



Implementing California's Cannabis Laws

On November 8, 2016, voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA), legalizing the adult use of cannabis in California. AUMA contains broad local regulatory and taxation authority, allowing local governments to decide how best to regulate – and impose local taxes on – the retail sale and cultivation of cannabis in their respective communities, while integrating local regulatory programs within a larger state licensing system. In addition to AUMA, the Governor signed into law the Medical Cannabis and Regulatory Safety Act (MCRSA) in 2015. MCRSA established a similar statewide licensing and regulatory framework specific to medical cannabis. While substantially similar, these two laws contain several differences. As a result, the Administration and Legislature are working to reconcile several inconsistencies between AUMA and MSCRA as they work to implement both laws.

In April 2017, the Administration released Trailer Bill Language (TBL) that proposes to statutorily align components of the regulatory structure for medical and adult use cannabis, while preserving separate categories of license types within one overall regulatory framework. In addition, the state regulatory agencies recently released draft regulations that would implement MCRSA. If the TBL passes with the budget in mid-June, state agencies are expected to withdraw the set of recently proposed draft medical regulations and release new proposed regulations consistent with changes in the law for both medical and adult use. The Administration has indicated that it will take all comments on draft regulations into consideration when drafting any new set of regulations pursuant to TBL.

Key Differences between AUMA & MCRSA, and Proposed Solutions

- ✓ **Local- State Licensing Process** The MCRSA requires state license applicants to provide proof of a local permit or other permission to operate. AUMA respects local control, but takes the opposite approach by placing the burden on the state rather than the applicant to ensure that the issuance of a state license does not conflict with a local ordinance or other local regulations. AUMA does not require the applicant to furnish proof of a local license or permit in order to obtain a state license. The Administration's proposed TBL would create a new system that would require the Bureau of Cannabis Control to work with local jurisdictions to collect ordinances and establish local points of contact. It also would allow applicants to voluntarily submit a local permit with state application. TBL also includes a narrow CEQA exemption for local ordinances that issue discretionary permits. CSAC and our local government partners are working to amend this structure to ensure for a more streamlined process.
- ✓ **Medical I.D. Cards** Senate Bill 420 (2003, Vasconcellos) established a voluntary registry identification card system, maintained by the Department of Health Services and administered by counties. The I.D. cards afford legal protection from marijuana charges for patients and caregivers acting in compliance with guidelines outlined in SB 420. Patients and caregivers can apply for the card from their county health department. According to the Legislative Analyst's Office (LAO), approximately 80

percent of cannabis patients do not currently use medical I.D. cards, but instead use their physician's recommendation to purchase cannabis. AUMA includes a sales tax exemption on medical cannabis for medical I.D. card holders. The Administration's TBL would eliminate the state-issued I.D. cards and provide the county with the authority to issue local cards.

- ✓ **Vertical Integration** MCRSA generally limits a medical cannabis licensee to holding state licenses in not more than two categories. In contrast, the AUMA generally allows a nonmedical cannabis licensee to hold licenses in more than two categories. TBL proposes to maintain AUMA's vertically integrated licensing structure for both adult use and medical cannabis licensees. It maintains independent testing licenses to be independent of all other licensees in other categories.
- ✓ **Independent Distribution** Distributor licensees under MCRSA generally are required to be independent entities that do not hold licenses in other license categories. In contrast, distributor licensees under AUMA generally can hold licenses in other license categories. TBL proposes to maintain AUMA's open distribution model, allowing businesses to hold multiple licenses including a distribution license, but requires distributors to arrange for independent testing.
- ✓ **Cultivation Limits** MCRSA includes a limit on the scale of cultivation and the number of medium-sized (Type 3) licenses that can be issued. The Type 10A multiple-cultivation license allows a maximum of four acres of cultivation, although the four-acre limit does sunset in 2026. AUMA added a new cultivation license not authorized under the MCRSA, the Type 5, which allows large size cultivation of over one acre (unlimited acreage) or greater than 22,000 square feet indoors. AUMA does include a delay on this license type, authorizing the state to start issuing in 2023. AUMA does not limit the number of medium-sized (Type 3) licenses that can be issued. The Administration's proposal in TBL proposes to limit the number of Type 3 licenses for both medical and adult use.
- ✓ **Other Issues** The Administration's proposed TBL includes a number of reconciliation proposals that would affect the cannabis industry structure, including:
 - ✓ Not requiring California residency to obtain or renew a license (MCRSA did not include a residency requirement, but AUMA did through 2019);
 - ✓ Prohibiting medical and adult use cannabis activities from occurring on the same premises (not included in MCRSA or AUMA);
 - ✓ Defining ownership as someone with an interest of 20 percent or more or someone who otherwise participates in the direction, control and management of the business (consistent with AUMA; MCRSA includes a lower ownership threshold);
 - ✓ Requiring disclosure of a complete list of every person with a financial interest in the entity applying for the license (not included in AUMA or MCRSA).

For more information, please contact Cara Martinson, CSAC Legislative Representative at cmartinson@counties.org, or Betsy Hammer, CSAC Legislative Analyst at bhammer@counties.org.