

September 15<sup>th</sup> was the final day to pass all bills in the Legislature. Bills that were passed and in the possession of the Governor on or before this deadline must be signed or vetoed by October 15, 2017. The following is an update on bills related to medical and recreational cannabis taxation and regulation that HdL is tracking.

## **Cannabis-Related Legislation**

On November 8, 2016, California voters approved Proposition 64 (the “Adult Use of Marijuana Act” or “AUMA”). AUMA approved recreational use of marijuana, and allows commercial marijuana activities associated with the cultivation, manufacturing, transportation, distribution, testing and dispensing of marijuana for recreational and personal use in the State of California. This is in addition to previous legislation (“Medical Cannabis Regulation and Safety Act” or “MCRSA”) passed by the State legislature and signed into law by the Governor in September 2015. However, on June 27, 2017 Governor Jerry Brown, signed Senate Bill 94, creating the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) which effectively repealed [MCRSA](#) and incorporated certain provisions of the MCRSA in the licensing provisions of [AUMA](#) thus integrating the rules for both medicinal cannabis (MCRSA) and adult use of marijuana (AUMA).

SB 94 Key Changes to the States Cannabis Regulations:

1. The governing bureau will now be the Bureau of Cannabis Control (“the Bureau”).
2. Cities and counties retain full land use authority as to cannabis businesses; cities and counties may prohibit such businesses entirely, allow only some, or allow them with locally developed regulations that fit local needs. SB 94 also establishes that local jurisdictions retain the authority to regulate cannabis businesses and to take enforcement action concerning Fire and Building Codes, conduct inspections, and implement audits.
3. Retains the requirement that a qualified patient possess a State Medical Marijuana I.D. Card to be exempt from paying sales and use tax on cannabis purchases.
4. The state must notify a local jurisdiction when it receives an application for commercial cannabis activity in that jurisdiction. The city or county then has 60 business days to notify the state whether the applicant is in compliance with local regulations.
5. Cities and counties will be required to submit copies of local ordinances and regulations on cannabis uses to the state. In addition, they must provide the State agency with a contact name for the verification of the regulatory permits.
6. Through July 1, 2019, SB 94 exempts from the California Environmental Quality Act (“CEQA”) the adoption of an ordinance or regulation by a local jurisdiction if the ordinance or regulation requires discretionary review and approval of local permits or licenses for commercial cannabis activity.
7. The types of licenses available for commercial adult-use cannabis activity and commercial medicinal cannabis activity will be the same. MAUCRSA establishes 20 license types, including 14 cultivation licenses, two manufacturing licenses, one testing license, one retailer license, one distributor license, and one microbusiness license. With the exception of the testing license, the state will designate each license with an “M” or an “A” to indicate whether it is a medical or an adult-use license. The licenses available under both the MCRSA and AUMA will continue to be available for both kinds of activity, and for specialty cottage cultivation licenses and microbusiness licenses, and, commencing on January 1, 2023, licenses for large outdoor, indoor, and mixed-light cultivation will also be available for both medicinal and adult-use cannabis activity.

8. Transporter licenses will no longer be available.
9. Those with a retail cannabis license or delivery operations will now be allowed to operate from a physical location that is closed to the public; they shall no longer be required to have a dispensary affiliation.
10. Quality assurance, inspection, and testing requirements of cannabis and cannabis products prior to retail sale will change. Distributors will be required to store cannabis batches on their premises during testing, testing lab employees will be required to obtain samples for testing and transport those samples to testing labs, and distributors will be required to conduct a quality assurance review to ensure compliance with labeling and packing requirements, among other things.
11. Though the MCRSA limited the combinations of medicinal cannabis licenses a person may hold until January 1, 2026, the MAUCRSA will not apply these limits (other than that testing laboratory licensees are prohibited from obtaining licenses to engage in any other commercial cannabis activity).
12. The residency requirement in AUMA is now repealed. Those who reside in other states or countries can now be allowed to own a cannabis business in California.
13. Additional advertising requirements, including regulation of online advertising and the creation of a universal symbol for edible cannabis products will be implemented.
14. The cannabis excise tax will be measured by the average market price (as defined) of the retail sale, instead of by the gross receipts of the retail sale.
15. Applicants for cultivation licenses will need to identify the source of water supply.
16. The Bureau will no longer have the authority to regulate and control industrial hemp.
17. The state may issue temporary event licenses allowing people 21 and older to consume cannabis and cannabis products at a county fair or district agricultural association event. These event licenses may only be issued if the local jurisdiction allows the events.

*Status: Signed into Law.*

**AB 64 (Bonta) – Profit or Not-for-Profit Cannabis Licenses**

**Update:** AB 64 seeks to address the policy and technical issues that were not specified in SB 94. These include clarifying the role of delivery technology, testing laboratories standards, requiring retailers, microbusinesses, and non-profits to inform consumers of new ‘Open Container’ laws, and additional technical cleanup.

*Status: Held on the Assembly Appropriations Committee suspense file-two year bill.*

**AB 729 (Gray) – Licensee Regulation on Non-Medical Marijuana**

This bill would require a licensing authority to suspend a license permitting nonmedical marijuana commercial activities for a 3rd or subsequent violation of the prohibition on engaging with a person under 21 years of age if the violation occurs within 36 months of the initial violation.

*Status: - Died on the Assembly Inactive File. Bill hearing was canceled at the request of the author.*

**AB 963 (Gipson) – Taxation on Marijuana**

**Update:** This bill would require the State Board of Equalization (BOE) [Now the California Department of Tax and Fee Administration] to establish a Cannabis Criminal Enforcement Team. The team’s purpose is to combat criminal evasion of sales tax and excise tax on sales of marijuana, marijuana products, marijuana accessories and cultivation.

All fines associated with the tax evasion will be remitted to the Marijuana Tax Fines and Penalties Account to fund the Cannabis Criminal Enforcement Team. In addition, this bill would authorize the BOE to deny an application for a permit if an applicant’s permit had previously been suspended or revoked, among other reasons, and would set forth the process for appealing an application decision. By modifying the scope of a crime and naming new crimes, the bill would impose a state-mandated local program.

*Status: Died on the Assembly Inactive File. Bill hearing was canceled at the request of the author.*

**AB 1410 (Wood and Mathis) – Marijuana Cultivation Tax**

*Status: This bill has been replaced with a motor vehicle violation penalty bill.*

**AB 1578 (Jones-Sawyer) – Cooperation with Federal Authorities on Cannabis Programs**

This bill would prohibit a state or local agency from assisting federal law enforcement in investigating, detaining, detecting, reporting or arresting a person for commercial or noncommercial marijuana or medical cannabis activity without a court order signed by a judge.

*Status: Died on the Senate inactive file.*

**SB 148 (Wiener) – State Board of Equalization Collection of Cash Payments on Cannabis-Related Businesses**

Introduced on behalf of BOE Member Fiona Ma, this bill would enact the Cannabis State Payment Collection Law and would authorize the BOE (California Department of Tax and Fee Administration) or a county to collect cash payments from cannabis-related businesses. This bill would require a county to collect only if both the board of supervisors of the county and the county tax collector or county treasurer-tax collector enter into an agreement with a state agency that administers any fee, fine, penalty or other charge payable by a cannabis-related business.

*Status: Died on the Senate Appropriations Committee suspense file.*