MEETING OF THE MEDICAL CANNABIS COMMISSION

City Hall
2180 Milvia Street
Redwood Room (Sixth Floor)

Thursday, October 6, 2016
2:00 PM

AGENDA

I. Call to Order
- A. Roll Call and Ex Parte Communication Disclosures
- B. Changes to Order of Agenda

II. Public Comment

III. Approval of Minutes
- A. September 8, 2016 Draft Action Minutes (Attachment)

IV. Planning Staff Report

V. Chairperson's Report

VI. Subcommittee Report

VII. Discussion and Action Items
- A. Discuss and vote on selection process for cultivation businesses. One attachment:
  1. Staff proposal for cultivation selection process with 8-22-16 subcommittee language
- B. Discuss and vote on language for Delivery-Only Dispensaries. Two attachments:
  1. Draft language from City Attorney with MCC recommended revisions
  2. Selection from July 21, 2016 regarding MCC recommended revisions
- C. Discuss Council referral on recreational marijuana and Commission response and vote on next steps as necessary. Two attachments:
  1. Commissioner Rice's memo
  2. AUMA/Prop 64 synopsis

VIII. Information Items (*In compliance with the Brown Act, no action may be taken on these items. However, they may be discussed and placed on a subsequent agenda for action.)*

IX. Correspondence
- A. Timothy Clark – Compilation of AUMA/Prop 64 commentary
- B. Chair Pappas – Council selection of 5th and 6th dispensaries
- C. Chair Pappas – e-mail to Council Agenda Committee

X. Adjournment

Berkeley Medical Cannabis Commission website: http://www.cityofberkeley.info/medicalcannabis/)
Medical Cannabis Commission Secretary: Elizabeth Greene, 2120 Milvia Street, 2nd Floor, Berkeley CA 94704.
Phone: 510-981-7484 EGreene@cityofberkeley.info

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information to be made public, do not include that information in your communication – you may deliver communications via U.S. Postal Service or in person to the Commission Secretary. Please contact the Commission Secretary for further information.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Planning and Development Department located at 2120 Milvia Street, Berkeley CA. Please contact the Commission Secretary for further information.

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MEETING OF THE MEDICAL CANNABIS COMMISSION

City Hall
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Redwood Room (Sixth Floor)

Thursday, September 8, 2016
2:00 PM

DRAFT ACTION MINUTES

I. Call to Order – 2:12

A. Roll Call and Ex Parte Communications Disclosures

Commissioners present: Carlisle, Ferguson-Riffe, Pappas, Rice. No ex parte communication was disclosed.

Absent: Cooper (excused), Lampach (not excused), Tims (excused).

Staff present: Secretary Elizabeth Greene

B. Changes to Order of Agenda

Motion/second to move Item VII.C before Item VII.A (Pappas/Ferguson-Riffe). The motion carried 4-0-0-3. (Ayes: Carlisle, Ferguson-Riffe, Pappas, Rice. Noes: None. Abstain: None. Absent: Cooper, Lampach, Tims.)

II. Public Comment

Four public comments, regarding El Cerrito's first public meeting regarding medical cannabis (Monday September 12, 6:00), questions regarding manufacturing and distribution businesses, and how to apply for the open seats on the MCC.

III. Approval of July 21, 2016 Action Minutes

Motion/second to approve the minutes (Pappas/Rice). The motion carried 4-0-0-3. (Ayes: Carlisle, Ferguson-Riffe, Pappas, Rice. Noes: None. Abstain: None. Absent: Cooper, Lampach, Tims.)

IV. Planning Staff Report

Secretary Greene made the following announcements:

- There are two vacancies on the Commission representing the Mayor and Councilmember Arreguin.
- There are two excused absences (Cooper and Tims). With the two open seats and two excused absences, the number of appointed members of the MCC is 5. The quorum for action is 3 votes.
- Update on the dispensary selection process: The Council increased the number of dispensaries from four to six (July 12, 2016). Selection of two additional dispensaries was on the July 19th Council agenda, but was continued to the September 20th meeting.
- Letter to the Council requesting an eleventh meeting on November 17 will be considered by the City Council at the September 20th meeting.
- Principal Planner Alex Amoroso will be the Secretary for the October 6th meeting.
- Mentioned the upcoming meetings by state agencies regarding new regulations to implement MMRSA – see Information Item C. Future information will not be included in the packets, but a link to the agencies will be included on the MCC's webpage.

V. Chairperson's Report

Chair Pappas thanked the public for coming to the meeting. He has formed a group (Berkeley Cannabis Distribution and Cultivation Action Group) to lobby for medical cannabis legislation at each City Council meeting. He is also working to bring two cultivators to speak at the next meeting.

VI. Subcommittee Reports

Chair Pappas gave the report. There was good public turnout at the last meeting. The subcommittee reviewed the staff recommendation for the selection process and added their own ideas, which are included in this packet.

VII. Discussion and Action Items

C. Request from the Community Health Commission regarding development of an African American Resource Center in Berkeley.

Public Comment: Three public comments, asking about the request and expressing belief that it was about holistic medicine.

The commissioners generally felt that is was important for the MCC to support efforts for a center to help African American health issues, particularly since African Americans have been affected so greatly by cannabis.

Motion/second to ask the Council to support a feasibility study, and supporting this issue because of the medical benefits of cannabis (Pappas/Carlisle). The motion carried 4-0-0-3. (Ayes: Carlisle, Ferguson-Riffe, Pappas, Rice. Noes: None. Abstain: None. Absent: Cooper, Lampach, Tims.)

A. Discuss and give direction on selection process for cultivation businesses.

Staff reviewed the staff proposal and subcommittee changes.

Public Comment: None.

Commissioner Carlisle explained that the subcommittee recommended the 40% cap on medium and large (2a and 3a) businesses to prevent large businesses from taking over. He also expressed concerns about businesses controlling locations without using them for cultivation just to prevent other cultivation businesses from becoming established. Commisioner Rice liked the subcommittee changes, except the 90 day requirement for construction, and recommended giving staff the flexibility to make changes. Vice Chair Ferguson also felt the 90 day limit was too restrictive. There was general discussion about Oakland's requirements for financial statements to demonstrate viability. There was general agreement that the goal is to allow small cultivators to establish, and that they shouldn't have to pay a large amount of money to be considered.

B. Discuss next steps regarding Council referral on recreational marijuana and vote on staff proposal to amend BMC Chapter 12.26 to prohibit recreational cannabis business until a regulatory framework is developed.

Staff introduced the language developed by the City Attorney for Section 12.26.035, which would prohibit approval of recreational cannabis businesses (should Proposition

64 pass) until a regulatory framework is approved by the City Council.

Public Comment: Two public comments, suggesting that small cultivators should be allowed to submit before larger businesses, and asking for clarification regarding the term "premises".

Discussion: General support of the concept to allow adequate time to develop regulations prior to allowing recreational cannabis businesses to establish. There was concern about the phrase "recreational cannabis use", and whether this could be interpreted to mean use of cannabis by individuals rather than a business use.

Motion/second to approve the language, with the caveat that "recreational cannabis use" means businesses, and not use by adult citizens (Rice/Ferguson-Riffe). The motion carried 4-0-0-3. (Ayes: Carlisle, Ferguson-Riffe, Pappas, Rice. Noes: None. Abstain: None. Absent: Cooper, Lampach, Tims.)

The commission then discussed the possible response to the Council referral. Some ideas included using the MCC to review both medical and recreational cannabis issues, and changing the purposes of the MCC accordingly. Much of the work that would be needed if Prop 64 passes is already contained in Berkeley's medical cannabis regulations. The Council should be reminded of the body of work already done for medical cannabis – most of these regulations, with minor changes, should also apply to recreational cannabis.

Motion/second to direct Commissioner Rice to draft a paragraph addressing the possibility of using the framework of the Berkeley's medical cannabis regulations to create any required recreational cannabis regulations (Ferguson-Riffe/Carlisle). The motion carried 4-0-0-3. (Ayes: Carlisle, Ferguson-Riffe, Pappas, Rice. Noes: None. Abstain: None. Absent: Cooper, Lampach, Tims.)
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X. Adjournment

Motion to adjourn at 4:10.

No late items were distributed at the meeting.

Commissioners in attendance: 4
Members of the public in attendance: Approximately 12
Public speakers: 9
Length of meeting: 2 hours

APPROVED: _____
Elizabeth Greene
Medical Cannabis Commission Secretary

TO: **Medical Cannabis Commission**

FROM: **Elizabeth Greene, Secretary**

SUBJECT: **Draft Recommendation for Cultivation Selection Process**

DATE: **October 6, 2016**

The following recommendation is based on the Staff memo from July 21, 2016 and the Cultivation Subcommittee's September 8, 2016 comments. Any changes either made by staff for clarification, the subcommittee or based on discussion at the September 8, 2016 meeting are shown as track changes.

The MCC recommends no selection process for Cultivation Facilities. The MCC recommends that an application period be developed by staff to ensure that the Zoning Ordinance limits on the amount of area that can be used by Cultivation Facilities (180,000 sf) is not exceeded, and also to ensure that small cultivation facilities have an opportunity to locate in the City. The recommended process would have the following features:

1. Allocate a portion of the 180,000 sf total cultivation area to each of the three different state cultivation categories:
    a. Type 1A (indoor, up to 5,000 sf): ~~60,000 sf~~ unlimited
    ~~b.~~ Type 2A (indoor, between 5001 – 10,000 sf)~~: 60,000 sf~~ and
    ~~c.~~b. Type 3A (indoor, between 10,001 and 22,000 sf): ~~60~~72,000 sf for the first application cycle.
2. Open an application period with a limited time frame. During this time, Business License and Zoning Certificate applications will be submitted for specific types of cultivation and locations. Paperwork must also be submitted to demonstrate compliance with City requirements such as proof of Principal(s) patient status, proof of business organizational status, background information for Principals, etc.
3. Staff will review the Zoning Certificate applications and approve those which conform to the Zoning Ordinance. Applications will be reviewed in the order received. If the applications received for a specific cultivator size exceed the space allotted for that category, only those received first will be approved.
4. Applicants with approved Zoning Certificates must submit a Building Permit application within **90** days of ~~the close of application period~~notice of the Zoning Certificate approval.
5. Applicants must obtain a Building Permit within **180** days of submitting a Building Permit application (State regulation, no extension).

~~5.~~6. Applicants must commence construction within **360** days of submitting a building permit (State regulation, no extension).

~~6.~~7. In cases where an applicant does not meet the deadline for either applying for a Building Permit, obtaining a Building Permit, or commencing construction,

the Zoning Certificate approval will be revoked and the square-footage of the site will be added back to the available area for that cultivation category.

~~7.~~8. Staff would ~~re-open an application period every six months for a two year period. After two years, the MCC would~~ evaluate the need ~~for this process.~~ To open additional application periods. If an application period is not deemed necessary, application would be accepted on an on-going basis until the 180,000 sf limit is reached.

This process has the following features:

- ~~No application forms would need to be developed for this process.~~
- Applicants would apply for a business license and zoning certificate like any other business.
- No discretionary review of the applications by the MCC, Zoning Adjustments Board, City Council or any other group is proposed.
- The application period would allow staff to track the applications received and ensure that the 180,000 square foot limit, and the allocation limit for each cultivation category, are not exceeded.
- This period would also allow property owners to interview potential tenants and select the one/s that are most compatible for the site.

Proposed changes to the Berkeley Municipal Code related to Delivery-Only Dispensaries

October 6, 2016

12.23.020 Definitions (no changes from July 21, 2016)

H. 1. "Dispensary" means both Retail Dispensaries and Delivery-Only Dispensaries.

2. -"~~Medical cannabis dispensary" or~~ "Retail Dispensary" shall mean an organization that is authorized under Chapter 12.27 and Title 23 to dispense ~~m~~Medical ~~c~~Cannabis at a lawfully established non-residential location. A Dispensary may also provide other incidental services to its ~~m~~Members to the extent permitted by state law, such as cultivating~~e~~, acquiring~~e~~, baking~~e~~, storing~~e~~, processing, testing, ~~and~~ transporting and delivering ~~m~~Medical ~~c~~Cannabis. In dispensing Medical Cannabis to its Members~~qualified patients or their primary caregivers~~, a Dispensary may be reimbursed for the cost of its services and materials. A Dispensary may be organized as any statutory business entity permitted under California law, provided it operates in a Not-For-Profit manner as defined in Chapter 12.27.

3. "Delivery-Only Dispensary" is a Dispensary that is limited to acquiring Medical Cannabis and delivering it to its Members, and does not have a location to which Members may come to acquire Medical Cannabis or any other good or service.

12.27.115 Delivery-Only Dispensaries – Delivery requirements (changes from July 21, 2016 shown as track changes)

A. In addition to the three existing Retail Dispensaries permitted as of January 1, 2012, under Berkeley Municipal Code ~~s~~Section 12.26.130 and any Retail Dispensaries selected under Section 12.27.100, up to 10 Delivery-Only Dispensaries shall be permitted, on a first-come-first-served basis.

B. Delivery-Only Dispensaries shall comply with the requirements of Chapter 12.23 and this Chapter that are applicable to Dispensaries except those that are determined by the City Manager to be inapplicable to Delivery-Only Dispensaries because of the nature of their operation as distinct from Retail Dispensaries. Delivery-Only Dispensaries shall be limited

C. Delivery-Only Dispensaries may only be located in the _____ Zoning Districts.

D. All Dispensaries that provide delivery services to their members shall comply with the following requirements, as well as all applicable requirements of state law. In the event of a conflict, state law shall prevail.

1. All vehicles used for delivery shall be maintained and operated in a manner and in a condition required by law and applicable regulations.

2. The following persons may not drive delivery vehicles:

a. ~~e. any~~ person who has been at fault~~involved~~ within the two years immediately preceding the application in any motor vehicle accident causing death or personal injury;

b. ~~f. any~~ person who has been in three or more motor vehicle accidents within the previous 12 months.

c. ~~b. any~~ person who has been under suspension, revocation or probation by the Department of Motor Vehicles for a cause involving the safe operation of a motor vehicle, or has been convicted of any of the following offenses: driving while under the

influence, or reckless driving involving bodily injury, or who does not possess a valid driver's license;

3. The following persons may not be involved in making deliveries:

a. any person who is required to register as a sex offender under Section 290 of the California Penal Code;

~~b. any person who has been under suspension, revocation or probation by the Department of Motor Vehicles for a cause involving the safe operation of a motor vehicle, or has been convicted of any of the following offenses: driving while under the influence, or reckless driving involving bodily injury, or who does not possess a valid driver's license;~~

~~c. any person who has been convicted of any offense punishable as a felony, or has been convicted within a five (5) year period immediately preceding the crime of theft in either degree;~~

~~d~~b. any person who has been convicted of any offense involving moral turpitude~~;~~.

~~e. any person who has been involved within the two years immediately preceding the application in any motor vehicle accident causing death or personal injury;~~

~~f. any person who has been in three or more motor vehicle accidents within the previous 12 months.~~

~~3~~4. Persons involved in making deliveries must have in their possession a copy of the document memorializing the City's approval of the delivery service.

~~4~~5. Delivery vehicles may not advertise any activity related to Cannabis or advertise the name of the Dispensary.

~~5~~6. Delivery of the Medical Cannabis shall be directly to the residence or business address of the ~~m~~Member. Deliveries to any other location are prohibited.

~~6~~7. Deliveries of marijuana may occur only between the hours of 8:00 a.m. and 11:00 p.m.

~~7~~8. All orders to be delivered shall be packaged by the name~~s~~ or identification number of the ~~m~~Member for whom the delivery is intended.

~~8~~9. In addition to the requirements of Section 12.27.050 subdivisions A and B, the person responsible for making deliveries shall have a copy of the record of all delivery requests while making deliveries.

10. All Dispensaries that provide delivery service shall maintain at all times Commercial General Liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury with limits of not less than One Million Dollars ($1,000,000) per occurrence and Comprehensive Automobile Liability (owned, non-owned, hired) providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than One Million Dollars ($1,000,000). The Commercial General Liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the City shall be primary, and shall name the City, its officials and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for immediate suspension of the privilege of providing delivery service.

Excerpt from July 21, 2016 MC Minutes
MCC comments regarding delivery-only dispensaries

B. Discuss delivery services: what uses should be included in a definition of a "delivery-only dispensary" and the process for considering changes to the Municipal Code and Zoning Ordinance.

Staff introduced the draft language developed by the City Attorney for delivery-only dispensaries and asked for comments. She also explained that the Planning Commission considered changes to the Zoning Ordinance related to delivery-only dispensaries at its June 15, 2016 meeting. The Planning Commission voted to request the MCC to "provide information on all issues, particularly jobs and economic development, relevant to delivery-only dispensaries other than where to allow ("applicability)".

Public Comment: Two public comments, asking whether regulations would only apply to businesses located in Berkeley, and what would be regulated.

Discussion: General support of the language. Comments regarding the draft language included:

1. That the language of Section 12.27.115.D.2.e be changed to reflect that only drivers at fault in an accident causing death or personal injury be restricted from making deliveries;
2. That the crimes listed in 12.27.115.D.2.c be the same as those for cultivation and dispensaries;
3. The way 12.27.115.D.2.c is written, it appears as if any felony conviction would prohibit someone from being a driver in perpetuity. This should be re-written if this is not the intent.
4. Section 12.27.115.D should specify whether it applies only to drivers or to passengers as well.

The MCC also discussed whether the dispensary name should be on a delivery vehicle and whether Berkeley should have a limit on the amount of medical cannabis in the vehicle (similar to San Francisco's limitations). It was also stated that New Mexico and Washington State have regulations about vehicle security that might be useful in this ordinance.

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Initial Assessment of City Readiness to Implement Legalization of Recreational Cannabis if Approved by California Voters in November 2016 Election

(Analysis By Berkeley Medical Cannabis Commission (BMCC), per 7/19/16 request from Mayor Bates)

"Legalizing Marijuana is Complicated: Voting Yes or No on marijuana legalization is only the beginning. If marijuana becomes legal, Californians will have to make hundreds of complicated decisions about how to regulate, tax, and sell it." (This statement is on the wall of the Oakland Museum of California cannabis exhibit, June 6, 12016)

"Legalization of marijuana would not be an event that happens in one election." (This quote is from the report issued by the Blue Ribbon Panel on Marijuana Policy, released 7/22/15)

MAJOR POINTS to EXPEDITE OPPORTUNITIES to ESTABLISH RECREATIONAL CANNABIS

1. Cities with robust medical cannabis experience will be best positioned to implement recreational cannabis, once State guidelines have been established, and to generate new tax revenue. Full implementation of medical cannabis (cultivation and dispensary) will provide analysis to make decisions regarding recreational cannabis.

2. The BMCC expects our city medical cannabis regulations will be largely transferrable to recreational cannabis. City adjustment of our medical cannabis regulations to new State laws (e.g., MMRSA) proved easy to accommodate.

3. Berkeley City Council (BCC) needs to approve the medical cannabis cultivation operational guidelines. These guidelines, developed by the BMCC and reviewed by city staff, have been before the BCC since February 2016.

4. The BMCC needs to complete the medical cannabis cultivation license selection criteria. The BMCC hopes to have these criteria to the BCC by November 2016.

6. The City needs to expand allowable cultivation beyond the M-District. The near zero percent vacancy rate in the M District effectively precludes cultivation in Berkeley. This crucial problem, with proposed solutions, was presented by the BMCC to the BCC on June 6, 2014.

7. Note: Prop. 64 allows individual cities to decide if they want to permit recreational cannabis businesses.

EXPERIENCE IN COLORADO, OREGON, WASHINGTON

8. "So far, legalization hasn't affected the number of teenagers who try marijuana in Colorado or Washington." (This quote is from the Oakland Museum Cannabis exhibit, which the curator reports is based on the federal Monitoring the Future Survey administered by the University of Washington.)

9. Denver Recommends Going Slow. Not A Problem for Berkeley! We Need to Speed Up or We Will Miss Out. The BMCC secretary, Senior Planner Elizabeth Greene, received the "slow" advice from a counterpart in Denver city government. It has been 22 years since California legalized medical cannabis in 1996 and ten years since Berkeley voters passed Msr. T in 2006.

10. State Comparisons Are Difficult. Denver and Colorado Springs do not have an aggregate square foot limit on cultivation (180k SqF in Berkeley), there are few alternatives for industrial space to cultivate outside these city limits, and Colorado doesn't border a state with legalized cannabis. Colorado Springs does not allow recreational cannabis businesses. The number of medical cultivation licenses and locations in Colorado Springs has declined since 2010.

OTHER MEDICAL CANNABIS INFORMATION

11. The State is expected to give priority to awarding required State licenses for medical cultivation to applicants already approved by their local communities. Aspiring Berkeley cultivators stand to fall behind in the State queue, and the city will continue to lose potential tax dollars, if we do not complete these guidelines.

12. Estimated $1,000,000 in new annual taxes/120 new jobs from cultivation of medical cannabis. (Significantly more tax revenue if the city decides to allow recreational cannabis.) These numbers are in addition to nearly $1,000,000 in annual taxes from current dispensaries.

Attachments [to support statements in this analysis, e.g., prior BMCC analyses, Fact Sheets]

The Control, Regulate and Tax Adult Use of Marijuana Act
(AUMA - Adult Use of Marijuana Act)
(see http://www.adultuseofmarijuanaact.com/ for full text)

AUMA will legalize marijuana for those over 21 years old, protect children, and establish laws to regulate marijuana cultivation, distribution, sale and use, and will protect Californians and the environment from potential dangers. It establishes the Bureau of Marijuana Control within the Department of Consumer Affairs to regulate and license the marijuana industry.

· Consolidates and streamlines regulation and taxation for both nonmedical and medical marijuana.

· Taxes both the growth and sale of marijuana to generate hundreds of millions of dollars annually.

· Prohibits the sale of nonmedical marijuana to those under 21 years old

· Establishes mandatory and strict packaging and labeling requirements for marijuana and marijuana products

· Sets up a comprehensive system governing marijuana businesses at the state level and safeguards local control, allowing local governments to regulate marijuana-related activities, to subject marijuana businesses to zoning and permitting requirements, and to ban marijuana businesses by a vote of the people within a locality

· Creates strict environmental regulations to ensure that the marijuana is grown efficiently and legally, to regulate the use of pesticides, to prevent wasting water, and to minimize water usage

· Creates a transparent and accountable system

California State Agencies

The Bureau of Marijuana Control, housed in the Department of Consumer Affairs - oversees the whole system, ensuring a smooth transition to the legal market, with licenses issued beginning in 2018.

The Department of Consumer Affairs licenses and oversees marijuana retailers, distributors, and microbusinesses.

The Department of Food and Agriculture licenses and oversees marijuana cultivation, ensuring it is environmentally safe.

The Department of Public Health licenses and oversees manufacturing and testing, ensuring consumers receive a safe product.

The State Board of Equalization collects the special marijuana taxes

Controller allocates the revenue to administer the new law and provides the funds to critical investments.

(The following paragraph does not appear in all the versions of the initiative)

AUMA 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. It also protects consumers and small businesses by imposing strict anti-monopoly restrictions for businesses that participate in the nonmedical marijuana industry

Purpose and Intent

Allows local governments to enforce state laws and regulations for nonmedical marijuana businesses and enact additional local

requirements for nonmedical marijuana businesses (does not require that they do so for a nonmedical marijuana business to be issued a state license and be legal under state law.)
Allows localities to ban nonmedical marijuana businesses through a local vote of the people as set forth in this Act.
Requires track and trace management procedures to track nonmedical marijuana from cultivation to sale.
Requires nonmedical marijuana to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it can be sold by licensed businesses.
Requires nonmedical marijuana sold by licensed businesses to be packaged in child-resistant containers and be labeled so that consumers are fully informed about potency and the effects of ingesting nonmedical marijuana.
Requires licensed nonmedical marijuana businesses to follow strict environmental and product safety standards as a condition of maintaining their license.
Prohibits the sale of nonmedical marijuana by businesses that also sell alcohol or tobacco.
Prohibits the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present.
Strengthens the state's existing medical marijuana system by requiring patients to obtain by January 1, 2018, a new recommendation from their physician that meets the strict standards signed into law by the Governor in 2015, and by providing new privacy protections for patients who obtain medical marijuana identification cards as set forth in this Act.

Personal Use

It will not be illegal for persons 21 years of age or older to possess less than 28.5 grams of cannabis or 4 grams of concentrate or process less than seven living marijuana plants. No smoking in public places of in a place where tobacco smoking is prohibited.

Marijuana Regulation and Safety

Division 10 is hereby added to the Business and Professions Code

The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for adults 21 years of age and over.

(Medical Marijuana is covered in Division 8, Chapter 3.5 of the Business and Professions Code)

“Bureau” means the Bureau of Marijuana Control within the Department of Consumer Affairs.

“Child resistant” means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

“Delivery” means the commercial transfer of marijuana or marijuana products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

“Distribution” means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this division.
“Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a state license pursuant to this division.
“Purchaser” means the customer who is engaged in a transaction with a licensee for purposes of obtaining marijuana
“Testing service” means a laboratory, accredited by an accrediting body that is independent from all other persons involved in commercial marijuana activity in the state.
and registered with the Department of Public Health.

Administration
The Bureau of Medical Marijuana Regulationis hereby renamed the Bureau of Marijuana Control.

The Department of Consumer Affairs shall have the exclusive authority for the transportation, storage (unrelated to manufacturing activities), distribution, and sale of marijuana within the state.
The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of marijuana.

The Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing and testing of marijuana.

Licensing authorities shall begin issuing licenses under this division by January 1, 2018.

The bureau shall convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this division. The advisory committee members shall include, but not be limited to, representatives of the marijuana industry, representatives of labor organizations, appropriate state and local agencies, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

Enforcement
Grounds for disciplinary action include:

Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.

Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3

Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.

Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and

Taxation Code

Failure to comply with the requirement of a local ordinance regulating commercial marijuana activity.

The intentional and knowing sale of marijuana or marijuana products by a licensee to a person under the legal age to purchase or possess.

Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities.

The actions of a license permitted or of a person who allows his or her property to be used by a licensee are not unlawful under state law and shall not be an offense subject to arrest or be subject to a civil fine.

A person engaging in commercial marijuana activity without a license shall be subject to civil penalties of up to three times the amount of the license fee for each violation and destruction of marijuana associated with that violation. Each day of operation shall constitute a separate violation of this section.

Chapter 5. Licensing

(a) The license classification pursuant to this division shall, at a minimum, be as follows:

(1) Type 1 = Cultivation; Specialty outdoor; Small.
(2) Type 1A = Cultivation; Specialty indoor; Small.
(3) Type 1B = Cultivation; Specialty mixed-light; Small.
(4) Type 2 = Cultivation; Outdoor; Small.
(5) Type 2A = Cultivation; Indoor; Small.
(6) Type 2B = Cultivation; Mixed-light; Small.
(7) Type 3 = Cultivation; Outdoor; Medium.
(8) Type 3A = Cultivation; Indoor; Medium.
(9) Type 3B = Cultivation; Mixed-light; Medium.

(10) Type 4 = Cultivation; Nursery.
(11) Type 5 = Cultivation; Outdoor; Large.
(12) Type 5A =Cultivation; Indoor; Large.
(13) Type 5B = Cultivation; Mixed-light; Large.
(14) Type 6 = Manufacturer 1.
(15) Type 7 = Manufacturer 2.
(16) Type 8 = Testing.
(17) Type 10 = Retailer.
(18) Type 11 = Distributor.
(19) Type 12 =Microbusiness.

All licenses issued under this division shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity Examples of such a designation include, but are not limited to,“Type 1 – Nonmedical,” or “Type 1NM.”
The bureau and licensing authorities may issue licenses under this division (Division 10) to persons or entities that hold licenses under Chapter 3.5 of Division 8. (Medical Marijuana).

A person or entity that holds a state testing license in either division is prohibited from licensure for any other activity, except testing.

A person or entity may apply for and be issued more than one license under this division.

A licensee shall not also be licensed as a retailer of alcoholic beverages under Division 9 or of tobacco products.

No licensing authority shall issue a license to any person that

cannot demonstrate continuous California residency from or before January 1, 2015

A licensing authority shall give priority in issuing licenses under this division (10) to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act before November 1, 2015, or currently operates in compliance with Chapter 3.5 of Division 8. The bureau shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, The bureau shall make the requested information available to licensing authorities. An applicant may furnish other evidence to demonstrate operation in. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority. This section shall cease to be operable on December 31, 2019 unless otherwise provided by law.
Separate licenses shall be issued for each of the premises of any licensee having more than one location. After issuance of a license, no licensee shall change or alter of the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, until prior written assent of the licensing authority or bureau has been obtained.

An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in

Section 19322 of Chapter 3.5 of Division 8 unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority. (An applicant need not provide documentation that the applicant has obtained a license to operate from the local jurisdiction in which the applicant seeks to operate.)

For applicants seeking licensure to cultivate, distribute, or manufacture nonmedical marijuana or marijuana products, will also need to include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

(4) The inventory process.

(5) Quality control procedures.

(6) The source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law.

The applicant must provide a complete detailed diagram of the proposed premises

-The boundaries of the premises, showing, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways,

-Including a brief statement or description of the principal activity to be conducted.

-For cultivation licenses, drawings must include measurements of the planned canopy including aggregate

square footage and individual square footage of separate cultivation areas.

The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to:

environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, the California Environmental Quality Act , the California Endangered Species Act, lake or streambed alteration agreements, the Clean Water Act, the Porter-Cologne Water Quality Control Act, timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.

Section 26057 concerns licensing people who have had felony convictions, problems with Fish & Game or other run-in's with authorities. Look it up if you need to know more.

Licenses

Licensed Cultivation Sites

Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, and mixed-light cultivation sites shall apply to licensed cultivators under this division.

The Department of Food and Agriculture shall include conditions in each license requested by the Department of Fish and Wildlife and the State Water Resources Control Board.
(The matters addressed in this section shall be, at a minimum, the same as is described in SB 643 page 17 of the Medical Marijuana requirements.)

The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall be the same amounts as Types 1-4 of the Medical Marijuana with the addition of Type5, 5A,and 5B..
Type 5, - outdoor cultivation using no artificial lighting, greater than one acre in size.
Type 5A, - indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.
Type 5B - mixed-light cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority,
greater than 22,000 square feet, inclusive, of total canopy size on one premises.

The copy of the initiative that looks most authorative (https://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20%28Marijuana%29_1.pdf) has two sentences that are not in the copy of the initiative on the website (http://www.adultuseofmarijuanaact.com/). The longer version states that Type 5 licenses will not be available for 5 years (January 2023).

Commencing on January 1, 2023, A Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold Type 10 license. Type 5 licensees shall not be able to apply for Type 8, Type 11, or Type 12 licenses. *According to this initiative the small cultivators (less than an acre outdoor, or 22,000 sq.ft. indoors) can have licenses in all the other classifications except for Testing (Type 8).*

The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in Section 19332.5 of Chapter 3.5 of Division 8.
The Department of Food and Agriculture shall establish a Marijuana Cultivation Program. A person or entity shall not cultivate marijuana without first obtaining a state license.

Unique Identifier
The department, in consultation with the bureau, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for marijuana.. In implementing the program, the department shall ensure that:

· Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability. If a watershed cannot support additional cultivation, no new plant identifiers will be issued for that watershed.

· Cultivation will not negatively impact springs, riparian wetlands and aquatic habitats.

The department shall establish a program for a unique identifier that shall be issued for each marijuana plant.

The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division.

The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

Unique identifiers will only be issued to those persons appropriately licensed by this section.

Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26170.

The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each marijuana plant.

The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

Unique identifiers and associated identifying information administered by local jurisdictions shall adhere to the requirements set by the department .

Retailers and Distributors

State licenses to be issued by the Department of Consumer Affairs.

“Retailer,” for the retail sale and delivery of marijuana

"Distributor," for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

Microbusiness

"Microbusiness," for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division
Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows and protect fish, wildlife, fish, wildlife habitat, and water quality.

The bureau shall establish minimum security requirements for the commercial distribution, transportation and delivery of marijuana and marijuana products.

Prevent unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises.

Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the dispensary.

Establishing limited access areas accessible only to authorized personnel.

Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished

marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

The bureau shall, by January 1, 2018, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section (such licensed entity will not generate annual gross revenues in excess of two million dollars ($2,000,000).) Primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons? (Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?)

Distribution and Transport

A local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads (not outside the state) by a licensee transporting marijuana or marijuana products in compliance with this division.

Delivery

Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.

A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request.

Local jurisdiction shall not prevent delivery of marijuana or

marijuana products on public roads by a licensee acting in compliance with this division and local law

Manufacturers and Testing Laboratories

The Department of Public Health shall govern the licensing of marijuana manufacturers and testing laboratories.
Licenses to be issued are as follows:
Manufacturing Level 1 for sites that manufacture marijuana products using nonvolatile solvents, or no solvents.
Manufacturing Level 2 for sites that manufacture marijuana products using volatile solvents.
Testing," for testing of marijuana and marijuana products. A testing licensee shall not hold a license in another license category of this division and shall not have ownership interest in a non-testing facility.
Testing
Except as otherwise provided by law, no marijuana or marijuana products may be sold unless a representative sample of such marijuana or marijuana product has been tested by a certified testing service to determine whether the chemical profile of the sample conforms to the labeled content of compounds, including all of the following: THC, THCA, CBD, CBDA, Terpenes, CBG, CBN
That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following: Residual solvent or processing chemicals, poisons, toxins, or carcinogens hair,

insects, or similar or related adulterant, Microbiological impurity, including total aerobic microbial count
A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in Section 19344 in Chapter 3.5 of Division 8

Any pre-sale inspection, testing transfer, or transportation of marijuana products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

The Department of Public Health shall develop procedures to:

Ensure that testing of marijuana and marijuana products occurs prior to distribution to retailers, microbusinesses, or nonprofits

Specify how often licensees shall test marijuana and marijuana products, and that the cost of testing marijuana shall be borne by the licensed cultivators.

The cost of testing marijuana products shall be borne by the licensed manufacturer

Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the Department of Public Health, unless remedial measures can bring into compliance with quality assurance.

Standards for the production and labeling of all marijuana products developed by the Department of Public Health shall apply to licensed manufacturers and microbusinesses, and

nonprofits

Quality Assurance, Inspection, and Testing

This section (Chapter 11) is the ony mention of the role of distributors in the whole document. It doesn't spell out their function but merely refers to a section of the Medical Marijuana Regulations.

All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.
All marijuana and marijuana products shall undergo quality assurance, inspection, and testing in the same manner as provided in Section 19326 in Chapter 3.5 of Division 8 except as otherwise provided in this division or by law.

Section 19326 of Chapter 3.5 Division 8 states:
A person other than a licensed transporter shall not transport Medical Marijuana from one licensee to another.

All licensees holding cultivation or manufacturing licenses shall send all medical marijuana, cultivated or manufactured, to a distributor for quality assurance and Inspection.

Packaging and Labeling

Prior to delivery or sale at a retailer, marijuana and marijuana products shall be labeled and placed in a resealable, child resistant package.
All marijuana and marijuana product labels and inserts shall

include the following information prominently displayed in not less than 8 point font:

(1) Manufacture date and source.

(2) The following statements, in bold print:

(A) For marijuana: “GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

(B) For marijuana products: “GOVERNMENT WARNING: THIS PRODUCT CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF MARIJUANA PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CONSUMPTION OF MARIJUANA PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

(3) For packages containing only dried flower, the net weight of marijuana in the package.

(4) Identification of the source and date of cultivation, the type of marijuana or marijuana product and the date of manufacturing and packaging.

(5) The appellation of origin, if any.

(6) List of pharmacologically active ingredients, including, but not limited to (THC), (CBD), (in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total, and the potency of the marijuana or marijuana product by reference to the amount of tetrahydrocannabinol and cannabidiol in each serving.

(7) For marijuana products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in 21 C.F.R. section 101.9.

(8) A list of any solvents, nonorganic pesticides, herbicides, and fertilizers that were used in the cultivation, production, and manufacture of such marijuana or marijuana product.

(9) A warning if nuts or other known allergens are used.

(10) Information associated with the unique identifier issued by the Department of Food and Agriculture.

(11) Any other requirement set by the bureau or the Department of Public Health.

Marijuana Products

A standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol per serving.

Provided to customers with information to enable the informed consumption,including the potential effects of the marijuana product and directions as to how to consume it.

Chapter 15. Advertising and Marketing Restrictions

"Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term except: Any label affixed to any marijuana or marijuana products, or any individual covering, carton or other wrapper. Any editorial or other reading material. "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently-affixed advertisement promoting the sale of marijuana or marijuana products which are not cultivated, manufactured, distributed, or sold on the same lot. No licensee shall give away any amount of marijuana or marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

Records

A licensee shall keep accurate records of commercial marijuana activity maintained for a minimum of seven years. Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. Failure to maintain or provide the records required the licensee shall be subject to a citation and fine of up to thirty thousand dollars ($30,000) per individual violation.

(a) Every sale or transport of marijuana or marijuana products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the bureau

or Board of Equalization and shall not be commingled with invoices covering other commodities.

Each sales invoice required by this subdivision shall include the name and address of the seller

and shall include the following information:

(1) Name and address of the purchaser.

(2) Date of sale and invoice number.

(3) Kind, quantity, size, and capacity of packages of marijuana or marijuana products sold.

(4) The cost to the purchaser, and any discount applied to the price as shown on the invoice.

(5) The place from which transport of the marijuana or marijuana product was made

(6) Any other information specified by the bureau or the licensing authority.

Track and Trace System

The Department of Food and Agriculture, with the bureau, shall expand the track and trace program to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain. It will provide the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and the amount of the tax due. The expanded 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.

The DFA and the bureau, shall ensure that licensees under this

division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision to report the movement of marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.

All software, database or other information technology system utilized by the Department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

License Fees

All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.
The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their marijuana regulatory programs.

Local Control

Local authorities may pass and enforce local zoning and licensing. They may allow for the smoking, vaporizing, and ingesting of marijuana or marijuana products on the premises of a retailer or microbusiness licensed under this division if:

Access to the area is restricted to persons 21 years of age and older;

Marijuana consumption is not visible from any public place or non-age restricted area

Sale or consumption of alcohol or tobacco is not allowed on the premises.

Marijuana Tax

“Board” shall mean the Board of Equalization
“Bureau” shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.
Tax Fund” means the California Marijuana Tax Fund

Excise Tax

Effective January 1, 2018, a marijuana excise tax will be imposed upon purchasers of marijuana products sold in California, at the rate of fifteen percent (15%) of the gross receipts of any retail sale by a dispensary, a retailer, microbusiness, nonprofit, or other person required to be licensed to sell marijuana directly to a purchaser. No marijuana may be sold to a purchaser unless the excise tax has been paid by the purchaser at the time of sale. The dispensary, etc. shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board. shall be in addition to the sales and use tax imposed by the state and local governments. Gross receipts shall include the tax

levied. The sales and use tax shall not apply to retail sales of medical cannabis when a qualified patient provides his or her MMJ card issued under and a valid government- issued identification card.

Cultivation Tax

Effective January 1, 2018, a cultivation tax on all harvested marijuana that enters the commercial market will be levied upon all persons licensed to cultivate marijuana. The tax shall be due after the marijuana is harvested.

The tax for marijuana flowers shall be $9.25 per dry- weight ounce.

The tax for marijuana leaves shall be set at $2.75 per dry-weight ounce.

The board may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.

The board may, from time to time, establish other categories of harvested marijuana, including, but not limited to, immature marijuana plants, categories for unprocessed or frozen marijuana, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.

The board may prescribe 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 marijuana is packaged. 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.

Persons licensed to cultivate marijuana shall be responsible for payment of the tax pursuant to regulations adopted by the board. No marijuana may be sold unless the tax has been paid as provided in this part. All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section. The tax imposed by this section shall not apply to marijuana cultivated for personal use under or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.

Tax Stamps

The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee. Subsequent to the establishment of a tax stamp program, the board may provide that no marijuana may 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. 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.

Here's an example of how California State handles tax stamps:
A cigarette distributor is a person or company that makes the first distribution of untaxed cigarettes in this state. In general, distributors purchase cigarettes before any tax is due on them, then sell stamped cigarettes to wholesalers, retailers, and other distributors. Anyone who distributes cigarettes in California must register with the Board of Equalization (BOE) as a cigarette distributor. Cigarette Distributor's License. You need this license

to distribute cigarettes, purchase tax stamps, and file monthly returns or reports that detail your ciga-rette distributions. When you obtain this license you must post a minimum of $1,000 (annually) security. To purchase cigarette tax stamps from us, you must be a licensed cigarette distributor and have a stamping machine.

For Cultivators and Retailers – All taxes must be paid quarterly (Canhubus Platform could automatically divide the sales receipt money into business & tax accounts at the time of sale.)

Using electronic media, The Board of Equalization also wants monthly reporting (25th of the month) of the licensee's inventory, purchases, and sales and maybe more. This reporting will be required for cultivators, distributors and retail establishments.

Permits from the Board of Equalization

All licensed in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board.. No fee shall be charged for the permit. Any person who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit without a permit is guilty of a misdemeanor. Licensees shall give bond or other security to cover the liability for the taxes. The board shall fix the total amount of any bond or security required of a licensee in an amount not less than five hundred dollars ($500).

Any peace officer, or board employee granted limited peace officer status, is authorized to enter any place at which marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered, to conduct inspections.

Criminal Offenses & Sentencing
Industrial Hemp

The final sections of the Adult Use of Marijuana Act covers criminal offenses and industrial hemp.

The Smoke Clears On California Marijuana Legalization As AUMA Takes Center Stage

By Phillip Smith

After several years of jostling since the defeat of Proposition 19 in 2010, the smoke has cleared in California and it now appears that a single, well-funded marijuana legalization initiative will go before the voters next November. That vehicle is the California Control, Tax, and Regulate Adult Use of Marijuana Act (AUMA), backed by Silicon Valley tech billionaire Sean Parker, WeedMaps head Justin Hartfield, Lt. Gov. Gavin Newsom (D), and a growing cast of state and national players.

The AUMU has sucked all the air out of the room for other proposed initiatives, most notably the measure from the California Coalition for Cannabis Policy Reform (ReformCA), which had been widely assumed to the effort around which the state's various cannabis factions could coalesce.

Instead, more than half of the ReformCA board members have now endorsed the AUMA, including Oaksterdam University founder and Prop 19 organizer Richard Lee, California Cannabis Industry Association director Nate Bradley, Law Enforcement Against Prohibition (LEAP) head Neill Franklin, Students for Sensible Drug Policy (SSDP) deputy director Stacia Cosner, and Dr. Bronner's Magic Soap head David Bronner.

That move came earlier this month, after proponents of the AUMA amended their initial proposal to provide safeguards against child use and protections for workers, small businesses, and local governments that also bring it closer in line with Newsom's Blue Ribbon Commission on Marijuana Policy.

"These amendments reflect a collaborative process of public and expert engagement and make an extremely strong measure even stronger," Dr. Donald O. Lyman, MD, the measure's lead proponent said in a statement. "This measure now includes even more protections for children, workers, small business, and local governments while ensuring strict prohibitions on marketing to kids and monopoly practices."

"We have carefully reviewed amendments submitted by the proponents of the AUMA, and we're convinced it's time to endorse that initiative and unite everyone behind a single, consensus measure to achieve a legal regulated system, which a majority of voters have consistently said they want," Bronner said in a statement.

Here's what the AUMA would do:

Local control. Cities and counties can regulate or totally prohibit commercial marijuana cultivation, processing, sales, and deliveries, but they can't ban deliveries merely passing through their jurisdiction. They can ban even personal outdoor grows, but not indoor ones.

Personal possession. Adults 21 and over can possess up to an ounce or eight grams of concentrate.

Personal cultivation. Adults can grow up to six plants *per household*, if their localities don't ban personal outdoor grows. Also, landlords maintain the right to ban cultivation or even possession on their property. Growers can possess all the fruits of their harvest.

Social consumption. Localities may allow on-site marijuana consumption at designated businesses.

Public consumption. Not allowed.

Taxation. A 15% excise tax on marijuana products, plus state and local sales taxes, plus a $9.25 an ounce cultivation tax on buds ($148/lb.) and a $2.75 one on leaves ($44/lb. Also, counties may impose additional taxes, subject to a popular vote.

Regulation. The state agencies empowered to regulate medical marijuana under this year's three-bill regulation package have their briefs expanded to include non-medical marijuana as well.

Licensing. Provides tiered licensing based on business type and size, but to protect small businesses bars the issuance of the largest tier of cultivation licenses for five years and creates a special licensing tier for "microbusinesses."

Employee drug testing. Still allowed.

Criminal offenses. Possession of more than an ounce, cultivation of more than six plants, unlicensed sales, and possession for sale are all six-month misdemeanors, reduced from felonies, although they can still be charged as felonies in some cases.

This past weekend, the AUMA picked up the support of Tim Blake, organizer of the Emerald Cup in Santa Rosa, which this year drew a record crow to the annual growers' competition/trade show.

"You know what, I'm going to endorse this thing," Blake told activists assembled for a legalization debate.

His endorsement drew a mixed reaction from the crowd, many of whom want to see a more wide open form of legalization. That's a sentiment that's shared by some prominent figures in the state's marijuana community. Dale Gieringer, a ReformCA board member and long-time head of Cal NORML is one of them.

"This is like 60% legalization," he said. "Some people on the board endorsed it, but I didn't endorse, and Cal NORML doesn't endorse it. We're a consumer organization, and from the standpoint of consumers, the AUMA is the worst drafted one," he said, ticking off a list of issues.

"Cities can still ban dispensaries, deliveries, and outdoor

cultivation," he noted, "and it makes it illegal to consume publicly. There are a lot of medical marijuana users in San Francisco where the only legal place they can smoke is the street. And it treats vaping like smoking, which is totally outrageous and unjustified in our opinion."

"These are all major disappointments," he said. "This was an opportunity for California to move ahead of the rest of the country, but instead they blew it with excessive language. This is 60 pages of text. We'll be looking at years and years of litigation."

That doesn't necessarily mean Cal NORML will oppose it, though, Gieringer said.

"If it ends up being the only thing on the ballot in November, I suspect we would support it," he conceded.

At this point, that looks extremely likely to be the case. None of the other initiatives are showing any signs that they have the organization or the funding to go out and get the 365,000 valid voter signatures needed to make the ballot.

Gieringer also conceded that passage of the AUMA would be progress.

"If it passes, it will do three valuable things," he said. "Adults can grow six plants and possess an ounce. Just allowing for personal use is extremely important. The AUMA decreases mandatory felony penalties for cultivation

or possession with intent to sell down to misdemeanors in most cases, and that's important. And it establishes a legal marketplace for adult use."

The AUMA may not be perfect, but unless Californians are willing to go another election cycle or wait for the legislature to legalize it, this is most likely what they'll have a chance to vote for.

From Leafly

(https://www.leafly.com/news/headlines/californias-adult-use-of-marijuana-act-gains-support)

The Adult Use of Marijuana Act has now been endorsed by Gavin Newsom as well as former Facebook President Sean Parker, and with the additional support of groups such as the Coalition for Cannabis Policy Reform, the California Cannabis Industry Association, Students for Sensible Drug Policy, and Law Enforcement Against Prohibition, this proposal is looking like the strongest bid for marijuana legalization. Support is growing, and engaged citizens and organizations have developed specific amendments in order to bring the initiative closer in line with the Blue Ribbon Commission's recommendations.

The latest amendments are as follows:

- Mandating explicit warnings on cannabis products,

including a recommended message from the American Medical Association that use during pregnant or breastfeeding may be harmful;

- Advertising restrictions on any marketing towards minors;
- Funding for a public information campaign;
- Funding for outcome research on the impact on minors and teen usage;
- Provides local control over non-medical marijuana businesses, including the authority to ban commercial cannabis activity within their jurisdiction;
- Ensure that local governments have control over time, manner, and location of businesses;
- Requires state licensing authorities to suspend or revoke a cannabis business license if the business is not in compliance;
- Safety standards for drivers and vehicles in legal commercial distribution of cannabis;
- Labor peace agreements must be included in new recreational law;
- Labor violations are grounds for disciplinary action against a licensee;
- Administrative costs for the new law must be fully funded, including funding for state agencies to oversee workplace safety costs;
- Large cultivation licenses will not be issued for the first five years the law is in effect, in order to encourage small business growth;
- After five years, large cultivation licenses will be issued but must include restrictions on vertical integration;

- Opportunities for minority-owned businesses to enter the market;
- Sets a deadline of September 1, 2016 for medical marijuana businesses to comply with the current laws and qualify under the AUMA;
- Public universities to conduct a study on whether additional protections are necessary to prevent monopolies.

Greene, Elizabeth

From: Charles Pappas <nberkhills@sbcglobal.net>
Sent: Wednesday, September 21, 2016 3:59 PM
To: Greene, Elizabeth
Cc: Tina Ferguson-Riffe; David Lampach; Worthington, Kriss
Subject: MC chairman's 2 cents- for October agenda please / Selection of 5th and 6th Berkeley dispensaries

Yes I was there- in a room (from the dais to the rear wall) so thick with hypocrisy, self indulgence, insincerity, ignorance, absurdity forcing my departure during the bitter end's post "straw poll" final voting tally...at that point a completely foregone conclusion...

But much to the chagrin of 2 dozen plus purple tee shirted employees / supporters speakers, thundering- in unison- loud hand clappers and the out of town (Hercules) owner- principals of **Cannabis Care Center**, 1436 University Ave. (location with landlord approval, but written neighborhood opposition)---- as well as---- the also out of town (Hayward)...
Berkeley Innovative Health 1229 San Pablo Ave. (landlord willing to rent / sell to anyone building needing much repair, dozen neighbors speaking in opposition) with matching number of tan tee shirters, etc, and their owner principals.

Therefore I missed the final triumph of once former applicants---- now ironically Berkeley's **CHOSEN ONES** **Berkeley Compassionate Care Center** – 2465 Telegraph My 2 cents- at least Berkeley guys with secured location, 10 + supporters speaking, unfortunately Debby G managing (very appropriate musical reference- "same as the old boss...", BPG founder, ex principal)
The Apothecarium – 2578 Shattuck Avenue
Worse!- **SO UN BERKELEY,** 2 current SF permitted MCD's, another SF permit in the works!!
Oh yes, their location secured 1 month before another applicant's inquiry, which along with possible nearby location was summarily dismissed by property management group for sympathetic property owner who had provided floor plans and willingness to rent- warning the later applicant of "less friendly property management". Later applicant's persistence in pursuing contact decided against- vehemently negative property manager, suspected financial coercion / reward. Further, 15+ speaker supporters, some written opposition suspected from previous hearing revue negative speaking neighbors...

My simple bottom line- the medical cannabis commission worked diligently, over 4 years, to craft an application process for choosing the most worthy local owner applicant. When the Mayor over 2 years ago insisted on a location first emphasis for judging, our process was doomed evidenced first in the sparsity of applicants and those forced to drop out or be disqualified for owner / location difficulties.
At least, kudos to the Mayor, Maio, and Moore for being too fearful to delay further approving 2 more dispensary permits (shockingly agreed to last May), although at the outset of discussion probable next mayor Capitelli, stumbling attempted such, responded to quickly by multiple rebukes from fellow council members.
Nevertheless, the over decade long so preciously maintained (Mayor & BCC) status quo of 3 non- locally owned dispensaries will continue, most likely until the first of the **CHOSEN ONES** begins operations. The first **CHOSEN, i- Cann**, 3243 Sacramento Ave.- alleged locally owned, Phoenix financed, with Harborside ties, doubtfully could open before year's end (indeed, perhaps a full year!) considering the dismal condition of their purchased building- circa $500k...
Your Berkeley medical cannabis commission chairman's opinions & review...
Charley Pappas

From: "Greene, Elizabeth"
To: "Greene, Elizabeth"
Sent: Wednesday, September 21, 2016 10:02 AM
Subject: Selection of 5th and 6th Berkeley dispensaries

Hello –
You are receiving this e-mail because you have expressed interest in medical cannabis issues in Berkeley or the medical cannabis dispensary selection process.

At last night's meeting, the City Council approved a 5th and 6th dispensary in Berkeley:
Berkeley Compassionate Care Center – 2465 Telegraph
The Apothecarium – 2578 Shattuck Avenue

Sincerely,

Elizabeth Ruess Greene, AICP

Greene, Elizabeth

From: Charles Pappas <nberkhills@sbcglobal.net>
Sent: Sunday, September 25, 2016 11:31 PM
To: Wengraf, Susan; Berkeley Mayor's Office; Maio, Linda; Anderson, Maxwell
Cc: Greene, Elizabeth; Worthington, Kriss
Subject: BCC agenda - Medical cannabis cultivation ordinance/medical cannabis cultivation licensing process
Attachments: MC CULT RAT.odt

Dear BCC agenda committee,

Regarding cultivation - the medical cannabis commission is generally concerned for the lack of attention by the BCC for the cultivation ordinance (postponed this year and last year), and wonders why the agenda committee has not scheduled this item. Also, the commission has scheduled at least 1 cultivation subcommittee meeting in August with the hope that a final cultivation licensing process can be presented before the full commission in September. However, since that was not quite possible, the medical cannabis commission will definitely approve a cultivation licensing process at our October 6 meeting, after our Wednesday (9/28) subcommittee meeting licensing process final review.

Also, I am reminding Susan that myself and fellow commissioner David Lampach (cultivator and District 6 resident, D. Moore appointee) have asked to meet with you (August 6 & previously) to discuss specifically BCC agenda-sizing the cultivation ordinance, as well as commission efforts - licensing application, and M-Zone expansion. We are both cultivation subcommittee members with knowledge of the issues and concern for the lack of cultivation ordinance attention by the BMCC. I believe in March, council-member Moore wanted to wait for state regs, which could take quite a while considering the full plate of the BMMRS. Likewise, this Bureau has suggested in several meetings I've attended that local municipalities should be encouraged to make their own regulations. Please let us know when might be convenient for you.

In conclusion, I will list below and attach "Advantages of Local-Grown Medical Cannabis" & "Cultivation Ordinance Arguments". To myself and the consensus of fellow commissioners, it seems like our elected officials should end delaying 2010 Measure T provisions, large voter support and your own composition!

Best regards,
Charley Pappas - chairman, Berkeley medical cannabis commission

Advantages of Local-Grown Medical Cannabis

Locally grown medical cannabis, voter mandated Measure T, mayor and BCC initiated 2010, many advantages to local patients, dispensary operators, and Berkeley citizens and community.

-significantly **reducing distance**, actual cultivation of medical cannabis and its distribution to qualified patients, **quality medicine produced, improve, & likelihood of contaminants, decrease**.
-Greener & more **environmentally friendly techniques & practices**, encouraged, implemented.
-**Local gardens**, observed/**monitored more easily** throughout growing cycle.
-**more City oversight** needed/required, local cultivation sites, accessed & assessed more efficiently/faster. without a great distance, **cultivation & patients' access to medicine, communication regarding strains, effectiveness, & experience, facilitated**.
-**Feedback & "comparing notes", patients, dispensary operators, & cultivators, benefit production methods & results.**
-**price** of patients' medicine. **Reduced, lower transportation costs**.
-**security of local market, convenient for local cultivators/benefit patients.**
-**Further price reduction** in medicine, adoption of a **Best Practices regime**, testing of contaminants, currently add significantly, price of medicine.
-establishment local cultivation industry, besides cheaper/better medicine to patients, will **develop local economy**, significant number green jobs with sustainability to Berkeley, **increasing tax revenues**, citizen/community improvement. “A dollar spent at a locally owned store is usually spent 6-15 times before it leaves the community. From $1, you create $5 - $14 in value within that community.”
-working through **difficulties involved beginning** medical cannabis cultivation permitting, worth the effort, **ultimately, rewarding/successful for Berkeley community, citizens, local patients, caretakers, cultivators, providers.**

Cultivation Ordinance arguments

1. Better quality medicine for patients
2. Lower medicine costs- transportation, etc
3. More access, choices for patients & local dispensaries
4. 120+ Full Time Jobs & $1,000,000 in Annual City Sales Tax Generated by Medical Cannabis Cultivators
a. IF 180,000 square feet is cultivated (arithmetic previously submitted)
b. Farmers of cannabis probable need- additional location options beyond M District,
c. Elimination 6-location limit - licensing small cannabis cultivators/farmers, possibility to cultivate all allowable 180,000 square feet. (Many Berkeley warehouses 3,000 - 5,000 sq. ft.)
d. Job estimate based on RAND Working Paper "Estimated Cost of Production for Legalized Cannabis", Caulkins, 7/2010; corroborated as a conservative number by respected members of the cannabis community.

5. Supporting local smaller cultivators -quality medicine, versus allowing established industries (alcohol, tobacco and pharmaceutical companies) to take over 180,000 sq. feet in Berkeley.

6. Over 2 years ago, Berkeley medical cannabis cultivation subcommittee estimated $1 million tax revenue for the city, why continue delays? South Berkeley nonprofits struggle for funding!!!

7. Taxes stay in Berkeley if local cultivator sells to buyer outside Berkeley

8. State - long time, sort out cannabis policies - November 2016 election. 2015 Blue Ribbon Panel, Marijuana Policy - follow-up decisions might need, back to voters, subsequent elections. Examples, -21 years, 1996 CA legalized medical cannabis, state developed regulations effective 2018. -10 years after Berkeley voters passed 2010 Measure T, first visible action to voters recent 2016 BCC awarding fourth dispensary. How much longer for cultivation ordinance!?!

9. Time essential. **Cultivators need local license before applying, state license**. Bureau of Medical Marijuana Regulation and Safety **(BMMRS) accepting state licenses, January 2018.**