

# **BUREAU OF CANNABIS CONTROL**

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*The protection of the public shall be the highest priority for all licensing authorities in exercising licensing, regulatory, and disciplinary functions under this division. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.*

– Business & Professions Code § 26011.5

**T**he Bureau of Cannabis Control (BCC) is a consumer protection agency within the state Department of Consumer Affairs (DCA). BCC is charged with enforcing current regulatory law pertaining to the sale of medical marijuana, and now the recently approved marketing of recreational cannabis.

The BCC regulatory mechanism governs aspects of marijuana sale, subject to a complex array of continuing issues. BCC’s major historical actions include two failed efforts in 1994 and 1995 to legalize cannabis. First, SB 1364 attempted to reclassify cannabis as a Schedule II drug at the state level and then AB 1529 attempted to create a “medical necessity defense,” which allows its use where physician prescribed. Governor Pete Wilson vetoed both bills, but in 1996 the populace approved Proposition 215, which legalized its production and use by patients with physician approval for treatment of cancer, anorexia, AIDS, MS, glaucoma or “any other illness for which marijuana provides relief.” The California Department of Health issued over 37,000 medical cannabis ID cards by the end of 2009. Even this system of physician-approved dispensing conflicted with federal law, where marijuana remains a Schedule I prohibited drug. In other states, similar marijuana allowance laws create a continuing conflict with federal law—despite a federal policy of relative tolerance to state permission.

In 2010, the effort to broaden cannabis legality to recreational use by adults over 21 years of age led to Proposition 19. Despite this initiative’s defeat at the polls in 2010, a similar measure “The Adult Use of Marijuana Act,” passed 57% to 43% in 2016. Accordingly, for the last two years, adults could transport, possess and use marijuana, possess related paraphernalia, and grow plants. However, these rights were subject to substantial limits. For instance, no more than one ounce of dry cannabis or eight grams of active, concentrated ingredient, and no more than six live plants could be grown in a residence out of the public’s sight. Other restrictions included no open containers in a vehicle, or use within a moving vehicle (by the driver or passengers). The new law supplemented the prior medical use law allowance without altering the latter’s terms.

The new statute, similar to other recent statutes (*e.g.*, in Colorado and other states), raises difficult regulatory issues. The problem of use by those under 21 years of age—likely to be in heavy demand—and the difficulty in preventing underage usage create regulatory challenges. Additionally, driving under the influence of marijuana or marijuana amplified by alcohol and/or immediate use prior to driving remain. The complexity of regulation is magnified by the persisting federal illegality. Prompted by such federal illegality, California prohibits the movement of any marijuana across state borders. However, production studies indicate that California is a major producer of the plant nationally, particularly in the so-called Emerald Triangle of Humboldt, Mendocino, and Trinity Counties. Studies estimate that up to 80% of the crop grown in California is exported to other states.

Since personal plant growth is limited, as noted above, agricultural production and sales from commercial enterprises become major aspects of marijuana use. Production and sales are subject to regulation, including BCC required licensure. Licensure is complicated not only by the

above specified factors, but also by interaction with other governmental agencies involved in agriculture and commercial enterprises generally. For example, 80% of California's 482 municipalities have banned stores selling marijuana for recreational purposes. Related to these complications, and partially due to federal prohibition, those growing and dealing in marijuana sales are unable to channel proceeds through any bank or other federal regulatory entity. Cash is an extreme and necessary means of operation; therefore, such restrictions raise problems ranging from tax collection to theft. In summary, cannabis involves regulatory issues in its production and growth, sales, and use. Because of this breadth of problems, BCC is not the only state regulatory agency with regulatory jurisdiction to deal with these issues (see discussion *infra*).

The legislature enacted the current Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), Business and Professions Code section 26000 *et seq.* to set forth the basic functions of the BCC in the marketing of marijuana in its difficult regulatory setting. Under MAUCRSA, BCC leads the three agencies responsible for commercial licensing of medical and adult-use cannabis, including regulating retailers, distributors, testing labs, microbusinesses, and temporary cannabis events. BCC is also charged with regulating and enforcing commercial cannabis businesses.

The other licensing agencies covering cannabis production and sale are the California Department of Food and Agriculture (CDFA), handled by its CalCannabis Cultivation Licensing division, and the California Department of Public Health's Manufactured Cannabis Safety Branch (MCSB).

As a bureau within DCA, BCC is not governed by a multi-member board. Most consumer advocates prefer a multi-member governing structure because it compels decisions at

“meetings”—which under the California Open Meetings Act must be held in public. Instead, BCC operates under the oversight of a Bureau Chief appointed by the Governor, where decisions can be made in an office without public input and where lobbyists for special interests may covertly lobby. The Bureau Chief operates subject to the direct authority of the DCA Director. As is often the case where a multi-member deciding board of commission is lacking, Business and Professions Code section 26014(a) mandates that BCC have an Advisory Committee tasked with advising BCC on the development of standards and regulations for commercial cannabis activity to protect public health and safety, while avoiding unnecessary barriers to licensure that could perpetuate the illicit market for cannabis. Commencing on January 1, 2019, Business and Professions Code section 26014(c) requires the Advisory Committee to publish an annual public report describing its activities including, but not limited to, Advisory Committee recommendations to the licensing authorities during the immediately preceding calendar year and the corresponding implementations.

In addition to licensing, BCC is responsible for setting operational regulations for commercial cannabis businesses and oversight to ensure that licensees and businesses are in compliance with regulations. BCC enforcement actions include the issuance of citations, orders of abatement, and imposition of administrative fines. When a licensee is facing an accusation which may result in the disciplinary action of license revocation pursuant to Business and Professions Code section 26031, a hearing is conducted in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code (commencing with section 11500). If the hearing results in a finding that the licensee committed the act, BCC may suspend or revoke the license.

The Advisory Committee is not required to have a set number of members but section 26014(b) of the Business and Professions Code does mandate that the Committee include members with specific expertise including, but not limited to, representatives of the medicinal cannabis industry, labor representatives, and experts in public health, community equity, and those with other subject matter expertise in regulating commercial activity for adult-use of intoxicating substances (*e.g.*, from the Department of Alcoholic Beverage Control). All members are appointed by, and serve at the pleasure of, the DCA Director. Currently there are 22 members on this Advisory Committee.

The Committee created multiple subcommittees to advise the Bureau on specific types of issues. Moreover, these include subcommittees on Cultivators, Distributors, Enforcement, Equity, Retailers, Public Health and Youth, Testing Laboratories, Licensing Application, Manufacturers, and Microbusiness.

In December of 2017, BCC adopted emergency regulations setting forth the Bureau's regulatory framework, which were amended and readopted in June 2018 in order to provide greater clarity to licensees. BCC's regulations are codified in Division 42, Title 16 of the California Code of Regulations (CCR), and are currently in effect until December 15, 2018 (180 days after the emergency regulations were readopted). BCC, in concert with CDFA and MCSB, is currently undergoing the formal rulemaking process to adopt permanent regulations. *[See RULEMAKING/*

CAC elected Jeffrey Ferro as Chair and re-elected Tamar Todd as Vice Chair.

# MAJOR PROJECTS

## Annual Report

On January 8, 2019, pursuant to the statutory requirement within Business and Professions Code section 26014, the BCC published its [2018 Annual Report](#). The Report was divided into various sections related to topics the BCC dealt with this past year, including subcommittee recommendations adopted by the Cannabis Advisory Committee (CAC), tabled subcommittee recommendations requiring statutory amendments, subcommittee recommendations not adopted by the full committee, informal presentations, and global issues.

## RULEMAKING

### Subcommittee Recommendations Adopted By the CAC

MAUCRSA mandates that protection of the public be of the highest importance to BCC. Accordingly, BCC established the subcommittee on Public Health and Youth which worked over the year to limit youth access to cannabis. The subcommittee made 11 recommendations and of those, seven were adopted by the CAC.

Recommendation one, which was not implemented by BCC, encouraged the BCC to include requirements on proper ID verification of age in its employee training regulations.

Recommendation two, which was also not implemented, encouraged all regulatory agencies to create special licensing for those providing “medicinal compassionate care” that is exempt from fees and taxes.

Recommendation three, which BCC found was not an issue for regulatory rulemaking, encouraged BCC to study whether branded vehicles fall under advertising restrictions.

Recommendation four, which was not implemented, stated that adult cannabinoids advertising should not be allowed to make health claims. Although not implemented, BCC included it in its disciplinary guidelines. BCC clarified in the report that California law already prohibits any misleading advertising that would apply (see section 17500 of the Business & Professions Code).

Recommendation five, which was not implemented, encouraged BCC to collect data and report yearly on youth and adult cannabis use and overuse; ER visits, DUIs, and poison control calls.

Recommendation six, which BCC found was not an issue for regulatory rulemaking, encouraged BCC to amend Title 16 CCR section 5040(a) to require that all advertisements related to cannabis be displayed only in areas where at least 85% of the audience is reasonably expected to be age 21 or above. BCC contended that such a measure would require a statutory change.

Recommendation seven, which was not implemented, proposed that the full advisory committee should seek a legislative fix to more clearly delineate the compassionate care program.

Pursuant to MAUCRSA, BCC must ensure that all cannabis goods are tested. Testing aims to ensure that cannabis goods sold to consumers are safe. The Testing Laboratories subcommittee assists BCC with implementation of effective testing procedures. The subcommittee on Testing Laboratories adopted five out of six recommendations to the CAC. Of these five, the licensing function partially incorporated one, but declined to implement the others.

Those not implemented included recommendations that: (a) the regulations should allow for licensed laboratories to accept materials from any licensed entity that is part of the supply chain for research and development without a requirement to report the results; (b) the rules should

clarify that the testing results are valid until the expiration date of the finished product; (c) BCC should incorporate standard testing analytical methodology in final regulations, including applicable definitions; (d) BCC should require testing labs to use commercially available standardized cannabinoid reference standards.

The single, partially implemented recommendation was that BCC should revisit cannabis waste disposal emanating from testing laboratories. This recommendation was partially implemented by BCC, which reviewed the sections on cannabis waste removal in section 5054 of the proposed regulations.

Under Business and Professions Code section 26053, all commercial cannabis activity must be conducted between licensees. The legislature created a “temporary license” for those already in business under the previously allowable medicinal regime. These entities could remain in operation —since the temporary license has fewer requirements than the developing soon to be fully-implemented annual license.

The creation of the Subcommittee on Licensing Application to increase transparency in the application process and provide financial relief to lower barriers of entry, encourage stability in the market, and protect the safety and health of workers. The subcommittee made a total of six recommendations, and four were adopted by CAC. The recommendations included: (a) BCC require an applicant for an annual license who lists any corporation or other entity as an owner to also disclose the names of the owners of the corporation or entity (implemented in altered Section 502 of the adopted regulations); (b) licensing authorities should evaluate the amount of fees paid by equity applicants (partially implemented through section 5014 of the adopted regulations); (c) BCC combine the licensing applications for A and M licenses and extend the grace period until

January 1, 2020 (implemented through revised section 5032 of the adopted regulations permitting both A and M activities in the same licensed premises).

BCC did not adopt the recommendations to allow preparers to assist with the application process. BCC determined that the “owner must verify the accuracy” and submit the application. However, owners are permitted to use expert assistance.

The Subcommittee on Manufacturing made four recommendations, and all were at least partially adopted as follows: (a) BCC should create an illustrative guide for packaging and labeling; (b) the concepts of primary packaging should be clarified—changes should be made which are more relevant to MCSB, *see* 17 CCR sections 40403 and 40417; (c) should use child resistant packaging (see adopted version at section 5303 of the adopted rules).

The recommendation portions not implemented would have increased the allowable dosage from 2,000 to 4,000mg for any non-edible product and from 1,000 to 2,000mg for any adult non-edible use.

The Microbusiness Subcommittee advises the CAC about entities which fall under a specific type of license that enables the licensee to engage in multiple types of licensed commercial cannabis activities under one license (*e.g.*, growing and retail sales). This subcommittee recommended that BCC should consider removing the prohibition on activities allowed within the home, so long as they are commonly allowed under traditional cottage business. BCC did not implement this recommendation.

## **Tabled Recommendations Requiring Statutory Amendments**

CAC did not adopt recommendations where it determined that a statutory change would likely be required. Instead it tabled those matters. One tabled matter recommended that licensing authorities should designate staff and necessary resources to educated youth. CAC determined that this would instead be better dealt with by CDHCS, since Prop 64 specifically allotted funding to CDHCS education. Accordingly, in order to divert education to licensing authorities, a statutory change would likely be needed.

Additionally, the Subcommittee on Testing Laboratories recommended that any adult should be able to get a cannabis product tested at a lab. BCC did not implement this recommendation.

Some recommendations not adopted by CAC were subsequently implemented by a licensing authority. One such recommendation was that all licensing authorities consider establishing standards for security personnel. Although not initially adopted by CAC, section 5045 implemented the adopted regulations.

## **Global Issues**

CAC identifies “global issues” as overarching concerns, including matters that require legislative help to address. Issues pertaining to enforcement, equity, small and microbusiness operations, excessive regulatory burden, banking, compassionate use, public education, taxation and regulatory fragmentation have all been identified by CAC as recurring concerns throughout the year. The breadth of concern illustrates the challenges in beginning regulation of a business enterprise with the health and safety implications of cannabis. Frequent attention given to the fact

that licensees often must interact with four separate regulatory agencies (BCC, CDFA, CDPH, and MCSB). The CAC recommends that one point of contact may be more ideal.

## **OAL Approves BCC's Text of Proposed Regulations**

On January 16, 2019, OAL [approved](#) BCC's text of [proposed regulations](#) under Division 42, commencing with section 5000, Title 16 of the CCR. On October 19, 2018, BCC published its 15-day [notice](#). The modification of text provides the revisions of the July 2018 proposed regulations.

In Chapter one, which covers all BCC Licensees, BCC added definitions to section 5000 (covering "definitions"), including the term "pre-roll," which "means any combination of the following rolled in paper: flower, shake, leaf, or kief that is obtained from accumulation in containers or sifted from loose, dry cannabis flower or leaf with a mesh screen or sieve." "Tamper-evident" means "cannabis goods packaging [that] is sealed in a manner that prevents the packaging from being opened without obvious destruction of the seal." BCC deleted the definitions of "security monitoring" and "nonvolatile solvent." Amended section 5001 covers Temporary Licenses, as opposed to Temporary License Application Requirements. BCC no longer accepts temporary license applications, therefore amended sections (a), (b), and (c) removed text related to application requirements for temporary licenses. Amended section 5002, covering Annual License Application Requirements, adds subsection (c)(34) to require applicants to provide their State Employer Identification Number (SEIN) issued by the California Development Department, indicating compliance with California law.

Chapter two, which covers distributors, added section 5307.2, "Licensed Distributor to Licensed Distributor Transfers" to clarify that cannabis goods that are packaged as they will be

sold at retail, and goods which passed regulatory compliance testing and have a Certificate of Analysis (COA) may be transferred to another licensed distributor. This section also provides that cannabis goods that have not been transported to retail within 12 months of the date on the COA must be destroyed or retested. Amended section 5312, covers Required Transport Vehicle Information, clarifies that licensed distributors must be the “registered owner under the Vehicle Code” of the vehicle used for transportation.

Chapter three, covers retailers added subsection (e) to section 5406, which covers Cannabis Goods for Sale, to clarify that before making cannabis goods available for sale or delivery, the licensed retailer must ensure that the batch number is labeled on the package of cannabis goods, and that the batch number matches the number on the corresponding COA for regulatory compliance testing. Amended section 5407 clarifies that in addition to selling promotional materials, licensed retailers may also provide customers with promotional materials free of cost. Amended section 5413, covers Cannabis Goods Packaging and Exit Packaging, adds additional requirements to packaging. Subsection (a)(2) clarifies that to comply with Business & Professions Code section 26120, beginning January 1, 2020, all cannabis goods sold by a licensed retailer must be packaged in resealable, tamper-evident, child resistant packaging. Additionally, amended subsection (b)(2) clarifies that beginning January 1, 2020, exit packaging for cannabis goods must be opaque, but is not required to be resealable or child resistant. Amended section 5416 subsection (d) clarifies that a delivery employee may deliver to any jurisdiction within the state of California, so long as the delivery is conducted in compliance with all delivery provisions of the regulations.

Chapter four, which covers microbusiness, amended subsection (a) in section 5500 allows for a Type N manufacturing license—separately created in regulation by the State Department of

Public Health. Since many jurisdictions do not allow businesses to engage in full Level 1 manufacturing the Type N manufacturing license opens a barrier to entry for small businesses that were previously in the industry or that wanted to enter the industry. In section 5506 covering “Microbusiness Applications Including Manufacturing Activities,” amended subsection (f)(2) requires a copy of the product quality plan to meet the requirements established in regulation by the State Department of Public Health. In section 5506.1 covering Microbusiness Failed Manufactured Cannabis Product Batches, amended subsection (a) specifies that a batch that fails testing either shall be destroyed, or a correction action plan for remediation may be approved by BCC. Amended subsection (c) now clarifies that edible products that fail laboratory testing may not be remediated or reprocessed, and shall be destroyed.

Chapter five, covers cannabis events, subsection (f) in section 5601 pertaining to the “Temporary Cannabis Event License” amends to allow a temporary cannabis event to take place at any venue where the local jurisdiction expressly approved. Subsection (n) adds to section 5601 to notify licensees that BCC may require those who participate in temporary cannabis events to cease operation to protect public health and safety. The amendments to subsection (f) and (n) were necessary to comply with 2018 enacted AB 2020 amending Business & Professions Code section 26200 to clarify the requirements for licensed temporary cannabis events. Section 5604, covering Informational or Educational Cannabis Events, clarifies that informational or educational cannabis events that do not allow for the sales or consumption of cannabis goods do not need to be licensed by BCC.

Chapter six, covers testing laboratories, 16 CCR section 5700 amends applicable definitions to add “good laboratory practice,” which means a “system of management controls for

laboratories to ensure the uniformity, consistency, reliability, reproducibility, quality, and integrity of analyses performed by the testing laboratory.” Moreover, the section clarifies the definition of “sampler” in that a sampler must be a licensed microbusiness authorized to engage in distribution. Section 5705 adds subsection (f), covering General Sampling Requirements, now specifies that once a testing laboratory obtains a representative sample for regulatory compliance testing, that same laboratory must complete the testing and report the results on the COA. Section 5705 adds subsection (g), to clarify that BCC will consider allowing a re-sampling of a batch and testing completed by a different licensed testing laboratory under certain circumstances and only after BCC approves a written request by the licensed distributor. Section 5726 added subsection (e)(1), requiring COA forms include the term “Regulatory Compliance Testing” on the upper-right corner of each page of the COA so that those reviewing the COA are aware that the COA is for regulatory compliance testing.

Chapter seven, covers enforcement, section 5800 relating to “Right of Access” adds subsection (a)(5) specifying that BCC may collect and preserve evidence related to any alleged violation of MAUCRSA. BCC may use that evidence in the investigation and possible disciplinary proceeding. Amended section 5814, section III, which covers Disciplinary Guidelines to contain guidelines divided into tiers, categorizing types of violations. Tier 1 addresses the least potentially harmful violations, which may be penalized by suspension, fines, or revocation. Tier 2 addresses violations that involve a more serious potential for harm, or a greater risk and a disregard for public safety. Tier 2 violations may result in similar, but more serious penalties than Tier 1. Finally, Tier 3 addresses violations that are potentially the most harmful, involving a knowing or willful

violation of the rules, or fraudulent acts relating to the licensee’s business. Tier 3 violations may result in a longer suspension, a larger fine, or a license revocation.

Finally, Chapter eight, covering “Other Provisions” relating to research funding, section 5902 subsection (c)(2) concerning “Selection Process and Criteria” adds clarity that research-based funding proposals will be evaluated by relevant experts for scientific and technical merit. Only public universities in California are eligible to receive research funds pursuant to Revenue and Taxation Code section 34019(b).

## **Cannabis Advisory Committee 2018 Annual Report**

On January 8, 2019, the CAC released its [2018 Annual Report](#). The ten subcommittees by topic area presented a total of over 79 recommendations, with 47 winning CAC adoption. The report also covers informal presentations to CAC, and global issues that the CAC considered to be areas of concern to be addressed in the future. Note that as a practical matter, recommendations of these CAC subcommittees adopted by the full CAC do not take effect until or unless they are approved by the BCC itself, and if taking the form of rulemaking, must be approved also by the OAL.

The CAC adopted five of the 11 recommendations submitted by the Subcommittee on Cultivators. The CAC adopted the subcommittee’s recommendation to amend the definition of “outdoor cultivation” to include “the use of light deprivation techniques” in the definition. However, the CDFA did not implement this recommendation. The CAC also accepted the subcommittee’s recommendation to develop language for a cultivation-based tax incentive for products that will be provided to compassionate use programs. CDFA did not implement this recommendation because it determined that statutory changes would be required. In addition, CAC

accepted the recommendation to allow cultivators to transport their own products to a centralized processing facility, manufacturing facility, distributor, or laboratory, without requiring the cultivators to obtain a transportation license. The Subcommittee on Cultivators suggested implementing this change by either amending the existing transportation distribution license or creating a new license type. The BCC has partially implemented this recommendation under section 5315(g) covering Distributor Transport Only License.

The CAC adopted four of the five recommendations submitted by the Subcommittee on Distributors. BCC's regulations covering distributors intend to

- (1) ensure that commercial cannabis goods are properly stored, handled, packaged, and tested;
- (2) ensure commercial cannabis goods are safely and securely transported between licensees; and
- (3) ensure distributors keep and maintain records that are adequate to effectively track and trace commercial cannabis goods to prevent entry of untested commercial cannabis goods into the legal market.

The CAC accepted the recommendation by the Subcommittee on Distributors that a subcategory license be created under the distribution license, which designates "storage-only centers" that can hold inventory and transport product. However, BCC did not implement this recommendation. The subcommittee also recommended that the transition period be extended from six months to twelve months to allow transactions between A and M licenses. The BCC approved this recommendation, allowing A and M activities to be conducted at the same licensed premise.

The CAC adopted five of the fifteen recommendations submitted by the Subcommittee on Enforcement. CAC accepted the Subcommittee on Enforcement's recommendation to collect data on when and where advertising rules were violated, and whether the advertisement targeted minors. The BCC partially implemented this recommendation. The subcommittee also recommended that BCC include language that information shared between BCC and local

government entities is in accordance with the Public Records Act, and that information not discoverable under the Public Records Act be protected. The BCC did not implement this recommendation. The CAC accepted the subcommittee's recommendation to amend BCC's regulations to state that "[a]ll licensing authorities are required to include violations of labor standards as part of the licensing process and enforcement, which shall include revocation of the license." BCC implemented this recommendation in sections 5002, 5035, and 5600 of BCC's regulations (CCR Title 16).

The CAC adopted all eight recommendations submitted by the Subcommittee on Equity. The Subcommittee on Equity addresses racial and economic disparities and attempts to "redress decades of punitive criminal justice policies through community reinvestment, workforce development, public awareness and education, data collection and accountability, and increasing access to capital for equity applications." [SB 1294 \(Bradford\) \(Chapter 794, Statutes of 2018\)](#), the California Cannabis Equity Act of 2018, intends to assist local equity applicants and licensees participating in the cannabis industry. The CAC accepted the Subcommittee on Equity's recommendation to develop a state-level equity licensing program to support local equity licensing programs and local equity applicants from jurisdictions where programs have not been developed. BCC/CDFR/CDPH did not implement this recommendation. The CAC also accepted the subcommittee's recommendation to allow equity applications to pay fees in installments or to have their fees deferred. BCC/CDFR/CDPH did not implement this recommendation.

The CAC accepted the Subcommittee on Equity's recommendation to allow all types of funding and bidding processes to be considered by the state to acquire funds to cover the costs of research on diversity issues in the cannabis industry. The BCC implemented this recommendation

under 16 CCR section 5900 covering eligibility. The CAC accepted the subcommittee's recommendation to provide equity applicants with more accessible property and premises options, such as allowing equity applicants to share premises, or create incentives and protections for property owners to lease to equity applicants. CDPH partially implemented this recommendation, which allows cannabis manufacturers to utilize shared-use facilities to provide opportunities for small manufacturing businesses. The CAC accepted recommendations on data collection, which urge state licensing authorities to collect demographic and other data to determine equity in licensing. BCC/CDFA/CDPH did not implement this recommendation.

The CAC accepted the Subcommittee on Equity's recommendation to suggest that BCC/CDFA/CDPH develop a social equity program that takes into account the work that the local licensing authorities have done in this area, and to develop a mechanism to prioritize funding as well as the costs of developing a social equity program. BCC/CDFA/CDPH did not implement this change.

The CAC adopted one of the nine recommendations submitted by the Subcommittee on Retailers. The CAC accepted the recommendation to clarify and simplify methods of delivery. The subcommittee recommended increasing flexibility as to vehicles and hours and to consider increasing the value amounts that can be carried at one time. The BCC partially implemented this recommendation. The CAC tabled the subcommittee recommendations that would require statutory changes in order to be implemented. The CAC plans to present these recommendations to the California State Legislature.

The Subcommittee on Cultivators recommended clarifying the process of composting, the definition of waste, and the ability to sell unused waste products lacking cannabinoids. The CAC

tabled this recommendation, and the CDFA implemented this recommendation. The subcommittee's recommendation to allow cultivators to transport their own products to nearby licensed processors without obtaining licensure, so long as they account for the net weight of the product was also tabled by CAC.

The CAC tabled the Subcommittee on Enforcement's recommendation to require that areas where waste is stored, processed, handled, and properly disposed of, should be covered by video surveillance. BCC/CDFA/CDPH did not implement this recommendation. Furthermore, BCC is concerned about the additional costs this coverage would impose on licensees.

CAC did not adopt several of the enforcement subcommittee's recommendations. CAC rejected the recommendation that licensing authorities consider establishing standards for personnel for cultivation, manufacturing, and distribution. The Subcommittee on Enforcement also recommended looking into the possibility of having unlicensed businesses' online advertisements and marketing removed, but CAC did not adopt this recommendation. BCC/CDFA/CDPH did not adopt this recommendation.

The Subcommittee on Licensing recommended that applicants should be required to submit a plan for compliance with labor standards and disclose previous labor law violations, CAC did not adopt this proposal. However, BCC partially implemented it under sections 5002 and 5035 of CCR Title 16.

CAC recognized various global issues which have been prevalent areas of concern in the cannabis industry. First, equity issues have been present in the cannabis industry due to the difficulties for disproportionately impacted members of communities to enter into the new legal cannabis industry. [SB 1294 \(Bradford\) \(Chapter 794, Statutes of 2018\)](#) attempts to address this

issue through state and local equity programs and the California Cannabis Equity Act of 2018. Additionally, the difficulties for small businesses/farmers to remain in the cannabis industry has been an area of concern for small business owners and surrounding communities. Extensive regulations/regulatory burdens and fees/high costs to entry have made it difficult for small businesses to participate in the industry. Finally, banking issues have posed an unnecessary burden on businesses by complicating tax collection, and causing safety issues due to reliance on the cash economy.

## **LEGISLATION**

[AB 228 \(Aguiar-Curry\)](#), as amended March 21, 2019, would add section 26003 to the Business and Professions Code, and would add sections 110382, 110611, and 111691, to the Health and Safety Code, to remove restrictions on the use of CBD derived from industrial hemp. Specifically, the proposed new section 26003 would provide that the sale of food, beverages, or cosmetics that include industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp shall not be restricted or prohibited based solely on the inclusion of those substances, and specifies that such products would not be subjected to regulation under MAUCRSA, unless the product contains industrial hemp-derived tetrahydrocannabinol (the intoxicant THC) in concentrations above 0.3 percent by product weight. New section 110382 would require the label of any package of a food, beverage, or cosmetic product containing hemp-derived CBD to include a statement warning that cannabidiol may be harmful if used during pregnancy or breastfeeding and that it should be kept out of reach of children. Finally, the bill would authorize an entity licensed under MAUCRSA to cultivate, manufacture, distribute, or sell products that contain

industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp. According to the author, who is also the sponsor of the bill,

[t]he State already allows the manufacturing and sale of cannabis products (including edibles); however, the use of industrial hemp as the source of CBD is still prohibited.... Consumers, for many different reasons including those recovering from substance addiction, want legal access to these products. AB 228 is an opportunity to make it easier for citizens to access these non-intoxicating, alternative products.

Section 6 of the bill includes an urgency declaration, stating that “[i]n order to protect a rapidly expanding industry relating to derivatives from industrial hemp in California and to reduce inconsistency in implementation of state and federal law, it is necessary that this bill take effect immediately.” *[A. Appr]*

[SB 627 \(Galgiani\)](#), as amended March 28, 2019, would amend sections 4825.1, 4884, 26000, 26001, 26030, 26050, 26104, 26140, and 26162.5 of, and add sections 4826.3 and 26003 to the Business and Professions Code. This bill would repeal the provision prohibiting a veterinarian from dispensing or administering cannabis or cannabis products to an animal patient. Also, it would authorize, but not require, a qualified veterinarian to discuss the use of medicinal cannabis or medicinal cannabis products. New section 26003 would allow the primary caregiver of an animal to purchase medicinal cannabis products for the patient animal as long as the caregiver has a veterinary recommendation and is at least 18 years of age. New section 4826.3 enables a qualified veterinarian to recommend cannabis products to patients and defines key terms like “primary caregiver” and “qualified veterinarian.” Under current law, the Board of Veterinary Medicine has the authority to penalize veterinarians for discussing cannabis treatment with the primary caregivers of their patients. This bill would eliminate that authority and delegate regulation of animal-oriented cannabis products to the BCC. According to the author, the purpose

of this bill is to prevent potential over exposure of cannabis to animal companions and to give veterinarians the tools they need to treat their patients effectively without jeopardizing their licenses. *[S. BP&ED]*

**SB 34 (Wiener)**, as amended April 4, 2019, would amend sections 26001, 26153, 26162.5 of, and add section 26071 to the Business and Professions Code to remove restrictions on the donation of cannabis to patients with a doctor's recommendation. The changes embodied in 26001 are simply the addition of definitions as related to medicinal cannabis patients. Section 26153 changes to read that a cannabis retailer may not use their donation of medicinal cannabis to patients as part of a business promotion or other commercial activity. Under current law, cannabis cultivators and retailers are not allowed to donate cannabis. New section 26071 explicitly permits a licensee to donate cannabis, exempts them from taxation on donated cannabis, and outlines the process by which they can do so while remaining in compliance with the law. According to the author,

SB 34 ensures that low income people who are very ill can continue to access their medical cannabis donations. Proposition 64's [] tax provisions are having the unintended consequence of discouraging donations and causing donation-based compassionate care programs—programs that gave free medical cannabis to vulnerable and needy patients—to close.

This bill eliminates a barrier that stood between needy patients and the medication that enabled them to live a happier life. The bill contains an urgency measure and is intended to take effect immediately. *[S. Appr]*

**SB 67 (McGuire)**, as amended March 21, 2019, would add and repeal section 26050.3 of the Business and Professions code, which currently authorizes a licensing authority to issue a temporary license until January 2019 that is valid for 120 days. The amended 26050.3 would

invalidate the expiration date on a temporary license if the temporary licensee submitted an application for an annual license before the temporary licenses expiration date, and would void the temporary license after the licensing authority issues an annual license. According to the author, who is also the sponsor of the bill, the temporary license was to be an intermediary step while state and local jurisdictions manage their own effort to come into compliance with the cannabis regulatory scheme. The author suggests that the sheer volume of temporary license applications, upwards of 10,000, presents the risk that not all provisional annual licenses can be processed before they expire. The author states that

[i]n a time when the Golden State is working overtime to bring the cannabis industry out of the black market and into the light of a legal regulatory environment, we can't afford to let good actors who want to comply with state law fall out of our regulated market just because timelines are too short and departments have been unable to process applications in a time due to the sheer number of applicants.

As such, the bill contains an urgency measure and is intended to take effect immediately. *[S. Appr]*

[AB 1417 \(Rubio\)](#), as amended March 28, 2019, would amend section 26151 of, and add section 26151.5 to the Business and Professions Code to establish as unfair business practice any advertising for cannabis goods that does not contain the state license number associated with the purveyor of goods. New section 26151.5 would create a private right of civil action against any cannabis retailer who fails to disclose their license number in an advertisement. According to the author, this legislation is important to ensure that communities are protected from unlicensed sellers. The author identifies the unlicensed sale of cannabis goods as a public health risk. *[A. Jud]*

[SB 581 \(Caballero\)](#), as amended April 10, 2019, would add section 26055.2 to the Business and Professions Code to ensure that on and after January 1, 2022, cannabis licensing authorities disclose information pertaining to licensees, including any disciplinary actions taken

against licensees. This information is to be published either on their websites or on the California Cannabis portal. According to the author, this bill is important because at the current moment the three licensing authorities are not diligent about providing the “who, what, where, and when” for their applicants’ licenses. Where these applications are concerned, this secrecy prevents government enforcers and the public from knowing whether or not an applicant was truthful in the application process. *[S. Jud]*

[AB 858 \(Levine\)](#), as amended April 3, 2019, would amend sections 26061 and 26063 of the Business and Professions Code to limit the cannabis license type for “specialty cottage” cultivators to 2500 square feet of canopy for an outdoor grow. Under existing law, the CDFA must, no later than January 1, 2021, establish a process by which licensed cultivators may establish appellations of standards of practice and varieties applicable to certain grow areas of California. This bill makes a clarification to the requirement that the CDFA establish a process by which licensed cultivators may establish appellations of standards of practice to instead require the establishment of appellation of origin standards. *[A. B&P]*

[AB 1525 \(Jones-Sawyer\)](#), as introduced February 22, 2019, would add Chapter 24 (commencing with section 26260) to Division 10 of the Business and Professions code to clarify that no state law prohibits any financial institution from providing financial services to a licensed cannabis business and requires a cannabis business to allow regulators to share the business’ track-and-trace data with financial institutions. According to the author, who is also the sponsor of the bill, the bill will encourage cannabis industry access to banking “[h]aving an entire industry operating with limited access to banking services is ... a serious public safety threat and makes commercial cannabis businesses a target for crime ....” *[A. B&P]*

[AB 1710 \(Wood\)](#), as amended April 4, 2019, would add section 26203 to the Business and Professions Code to authorize the County of Del Norte to enter into an agreement with the Elk Valley Rancheria, a federally recognized Indian tribe, regarding local authorization for the tribe to engage in commercial cannabis activity, with an agreement that the tribe comply with state laws. Under existing law, California has criminal jurisdiction and civil adjudicatory jurisdiction over tribal lands, but not civil regulatory jurisdiction. This bill would require all licensees operating on Rancheria land to be in compliance with state cannabis regulations. According to the author, this bill would simply codify an already existing agreement between the Rancheria tribe and Del Norte County. *[A. B&P]*

[AB 1356 \(Ting\)](#), as amended April 4, 2019, would amend section 26200 of, and add section 26200.1 to, the Business and Professions Code. This bill, if more than 50% of the electorate of a local jurisdiction voted in favor of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA), would require the jurisdiction to issue a minimum number of local licenses for cannabis retail activity. New section 26200.1 would require the local jurisdictions where 50% of the electorate voted in favor of AUMA to issue a minimum amount of cannabis retail licenses equal to 25% of the number of on-sale general liquor licenses in the jurisdiction. According to the author, this bill will enable the legal cannabis market to succeed over the illicit market especially in jurisdictions where the electorate made their intentions to support that law clear. *[A. B&P]*

[AB 1420 \(Oberholte\)](#), as introduced February 22, 2019, would amend section 26180 of the Business and Professions Code to add specified costs of licensing fees. This bill would prevent the BCC from setting costs that exceed specified amounts consistent with regulations adopted January 2019. *[A. B&P]*

[SB 475 \(Skinner\)](#), as amended April 4, 2019, would add section 26153.1 to the Business and Professions Code which would enable a cannabis licensee to offer a sample of product as a trade sample and exempts these samples from taxes. This type of sampling is expressly against the language of Proposition 64 which disallows sampling. According to its author, this bill would bring an already widely practiced trade practice into the legal cannabis market to encourage business to business and business to employee sampling. [*S. Gov&Fin*]

[SB 657 \(Monning\)](#), as amended April 11, 2019, would add section 26069.5 to the Business and Professions Code relating to cannabis cultivation. Under existing law, the CDFA in consult with the BCC, is required to establish a track and trace program for the tracking of the movement of cannabis. New section 26069.5 would provide that a county agricultural commissioner may include cannabis produced in its county in an addendum to its agricultural report. According to the author, this will help counties assess the effects that agricultural cultivation is having on their economies. [*S. Appr*]

[AB 1569 \(Jones-Sawyer\)](#), as amended April 8, 2019, would add section 6377 to the Revenue and Taxation Code to take effect immediately. This bill would exempt patients from tax on the use, storage, or consumption of cannabis as long as the purchaser has a valid doctor's recommendation. The bill contains a provision which says that the state shall not reimburse an agency for loss of revenue incurred as a result of this bill. The bill contains an urgency measure and is intended to take effect immediately. [*A. Rev&Tax*]

[AB 286 \(Bonta, Cooley, Jones-Sawyer, and Lackey\)](#), as revised April 3, 2019, would add section 26019 to the Business and Professions Code, and amend sections 34011 and 34012 of, and add section 34017.5 to the Revenue and Taxation Code. Specifically, the bill includes

legislative findings and declarations that the bill is intended to “reduce the size of the state’s illicit cannabis market and to stimulate sales in the licensed, regulated, and taxed cannabis market.” Section 26019 would be added to the Business and Professions Code to require cannabis licensing authorities to report metrics to the legislature by August 1, 2022, which measures the success of this act. The reports shall include metrics for the years 2018 to 2021, which provide “[t]he number of businesses that applied for licenses from the [bureau] and the Department of Food and Agriculture,” and “[t]he number of businesses that were issued licenses by the [bureau] and the Department of Food and Agriculture annually.” The metrics for 2018 and 2019 will be compared to the metrics for 2020 and 2021. Section 34011 of the Revenue and Taxation Code would be lower the cannabis excise tax from 15% to 11% until July 1, 2022. Section 34012 of the Revenue and Taxation Code would suspend the cannabis cultivation tax until July 1, 2022. This bill would go into effect on the first day of the first calendar quarter commencing more than 30 days after the bill is signed. Section 34017.5 would be added to the Revenue and Taxation Code to require the California Department of Tax and Fee Administration to measure the success of the act by submitting a report to the legislature by August 1, 2022. The report shall contain the following information for fiscal years 2017–2018, 2018–2019, 2019–2020, and 2020–2021: (1) The annual amount of total sales of cannabis and cannabis products by the licensed retailers; (2) The quarterly amount of total sales of cannabis and cannabis products by licensed retailers; (3) The annual amount of state tax revenue from the cannabis cultivation and excise taxes; (4) The quarterly amounts of state tax revenue from the cannabis cultivation and excise taxes; and (5) The comparative growth rates of sales and revenue from before and after the effective date of the act

adding this section. The report to the legislature shall be in compliance with section 9795 of the Government Code. [*A. B&P*]

[AB 545 \(Low\)](#), as introduced February 13, 2019, would add sections 26019.5 and 26048 to the Business and Professions Code. Section 26019.5 would authorize the appropriate policy committees of the legislature to review the powers and duties of BCC as though its authority were to be repealed as of January 1, 2021. Section 26048 would authorize the appropriate policy committees of the legislature to review the powers and duties of the Cannabis Control Appeals Panel as though BCC’s authority were to be repealed as of January 1, 2021. The Panel was established to authorize any person aggrieved by decisions of a licensing authority to appeal the licensing authority’s written decision to the panel. [*A. Appr*]

[AB 1465 \(Bloom\)](#), as amended March 28, 2019, would amend sections 26050, 26051, and 26070, and amend the heading of Chapter 7 of Division 10 of the Business and Professions Code; and amend section 11362.3 of the Health and Safety Code. Section 26050 would create a new cannabis license classification, license type 13—Consumption cafe/lounge. Section 26051 would include consumption cafe/lounge licenses to the bill’s current requirements, which determine whether to grant, deny, or renew a license. The heading of Chapter 7 would read “Retailers, Distributors, Microbusinesses, and Consumption Cafe/Lounges.” Section 26070 would define “consumption cafe/lounge” as a licensed premise “for the onsite retail sale and consumption of cannabis or cannabis products.” A “consumption cafe/lounge shall only sell cannabis or cannabis products to adults 21 years of age or older for onsite consumption, either through smoking, vaping, or ingestion of edible or topical products.” Additionally, consumption cafe/lounges may operate between the hours of 6:00 a.m. and 2:00 a.m. The consumption cafe/lounges may prepare and sell

non-cannabis products onsite but may not sell or allow the consumption of alcohol or tobacco on its premises. “Smoking, vaping, or the ingestion of cannabis or cannabis products shall not be visible from any public place or nonage-restricted area.” Section 1362.3 would make an exception to section 11362.1 which does not permit any person to smoke or ingest cannabis or cannabis products in a public place. Section 11362.3 would make an exception for premises that are licensed consumption cafes/lounges. *[A. B&P]*

[AB 1291 \(Jones-Sawyer\)](#), as introduced February 22, 2019, would amend section 26051.5 of the Business and Professions Code. Section 26051.5 would require applicants for licensing by MAUCRSA, who have 20 or more employees, to provide a statement that the applicant will enter into a labor peace agreement within 60 days unless the applicant demonstrates that it has already entered into, and abided by the terms of a labor peace agreement. Applicants with less than 20 employees at the time of the application must provide a notarized statement, as part of its application, “indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing 20 employees.” *[A. L&E]*

[AB 1458 \(Quirk\)](#), as amended April 12, 2019, would amend section 26100 of the Business and Professions Code to require that for edible cannabis products, the milligrams per serving of THC does not exceed 10 milligrams, plus or minus 15 percent. Testing laboratories issue a certificate of analysis for tested batches, which includes the milligrams of TCH per serving. After January 1, 2022, the milligrams of THC per serving shall not deviate from 10 milligrams by more than 10 percent. Manufacturers would be able to contest the testing results or request a retest of the batch. As of the end of April, the inclusion of the bill in its initial hearing was cancelled by the author and is unlikely to achieve enactment during 2019. *[A. B&P]*

[AB 404 \(Stone\)](#), as amended March 19, 2019, would amend section 26100 of the Business and Professions Code to authorize a testing laboratory to retest a sample, under certain conditions, if the test result falls outside the specifications authorized by law or regulation. In order for the testing laboratory to retest the sample: (1) The testing laboratory must notify BCC “in writing, that the test was compromised due to equipment malfunction, staff error, or other circumstances allowed by the bureau...”; and (2) BCC must authorize the testing laboratory to retest the sample. [A. Appr]

[AB 833 \(Lackey\)](#), as introduced February 20, 2019, would amend section 26070 of the Business and Professions Code. Section 26070 would allow BCC to “establish additional security requirements for vehicles carrying one million dollars (\$1,000,000) or more of cannabis, cannabis products, cash, or a combination of those.” [A. B&P]

[SB 658 \(Bradford\)](#), as amended March 28, 2019, would amend sections 26051, 26067, and 26090 of, and add section 26056.5 to, the Business and Professions Code. Section 26051 would delete provisions of law relating to the Bureau granting, denying, or renewing a retail or microbusiness license based on an area’s excessive concentration of licensees. Section 26056.5 would require BCC to establish, by December 31, 2019, and issue, beginning January 1, 2020, “a cannabis retail business emblem to each retail licensee, microbusiness licensee, and nonprofit licensee, including provisional licensees for those licenses, upon issuance of a license.” Licensees would be required to post the emblem in the front window of their facility or in a display case within five feet of the front door and ensure the emblem is clearly visible to the general public. A licensee’s emblem would expire upon expiration of the license for which it was issued. BCC shall renew the emblem when the license is renewed. BCC shall maintain licensing information and

make that information available to the general public. The emblem shall not be “defaced, marred, reproduced, copied, camouflaged, hidden, or removed.”

It shall be unlawful to operate a cannabis business if the cannabis retail business emblem is posted in a location in violation of this section, ... [and] [r]emoval of the cannabis retail business emblem is a violation of this chapter and may result in the suspension or revocation of the license and shall be punishable as specified in Chapter 3 of this division.

BCC would be responsible for adopting regulations to implement this section. Section 26067 would allow local jurisdictions to request a licensing authority to allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this division, such as creating an electronic shipping manifest to facilitate the administration of the track and trace program, which maintains information regarding the variety and quantity or weight of products shipped and received, and the time that the products departed and arrived. Section 26090 would require employees of a retailer, microbusiness, or nonprofit to carry the licensee’s current cannabis retail business emblem when delivering cannabis or cannabis products, beginning on January 1, 2020. Upon request, the employee would be required to present the cannabis retail business emblem to state and local law enforcement, employees of regulatory authorities, other state and local jurisdictions enforcing this division, and customers requesting the cannabis delivery.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety, within the meaning of Article IV of the California Constitution and shall go into immediate effect. ... [T]here is an immediate need for a uniform way to inform the public as to whether a dispensary has a valid and current commercial cannabis license to ensure the safety of consumers and to ensure adequate enforcement of those violating [MAUCRSA].

This bill has been placed in the “suspense file” applicable to all bills involving appropriations, which means it will die unless it is affirmatively removed for vote during the latter part of the 2019 session. [*S. BP&ED*]

**SB 185 (McGuire)**, as amended March 13, 2019, would amend sections 26062 and 26063 of the Business and Professions Code. Section 26062 would require the Department of Food and Agriculture, in conjunction with the State Department of Public Health, to establish, by January 1, 2021, a certification program for cannabis and manufactured cannabis products that is comparable to the National Organic Program, the California Organic Food and Farming Act, and the Health and Safety Code. This section would become inoperative if the National Organic Program authorizes organic designation and certification for cannabis. Section 26063 would require the Department of Food and Agriculture, by January 1, 2021, to establish a process by which licensed cultivators may establish appellation of origin standards, practices, and varieties applicable to cannabis grown in a certain geographical area in California, and to prohibit cannabis from being advertised, marketed, labeled, or sold using the appellation of origin established, unless the cannabis meets all appellation of origin requirements for the geographical area. [*S. Appr*]

**SB 595 (Bradford)**, as amended April 10, 2019, would add section 26249 to the Business and Professions Code. Section 26249 would require the licensing authority to develop and implement a program that provides a deferral or waiver for an application fee or a licensing fee for a local equity applicant or local equity licensee. A licensing authority would be able to adopt emergency regulations to implement this section. [*S. Appr*]

**AB 3 (Cooper)**, as amended March 28, 2019, would add section 26212 to the Business and Professions Code. Section 26212 would establish the Adolescent Cannabis Prevention Fund by

the State Treasury. The licensing authority must deposit any fine or penalty moneys recovered from a licensee following a disciplinary action into the Adolescent Cannabis Prevention Fund. Civil penalties, however, should not be deposited into this fund. This fund would also include any interest and dividends earned on moneys in the fund.

Moneys in the fund shall be available, upon appropriation by the Legislature, for the purposes of preventing persons under 21 years of age from accessing cannabis and cannabis products, unless those persons are authorized to access cannabis or cannabis products in accordance with this division or with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

*[A. B&P]*

[AB 1470 \(Quirk\)](#), as amended April 12, 2019, would amend section 26100 of the Business and Professions Code. Section 26100 would specify that “final form” means the unpackaged product as it will be consumed. The section also specifies that the cannabis or cannabis product would not have to be delivered to the licensed testing laboratory in the final retail packaging or, if applicable, within its vaporizer device, to be considered in its final form. *[A. B&P]*

[AB 1461 \(Quirk\)](#), as amended March 28, 2019, would amend sections 26104 and 26110 of the Business and Professions Code. Section 26104 would require BCC to adopt regulations to establish a process authorizing testing of random batches of cannabis or cannabis products that have had testing and quality assurance performed. Testing laboratory employees shall take “the sample of cannabis or cannabis products from the distributor’s or manufacturer’s premises for testing” and the testing laboratory employee shall transport the sample to the testing laboratory. Section 26110 would allow a manufacturer to arrange for a licensed testing laboratory to obtain a representative sample of each cannabis batch at the manufacturer’s licensed premise. Once the manufacturer receives a COA by the testing laboratory that the cannabis batch has passed testing

requirements, the manufacturer may perform a quality assurance review to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division. The manufacturer shall certify to the distributor that testing and quality assurance have been performed. The distributor may rely on that certification and does not need to perform testing or a quality assurance review for that cannabis batch or cannabis products. This bills was not included by the author in the first scheduled applicable hearing, indicating it may not reach enactment in 2019. [A. B&P]

[AB 1288 \(Cooley\)](#), as introduced February 21, 2019, would amend section 26067 of the Business and Professions Code. Section 26067 would require that the date of retail sale to a customer and whether the sale is on the retail premises or by delivery be included in the track and trace program. The track and trace program, as established by the Department of Food and Agriculture, in consultation with BCC, reports the movement of cannabis and cannabis products throughout the distribution chain. The track and trace program would have to be fully integrated into the California Law Enforcement Telecommunications System by July 1, 2020. [A. Appr]

## LITIGATION

*County of Santa Cruz v. Bureau of Cannabis Control*, Case No. 19CECG01224 (Cal. Super. Ct. Fresno). The County of Santa Cruz and twenty-four other plaintiffs (California cities), filed a civil [lawsuit](#) for declaratory and injunctive relief, on April 4, 2019, against defendants BCC and Lori Ajax, as BCC's Chief.

Plaintiffs allege that BCC's regulations on delivery violate sections 26090(e) and 26200(a)(1) of Business and Professions Code by allowing cannabis and cannabis products to be

delivered to a physical address anywhere in the state of California. BCC’s [regulations](#) under the CCR, Title 16, Division 42, section 5416(d), which took effect on January 16, 2019, permit a “delivery employee [to] deliver to any jurisdiction within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division.” Other delivery provisions include that the cannabis must be delivered to a physical address, and delivery employees may not leave the state of California while possessing cannabis goods.

Section 26090(e) of Business and Professions Code prohibits a local jurisdiction from preventing the delivery of cannabis or cannabis products on public roads if the delivery is made by a licensee who acts “in compliance with this division and local law as adopted under Section 26200.” Section 26200(a)(1) of Business and Professions Code establishes that:

[t]his division shall not be interpreted as to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division ... or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

In their complaint, plaintiffs argue that

Business and Professions Code section 26090(e) allows deliveries of cannabis, but only if such operations **comply with local law**. Section 26200(a)(1) allows a local jurisdiction to **regulate or completely prohibit the operation** of commercial cannabis businesses within its boundaries. [emphasis in original]

Plaintiffs seek a judicial declaration invalidating Title 16, section 5416(d) of the California Code of Regulations. A Case Management Conference is scheduled for August 21, 2019, in front of Judge D. Tyler Tharpe. This case may be critical to the efficient marketing of cannabis given the decision of 80% of California’s cities to prohibit any commercial sales operation within their respective borders.

## RECENT MEETINGS

At its March 27, 2019 [meeting](#), CAC heard an informational presentation, “Worker Health and Safety in the Cannabis Industry,” presented by Amalia Neidhardt, the Senior Safety Engineer of Cal/OSHA Research and Standards Occupational Health Unit. Ms. Neidhardt discussed the requirement that California employers must have an Illness and Injury Prevention Program (IIPP) to improve the safety and health in the workplace. Ms. Neidhardt encouraged employers to take advantage of the free consultation services Cal/OSHA offers to help employers identify potential workplace hazards and develop an IIPP. Ms. Neidhardt identified several common compliance problems in the cannabis industry workplace, including inadequate IIPPs; electrical hazards; a lack of sanitation facilities; too many armed robberies; and a lack of emergency eye washes in facilities where corrosive substances are used.

At its November 8, 2018 [meeting](#), CAC discussed and voted on including recommendations from the Microbusiness Subcommittee in the Annual Report. The Microbusiness Subcommittee recommended that the licensing authorities should create “sub-microbusinesses,” or a microbusiness that would allow small-business licensees to operate more like small businesses, and also allow sub-microbusiness licensees to perform nonvolatile solvent manufacturing and to hold cannabis events. The Microbusiness Subcommittee wants to provide more opportunities for small businesses more opportunities to participate in the cannabis industry. However, the Microbusiness Subcommittee recommended that BCC and California Department of Public Health develop and distribute a document to inform local jurisdictions that they can be more restrictive in setting and enforcing requirements for licensing small operators under a microbusiness license to ensure that licensees comply with all regulations. The Microbusiness

Subcommittee also recommended that BCC consider removing prohibitions on activities within homes that are commonly allowed under cottage business. This recommendation is intended to allow individuals to conduct business more efficiently and cost-effectively. BCC approved all three Microbusiness Subcommittee recommendations.