



MEMORANDUM

November 30, 2017

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Medical Cannabis Interdepartmental Work Group

MEETING DATE: December 4, 2017

SUBJECT: Overview of State Regulatory Framework for Cannabis, and Consideration of Issues regarding County Ordinances for Cannabis Manufacturing, Testing, and Distribution Operations

BACKGROUND

In April 2017, the three state agencies with licensing responsibility for cannabis activities: the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health, released draft regulations based on the Medical Cannabis Regulation and Safety Act (MCRSA) for public review and comment. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which was signed by the Governor in June of 2017 and amended by AB 133 in September of 2017, consolidated the licensure and regulation of commercial medicinal and adult-use cannabis activities. The state licensing agencies subsequently withdrew their draft medical cannabis regulations for revision to make them consistent with MAUCRSA. The revised regulations were released on November 16, 2017, and are to be adopted through an emergency rulemaking process in order to take effect January 1, 2018.

DISCUSSION/SUMMARY

Overview of State Regulatory Framework

MAUCRSA established twenty license types: fourteen for cultivators, two for manufacturers, and one each for retailers, distributors, testing laboratories, and microbusinesses. The Bureau of Cannabis Control, which is part of the Department of Consumer Affairs, will license retailers, distributors, testing laboratories, and microbusinesses; CalCannabis, which is part of the Department of Food and Agriculture, will license cultivators; and the Office of Manufactured Cannabis Safety, which is part of the State Department of Public Health, will license manufacturers of cannabis products.

Bureau of Cannabis Control	CalCannabis Cultivation Licensing	Office of Manufactured Cannabis Safety
Dept. of Consumer Affairs	Dept. of Food and Agriculture	Dept. of Public Health
Will license: <ul style="list-style-type: none"> ○ retailers ○ distributors ○ testing labs ○ microbusinesses 	Will license cannabis cultivators and establish a track-and-trace system.	Will license manufacturers of cannabis products, such as edibles.
California Cannabis Portal: http://cannabis.ca.gov/		

State law requires that all commercial cannabis activity be conducted between licensees, and that the commercial transportation of cannabis and cannabis products be conducted only by a licensed distributor, with the exception of a testing laboratory employee who must transport samples of cannabis or cannabis products taken at a distributor’s premises to the testing laboratory for required testing.

The regulations recently released by each of the three licensing agencies contain detailed requirements for each of the license types within their purview. State agencies will not issue a state license if the license would violate the provisions of a local ordinance or regulation. If an applicant provides a copy of a local license or permit, the agency will contact the local jurisdiction to verify the information and the local jurisdiction will have ten days to respond before the state license is issued. If an applicant does not provide a local license or permit, the agency will contact the local jurisdiction to verify that issuing the state license would not violate a local ordinance or regulation. The local jurisdiction must reply within 60 days or the state agency will assume that the applicant is in compliance with local requirements.

A licensee may hold multiple state licenses and multiple license types, except a person who holds a testing laboratory license is prohibited from licensure for any other commercial cannabis activity. Licensees must hold an A-license to engage in adult use commercial cannabis activity and an M-license to engage in medicinal commercial cannabis activity. The exception is testing laboratories, which may test cannabis goods for both license types. Each license must have a separate licensed premises, with the exception that a licensee who holds both an M-license and A-license for the same type of commercial cannabis activity may conduct that activity for both medicinal and adult use on the same premises if all requirements specified in the regulations are met.

The Bureau of Cannabis Control’s regulations apply to retailers, distributors, and testing laboratories. The regulations limit the types of products retailers may sell and the packaging of those products on the premises. The regulations also place restrictions on the delivery of cannabis from a retailer to a customer. Distributors must arrange for sample collection and testing by a licensed testing laboratory, check for appropriate packaging and labeling, and collect taxes. The regulations also contain specific requirements for the transport of cannabis and cannabis products. The regulations for testing laboratories establish requirements for collecting cannabis samples for testing, the types of tests to be performed on each sample, and the implementation of a quality assurance program.

The CalCannabis cultivation licensing regulations include requirements for participation in the state’s track and trace system to record the movement of cannabis and cannabis products through the state’s supply chain, environmental protection, pesticide use, and waste management. The regulations also include the phase-in of renewable energy requirements.

The regulations released by the Manufactured Cannabis Safety Branch of the Department of Public Health contain requirements pertaining to manufacturing procedures to ensure that production occurs in a sanitary and hazard-free environment. The regulations include product standards, THC limits, and packaging and labeling requirements. The CDPH is currently developing an additional license type which will allow businesses to share facility space. This license type is expected to be ready to be issued in early 2018.

Consideration of County Ordinance Amendments to Allow Cannabis Manufacturing and Distribution Facilities, and Testing Labs

The recently adopted County ordinances address medical cannabis dispensaries and cultivators, but not manufacturers, distributors, or testing laboratories. In order to allow these additional uses, amendments to the County General Code, similar to those for dispensaries and cultivators, would need to be adopted.

Issues to be considered in the development of County ordinances to allow manufacturing and distribution facilities and testing labs include:

- Are these facilities appropriate land uses in the unincorporated area?
- If appropriate, in what zoning districts should they be located?
- Should the type of manufacturing that would be allowed be limited? For example, should extraction using volatile solvents be allowed?
- Should there be limits on the size and number of each type of facilities, as there are in the dispensary and cultivation ordinances?
- Should “microbusinesses” or other combined cannabis uses be allowed on a single property?

NEXT STEPS

Based on direction from your Committee, staff will report on options for the consideration of new ordinances for cannabis manufacturing operations, distributors, and testing labs at your next Committee meeting.