

Medical Marijuana Regulation and Safety Act (MMRSA)

HdL is implementing a Medical Marijuana Management Program designed to assist local agencies with developing oversight programs for medical marijuana operations. The firm is working closely with the Department of Consumer Affairs and other state agencies to address issues and concerns of our clients whether they choose to permit or ban Medical Marijuana (MMJ) industry related activities in their jurisdictions. Our services will include cost recovery, revenue modeling, taxation, audit compliance and business inspections.

BACKGROUND

In 1996, California voters approved Proposition 215, The Compassionate Use Act of 1996 (CUA) that exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana. In 2003, the Governor signed additional legislation SB 420, The Medical Marijuana Program Act (MMPA). This statute required the Attorney General to adopt “guidelines to ensure the security and non-diversion of marijuana grown for medical use.”

In 2013, U.S. Department of Justice Deputy Attorney General James Cole issued a [memorandum](#) establishing guidance regarding marijuana enforcement. This memorandum provides that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that address public safety, public health and other law enforcement interests in a manner that does not undermine federal enforcement priorities.

MMRSA

On October 9, 2015, the Governor signed three separate bills, AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey and Wood), AB 243 (Wood) and SB 643 (McGuire), all of which were contingent upon each other. These bills create a historic licensing and regulatory framework for all aspects of the state’s nearly two-decade-old MMJ industry. This includes cultivation, distribution, transportation, dispensary sales, testing, environmental protection, storage and home delivery. The legislation also provides cities and counties with the ability to regulate, tax or ban these operations by adopting an ordinance that affirmatively prohibits these activities.

Up to this point, MMJ businesses operating in California were only required to comply with local regulations which caused several issues with the Federal government. Under the new regulations, businesses will have to obtain both state and local licenses in order to operate in a given jurisdiction. It is anticipated that the state will begin issuing licenses beginning in January, 2018. Until the new processes are in place for approving or denying new licenses, businesses that are currently operating in compliance with existing local zoning ordinances and business license requirements, as well as properly remitting sales tax may continue their operations.

The three bills constituting the Medical Marijuana Regulation and Safety Act, which were signed by the Governor in October, put California one step closer to developing strong regulatory oversight of the Medical Marijuana industry.

KEY POINTS OF THE MEDICAL MARIJUANA BILLS

- Creates a new Bureau of Medical Marijuana Regulation in the Department of Consumer Affairs which will work closely with the Department of Food and Agriculture and the Department of Public Health.
- Allows for two types of dispensary permits: single location or multiple locations (which cannot exceed more than three retail sites).
- Establishes 10 cultivation categories for specialty outdoor and indoor facilities.
- Allows for two types of manufacturing permits: Level 1 (nonvolatile solvents) and Level 2 (volatile solvents).
- Requires mandatory testing by a certified lab licensed by the state which is subject to strict testing guidelines.
- Specifies that cannabis distributors must be licensed and meet strict quality assurance requirements.
- Requires a license for all transporter businesses which move cannabis products from one licensed location to another licensed location.
- Grandfathers in vertical integration businesses which are those businesses having a single company or set of owners that operate the production, wholesaling and retail operations of a cannabis business if the following conditions are met:
 - The local agencies allowed or required a business to be vertically integrated.
 - They were in business on or before July 1, 2015.
- Requires strict packaging rules that do not appeal to children. Additionally, labels must include a warning that the product is “FOR MEDICAL USE ONLY” and “THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY” in addition to other labeling requirements.
- Allows each state regulatory agency responsible for oversight of the cannabis industry to establish license fees to recoup program costs.
- Recognizes local authority to levy taxes and fees.
- Adopts a system for reporting the movement of commercial cannabis and cannabis products.
- Delivery services will be allowed if owned and controlled by the dispensary unless explicitly prohibited by a city ordinance.
- Allows for the revocation of a local license, permit or other authorization for a medical cannabis business to operate until the jurisdiction reinstates or reissues the permit, license or other authorization.
- Sets forth standards for a physician prescribing medical cannabis to patients.

For more information, please contact *David McPherson* at dmcpherson@hdlcompanies.com or by phone at 909.861.4335. David is one of the state’s most recognized experts in cannabis horticulture, processing and dispensary operations. He uses his industry expertise to assist local and state agencies in developing medical marijuana policies for regulation, compliance, auditing and economic development.

Direct Link to view memorandum is: <http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>