursuant to Section 26069, secure packaging, and is capable of providing information that captures, at a minimum, all of the following:
- (1) The licensee receiving the product.
 - (2) The transaction date.
 - (3) The cultivator from which the product originates, including the associated unique identifier pursuant to Section 26069.
- (b) (1) The department, in consultation with the State Board of Equalization, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:
- (A) The variety and quantity or weight of products shipped.
 - (B) The estimated times of departure and arrival.
 - (C) The variety and quantity or weight of products received.
 - (D) The actual time of departure and arrival.
 - (E) A categorization of the product.
 - (F) The license number and the unique identifier pursuant to Section 26069 issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.
- (2) (A) The database shall be designed to flag irregularities for all licensing authorities in this division to investigate. All licensing authorities pursuant to this division may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.

- (B) The department shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.
- (3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.
- (4) The bureau shall have 24-hour access to the electronic database administered by the department. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.
- (5) The department shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the department.
- (6) Information received and contained in records kept by the department or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this division or a local ordinance.
- (7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this division.

BPC Section 26068 (p. 45)

(a) The department, in consultation with the bureau and the State Board of Equalization, shall ensure that the track and trace program can also track and trace the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The 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.

Deliveries

Deliveries may only be made by a licensed retailer, microbusiness, or nonprofit. Certain documentation is required. A local jurisdiction shall not prevent delivery on public roads.

BPC Section 26090 (p. 52)

- (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.
- (b) All employees of a retailer, microbusiness, or nonprofit delivering cannabis or cannabis products shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this division.
- (c) During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

(d) 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.

(e) A local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

BPC Section 26001 (p. 18)

(p) “Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer.

Consumption Restrictions

HSC Section 11362.3 (p. 101)

(a) Section 11362.1 does not permit any person to:

- (1) Smoke or ingest cannabis or cannabis products in a public place, except in accordance with Section 26200 of the Business and Professions Code.
- (2) Smoke cannabis or cannabis products in a location where smoking tobacco is prohibited.
- (3) Smoke cannabis or cannabis products within 1,000 feet of a school, day care center, or youth center while children are present at the school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of the school, day care center, or youth center while children are present.
- (4) Possess an open container or open package of cannabis or cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.
- (5) Possess, smoke, or ingest cannabis or cannabis products in or upon the grounds of a school, day care center, or youth center while children are present.

San Francisco must decide how to provide opportunities for consumption outside the home. The Task Force recommends that such spaces be available to accommodate tourists and residents who wish to consume in a social setting, as well as to minimize consumption on sidewalks and public spaces.

Age restrictions: sales, access to premises, employment

A medical cannabis licensee that also holds an adult-use license for the same premises may allow a person 21 years or older on the premises who is not a patient.

BPC Section 26140 (p. 20 of AB 133)

(a) An A-licensee shall not:

- (1) Sell cannabis or cannabis products to persons under 21 years of age.
 - (2) Allow any person under 21 years of age on its premises, unless the A-licensee holds an M-license and the licensed premises for the A-license and M-license are the same.
 - (3) Employ or retain persons under 21 years of age.
 - (4) Sell or transfer cannabis or cannabis products unless the person to whom the cannabis or cannabis 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 cannabis to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any cannabis while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase cannabis. 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 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (a), an M-licensee may:

(1) Allow on the premises any person 18 years of age or older who possesses a valid government-issued identification card, and either a valid county-issued identification card under Section 11362.712 of the Health and Safety Code or a valid physician's recommendation for himself or herself or for a person for whom he or she is a primary caregiver.

(2) Allow any person 21 years of age or older on its premises if the M-licensee holds an A-license and the licensed premises for the M-license and A-license are the same.

(3) Sell cannabis, cannabis products, and cannabis accessories to a person 18 years of age or older who possesses a valid government-issued identification card and either a valid county-issued identification card under Section 11362.712 of the Health and Safety Code or a valid physician's recommendation for himself or herself or for a person for whom he or she is a primary caregiver.

(4) The bureau may establish requirements for the purchase of cannabis, cannabis products, or cannabis accessories by a primary caregiver for a patient to ensure that the status of a person as a primary caregiver is verified.

Packaging

BPC Section 26070.1 (p. 50)

Cannabis or cannabis products purchased by a customer shall not leave a licensed retail premises unless they are placed in an opaque package.

MANUFACTURED GOODS

Edible Cannabis Products

BPC Section 26130 (pp. 58-59)

(c) Edible cannabis products shall be:

(1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.

(2) Produced and sold with a standardized concentration of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.

(3) Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis 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, that are similar to the standards for preparation, storage, handling, and sale of food products.

- (6) Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary.
- (7) Marked with a universal symbol, as determined by the State Department of Public Health through regulation.

Sale of Manufactured Goods to Retailers; Level 1 vs. Level 2

SB 94 required that a licensed medicinal cannabis manufacturer (level 1 or 2) only manufacture cannabis products for sale by a medicinal cannabis retailer. AB 133 repealed those provisions. Pursuant to the definitions of an “A-licensee” and “M-licensee,” a manufacturer would need to possess the license or licenses that correspond to the intended consumer category (adult users and/or patients).

BPC Section 26130(a) (p. 19 of AB 133)

(a) The State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. Licenses to be issued are as follows:

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

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

(b) For purposes of this section, “volatile solvents” shall have the same meaning as in paragraph (3) of subdivision (b) of Section 11362.3 of the Health and Safety Code, unless otherwise provided by law or regulation.

HSC Section 11362.3(b)(3) (p. 102)

“Volatile solvent” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

LAND USE

Buffer Zone

BPC Section 26054 (p. 34)

(b) A premises licensed under this division shall not 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 subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

San Francisco may specify a different radius (lower or higher). A lower radius allows for distribution of cannabis businesses throughout the City, whereas a higher radius could concentrate cannabis businesses in certain neighborhoods and supervisorial districts.

On-Site Consumption

Local governments may allow for on-site consumption at a cannabis retail location.

BPC Section 26200 (p. 71)

(g) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if all of the following are met:

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

San Francisco must decide how to provide opportunities for consumption outside the home. The Task Force recommends that such spaces be available to accommodate tourists and residents who wish to consume in a social setting, as well as to minimize consumption on sidewalks and public spaces. Whether or not consumption on the premises of a retailer offers sufficient consumption opportunities for residents and tourists will depend on the number of such establishments as well as their distribution throughout the City. It is likely that additional spaces will be needed.

MARKETING, ADVERTISING, AND BRANDING

Marketing & Advertising

BPC Section 26151 (p. 64)

- (a) (1) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee's license number.
- (2) A technology platform shall not display an advertisement by a licensee on an Internet Web page unless the advertisement displays the license number of the licensee.
- (3) An outdoor advertising company subject to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200) of Division 3) shall not display an advertisement by a licensee unless the advertisement displays the license number of the licensee.
- (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 before engaging in that communication or dialogue controlled by the licensee. For purposes of this section, that 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.

Promotions

Promotional giveaways are not allowed.

BPC Section 26153 (p. 65)

A licensee shall not give away any amount of cannabis or cannabis products, or any cannabis accessories, as part of a business promotion or other commercial activity.

Health-Related Statements

BPC Section 26154 (p. 65)

A licensee shall not include on the label of any cannabis or cannabis product or 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 cannabis consumption.

Organics

DFA is responsible for establishing organic program standards by 2021.

BPC Section 26062 (p. 44)

(a) No later than January 1, 2021, the Department of Food and Agriculture shall establish a program for cannabis that is comparable to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code) and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code. The Department of Food and Agriculture shall be the sole determiner of designation and certification.

(b) If at any time preceding or following the establishment of a program by the Department of Food and Agriculture pursuant to subdivision (a), the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)) authorizes organic designation and certification for cannabis, this section shall become inoperative and, as of January 1, of the following year, is repealed.

County of Origin & Appellation

DFA is responsible for establishing standards regarding county of origin and appellation guidelines (by 2018 and 2021, respectively).

BPC Section 26063 (p. 44)

(a) No later than January 1, 2018, the Department of Food and Agriculture shall establish standards by which a licensed cultivator may designate a county of origin for cannabis. To be eligible for the designation, 100 percent of the cannabis shall be produced within the designated county, as defined by finite political boundaries.

(1) Cannabis shall not be advertised, marketed, labeled, or sold as grown in a California county when the cannabis was not grown in that county.

(2) The name of a California county, including any similar name that is likely to mislead consumers as to the origin of the product, shall not be used in the advertising, labeling, marketing, or packaging of cannabis products unless the cannabis contained in the product was grown in that county.

(b) No later than January 1, 2021, the Department of Food and Agriculture shall establish a process by which licensed cultivators may establish appellations of standards, practices, and varieties applicable to cannabis grown in a certain geographical area in California, not otherwise specified in subdivision (a).

OTHER

Voluntary ID Program

HSC Section 11362.71 (p. 106)

(a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.

(2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.

(b) Every county health department, or the county's designee, shall do all of the following:

(1) Provide applications upon request to individuals seeking to join the identification card program.

(2) Receive and process completed applications in accordance with Section 11362.72.

(3) Maintain records of identification card programs.

(4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).

(5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.

(c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes cannabis.

(d) The department shall develop all of the following:

(1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision

(b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.

(2) Application forms that shall be issued to requesting applicants.

(3) An identification card that identifies a person authorized to engage in the medical use of cannabis and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.

(e) No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medicinal cannabis in an amount established pursuant to this article, unless there is probable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.

(f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

Obtaining an Identification Card

HSC Section 11362.715 (p. 107)

(a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:

- (1) The name of the person and proof of his or her residency within the county.
- (2) Written documentation by the attending physician in the person's medical records stating that the person has been diagnosed with a serious medical condition and that the medicinal use of cannabis is appropriate.
- (3) The name, office address, office telephone number, and California medical license number of the person's attending physician.
- (4) The name and the duties of the primary caregiver.
- (5) A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.

(b) If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person's legal representative, including, but not limited to, any of the following:

- (1) A conservator with authority to make medical decisions.
- (2) An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.
- (3) Any other individual authorized by statutory or decisional law to make medical decisions for the person.

(c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.

(d) The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.