

Date of Hearing: April 25, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 1606 Cooper – As Amended April 20, 2017

NOTE: This bill is double-referred, having been previously heard by the Assembly Committee on Health on April 19, 2017 and approved on a 13-1 vote.

SUBJECT: Edible marijuana products.

SUMMARY: Adds a requirement to test edible marijuana products for uniform disbursement of cannabinoids and the accuracy of the labeled dosage, within 15 percent.

EXISTING LAW:

- 1) Establishes the Bureau of Marijuana Control, also referred to as the Bureau of Medical Cannabis Regulation (Bureau), under the Department of Consumer Affairs (DCA), to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of cannabis products. (Business and Professions Code (BPC) Section 26000 *et seq.*; BPC Section 19302)
- 2) Requires that marijuana and marijuana products be accurate in their chemical composition to the label, including: Tetrahydrocannabinol (THC), Tetrahydrocannabinolic Acid (THCA), Cannabidiol (CBD), Cannabidiolic Acid (CBDA), terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia, Cannabigerol (CBG), and Cannabinol (CBN). (BPC Section 26101(1))
- 3) Additionally, products must be tested to ensure that the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph, including, but not limited, to the following: Residual solvent or processing chemicals, including explosive gases, such as Butane, propane, O₂ or H₂, and poisons, toxins, or carcinogens, such as Methanol, Isopropyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene, foreign material, including, but not limited to, hair, insects, or similar or related adulterant, microbiological impurity, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus spp.*, *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A. Also specifies testing standards and that all inspections, transfers, and transportation shall meet a prescribed chain of custody. (BPC Section 26101 (2))

THIS BILL:

- 1) Requires that cannabis products be tested for uniform disbursement of cannabinoids throughout the product and accuracy of the labeled dosage.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by **Made by Science**. According to the author “Last year’s passage of Proposition 64 opens a new chapter for the marijuana-infused edibles industry, but a

lack of standards ensuring accurate labeling and consistent potency currently presents unnecessary safety risks for consumers. Heeding the lessons of others states, California needs a clear statutory and regulatory framework to ensure marijuana products are accurately labeled for dosage and deliver reliable, consistent potency. From the first serving of an edible marijuana product to the last, each serving should deliver the same dosage, which should be accurately indicated on the label. In addition, whether the product was manufactured one week before its ingested, or six months before its ingested, the potency of the product should remain the same, so that it's labeling remains accurate. AB 1606 will require that manufacturers meet these basic standards in order to safeguard the health and safety of consumers. AB 1606 is intended to support the regulations being developed that are focused on the safety of cannabis-infused products.”

Background. This bill adds an additional requirement to existing law for the testing of cannabis edibles. Under the provisions of this bill, edible cannabis products will be tested for uniformity of cannabinoids and dosage.

History of Legal Cannabis in California - In 1996, California voters passed Proposition 215, legalizing the use of medical cannabis (MC) in the state. In October 2015, nearly 20 years after the authorization of the use of MC, Governor Jerry Brown signed into law a trio of bills [AB 243 (Wood), Chapter 688, Statutes of 2015, AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey, and Wood), Chapter 689, Statutes of 2015, and SB 643 (McGuire), Chapter 719, Statutes of 2015] collectively known as the Medical Cannabis Regulation and Safety Act (MCRSA). MCRSA established the state's first regulatory framework for MC. In 2016, the voters of California passed Proposition 64, the Adult Use of Marijuana Act (AUMA), to legalize the recreational use of cannabis in the state by 2018.

As of 2016, 28 states, the District of Columbia, and Guam allow MC programs. Though California was the first to authorize the medical use of cannabis, it was the only state that allowed cannabis use without a robust state regulatory framework until passage of MCRSA. States with MC laws generally have a form of patient registry, which may provide some protection against arrest for possession up to a certain amount of cannabis for personal medicinal use. A limited number of states restrict MC usage to products with low to zero THC and high CBD concentrations, in an effort to more strictly limit the use of THC due to its known psychoactive effects. To date, eight states, Alaska, Colorado, Oregon, Washington, California, Nevada, Massachusetts, Maine, and the District of Columbia have legalized recreational cannabis.

The authors of AUMA sought to make use of much of the regulatory structure and authorities set out by MCRSA while making a few notable changes to the structure being implemented. In addition, the AUMA approved by the voters adopted the January 1, 2018 deadline for state implementation of recreational cannabis in addition to the regulations required in MCRSA that are scheduled to take effect on the same date. The same agencies as under MCRSA remain responsible for implementing regulations for adult use.

Under AUMA, the Department of Consumer Affairs (DCA), continues to serve as the lead regulatory agency for all cannabis, both medical and non-medical, and renames the existing Bureau of Medical Cannabis Regulation as the Bureau of Marijuana Control. AUMA includes 19 different license types compared to the 17 in MCRSA and authorizes DCA (and the Bureau) the exclusive authority to create and regulate a license for transportation of cannabis.

While the language of AUMA allows for modifications to the law by majority vote of the legislature, any legislative changes inconsistent with the original intent of the law may require voter approval.

Sample Testing & Labelling Requirements. AUMA requires DPH to license marijuana manufacturers and testing laboratories. Licenses for manufacturing are issued either as Level 1 (for sites that manufacture marijuana products using nonvolatile solvents, or no solvents) and Level 2 (for sites that manufacture using volatile solvents).

Prior to the sale of any marijuana or marijuana products, a representative sample must be tested by a certified testing service to determine the following: 1) whether the chemical profile of the sample conforms to the labeled content of the compounds, as specified; and, i2) that the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph, as specified. A certificate of analysis is issued for each sample lot.

AUMA also requires that marijuana products that are produced and sold must have a standardized dosage of cannabinoids not to exceed ten milligrams THC per serving; and, homogenized to ensure uniform disbursement of cannabinoids throughout the product. The label, among other requirements, must also list the active ingredients, the amount of THC and CBD per serving, and servings per package.

Consideration in Health Committee This bill passed out of the Assembly Committee on Health with 13 Aye votes, 1 No vote, and 1 no vote recorded. While under consideration by the Health Committee, this bill was amended to strike a requirement that a dosage be within 15 percent of its labeled dosage. This provision was considered to be in conflict with current law that requires that dosage must not exceed 10 milligrams THC per serving.

Current Related Legislation. AB 64 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood) of the current legislative session, seeks to reconcile a number of differences between MCRSA and AUMA to provide clarity in regulation and enforcement of both medical and recreational cannabis. *STATUS: This bill was passed by the Assembly Committee on Business and Professions on April 18, 2017 and is pending in the Committee on Appropriations.*

AB 175 (Chau) requires a manufacturer, prior to introducing an edible marijuana product into commerce in California, to submit the packaging and labeling to the Bureau for approval and would require the Bureau to determine whether the packaging and labeling are in compliance with the requirements of prescribed provisions of AUMA, including the requirements that the packaging be child resistant and not attractive to children. AB 175 is pending in Assembly Health Committee. *STATUS: This bill was passed by the Assembly Committee on Business and Professions on April 18, 2017 and is pending in the Committee on Appropriations.*

AB 823 (Chau) requires each single serving of an edible marijuana product to be stamped, marked, or otherwise imprinted directly on the product with a universal symbol, as specified. This bill specifies the required size and visibility of the universal symbol. AB 823 is pending in Assembly Health Committee. *STATUS: This bill was passed by the Assembly Committee on Health on March 27, 2017.*

SB 794 (Stern) requires each single serving of an edible marijuana product to be stamped, marked, or otherwise imprinted directly on the product with a universal symbol, as specified. Requires edible marijuana products to be sold in packaging that is tamper-proof, child resistant,

and, if the product contains more than one serving, resealable. *STATUS: This bill was referred to the Senate Committee on Business, Professions, and Economic Development and was set for hearing on April 24, 2017.*

ARGUMENTS IN SUPPORT:

County Behavioral Health Directors Association writes “We believe this legislation will help protect the public from potential negative consequences of consuming edible marijuana products.”

ARGUMENTS IN OPPOSITION:

None on file

REGISTERED SUPPORT:

Made by Science (sponsor)
County Behavioral Health Directors Association

REGISTERED OPPOSITION:

None on file

Analysis Prepared by: Jimmy Fremgen / B. & P. / 916-319-3301

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