California State Assembly

BUSINESS AND PROFESSIONS

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AGENDA

Tuesday, July 1, 2025
9 a.m. -- 1021 O Street, Room 1100

BILLS HEARD IN FILE ORDER

1.	SB 344*	Weber Pierson	Disposition of human remains: scattering at sea.
2.	SB 378	Wiener	Online marketplaces: illicit cannabis: reporting and liability.
3.	SB 402	Valladares	Health care coverage: autism.
4.	SB 508	Valladares	Out-of-state physicians and surgeons: telehealth: license exemption.
5.	SB 652*	Richardson	Private security services: security guards: training.
6.	SB 779	Archuleta	Contractors: civil penalties.

**Proposed for Consent*

Date of Hearing: July 1, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 344 (Weber Pierson) – As Amended March 20, 2025

SENATE VOTE: 34-0

SUBJECT: Disposition of human remains: scattering at sea

SUMMARY: Clarifies that, in addition to bridges and docks, cremated or hydrolyzed human remains cannot be scattered from a "dock attached to a shore."

EXISTING LAW:

1) Establishes the Cemetery and Funeral Bureau (CFB) under the jurisdiction of the Department of Consumer Affairs (DCA) to license and regulate licensure and regulation of cemetery brokers, cemetery salespersons, cemetery managers, cemeteries, crematories, crematory managers, cremated remains disposers, licensed hydrolysis facilities, and licensed reduction facilities. (Business and Professions Code (BPC) §§ 7600 *et. seq)*.

2) Defines a "cremated remains disposer" as a person who, for their own account or for another, disposes of or offers to dispose of cremated human remains or hydrolyzed human remains by scattering over or on land or sea, and beginning January 1, 2027 integrates into the soil or offers to integrate into the soil, reduced human remains. (BPC § 7611.9)

3) Prohibits a person from disposing or offering to dispose cremated human remains, hydrolyzed human remains, and beginning January 1, 2027, reduced human remains, unless registered as a cremated remains disposer by the CFB and clarifies that the above does not apply to a person having the right to control the disposition of the cremated, hydrolyzed or reduced human remains if that person does not dispose of, or offer to dispose of, more than 10 cremated, hydrolyzed, or reduced remains each year. (BPC § 7672)

4) Requires the CFB to prepare and deliver to each registered cremate remains dispenser a booklet that includes at a minimum details about the registration and renewal requirements for cremated remains disposers; requirements for obtaining state permits to dispose of cremated, reduced, or hydrolyzed human remains; and beginning January 1, 2027 reduced human remains, state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws. (BPC § 7672.2)

5) Requires all aircraft used for the scattering of cremated or hydrolyzed human remains to be validly certified by the Federal Aviation Administration and all boats or vessels be registered with the Department of Motor Vehicles or documented federal agency and all certificates of registration must be available for inspection by the CFB. (BPC § 7672.3)

6) Makes it a misdemeanor for a person to scatter cremated human remains or hydrolyzed human remains, and beginning January 1, 2027, integrates reduced human remains without a registration from the CFB, as specified. (BPC § 7672.10)

7) Authorizes cremated remains or hydrolyzed human remains to be scattered in an area where no local prohibition exists, provided that the cremated remains or hydrolyzed human remains are not distinguishable to the public, are not in a container, and that the person who has control over disposition of the cremated remains or hydrolyzed human remains has obtained written permission of the property owner or governing agency to scatter on the property, as specified, and beginning January 1, 2027, establishes similar requirements for the disposition of reduced human remains. (Health and Safety Code (HSC) § 7116)

8) Permits cremated remains or hydrolyzed human remains to be taken by boat from any harbor in the state, or by air, and scattered at sea, and specifies that cremated remains or hydrolyzed human remains shall be removed from their container before the remains are scattered at sea. (HSC § 7117(a))

9) Requires any person who scatters any cremated human remains or hydrolyzed human remains at sea, either from a boat or from the air, to file with the local registrar of births and deaths in the county nearest the point where the remains are scattered, a verified statement containing the following:

   a) The name of the deceased person;

   b) The time and place of death;

   c) The place at which the cremated remains or hydrolyzed human remains were scattered; and

   d) Any other information that the local registrar of births and deaths may require, as specified.

   (HSC § 7117(b))

10) Defines "at sea" to include the inland navigable waters of this state, exclusive of lakes and streams, and no scattering may take place within 500 yards of the shoreline. (HSC § 7117(c))

11) Prohibits the scattering of cremated human remains or hydrolyzed human remains from a bridge or pier. (HSC § 7117(c))

12) Prohibits a person from disposing of human remains unless a death certificate has been obtained and filed with a local registrar and a permit for disposition has been obtained from a local registrar. (HSC § 103050(a))

13) Requires a permit for disposition, for the purpose of removing cremated, reduced, or hydrolyzed human remains from the place of cremation, hydrolysis and beginning January 1, 2027, reduction, or interment to include a description of the final place of disposition sufficient to identify the place, and issued by the local registrar upon application of the person having the right to control the disposition of the remains. (HSC § 103060(a))

14) Requires the permit for disposition to be issued only upon a signed acknowledgment by the person making application that trespass and nuisance laws apply to the disposition and that

the permit gives no right of unrestricted access to property not owned by the person for the purpose of disposing of the remains. (HSC § 103060(b))

15) Requires the person to whom the disposition permit was issued to sign the permit, endorse upon it the date of final disposition and, within 10 days, return the first copy of the endorsed permit to the local registrar of the district in which the disposition took place and the third copy of the permit be returned to the office of issuance. (HSC § 103060(c))

THIS BILL:

1) Prohibits cremated human remains or hydrolyzed human remains from being scattered from a dock attached to the shore.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, no significant state costs anticipated.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author:

> With San Diego having so much water front property, it is critical that the public know that the scattering of cremated human remains includes docks. We keep remains from being spread from bridges and piers, it's also important we extend this prohibition to docks as well.

Background.

Cemetery and Funeral Bureau. The Cemetery and Funeral Bureau (CFB) was established in 1995 when the previously distinct Cemetery Board and Board of Funeral Directors and Embalmers were merged into a consolidated program under the Department of Consumer Affairs (DCA). As a bureau under the DCA, the CFB is charged with administering and enforcing the Cemetery and Funeral Act. A voluntarily established Advisory Committee, comprised of representatives of both the industry and the public, assists the CFB in engaging consumers and licensees in its regulatory activities.

The CFB oversees 14 different professional categories within the so-called "death care" industry, with approximately 11,315 licensees currently active with the CFB. The CFB's licensing program includes funeral establishments and directors; embalmers and apprentice embalmers; cremated remains disposers, crematories, crematory managers, and hydrolysis facilities; cemetery managers, brokers, branches, and salespersons; and certain private, nonreligious cemeteries. Beginning in 2027, the CFB will also license reduction facilities. The CFB is additionally tasked with the fiduciary responsibility of overseeing more than three billion dollars in funds held and invested by funeral establishments and cemeteries, including endowment care funds and preneed trust funds.

Cremation and Disposition of Remains. Cremation of human remains is the most popular method of body disposition in the United States, offering a more cost-effective and often more streamlined process of disposition for loved ones of the deceased than a traditional burial. The body is placed in a cremation chamber that is heated between 1400 and 1800 Degrees

Fahrenheit, which over the course of hours combusts much of the soft tissue of the body. The remaining bone fragments and organic ash, or "cremated remains", are then swept out of the chamber and finely pulverized. Cremated remains are then placed in a box, bag, or urn and returned to the family of the deceased. Alkaline hydrolysis, or "water cremation", is a newer and more environmentally friendly form of cremation by which human remains are reduced to bone fragments with the utilization of water and a blended alkaline solution, combined with heat and pressure. Similar to cremation, the body is reduced to bone fragments after the remaining by-product, which is a sterile *effluent* or *hydrolysate,* is removed from the hydrolysis chamber. Since July 1, 2020, the CFB has licensed and regulated the process of alkaline hydrolysis and hydrolysis facilities.

Whether traditionally cremated or hydrolyzed, cremated remains are often scattered by loved ones of the deceased over land or water. Any person who has right to control the disposition of the deceased can scatter cremated or hydrolyzed remains, subject to local, state, and federal regulation. However, in order to scatter the remains of more than 10 people annually, an individual must register as a "cremated remains disposer" with the CFB and abide by relevant CFB regulations, including receiving and following proper written instructions regarding the scattering from those with the right to control the disposition. Additionally, any person who scatters more than 10 remains annually without a CFB registration is subject to a misdemeanor.

Scattering Regulations. Federal law permits cremated remains to be buried in, or on, ocean waters so long as it occurs at least three nautical miles from land, and the burial or scattering event must be reported to the U.S. Environmental Protection Agency within 30 days of occurrence. Specific to California, cremated remains may be scattered in an area where no local prohibition otherwise exists, provided that the remains are not distinguishable by the public and are not in a container. Moreover, when scattering remains on land, the person with control over the disposition of remains must obtain written permission from the property owner or local agency in control of the area where the scattering occurs.

For scatterings at sea, California law requires that the person with control over the disposition of remains file specified information to the county nearest the point where the remains are scattered, including a verified statement containing the name of the deceased, the time and place of death, the location where the cremated remains were scattered, and any other information required by the county. Additionally, California law specifies that scatterings "at sea" do not include lakes and streams, and must occur at least 500 yards from the shoreline. Law further clarifies that the shoreline prohibition includes bridges and piers.

The author notes that, in her district, there are many docks extending further off of the shoreline into the water, and in these cases it is unclear whether the shoreline prohibition still applies. As such, this bill clarifies that, in addition to bridges and docks, cremated remains cannot be scattered from a "dock attached to a shore".

Current Related Legislation. SB 777 (Richardson) would, among other reforms, establish a process whereby control of abandoned endowment care cemeteries is assumed by local authorities, require the CFB to establish and administer Abandonment Grant Funding Program, raise all fees under CFB authority by 150%, require a cemetery authority to include a 4th quarter bank statement as part of their annual audit report submitted to the CFB, and more. *This bill is pending in this Committee.*

Prior Related Legislation. AB 3254 (Berman), Chapter 589, Statutes of 2024, extended the sunset date for the CFB until January 1, 2029, required a cemetery authority to provide information to the CFB related to the licensee's cemetery and endowment care funds, required the CFB to establish a work group to discuss abandoned cemeteries, and made other reforms and technical changes.

AB 351 (Cristina Garcia), Chapter 399, Statutes of 2022 established a regulatory structure for reduced human remains, imposed the same requirements for reduced human remains as cremated and hydrolyzed remains, and required the CFB and Department of Public Health to implement specified regulations by January 1, 2027.

REGISTERED SUPPORT:

None on file

REGISTERED OPPOSITION:

None on file

Analysis Prepared by: Edward Franco / B. & P. / (916) 319-3301

Date of Hearing: July 1, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 378 (Wiener) – As Amended May 29, 2025

NOTE: This bill is triple referred and if passed by this Committee will be re-referred to the Assembly Committee on Privacy and Consumer Protection, and if passed by that committee will be re-referred to the Assembly Committee on Judiciary.

SENATE VOTE: 37-0

SUBJECT: Online marketplaces: illicit cannabis: reporting and liability

SUMMARY: Requires websites that facilitate the sale of cannabis or cannabis products to either verify that sellers are licensed or display a warning to the consumer that sellers on the website may be unlicensed; requires websites that sell either cannabis or hemp products to provide a mechanism for any individual to report advertisements on the website relating to unlicensed sellers of cannabis or intoxicating hemp products; and establishes additional requirements, enforcement processes, liabilities, and penalties for websites that facilitate the sale of cannabis by unlicensed sellers or the sale of intoxicating hemp products.

EXISTING LAW:

1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to provide for a comprehensive regulatory framework for the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medicinal and adult-use cannabis. (Business and Professions Code (BPC) §§ 26000 *et seq.*)

2) Excludes industrial hemp from the definition of cannabis under MAUCRSA. (BPC § 26001)

3) Establishes the Department of Cannabis Control (DCC) within the Business, Consumer Services, and Housing Agency for purposes of administering and enforcing MAUCRSA. (BPC § 26010)

4) Establishes grounds for disciplinary action against cannabis licensees, including failures to comply with state requirements as well as local laws and ordinances. (BPC § 26030)

5) Authorizes the DCC to issue a citation to a licensee or unlicensed person for violating MAUCRSA or regulations adopted pursuant to MAUCRSA, and allows the DCC to assess an administrative fine of up to $5,000 per violation by a licensee and up to $30,000 per violation by an unlicensed person. (BPC § 26031.5)

6) Specifically provides that the unlicensed use of the cannabis universal symbol is a violation of MAUCRSA and empowers the CDTFA to seize unlicensed cannabis products bearing the universal symbol as contraband. (BPC § 26031.6)

7) Prohibits a person or entity from engaging in commercial cannabis activity without a state license issued by the DCC pursuant to MAUCRSA. (BPC § 26037.5)

8) Authorizes the Attorney General or a city or county counsel or city prosecutor to bring an action against persons engaged in unlicensed commercial cannabis activity for civil penalties of up to three times the amount of the license fee per day of violation. (BPC § 26038)

9) Provides for various specified types of cannabis licenses. (BPC § 26050)

10) Defines "advertisement" as any written or verbal statement, illustration, or depiction which is calculated to induce sales of cannabis or cannabis 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 shall not include product label or news publications. (BPC § 26150)

11) Requires that all advertisements accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee's license number, and prohibits a technology platform from displaying an advertisement by a licensee on an internet webpage unless the advertisement displays the license number of the licensee. (BPC § 26151)

12) Prohibits a cannabis licensee or any other person from doing any of the following:

    a) Advertising or marketing in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

    b) Publishing or disseminating advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on its labeling.

    c) Publishing or disseminating advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

    d) Advertising or marketing on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

    e) Advertising or marketing cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

    f) Publishing or disseminating advertising or marketing that is attractive to children.

    g) Advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

    h) Publishing or disseminating advertising or marketing for unlicensed commercial cannabis activity or for licensed commercial cannabis activity while the licensee's license is suspended.

    (BPC § 26152)

13) Prohibits a cannabis licensee from including on the label of any cannabis or cannabis product or publishing or disseminating advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of cannabis consumption. (BPC § 26154)

14) Defines "industrial hemp" as a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom; exempts industrial hemp from the provisions of MAUCRSA. (Health and Safety Code (HSC) § 11018.5)

15) Prohibits industrial hemp products from being labeled or advertised with any health-related statement that is untrue in any particular manner as to the health effects of consuming products containing industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp. (HSC § 110407)

16) Establishes a regulatory framework for industrial hemp under the Sherman Food, Drug, and Cosmetic Law administered by the California Department of Public Health (CDPH), under which manufacturers of products containing industrial hemp are required to obtain a process food registration and comply with good manufacturing practices. (HSC §§ 111920 *et seq.*)

17) Requires the distribution or sale of industrial hemp products to include documentation of a certificate of analysis from an independent testing laboratory that confirms that the industrial hemp raw extract, in its final form, does not exceed THC concentration of an amount determined allowable by the CDPH in regulation, or that the mass of the industrial hemp extract used in the final form product does not exceed a THC concentration of 0.3 percent. (HSC § 111921)

18) Authorizes the CDPH to exclude from the definition of "THC or comparable cannabinoid" isomers that do not cause intoxication, but that the CDPH may include any other cannabinoids that the CDPH determines do cause intoxication. (HSC § 111921.7)

19) Requires hemp manufacturers to register with the CDPH. (HSC § 111923.3)

20) Requires a manufacturer, distributor, or seller of an industrial hemp product to follow packaging, labeling, and advertising laws applicable to cannabis businesses. (HSC § 111926)

21) Prohibits inhalable hemp products from being sold to consumers under 21 years of age. (HSC § 111929)

22) Provides the California Department of Food and Agriculture (CDFA) with responsibility for administering and enforcing laws governing the growing, cultivating, and distributing of industrial hemp. (Food and Agricultural Code §§ (FAC) 81000 *et seq.*)

23) Imposes limitations and prohibitions on the growth of industrial hemp and requires each crop of industrial hemp to be tested by a laboratory to determine its THC levels. (FAC § 81006)

THIS BILL:

24) Defines "cannabis" and "cannabis product" as having the same meanings as defined in MAUCRSA.

25) Defines "online cannabis marketplace" as an internet website, online service, online application, or mobile application, including a social media platform, that does any of the following in California:

    a) Transmits or otherwise communicates between a third party and purchaser an offer for the sale of cannabis or a cannabis product that is accepted by the purchaser.

    b) Processes, collects, or administers the payment for the sale of cannabis or a cannabis product.

    c) Permits offers for the sale of cannabis or a cannabis product.

    d) Connects a seller of cannabis or cannabis products and a consumer.

26) Requires an online cannabis marketplace to address in its terms of service both of the following:

    a) Whether the marketplace permits advertisements from, or business information about, unlicensed sellers of cannabis or cannabis products to be viewed by Californians.

    b) Whether the online cannabis marketplace verifies that a seller of cannabis or cannabis products has a valid, unexpired license by consulting the license look-up function on the DCC's website before displaying, storing, or hosting the seller's advertisements or business information in a manner that is viewable to Californians.

27) Requires an online cannabis marketplace that does not verify that a seller of cannabis or cannabis products is licensed to display a clear and conspicuous graphic that a consumer must acknowledge and click through before viewing or engaging with the marketplace warning the consumer that the marketplace may be displaying, storing, or hosting unlicensed sellers of cannabis or cannabis products.

28) Subjects a marketplace that displays, stores, or hosts an advertisement from, or business information about, an unlicensed seller in violation of the warning graphic requirement to a civil penalty of up to $250,000 in an action brought by any person who identifies that the marketplace violated the requirement, in addition to reasonable attorneys' fees and costs.

29) Additionally provides that a marketplace that violates an injunction requiring compliance with the warning graphic requirement shall be prohibited from operating in California until a receiver appointed by the court issuing the injunction affirms that the marketplace is in compliance.

30) Provides that in any action to enforce an injunction requiring compliance with the clear and conspicuous warning graphic requirement, the party obtaining enforcement shall be entitled to an award of twice its reasonable attorneys' fees and costs and a civil penalty of $500,000.

31) Requires an online cannabis marketplace to establish a clear and conspicuous mechanism for any person to report unlicensed sellers of cannabis or cannabis products to the online cannabis marketplace, which must feature functionality to do the following:

    a) Allow for an individual to upload a screenshot or provide basic identifying information, such as an account identifier or URL.

    b) Include a method for the marketplace to contact a reporting individual in writing, including a telephone number for purposes of sending text messages, an email address, or another reasonable electronic method of communication.

    c) Provide the reporting individual with written confirmation that the report has been received within 36 hours of receipt.

    d) Provide periodic written updates to the reporting individual as to the status of the marketplace's handling of the reported material, with the first written update provided as soon as reasonably feasible but no later than 14 days after either the date on which the written confirmation was provided or the date of the most recent written update.

    e) Require review of each report by a natural person.

    f) Issue a final written determination to the reporting individual, which shall state one of several outcomes, including confirmation that the seller's advertisements and business information have been blocked from being viewable on the marketplace.

32) Requires the final written determination to be provided to the reporting individual within 30 days of receiving the report, and provides that if the marketplace cannot comply with that timeline due to circumstances beyond the reasonable control of the marketplace, the marketplace shall comply no later than 60 days after the date on which the report was received and promptly provide written notice of the delay, no later than 48 hours from the time the marketplace knew the delay was likely to occur, to the reporting individual.

33) Subjects online cannabis marketplaces that violate any of the above reporting mechanism requirements to a civil penalty of up to $10,000 for each violation and for compensatory damages, punitive damages, and any civil remedies, penalties, or sanctions for harms caused by the marketplace's failure to comply, which damages shall be adjudicated and awarded apart from any harms attributable to the existence of the reported content alone.

34) Provides that a party may bring an action to enforce the reporting mechanism requirements, and that in addition to other equitable relief, the court may order injunctive relief to obtain compliance and shall award reasonable attorney's fees and costs to the prevailing plaintiff.

35) Specifies that each day a marketplace is in violation of a requirement constitutes a separate violation.

36) Clarifies that the duties and obligations imposed by the bill are cumulative with any other duties or obligations imposed under other law and shall not be construed to relieve any party from any duties or obligations imposed under other law.

37) Defines "industrial hemp" as having the same meaning as defined in the Sherman Food, Drug, and Cosmetic Law.

38) Defines "inhalable hemp product" as any hemp product that can be used by inhalation, including, but not limited to, hemp flower, hemp prerolls, hemp vaping cartridges, liquids, or prefilled devices, hemp shatter, wax, budder, or other hemp derived concentrates that can be used for inhalation.

39) Defines "intoxicating hemp product" as meaning either of the following:

    a) An industrial hemp product whose THC concentration exceeds the amounts allowable under the Sherman Food, Drug, and Cosmetic Law or its implementing regulations.

    b) An inhalable hemp product with a detectable THC concentration.

40) Defines "online hemp marketplace" as an internet website, online service, online application, or mobile application, including a social media platform, that does any of the following in California:

    a) Transmits or otherwise communicates between a third party and purchaser an offer for the sale of an industrial hemp product that is accepted by the purchaser.

    b) Processes, collects, or administers the payment for the sale of an industrial hemp product.

    c) Permits offers for the sale of an industrial hemp product.

    d) Connects a seller of an industrial hemp product and a consumer.

41) Applies substantially the same reporting mechanism requirements applicable to online cannabis marketplaces to online hemp marketplaces.

42) Prohibits either an online cannabis marketplace or an online hemp marketplace from engaging in paid online advertising related to unlicensed sellers of cannabis or cannabis products, intoxicating hemp products, or unregistered hemp products.

43) Provides that an online marketplace that violates the above prohibition and that is a substantial factor in an unlawful transaction between a consumer and an unlicensed seller shall be strictly liable for damages caused to the consumer by the product to the same extent as a retailer would be liable for selling a defective product in the retailer's physical store.

44) Specifies additional damages that may be recovered by plaintiffs against an online marketplace for violations of the above prohibition.

45) Clarifies that the bill shall not be construed as applying to information or content displayed by a business on a computer or mobile device that is not a paid online advertisement.

FISCAL EFFECT: According to the Senate Committee on Appropriations, unknown, potentially significant cost to the state funded trial court system.

COMMENTS:

Purpose. This bill is sponsored by *United Food and Commercial Workers (UFCW) Western States Council*. According to the author:

> California's legal cannabis industry has struggled in the face of a growing illicit market for so-called "hemp" products that doesn't provide any health or safety protections for consumers, or even prevent minors from purchasing dangerous intoxicating products. Consumers are finding products advertised as hemp on Amazon and other digital platforms, but studies show that these products contain alarming amounts of synthetic intoxicants, undermining both California's legal cannabis market and public health and safety. SB 378 provides enhanced consumer protections by holding online marketplaces strictly liable for damages, and includes reporting requirements for users to flag and report illicit product. I have long supported cannabis legalization and safe access to it, including authoring laws to expand access to medical cannabis and reduce taxes on legal cannabis. By tackling illicit hemp products, we can support legal cannabis businesses and improve California's legal market while protecting minors and consumers from potentially dangerous unregulated substances.

Background.

Regulation of Cannabis. While the federal illegality of cannabis has historically limited clinical research, cannabis has long been believed to have therapeutic value. Cannabinoids contained within the plant, including THC, have been demonstrated to be effective at treating chemotherapy-induced nausea, chronic pain, anorexia, and other conditions. During the height of the AIDS crisis in San Francisco in the 1980s, cannabis was commonly ingested to help alleviate the effects of wasting syndrome, with activists like "Brownie Mary" Rathbun and Dennis Peron championing access to the plant for patients.

Consumption of cannabis was first made lawful in California in 1996 when voters approved Proposition 215, the Compassionate Use Act. Proposition 215 protected qualified patients and caregivers from prosecution relating to the possession and cultivation of cannabis for medicinal purposes, if recommended by a physician. This regulatory scheme was further refined by SB 420 (Vasconcellos) in 2003, which established the state's Medical Marijuana Program. After years of lawful cannabis cultivation and consumption under state law, a lack of a uniform regulatory framework led to persistent problems across the state due to cannabis's continued illegality under the federal Controlled Substances Act, which classifies cannabis as a Schedule I drug ineligible for prescription.

After several prior attempts to improve the state's regulation of cannabis, the Legislature passed the Medical Marijuana Regulation and Safety Act—subsequently retitled the Medical Cannabis Regulation and Safety Act (MCRSA)—in 2015. MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis. While entrusting state agencies to promulgate extensive regulations governing the implementation of the state's cannabis laws, MCRSA fully preserved local control. Under MCRSA, local governments may establish their own ordinances to regulate medicinal cannabis activity. Local jurisdictions could also choose to ban cannabis establishments altogether.

Not long after the Legislature enacted MCRSA, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). The passage of the AUMA legalized cannabis for non-medicinal adult use in a private home or licensed business; allowed adults 21 and over to possess and give away up to approximately one ounce of cannabis and up to eight grams of concentrate; and permitted the personal cultivation of up to six plants. The proponents of the AUMA sought to make use of much of the regulatory framework and authorities set out by MCRSA while making a few notable changes to the structure still being implemented.

In the spring of 2017, SB 94 (Committee on Budget and Fiscal Review) was passed to reconcile the distinct systems for the regulation, licensing, and enforcement of legal cannabis that had been established under the respective authorities of MCRSA and the AUMA. The single consolidated system established by the bill—known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)—created a unified series of cannabis laws. On January 16, 2019, the state's three cannabis licensing authorities—the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health—officially announced that the Office of Administrative Law had approved final cannabis regulations promulgated by the three agencies respectively.

In early 2021, the Department of Finance released trailer bill language to create a new Department with centralized authority for cannabis licensing and enforcement activities. This new department was created through a consolidation of the three prior licensing authorities' cannabis programs. As of July 1, 2021, the Department has been the single entity responsible for administering and enforcing the majority of MAUCRSA. New regulations went into effect on January 1, 2023 to effectuate the consolidation and make other changes to cannabis regulation.

Advertising of Cannabis Goods. The AUMA included a number of restrictions on the advertising and marketing of cannabis and cannabis products, with a particular focus on protecting children from exposure to the cannabis industry. In the official text of Proposition 64, the purpose and intent of the initiative was stated to include an intention to "prohibit the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present." The AUMA further required that "any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee."

Additionally, Proposition 64 included a prohibition against advertisers publishing or disseminating "advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption." This language was heavily simplified when MCRSA and the AUMA were reconciled through the enactment of SB 94. Under MAUCRSA, licensees are instead prohibited more generally from publishing or disseminating "advertising or marketing that is attractive to children." However, similar language was incorporated into regulations previously promulgated by the Bureau of Cannabis Control in rules governing advertisements placed in broadcast, cable, radio, print, and digital communications.

MAUCRSA currently places a series of prohibitions on specified forms of advertising and marketing by individuals and entities licensed by the DCC. Cannabis licensees may not do any of the following:

- Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

- Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.

- Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

- Advertise or market on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

- Advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

- Publish or disseminate advertising or marketing that is attractive to children.

- Advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

- Publish or disseminate advertising or marketing for unlicensed commercial cannabis activity or for licensed commercial cannabis activity while the licensee's license is suspended.

The DCC's regulations include a number of additional provisions relating to cannabis advertising. Advertisements placed in broadcast, cable, radio, print, and digital communications may only be displayed after a licensee has obtained reliable up-to-date audience composition data demonstrating that at least 71.6 percent of the audience viewing the advertising or marketing is reasonably expected to be 21 years of age or older. These advertisements also may not depict images of minors, objects likely to be appealing to minors, or statements regarding free cannabis goods or giveaways.

The DCC's regulations also contain more specific requirements for outdoor advertising of cannabis, including billboards. The DCC requires that all outdoor signs must be affixed to a building or permanent structure. Prior cannabis regulations narrowed the AUMA's prohibition against advertising on a billboard located on a highway to prohibit only advertisements "within a 15-mile radius of the California border." On January 11, 2021, the San Luis Obispo Superior Court entered a summary judgement that this regulation was "clearly inconsistent with the Advertising Placement Statute, expanding the scope of permissible advertising to most of California's State and Interstate Highway system, in direct contravention of the statute." In response, the DCC issued a notice to licensees, informing them that "to comply with the law and regulations, licensees may not place new advertising or marketing on any interstate highway or state highway that crosses the California border."

Enforcement Against Unlicensed Activity. A report published by the Reason Foundation estimates that as much as two-thirds of cannabis sales in California take place on the illicit market. This is consistent with widespread consensus that illicit cannabis continues to proliferate notwithstanding the enactment of MAUCRSA. In addition to unlicensed persons engaging in unlawful cannabis activity, there have also been cases where licensed cannabis businesses run a "back door" operation of illicit cannabis commerce in addition to their licensed activity.

Because unlicensed cannabis products do not receive state oversight and enforcement of various health and safety requirements, including laboratory testing, consumption of unlicensed cannabis products can pose a significant risk to consumers. In August 2019, the number of emergency department visits related to cannabis vaping products sharply increased, with a total of 2,807 hospitalized cases or deaths reported to federal Centers for Disease Control and Prevention in the United States. It is believed that much of this "vaping crisis" was the result of untested, unlicensed manufactured cannabis products.

Enforcement against the illicit market has attracted significant legislative attention, particularly within the California State Assembly. A task force was recently established through the 2022-23 Budget process to promote communication between state and local entities engaged in the regulation of commercial cannabis activity and facilitate cooperation to enforce applicable state and local laws. Existing law authorizes the DCC to take enforcement action for violations of MAUCRSA and issue a citation of up to $30,000 for unlicensed individuals. This authority allows the DCC to issue a citation to licensees who sell cannabis products that do not comply with MAUCRSA, or to illicit market operators.

Internet Advertising and Enforcement. In addition to provisions generally governing the advertising and marketing of cannabis businesses, MAUCRSA further specifies that "a technology platform shall not display an advertisement by a licensee on an Internet Web page unless the advertisement displays the license number of the licensee." As California's legal cannabis market developed, a number of online advertisers began soliciting and accepting agreements to advertise cannabis businesses. This included not only companies generally engaged in business advertising, but websites like Weedmaps and Leafly that specialized in advertising cannabis-related products and businesses.

In the years immediately following the passage of the AUMA, regulators and policymakers criticized companies engaged in cannabis business advertising for circumventing state laws and regulations, including the requirement that advertisements feature the license number of any advertised cannabis licensee. Arguments were made that these advertisers were arguably "aiding and abetting" the unlawful sale of cannabis by illegal operators and that greater enforcement against platforms that advertised unlicensed cannabis businesses was needed to effectively combat the illicit market. In February 2018, this Committee held an informational hearing titled *Cannabis Regulation: An Update on Statewide Implementation*. During the hearing, legislators cited specific examples of cannabis advertising where license numbers did not appear to be displayed, including both in traditional print media and on cannabis-focused websites. Partly in response to this hearing, in May 2018 the City of Sacramento put a local weekly newspaper on notice for advertising cannabis businesses that did not appear to be licensed, and the city issued a similar threat to Weedmaps, which did not consistently display current license numbers on its pages.

Further discussions occurred in the context of legislation introduced to address the advertisement of unlicensed cannabis businesses by websites, beginning in 2018 with AB 2899 (Rubio). In 2019, AB 1417 (Rubio) was introduced with language that would have provided that the advertising of cannabis goods without an active state license number was enforceable as both an unfair business practice and a public nuisance. AB 1417 would have established civil penalties for violations of both the existing requirement for license numbers to be displayed on advertisements, which the bill reiterated for websites primarily operated for the purpose of promoting the sale of cannabis products, and new prohibitions established by the bill.

In addition, AB 1417 proposed to require the operator of a website primarily operated for the purpose of promoting, or disseminating information about, the sale of cannabis products in California to display a "clear and reasonable statement" explaining all of the following:

1) The unlicensed sale of cannabis products by any entity not licensed for that sale by the state and the locality within which that entity is doing business violates California law.

2) The cannabis products sold by unlicensed entities may not meet the safety, quality, or other standards required for the lawful sale of cannabis products by the State of California.

3) Consumers who purchase cannabis products from unlicensed entities do so at their own risk.

This Committee's analysis for AB 1417 raised the question of whether it was appropriate to limit the bill's requirements to websites "operated primarily for the purpose of promoting, or disseminating information about, the sale of cannabis products in the State of California." The bill analysis noted that "many major internet platforms that engage generally in consumer product advertisement include paid promotions or user generated listings of cannabis businesses" and pointed out that "by specifying that the requirement for a platform to post certain disclosures relating to the risks associated with purchasing cannabis from unlicensed entities is limited to sites, services, and application that 'operate primarily' in the cannabis space, a significant portion of the advertising market involved in disseminating information about cannabis businesses to consumers is likely excluded." Amendments to AB 1417 broadened the bill to apply to all online advertising platforms, and the bill was ultimately held on suspense in the Senate.

The author of AB 1417 subsequently introduced several more bills relating to online advertisements of cannabis. AB 2122 (Rubio) of 2020 sought to address the issue of internet platforms willfully advertising unlicensed cannabis businesses by subjecting any person who aids and abets unlicensed commercial cannabis activity to civil penalties of up to $30,000 per day. That bill did not receive a committee hearing in the Senate; however, a substantially similar bill, AB 1138 (Rubio), was passed by the Legislature in 2021 and signed into law.

During the Legislature's consideration of the bills aimed at addressing online advertisements of unlicensed cannabis businesses, several issues were raised and discussed. Much of the discussion involved the applicability of a federal law commonly referred to as Section 230 of the Communications Decency Act, which stated that "no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." This federal law has been historically interpreted by courts as providing broad immunity for internet service providers and internet websites against responsibility for content posted by third parties.

Regulation of Hemp. Botanically speaking, both hemp and what has historically been referred to as marijuana are members of the same plant species, *Cannabis sativa*. While MAUCRSA uses the term "cannabis" to refer to varieties of the species that contain sufficient levels of the cannabinoid THC to produce an intoxicating effect, hemp, has commonly been regarded more as an agricultural plant and has historically been used for products such as paper, textiles, cosmetics, and fabric. California law requires industrial hemp to contain less than 0.3 percent THC, which is considered trace amounts compared to psychoactive cannabis (which frequently contains between 15-40 percent THC). Hemp is regulated by the CDFA for agricultural purposes, and by the CDPH when it is used in food, beverage, and cosmetic products.

While industrial hemp does not share the same psychoactive properties as cannabis due to its significantly lower amount of THC, both hemp and cannabis contain another cannabinoid known as CBD. According to the National Institute of Health, CBD has pain relieving, anti-inflammatory, anti-psychotic, and tumor-inhibiting properties. There are currently over 100 clinical trials of CBD listed on the National Library of Medicine's website. These trials are testing CBD's utility in treating epilepsy, substance use disorders, pain, psychosis, and anxiety, among other disorders and conditions.

SB 566 (Leno) of 2013 established the Industrial Hemp Farming Act, which would provide a regulatory scheme for the cultivation and processing of industrial hemp in California upon approval by the federal government. SB 566 required growers of hemp for commercial purposes to register with the county agricultural commissioner of the county in which the grower intends to engage in industrial hemp cultivation among various provisions. Established agricultural research institutions were exempted from these requirements.

The U.S. Agriculture Improvement Act of 2018 (known as the Farm Bill) federally legalized the growing, cultivating, and the transporting of industrial hemp between states. However, the Farm Bill resulted in CBD containing products that have been approved by the Food and Drug Administration (FDA) to be removed from the list of Schedule I substances under the CSA and reclassified as a Schedule V drug. This policy was enacted because of the findings that it does not contain any psychoactive or addictive properties and has a very low abuse potential. This separates industrial hemp from marijuana specific cannabis products, which remains a Schedule I drug on the federal level. The Farm Bill also classifies CBD as a food product.

Importantly, the Farm Bill also requires states to devise their own sale restrictions and regulations, of which the U.S. Department of Agriculture (USDA) is responsible for overseeing. SB 153 (Wilk) of 2019 revised provisions in SB 566 regulating the cultivation and testing of industrial hemp to conform to the requirements for a state plan under the 2018 Farm Bill. SB 292 (Wilk) of 2021 additionally conformed state law to the USDA Interim Final Rule regarding reporting and testing of industrial hemp in the United States.

In 2021, AB 45 (Aguiar-Curry) was enacted to significantly expand and clarify the framework under which CBD derived from industrial hemp can be used in food, beverages and dietary supplements. The bill revised or added various definitions relating to hemp products and placed new requirements on hemp manufacturers in exchange for more explicit authority to produce manufactured goods containing CBD derived from hemp. In doing so, the bill expressly specified that foods, beverages, dietary supplements, cosmetics, and pet food are not adulterated by the inclusion of industrial hemp cannabinoids.

Intoxicating Hemp. Concerns have grown over the past several years regarding the perceived proliferation of intoxicating hemp products. In 2022, the California Cannabis Industry Association (CCIA) issued a white paper in October 2022 titled *Pandora's Box: The Dangers of a National, Unregulated, Hemp-Derived Intoxicating Cannabinoid Market*. The CCIA report argued that loopholes in the 2018 Farm Bill, which defined industrial hemp as having no more than 0.3 percent delta-9 THC content by dry weight, inadvertently created led to the proliferation of intoxicating hemp products. Specifically, the white paper points to a Ninth Circuit decision that the CCIA says "unleashed a Wild West of intoxicants when it ruled that products containing delta-8 THC meet the statutory definition of industrial hemp."

According to the FDA, delta-8 THC is a cannabinoid typically synthetically manufactured from hemp-derived CBD that has significant psychoactive and intoxicating effects. The FDA has expressed concern that delta-8 THC products "likely expose consumers to much higher levels of the substance than are naturally occurring in hemp cannabis raw extracts." There were reportedly 104 reports made to the FDA of adverse events in patients who consumed delta-8 THC products between December 1, 2020, and February 28, 2022, over half of which resulted in medical intervention or hospital admission.

In April 2023, the Cannabis Regulators Association (CANNRA), a coalition of regulatory agencies overseeing cannabis and hemp industries in more than 40 states and territories in the United States, wrote a letter to congressional leadership requesting action at the federal level provide a regulatory framework for products containing THC derived from hemp. CANNRA specifically called attention to the fact that a 0.3 percent threshold of delta-9 THC by weight is a relatively small amount of THC in a hemp plant, but is significantly more when included as an ingredient in edible products and beverages. A 50-gram chocolate bar, for example, would have around 150 milligrams of THC at the 0.3 percent THC limit – 30 times the standard 5 milligram THC dose established by the National Institute on Drug Abuse.

In February 2025, another white paper titled *The Great Hemp Hoax*, was published with funding by the San Diego/Imperial Counties Joint Labor Management Cannabis Committee, UFCW, and March and Ash. This white paper discussed findings that out of more than 100 intoxicating hemp products from 68 brands available to California consumers through online purchases, 95 percent contained synthetic cannabinoids prohibited under California law. Additionally, over 88 percent of tested products exceed the maximum amount of THC allowed to be classified as hemp products in California. The white paper found that on average, vape products supposedly derived from hemp had THC equivalency levels 268 percent above the state's threshold for adult-use cannabis.

In September 2024, Governor Gavin Newsom announced that the CDPH was issuing emergency regulations banning the sale of consumable hemp products containing any detectable levels of THC or other intoxicating cannabinoids in California. The regulations additionally prohibited sales of hemp products to individuals under 21 and limited servings to five per package. State regulators indicated that sellers would be required to implement purchase restrictions and remove consumable hemp products containing any levels of detectable THC from shelves immediately upon the effective date of the regulations. In March 2025, the CDPH extended the ban for another 90 days and will currently remain valid through June 2025. On June 13, 2025, the CDPH announced proposed regulations to make the ban permanent.

Proposed Requirements for Online Marketplaces. This bill would further seek to curtail the advertisement of unlicensed cannabis businesses, as well as unregistered or intoxicating hemp products, through the establishment of new prohibitions and requirements for internet companies that serve as online marketplaces for those products. First, the bill would expressly prohibit an online marketplace from engaging in paid online advertising related to unlicensed sellers of cannabis or cannabis products, intoxicating hemp products, or unregistered hemp products.

For an internet website or similar platform that facilitates the sale of cannabis or cannabis products, as specified, the marketplace would be required to address in its terms of service whether it permits advertisements from, or business information about, unlicensed sellers. Those marketplaces would also have to address whether they will verify that sellers advertised or displayed on the marketplace's platform are licensed. If an online cannabis marketplace does not verify that a seller of cannabis or cannabis products is licensed, this bill would require the consumer to be presented with a clear and conspicuous graphic immediately upon accessing the marketplace, which the consumer must acknowledge and click through before viewing or engaging with the marketplace. The bill provides that this graphic must "warn the consumer that the marketplace may be displaying, storing, or hosting unlicensed sellers of cannabis or cannabis products."

In addition to the above requirements, both online cannabis marketplaces and online hemp marketplaces, as similarly defined, would be required under this bill to establish a clear and conspicuous mechanism within their internet-based services that allows any individual to report to the marketplace the display, storing, or hosting on the marketplace of advertisements from, or business information about, either an unlicensed seller of cannabis or cannabis products or an intoxicating hemp product. The bill includes several specific features required of this mechanism, including means of providing information to the marketplace. The bill would further require the marketplace to provide regular updates to the reporting individual, as well as a final outcome, within specified timeframes.

Finally, this bill would establish various penalties that may be assessed against violators of the bill's prohibitions and requirements. In addition to civil penalties, the bill provides for injunctive relief, attorneys' fees, and compensatory damages, punitive damages, and other civil remedies, penalties, or sanctions. These provisions related to enforcement against marketplace operators will be further discussed when the bill is considered by subsequent committees.

Current Related Legislation. AB 8 (Aguiar-Curry) would require products containing concentrated cannabinoids other than CBD isolate that are derived from industrial hemp to comply with provisions of MAUCRSA. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

AB 1496 (Rubio) would reestablish a prior task force on state and local regulation of commercial cannabis activity and expands the membership of the task force to include representatives of tribal governmental entities. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

Prior Related Legislation. AB 1138 (Rubio), Chapter 520, Statutes of 2021 subjected any person who aids and abets unlicensed commercial cannabis activity to civil penalties of up to $30,000 per day.

AB 2122 (Rubio) of 2020 would have subjected any person who aids and abets unlicensed commercial cannabis activity to civil penalties of up to $30,000 per day. *This bill did not receive a hearing in the Senate Committee on Business, Professions, and Economic Development.*

AB 1417 (Rubio) of 2019 would have established civil penalties for violating specified cannabis marketing or advertising requirements, and would have specified disbursement procedures for civil penalties. *This bill was held under submission on the Senate Appropriations Committee's suspense file.*

AB 2899 (Rubio), Chapter 923, Statutes of 2018 prohibited a licensee from publishing or disseminating advertisements or marketing of cannabis and cannabis products while the licensee's license is suspended.

SB 94 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2017 combined AUMA and MCRSA into one system for the regulation of cannabis, resulting in MAUCRSA.

ARGUMENTS IN SUPPORT:

This bill is sponsored by *United Food and Commercial Workers (UFCW) Western States Council*. According to UFCW: "SB 378 seeks to prevent the entire California industry from being driven out of business by the partnership of unlicensed cannabis businesses and the Internet corporate marketplaces that profitably facilitate their lawbreaking; a partnership that, in addition to destroying jobs, investments, and dreams, poses an immediate risk to public safety and health, especially to the safety and health of children." UFCW further argues: "Bold action is required. California simply cannot countenance Internet companies engaging in and profiting from brazen and open lawbreaking, especially when, as here, the lawbreaking contributes to violent crime, child endangerment, environmental catastrophes, and the destruction of a lawful business sector, employing thousands of Californians."

The *Rural County Representatives of California*, the *California State Association of Counties*, and the *League of California Cities* write jointly in support of this bill: "Counties recognize the importance of cannabis industry regulation for the purposes of reinforcing consumer safety and economic development. By penalizing online platforms for neglecting or acting in violation of the law, this bill would disincentivize online illicit hemp marketplaces and advertising. This bill also would provide further transparency by requiring online platforms to disclose to the consumer if online cannabis marketplaces do not verify a California cannabis retailer license. This illicit advertising draws consumers away from licensed producers and retailers, putting retailers who follow the law at a disadvantage. Counties not only depend on the legal cannabis industry to stimulate economic growth, but also as a source of sales tax revenue to support regulations and enforcement."

ARGUMENTS IN OPPOSITION:

The *US Hemp Roundtable* opposes this bill, writing: "As the state has done repeatedly in both the cannabis and hemp industries, we are again poised to sweep up and punish businesses that have been scrupulous in abiding by the law and leave the illicit market to flourish. That is why the legal cannabis market has been floundering for years, why the legal hemp market has been all but shut down and the illegal market in both spaces maintains its dominance."

TechNet, the *Computer and Communications Industry Association*, the *California African American Chamber of Commerce*, and *Internet.works* write jointly in opposition of this bill: "SB 378 has an extremely broad definition of 'online cannabis marketplace' and 'online hemp marketplace.' These definitions include an internet website, online service, online application, or mobile application, or social medial platforms that create any connection between the seller of cannabis, cannabis products, or hemp products consumers. This is a highly broad definition that reflects an unprecedented expansion of strict liability." The coalition further writes: "SB 378 creates a heavy-handed approach that undermines established liability protections for online intermediaries, stifles e-commerce innovation, and ultimately fails to advance the intended goal of eliminating unlawful cannabis sales."

POLICY ISSUES:

Potential Overbreadth. This bill would impose additional prohibitions, requirements, and liabilities on both "online cannabis marketplaces" and "online hemp marketplaces." These terms are defined in the bill to mean any internet website, online service, online application, or mobile application, including social media platforms, that engage in any of a number of specified activities that conceivably facilitate the advertisement or sale of cannabis or hemp products. It is arguable that the definitions could potentially capture more internet business models and website types than are intended by the author.

For example, the definition of an online cannabis marketplace in this bill includes a platform that "transmits or otherwise communicates between a third party and purchaser an offer for the sale of cannabis or a cannabis product that is accepted by the purchaser" or "connects a seller of cannabis or cannabis products and a consumer." While this could conceivably include a website intended to connect consumers with nearby cannabis businesses, like Eaze, it could also capture any internet website, service, or application that allows for direct messaging between users. This would be true even if the website expressly prohibits the advertisement or sale of cannabis goods, licensed or otherwise, on the platform. The author may wish to consider whether it is appropriate to place its significant requirements on platforms that conceivably could be used by users to purchase or sell cannabis products, but not in compliance with the platform's current terms of service.

Similarly, the definition in this bill would capture a platform that "processes, collects, or administers the payment for the sale of cannabis or a cannabis product." The applicability of this language could include payment processing platforms like Venmo or even technology utilized by financial institutions. The author may wish to consider narrowing the bill to specifically require platforms to be consumer-directed, or to otherwise exempt general financial technology that is not the target of the bill.

In regards to the bill's definition of online hemp marketplaces, the bill's provisions would apply to any platform that "permits offers for the sale of an industrial hemp product" or otherwise allow for the advertisement and sale of industrial hemp products. While this language is intended to target platforms that facilitate the sale of industrial hemp products like gummies that contain THC in violation of current law and regulation, "industrial hemp products" can include things like fabric materials derived from hemp fibers and soaps that do not contain any cannabinoids. The author may wish to consider if these are the types of marketplaces that are intended to be impacted by this bill.

Broader Efforts to Address Intoxicating Hemp. This bill would establish a definition of "intoxicating hemp product" for its purposes and create an entirely separate section of law distinct from the proposed provisions related to cannabis and cannabis products. However, the Legislature is engaged in extensive discussions about how to close perceived loopholes that have allowed for intoxicating hemp products to be sold outside the regulated cannabis market by including those products in the definition of "cannabis product." This results in potential conflicts in the policies being considered in this bill and in broader legislative discussions.

Specifically, AB 8 (Aguiar-Curry) would require all products containing THC or other concentrated cannabinoids other than CBD isolate to comply with the provisions of MAUCRSA, even those derived from hemp. Were this proposal to be successful, it would not necessarily make sense to recognize the category of "intoxicating hemp product" in this bill as being something separate from "cannabis products," when intoxicating hemp products would either be lawfully sold by licensed businesses pursuant to MAUCRSA or classifiable as unlicensed products under other provisions of this bill. As this bill moves forward, the author may wish to consider how best to reconcile this bill with broader legislative discussions regarding the regulation of intoxicating hemp products.

REGISTERED SUPPORT:

United Food and Commercial Workers (UFCW) Western States Council *(Sponsor)*
California Federation of Labor Unions, AFL-CIO
California Medical Association
California NORML
California School Employees Association
California State Association of Counties
County Health Executives Association of California
County of San Mateo
County of Santa Clara
League of California Cities
Rural County Representatives of California
Teamsters California

REGISTERED OPPOSITION:

California African American Chamber of Commerce
Computer and Communications Industry Association
Internet.works
Medterra
TechNet
US Hemp Roundtable

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: July 1, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 402 (Valladares) – As Introduced February 14, 2025

NOTE: This bill is double referred and if passed by this committee will be re-referred to the Assembly Health Committee.

SENATE VOTE: 39-0

SUBJECT: Health care coverage: autism

SUMMARY: Repeals the definition of qualified autism service provider (QAS), qualified autism service professional (QASP), and qualified autism service paraprofessional (QASPP) in the Health and Safety Code (HSC) and Insurance Code (IC) and recasts them in the Business and Professions Code (BPC).

EXISTING LAW:

1) Subjects health plans and health insurers to regulation by the Department of Managed Health Care and the California Department of Insurance, respectively. (HSC § 1340 *et seq.* and IC § 740 *et seq.*)

2) Requires every health care service plan contract that provides hospital, medical, or surgical coverage, and every health insurance policy, to also provide coverage for behavioral health treatment (BHT) for pervasive developmental disorder or autism, and requires every health care service plan and health insurer to maintain an adequate network that includes QASs who supervise or employ QASP or QASPP who provide and administer BHT. (HSC § 1374.73(a)-(b) and IC § 10144.51(a)-(b))

3) Defines BHT as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and, among other requirements, is prescribed by a licensed physician and surgeon or is developed by a licensed psychologist. (HSC § 1374.73(c)(1)(A) and IC § 10144.51(c)(1)(A))

4) Defines "QAS" to mean either of the following:

    a) A person who is certified by a national entity, such as the Behavior Analyst Certification Board, with a certification that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person who is nationally certified.

    b) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist,

or audiologist, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

(HSC § 1374.73(c)(3) and IC § 10144.51(c)(3))

5) Defines "QASP" to mean an individual who meets all of the following criteria:

   a) Provides BHT, which may include clinical case management and case supervision under the direction and supervision of a QAS.

   b) Is supervised by a QAS.

   c) Provides treatment pursuant to a treatment plan developed and approved by the QAS.

   d) Is either of the following:

      i) A behavioral service provider who meets the education and experience qualifications for an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program.

      ii) A psychological associate, an associate marriage and family therapist, an associate clinical social worker, or an associate professional clinical counselor.

   e) Has training and experience in providing services for pervasive developmental disorder or autism, as specified.

   f) Is employed by the QAS or an entity or group that employs QASs responsible for the autism treatment plan.

   (HSC § 1374.73(c)(4) and IC § 10144.51(c)(4))

6) Defines "QASPP" to mean an unlicensed and uncertified individual who meets all of the following criteria:

   a) Is supervised by a QAS or QASP at a level of clinical supervision that meets professionally recognized standards of practice.

   b) Provides treatment and implements services pursuant to a treatment plan developed and approved by the QAS.

   c) Meets education and training qualifications specified in regulations.

   d) Has adequate education, training, and experience, as certified by a QAS or an entity or group that employs QASs.

   e) Is employed by the QAS or an entity or group that employs QASs responsible for the autism treatment plan.

(HSC § 1374.73(c)(5) and IC § 10144.51(c)(5))

THIS BILL:

1) Repeals the definitions of "QAS," "QASP," and "QASPP" in the HSC and INC and recasts them in a new chapter within the BPC.

2) Makes non-substantive and conforming changes.

3) Repeals an erroneous definition of "pervasive developmental disorder or autism" in the HSC and IC.

FISCAL EFFECT: This bill has been keyed non-fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *California Association for Behavior Analysis*. According to the author:

> [This bill] would place requirements for qualified autism service providers – including behavior analysts, qualified autism service professionals, and qualified autism service paraprofessionals -- in the Business & Professions Code (BPC), which is where the requirements for all the other qualified autism service providers are located. The BPCs contain the legal authority for the Department of Consumer Affairs to regulate and oversee the conduct of professionals to ensure consumer protection.

Background. According to the Centers for Disease Control and Prevention, nearly 1 in 36 children are diagnosed with autism spectrum disorder (ASD), which affects the way they behave, communicate, interact, and learn.[1] While there is no cure for ASD, there are several types of treatment to support daily functioning and quality of life. These include behavioral, developmental, educational, social-relational, pharmacological, and psychological approaches as well as complementary and alternative treatments.[2] Multiple professionals provide treatment, which may be provided at school, in healthcare settings, within the community, at home, or some combination of those settings.

In 2011, SB 946 (Steinberg), Chapter 650, Statutes of 2011, required health plans and health insurance policies to cover BHT provided by a QAS, a QASP supervised by a QAS, or a QASPP supervised by a QAS or QASP. At that time, the definitions of QAS, QASP, and QASPP were codified in the HSC and IC with the corresponding health coverage mandates. This bill would repeal those definitions and recast identical definitions in the BPC. Although this bill moves provisions relating to QASs, QASPs, and QASPPs from the HSC and IC to the BPC, this bill does not make any substantive changes.

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[1] Centers for Disease Control, *Data and Statistics on Autism Spectrum Disorder*, https://www.cdc.gov/autism/data-research/index.html.
[2] Centers for Disease Control, *Treatment and Intervention for Autism Spectrum Disorder*, https://www.cdc.gov/autism/treatment/?CDC_AAref_Val=https://www.cdc.gov/ncbddd/autism/treatment.html.

Current Related Legislation. AB 375 (Nguyen) would add QASPP to the list of health care providers that may provide BHT services via telehealth. *AB 375 is pending in the Assembly Appropriations Committee.*

AB 951 (Ta) would prohibit a health plan or insurer from requiring an enrollee or insured with a diagnosis of pervasive developmental disorder or autism, to receive a rediagnosis in order to maintain coverage for BHT. *AB 951 is pending in the Senate Appropriations Committee.*

Prior Related Legislation. SB 946 (Steinberg), Chapter 650, Statutes of 2011, as it relates to this bill, required health plans and health insurers to cover BHT for pervasive developmental disorder or autism and codified definitions of QAS, QASP, and QASPP in the HSC and IC.

AB 1205 (Berryhill) of 2011 would have established licensure for behavioral analysts and assistant behavior analysts under the Board of Behavioral Sciences on and after January 1, 2015. *AB 1205 was held on the Assembly Appropriations Committee Suspense File.*

SB 166 (Steinberg) of 2011 would have required health care service plans licensed by the Department of Managed Health Care and health insurers licensed by the Department of Insurance to provide coverage for behavioral intervention therapy for autism. *SB 166 died pending a hearing in the Senate Health Committee.*

SB 479 (Gomez) of 2015 would have established the Behavior Analyst Act, which would have provided for the licensure, registration, and regulation of behavior analysts and assistant behavior analysts under the Board of Psychology. *SB 479 died in the Senate Appropriations Committee.*

SB 1715 (Holden) of 2016 was substantially similar to SB 479. *SB 1715 died pending a hearing in the Senate Business, Professions and Economic Development Committee.*

AB 1074 (Maienschein), Chapter 385, Statutes of 2017, made changes to existing employment, supervision, education, and experience criteria to qualify as a QASP and QASPP for purposes of BHT coverage by health care service plans and health insurers.

SB 399 (Portantino) of 2018 would have, in part, expanded the definition of who could qualify as a QASP or QASPP by allowing an alternative pathway if specified education, work experience, and training qualifications are met. *SB 399 was vetoed.*

SB 163 (Portantino) of 2019 was substantially similar to SB 399. *SB 163 was vetoed.*

SB 562 (Portantino) of 2021 was substantially similar to SB 399 and SB 163. *SB 562 was vetoed.*

SB 805 (Portantino), Chapter 635, Statutes of 2023, in part, expanded the criteria for a QASP to include a psychological associate, an associate marriage and family therapist, an associate clinical social worker, or an associate professional clinical counselor.

AB 2449 (Ta) of 2024 would have expanded the definition of a QASP to include a person who is certified by the Qualified Applied Behavior Analysis Credentialing Board and provided that the certification can be accredited by a national accrediting entity approved by the Secretary of California Health and Human Services. *AB 2449 was held on the Senate Appropriations Committee Suspense File.*

ARGUMENTS IN SUPPORT:

As the sponsor of this bill, the *California Association for Behavior Analysis* writes:

> [This bill] will place the existing requirements for qualified autism service providers, qualified autism service professionals, and qualified autism service paraprofessionals in the Business and Professions Code (BPC). These provider requirements were originally placed in Health and Safety and Insurance Codes when California law (SB 946, Steinberg of 2011) mandated health plan and insurance coverage of behavioral health treatment (BHT) for pervasive developmental disorder and autism. [This bill] will move these provider requirements, placing them alongside all other providers in the BPC...While some professionals defined as qualified autism service providers are licensed under the Business and Professions Code, behavior analysts are not currently licensed by the state of California but are certified by the Behavior Analyst Certification Board, which is accredited by the National Commission for Certifying Agencies. When passed in 2011, SB 946 also established the Autism Advisory Task Force in the Department of Managed Health Care to develop recommendations regarding BHT which released their report in February 2013. The report made several recommendations, one of which is the establishment of a new license category for unlicensed BHT providers to ensure "sufficient state oversight of consumers' safety" (pages 19-21). Because the requirements for healing arts providers and licensure fall under the jurisdiction of the BPC, this bill moves BHT provider qualifications to the appropriate committee and state departments for review, consideration, and potential future action.

ARGUMENTS IN OPPOSITION:

The Autism Business Association and numerous individuals and service providers write in opposition:

> While the intention to improve the regulation of Qualified Autism Service Providers (QASPs) is appreciated, this bill, as proposed, is unnecessary, counterproductive, and does not add meaningful improvements to the existing regulatory system.
>
> California is already facing a significant shortage of practitioners qualified to provide Applied Behavior Analysis (ABA) therapy services. The reclassification of QASPs and QAS Professionals under the Business and Professions Code will create additional regulatory hurdles, potentially destabilizing an already fragile workforce. This will lead to further delays in care for individuals diagnosed with autism at a time when early intervention is crucial for long-term success.

The bill does not clearly demonstrate how this transition will enhance the safety, quality of care, or professional accountability of providers. The existing code already offers a functional regulatory framework for QAS Providers and QAS Professionals without the detrimental impacts tied to reclassification. These include unnecessary workforce disruptions and the additional burden placed on families to access vital treatment options.

POLICY ISSUES:

Effect of Recodification. As currently drafted, this bill has no substantive policy effect. As far as this committee is aware, moving the definitions of QAS, QASP, and QASPP from the HSC and IC to the BPC will result in no change for providers or patients. Much of the concern around this bill appears to stem from prior legislative efforts to amend the qualifications of these providers or require licensure. Should future legislation attempt to do either of those things, considerable engagement with stakeholders would be necessary to ensure access to qualified providers for individuals with autism.

REGISTERED SUPPORT:

California Association for Behavior Analysis (Sponsor)
Association of Professional Behavior Analysts
Council for Autism Service Providers
Brite Horizons School
16 individuals and service providers

REGISTERED OPPOSITION:

Autism Business Association
Autism Society Inland Empire
DIR/Floortime Coalition of California
Qualified Applied Behavior Analysis Credentialing Board (Unless amended)
46 individuals and service providers

Analysis Prepared by: Kaitlin Curry / B. & P. / (916) 319-3301

Date of Hearing: July 1, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 508 (Valladares) – As Amended April 3, 2025

SENATE VOTE: 39-0

SUBJECT: Out-of-state physicians and surgeons: telehealth: license exemption

SUMMARY: Expands existing law, which narrowly allows for out-of-state physicians to provide care via telehealth without a license to California patients who have an immediately life-threatening disease or condition, by allowing for those out-of-state physicians to continue to provide care to those patients in perpetuity after the patient's disease or condition is in remission and no longer immediately life-threatening.

EXISTING LAW:

1) Establishes the Medical Board of California (MBC) within the DCA to license and regulate physicians and surgeons under the Medical Practice Act. (BPC §§ 2000 *et seq.*)

2) Establishes the Osteopathic Medical Board of California (OMBC) within the DCA to license and regulate physicians and surgeons under the Osteopathic Act, who possess the same privileges as licensees regulated by the MBC. (BPC §§ 2450 *et seq.*)

3) Provides that provisions of the Medical Practice Act apply to the OMBC to the extent they are consistent with the Osteopathic Act, unless otherwise provided. (BPC § 2452)

4) Provides that protection of the public shall be the highest priority for the MBC in exercising its licensing, regulatory, and disciplinary functions, and that whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (BPC § 2001.1)

5) Entrusts the MBC with responsibility for, among other things, the enforcement of the disciplinary and criminal provisions of the Medical Practice Act; the administration and hearing of disciplinary actions; carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge; suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions; and reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board. (BPC § 2004)

6) Requires the MBC to adopt regulations to require its licensees to provide notice to their clients or patients that the practitioner is licensed in California by the MBC. (BPC § 2026)

7) Requires the MBC to post on its website the current status of its licensees and any prior history of discipline. (BPC § 2027)

8) Provides that it is a criminal offense for any person to practice medicine or advertise themselves as practicing medicine within the scope of the Medical Practice Act without a valid license as a physician and surgeon. (BPC § 2052)

9) Prohibits any person who does not have a valid, unrevoked, and unsuspended certificate as a physician and surgeon from the MBC from using the words "doctor" or "physician" or otherwise implying that they are a physician and surgeon. (BPC § 2054)

10) Requires the MBC to give priority review status to applicants who practice in a medically underserved area or serve a medically underserved population. (BPC § 2092)

11) Authorizes the MBC to take action against all persons guilty of violating the Medical Practice Act. (BPC § 2220)

12) Previously required the Director of DCA to appoint an independent enforcement monitor to monitor the MBC's enforcement efforts, with specific concentration on the handling and processing of complaints and timely application of sanctions or discipline imposed on licensees and persons in order to protect the public. (BPC § 2220.01)

13) Requires the MBC to prioritize its investigative and prosecutorial resources to ensure that physicians representing the greatest threat of harm are identified and disciplined expeditiously, with the following allegations being handled on a priority basis and with the first paragraph receiving the highest priority:

    a) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to patients, such that the physician represents a danger to the public.

    b) Drug or alcohol abuse by a physician involving death or serious bodily injury to a patient.

    c) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith prior examination of the patient and medical reason therefor.

    d) Repeated acts of clearly excessive recommending of cannabis to patients for medical purposes, or repeated acts of recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.

    e) Sexual misconduct with one or more patients during a course of treatment or an examination.

    f) Practicing medicine while under the influence of drugs or alcohol.

    g) Repeated acts of clearly excessive prescribing, furnishing, or administering psychotropic medications to a minor without a good faith prior examination of the patient and medical reason therefor.

    (BPC § 2220.05)

14) Requires that any complaint determined to involve quality of care, before referral to a field office for further investigation, shall be reviewed by a qualified medical expert and shall include the review of the following:

    a) Relevant patient records.

    b) The statement or explanation of the care and treatment provided by the physician.

    c) Any additional expert testimony or literature provided by the physician.

    d) Any additional facts or information requested by the medical expert reviewers that may assist them in determining whether there was a departure from the standard of care.

    (BPC § 2220.08)

15) Enacts the Patient's Right to Know Act of 2018, which requires specified healing arts licensees, including physicians and surgeons, who are on probation for certain offenses to provide their patients with information about their probation status prior to the patient's first visit. (BPC § 2228.1)

16) Requires the MBC to take action against any licensee who is charged with unprofessional conduct, including, but not limited to, the following:

    a) Violations of the Medical Practice Act.

    b) Gross negligence.

    c) Repeated negligent acts.

    d) Incompetence.

    e) Acts of dishonesty or corruption that are substantially related to the practice of medicine.

    f) Any action or conduct that would have warranted the denial of a certificate.

    g) Failure to attend and participate in an interview by the MBC.

    (BPC § 2234)

17) Provides that the conviction of any offense substantially related to the qualifications, functions, or duties of a physician constitutes unprofessional conduct. (BPC § 2236)

18) Automatically suspends a physician's license during any time that the physician is incarcerated after conviction of a felony. (BPC § 2236.1)

19) Provides that numerous inappropriate activities or violations of the law constitute unprofessional conduct. (BPC §§ 2237 – 2318)

20) Authorizes health care practitioners to provide services via telehealth in compliance with certain standardized requirements and definitions, their professional practice act, and the regulations adopted by their regulatory board pursuant to that practice act. (BPC § 686)

21) Authorizes the MBC to establish a pilot program to expand the practice of telehealth in California. (BPC § 2028.5)

22) Allows for the prescribing, dispensing, or furnishing of dangerous drugs without a synchronous interaction between the patient and the licensee through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care. (BPC § 2242)

23) Defines "telehealth" as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care. (BPC § 2290.5(a))

24) Provides that all laws and regulations governing professional responsibility, unprofessional conduct, and standards of practice that apply to a health care provider under the health care provider's license shall apply to that health care provider while providing telehealth services. (BPC § 2290.5(g))

25) Enacts the David Hall Act, which allows for an eligible patient with an immediately life-threatening disease or condition, as defined in the Right to Try Act, to consent to receive telehealth care services from a physician and surgeon who is licensed in another state but not in California whose medical expertise is that of the eligible patient's illness. (BPC § 2052.5)

26) Enacts the Right to Try Act, which provides that an investigational drug, biological product, or device that is not yet approved by the United States Food and Drug Administration (FDA) available to patients with a serious or immediately life-threatening disease, when that patient has considered all other treatment options currently approved by the FDA, has been unable to participate in a relevant clinical trial, and for whom the investigational drug has been recommended by the patient's primary physician and a consulting physician. (Health and Safety Code §§ 111548 *et seq.*)

THIS BILL:

1) Expands the definition of "eligible patient" for purposes of the David Hall Act to allow a patient who previously had an immediately life-threatening disease or condition but who is now in remission to continue to receive care with the previously established eligible out-of-state physician and surgeon.

2) Allows for patients who are able to participate in the clinical trial nearest to their home for their immediately life-threatening disease or condition to receive care via telehealth from a previously established eligible out-of-state physician and surgeon if their immediately life-threatening disease or condition is in remission.

FISCAL EFFECT: Pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Purpose. This bill is sponsored by the *California Senior Legislature*. According to the author:

> SB 508 seeks to provide cancer patients with more flexibility in accessing specialized medical care through telehealth services by allowing patients who at one time were allowed, under the David Hall Act, to consult with physicians out-of-state to continue to despite no longer meeting the qualifications for the purpose of continuum of care.

Background.

Regulation of Physicians and Surgeons. Physicians and surgeons in California are regulated by one of two entities: the MBC or the Osteopathic Medical Board of California (OMBC). The MBC licenses and regulates about 153,000 physicians while the OMBC licenses and regulates slightly over 12,000. Generally speaking, most provisions governing discipline for unprofessional conduct by the MBC also apply to the OMBC. The majority of the MBC's staff and resources are dedicated to its enforcement program. The MBC receives approximately 10,000 complaints per year. Statute requires the MBC to prioritize the investigation of certain complaints, including sexual misconduct with a patients.

All physicians and surgeons who practice in California are required to hold an active license from either the MBC or the OMBC. Any person who practices or attempts to practice, or who advertises or holds themselves out as practicing, any system or mode of treating the sick or afflicted in California, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without a valid, unrevoked, or unsuspended certificate as a physician and surgeon in California or without being otherwise authorized to perform the act, is guilty of a crime. There are only a limited number of exceptions to this general prohibition against the unlicensed practice of medicine.

Telehealth. California first recognized telehealth in 1996 when the Legislature enacted SB 1665 (Thompson), the Telemedicine Development Act. This bill set standards for the use of what was then called "telemedicine" by health care practitioners and insurers. The bill prohibited insurers from requiring face-to-face contact between a health care practitioner and patient for services appropriately provided through telemedicine. The bill also exempted out-of-state practitioners from the Medical Practice Act when consulting either within California or across state lines, with a licensed practitioner in California; however, it prohibited the out-of-state practitioner from having ultimate authority over the care or primary diagnosis of a patient in California.

Much of the Telemedicine Development Act was repealed and replaced in 2011 through AB 415 (Logue), which established the Telehealth Advancement Act to facilitate the advancement of telehealth as a service delivery mode in managed care and the Medi-Cal Program. The following year, AB 1733 (Logue), the Telehealth Advancement Act, expanded the use of telehealth while expressly requiring a health care practitioner who provides services via telehealth to comply with the revised requirements of the Telehealth Advancement Act, as well as any additional requirements contained in the practice act relating to the practitioner's licensed profession and any regulations adopted by the practitioner's licensing board pursuant to that practice act. The bill also updated a number of statutes to replace the term "telemedicine" with "telehealth."

The vernacular shift from "telemedicine" to "telehealth" reflects a general consensus among policymakers that telehealth is not itself a form of medicine, but simply a tool to deliver health care outside a traditional office visit. In California there is no distinction between in-person care and telehealth in terms of either the standard of care or the expectations of a physician-patient relationship. Legally speaking, a physician or other practitioner is deemed to have provided care in whichever geographic place the patient is in at the time of receiving care. For example, if a physician in Illinois is giving medical advice to a patient in California through a telehealth platform, the state considers the physician to be practicing medicine in California. As such, that physician would need a license from the MBC or the OMBC to lawfully provide that care, regardless of whether they are physically within the borders of the state.

Under the Medical Practice Act, a patient wishing to receive care from a physician outside California typically has the following options. First, the patient can physically travel to a state where that physician is licensed. Next, pursuant to the Telemedicine Development Act, a patient's physician who is licensed in California can consult with an out-of-state physician via telehealth, as long as the California-licensed physician is ultimately responsible for the care. Finally, the out-of-state physician can apply for and obtain a license in California from the MBC.

Patients with Terminal Diseases. In 2016, the Legislature enacted the Right to Try Act, which authorized the manufacturer of an investigational drug, biological product, or device not yet approved by the FDA to make that investigational drug available to a patient with a serious or immediately life-threatening disease. The patient must have considered all other treatment options currently approved by the FDA and been unable to participate in a relevant clinical trial. The investigational drug must also have been recommended by the patient's primary physician and a consulting physician. Notwithstanding the provisions of the Right to Try Act, terminally ill patients were still limited by the Medical Practice Act's requirement that a physician and surgeon located outside California must be licensed by the MBC or OMBC to deliver care to California patients via telehealth.

David Hall Act. In 2023, the Legislature passed AB 1369 (Bauer-Kahan), formally referred to as the David Hall Act. The author of that bill contended that the existing options for receiving care from an out-of-state physician were insufficient for patients who have a disease or condition that is immediately life-threatening when a physician outside California is the only person qualified to give specialty care to a patient with a rare, terminal disease. For these patients, it is arguably impractical, if not impossible, for them to travel to another state, and there is not sufficient time for the out-of-state license to go through the California licensing process.

AB 1369 allowed patients to consent to receive care via telehealth directly from an out-of-state physician who is not licensed in California only under specified circumstances where the patient has not been accepted to participate in the clinical trial nearest to their home, or, in the medical judgment of their primary physician, it is unreasonable for the patient to participate in that clinical trial due to the patient's current condition and stage of disease. Under the David Hall Act, the eligible patient's disease or condition must be immediately life-threatening, as defined in the Right to Try Act, and the out-of-state physician must possess a license in good standing from another state and have medical expertise in the eligible patient's illness. While the criteria for eligibility under the David Hall Act is substantially limiting, the author contended that it would effectively enable patients with rare, terminal diseases to receive urgent specialized care.

This bill would expand the David Hall Act by allowing an out-of-state physician to continue to practice medicine in California via telehealth without a California license when their patient previously met the eligibility criteria of having an immediately life-threatening disease or condition but is now in remission. Patients in remission would also be eligible to continue receiving care from their out-of-state physician even if they are able to participate in the clinical trial nearest to their home for their immediately life-threatening disease or condition. While the patient's condition would no longer be urgent or life-threatening, there is no requirement that the care ever transition to compliance with the Medical Practice Act, regardless of how long the patient continues to receive care.

Current Related Legislation. AB 408 (Berman) would authorize the MBC to establish a physician health and wellness program that aligns with national best practices for helping physicians with substance use disorders and other conditions receive treatment. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

Prior Related Legislation. AB 1369 (Bauer-Kahan), Chapter 837, Statutes of 2023 authorized an eligible out-of-state physician and surgeon to practice medicine in California without a California license if the practice is limited to delivering health care via telehealth to an eligible patient who has an immediately life-threatening disease or condition.

AB 1668 (Calderon), Chapter 684, Statutes of 2016 enacted the Right to Try Act.

AB 415 (Logue), Chapter 547, Statutes of 2011 enacted the Telehealth Advancement Act.

SB 1665 (Thompson), Chapter 864, Statutes of 1996 enacted the Telemedicine Development Act.

ARGUMENTS IN SUPPORT:

The *California Senior Legislature*, the sponsor of this bill, writes in support: "As California's aging population continues to grow, so too does the need for accessible, high-quality medical care." The bill's sponsor further argues: "By passing SB 508, California will take a major step forward in addressing the healthcare needs of older adults, ensuring they receive the treatment they require with fewer restrictions and barriers."

ARGUMENTS IN OPPOSITION:

The *California Medical Association*, the *California Association of Northern California Oncologists*, and the *Medical Oncology Association of Southern California* write jointly in opposition: "SB 508 dangerously expands upon a narrow exception intended for people with life threatening diseases who have not been accepted into a clinical trial in their home state by allowing physicians and surgeons not licensed in California to practice medicine in California. The Medical Board of California exists to protect healthcare consumers and avoid injury by ensuring that physicians and surgeons are appropriately regulated to maintain high medical care standards. To qualify for a California Physician and Surgeon License from the Medical Board, applicants must meet several critical requirements: medical education, postgraduate training, and examinations. In addition, the Medical Board has a process for screening out-of-state physicians who wish to obtain a Temporary License."

POLICY ISSUES:

Lack of Oversight and Patient Safety Concerns. When AB 1369 was originally considered by this Committee, the analysis included the following policy issue for consideration:

> While the author's argument for this bill is cogent, there remain unresolved questions as to what administrative recourse would be available to a patient if an out-of-state physician violates the standard of care in the provision of services to that patient via telehealth. Because under the terms of the bill, the MBC would have no authority over the physician, there would likely be no ability for the board to take disciplinary action or other measures to protect the public. At the same time, it is unclear whether the regulatory board within the state where the physician is licensed would have jurisdiction if the care is deemed to not have occurred within that state.

As previously discussed, when a physician provides health care services to a patient via telehealth, the care is deemed to take place in the jurisdiction where the patient is when they receive those services. Correspondingly, in that scenario, the Medical Practice Act and other California laws intended to protect patients and ensure quality of care apply, and the out-of-state physician is subject to oversight and enforcement by the MBC in California, not by a regulatory board in their home state. This is why an out-of-state physician who provides care via telehealth to a California patient must typically obtain a license from the MBC. Alternatively, the patient may travel to the state where the physician is licensed, or another physician who is licensed in California may consult with the out-of-state physician while remaining ultimately responsible for the patient's care.

Under the David Hall Act, an out-of-state physician can provide care to a California patient without a license from the MBC, meaning that there is conceivably no state agency with jurisdiction over that care. While the out-of-state physician is required to possess a license in good standing in another state with no history of prior discipline, there is no process by which either the patient or any California regulator would become aware if the out-of-state physician were to lose their license or be otherwise subjected to discipline. In the instance where the out-of-state physician harms the California patient or engages in unprofessional conduct, there is no administrative remedy available, nor any process in place for the out-of-state physician's home state regulator to become aware of that misconduct even if it had jurisdiction.

Notwithstanding these considerations, AB 1369 was narrowly tailored to a specific population of patients for whom the urgency and importance of receiving care from an out-of-state specialist exceeded the potential risks of harm associated with the unlicensed practice of medicine. For patients with an immediately life-threatening disease or condition, it is not reasonable to expect them to travel to another state or to wait for the out-of-state physician to become licensed in California. While the patient's California-licensed physician can consult with the out-of-state physician, this option may not be appropriate for the type of highly specialized care required by the patient. Further, in the same spirit that the Right to Try Act was enacted, it is arguably absurd to tell a patient who is imminently at risk of perishing due to their disease or condition that they may not utilize every possible chance of receiving life-saving care because their health and safety might be jeopardized through a lack of bureaucratic oversight. The exception to the state's licensing requirements is justified by both the seriousness and urgency of the patient's condition.

However, none of these circumstances would apply to patients who would qualify under the expanded provisions of this bill. A patient who previously had an immediately life-threatening disease or condition but who is now in remission is not so necessarily unable to travel. Similarly, a disease or condition that is in remission is arguably no longer so urgent as to preclude the out-of-state physician from seeking licensure in California if it is truly necessary that the patient continue to be directly under their care.

Additionally, this bill does not place any limitation on how long a patient may be in remission while remaining eligible under the David Hall Act, nor does either existing law or this bill expressly limit the scope of the care that is provided. In other words, a patient who had an immediately life-threatening disease or condition in childhood could conceivably receive all of their health care from a physician for decades without any licensing board ever having oversight over that care. Rather than creating a narrow exception to the Medical Practice Act for an inherently time-limit period of crisis for a patient whose critical condition has manifested clear exigency, this bill would basically remove basic safeguards in the provision of health care for patients regardless of the services they are receiving. This is particularly worrisome in light of the substantial probability that many of the patients who are likely to qualify under this bill are elderly or impaired by illness, rendering them particularly susceptible to harm by bad actors.

Providing for continuity of care is certainly a meritorious goal. However, it is not a policy priority that overwhelms the significant public protection imperatives implicated in professional licensure. The author should consider other policies to increase access to care for seniors and other vulnerable patient populations that do not perilously expand intentionally narrow exceptions to licensure under current law.

REGISTERED SUPPORT:

California Senior Legislature *(Sponsor)*
ATA Action
County of Los Angeles Board of Supervisors
Health Access California

REGISTERED OPPOSITION:

Association of Northern California Oncologists
California Medical Association
Medical Board of California
Medical Oncology Association of Southern California
Osteopathic Medical Board of California

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: July 1, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 652 (Richardson) – As Amended April 8, 2025

SENATE VOTE: 36-0

SUBJECT: Private security services: security guards: training

SUMMARY: Clarifies that the required power to arrest and the appropriate use of force training courses for security guard applicants must be administered and certified by a single course provider and completed within six months of applying for registration, and makes other clarifying changes.

EXISTING LAW:

1) Establishes the Bureau of Security and Investigative Services (BSIS) within the Department of Consumer Affairs (DCA) and provides for regulation of private patrol officers (PPOs) that employ private security guards and security patrolpersons. (BPC §§ 7580 *et seq.*)

2) Prohibits any person from engaging in a business regulated by the Private Security Services Act or assuming to act as, or representing himself or herself to be, a licensee unless he or she is licensed under the Act; and prohibits any person from falsely representing that he or she is employed by a licensee. (BPC § 7582)

3) Defines a PPO as a person who agrees to furnish, or furnishes, a watchman, guard, patrolperson, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or performs the service of a watchman, guard, patrolperson, or other person, for any of these purposes. (BPC § 7582.1(a))

4) Defines a security guard or security officer as an employee of a PPO or an employee of a lawful business or public agency who performs the functions described above in 3) on or about the premises owned or controlled by the customer of the PPO or by the guard's employer or in the company of persons being protected. (BPC § 7582.1(e))

5) Requires each applicant for a security guard registration to complete a course in the exercise of the power to arrest and the appropriate use of force as a condition for the issuance of the registration. (BPC § 7583.6)

6) Authorizes the trainings in the exercise of the power to arrest and the appropriate use of force to be administered, tested, and certified by one of the following:

   a) Any licensee;

   b) Any training facility certified pursuant to this chapter; or

c) Any organization or school approved by the BSIS so long as the BSIS approves any instructor of an organization or school who will administer the trainings specified in this section to ensure that the organization or school complies with the requirements of the Act, as well as any applicable regulations.

(BPC § 7583.6(f))

7) Requires each licensee to maintain at the principal place of business or branch office a record for each of its registrant employees verifying completion of the trainings required by BPC § 7583.6 for the duration of the registrant's employment and to make the records available for inspection by the BSIS upon request. (BPC § 7583.6(g)(2))

8) Requires the course of training in the exercise of the power to arrest and the appropriate use of force to be administered, tested, and certified by any licensee or by any organization or school approved by the DCA. The course of training is required to be approximately eight hours in length and cover 24 individual topics, as specified. (BPC § 7583.7(a))

9) Requires the following use of force topics to be taught through traditional classroom instruction where the instructor is physically present with students in a classroom for a minimum of 50 percent of the course and is available at all times, including during instruction provided through distance learning or remote platforms, to answer students' questions while providing the required training:

a) Legal standards for use of force;

b) Duty to intercede;

c) The use of objectively reasonable force;

d) Supervisory responsibilities;

e) Use of force review and analysis;

f) De-escalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence;

g) Implicit and explicit bias and cultural competency;

h) Skills, including de-escalation techniques, to effectively, safely, and respectfully interact with people with disabilities or behavioral health issues;

i) Use of force scenario training, including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don't-shoot situations, and real-time force option decision making;

j) Mental health and policing, including bias and stigma; and

k) Active shooter situations.

(BPC § 7583.7(b))

THIS BILL:

1) Requires that the course for security guards in the exercise of the power to arrest and the appropriate use of force be administered and certified by a single course provider.

2) Requires that the course be completed within six months preceding the date of application for registration as a security guard.

3) Clarifies that PPOs shall only administer and certify trainings to their applicants for employment and direct employees.

4) Makes other technical and conforming changes.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, no significant state costs anticipated.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author:

> In 2021, Governor Newsom signed AB 229 (Holden, Chapter 697, Statutes of 2021) to significantly increase training standards and conduct for private security. The initial 8 hours of Powers to Arrest training was updated to replace the Weapons of Mass Destruction component with Appropriate Use of Force and included an in-person component to the training. Applicants who complete the training must also complete a written examination on the entire course content. It is important to note this training establishes the minimum standards of conduct for private security in California. Training providers who only provide online training and cannot provide the in-person component are accepting applicants' money and not providing the complete training and cannot administer the examination, leading applicants to have to find another training provider for the in-person component and examination. This has created confusion and ultimately costs applicants more money as they must find another training provider. This change will ensure the initial training is provided by a training provider who can provide the training in its entirety, including the inperson component and written examination.

Background.

Bureau of Security and Investigative Services. The private security industry in this country dates back to the 19th century when private citizens performed many duties that are associated with Federal and state law enforcement today. Growth in the number of individuals and the breadth of activities performed (guarding railroad shipments, detective work to investigate crimes, tracking down and apprehending criminals, and providing security advice to banks) were integral to determining that regulation of the industry was necessary.

In California, regulatory oversight of the private security industry began in 1915 when the Detective Licensing Board was created under the State Board of Prison Directors to license and

regulate private detectives. The Detective Licensing Board was subsequently renamed the Detective Licensing Bureau and its statutes are currently known as the Private Investigator Act. In 1955, the Detective Licensing Bureau became the Bureau of Private Investigators and Adjustors that was combined with the Collection Agency Licensing Bureau in 1970 and renamed the Bureau of Collection and Investigative Services.

Assembly Bill 936 (Rainey, Chapter 1263, Statutes of 1993) formally renamed the Bureau as its current identifier, the Bureau of Security and Investigative Services (BSIS).

The BSIS's mission, as stated on their website and publications, is:

> *To protect and serve the public through effective regulatory oversight of the professions within the Bureau's jurisdiction.*

To achieve this mission, the BSIS issues licenses, registrations, certificates, and permits and currently licenses about 433,000 licensees and companies. The BSIS administers the various professions under its purview via six practice acts and regulates the industries affected by each practice acts.

Private Security Services Act. A private patrol operator (PPO) is a company that employs security guards and contracts with other persons or businesses to protect persons or property, or to prevent theft (a security guard is not authorized to contract themselves out for private security services unless they also hold a private patrol operator license). Private patrol operators are prohibited from performing any investigation except as incidental to the theft or loss of property for a company it has contracted with to provide private security services. Each private patrol operator licensee must designate a person, who is associated with the license in the BSIS's records, to serve as the qualified manager (QM).

Required Training for Security Guards. In order to apply for registration as a security guard, an applicant must complete an eight-hour course in the exercise of Powers to Arrest and the Appropriate Use of Force and submit their certificate of completion as part of their application. Subsequently, a security guard must obtain an additional 32 hours of skill training within six months of registration with the BSIS. These trainings cover a wide range of important topics, such as the legal standards for use of force, de-escalation tactics, implicit and explicit bias, active shooter situations, trespass law, criminal liability, and much more. Entities that provide security guard training must obtain approval from the BSIS and follow relevant recordkeeping and curriculum requirements. Additionally, PPOs can provide trainings to their own applicants or employees, without first needing to obtain approval from the BSIS, so long as they maintain strict record of all employees and their respective trainings for the entire duration of employment.

AB 229 (Holden, Chapter 697, Statutes of 2021) enacted a number of changes and additions to security guard trainings standards in response to increased public interest in use of force by law enforcement, security personnel, and government employees. Among these reforms was the requirement that at least half of the eight-hour Powers to Arrest and Appropriate Use of Force training be administered via traditional classroom instruction. Previously, this training could either be completed in-person or entirely online.

Unfortunately, this change has led some online course providers to only administer a portion of the required eight hour training, then leave prospective applicants to find another solution to

complete the classroom portion. This is costly, burdensome, and confusing for prospective security guards, and makes it more difficult to ensure registered guards have obtained all of the proper subject trainings as required by law. As such, this bill clarifies that the required eight hours must be administered by a single course provider who can administer all portions of the training. Additionally, this bill makes clarifying changes to ensure that prospective security guards obtain their training within six months preceding their applications, and that specify PPOs may only train security guards who are their own employees or applicants.

Current Related Legislation. None on file.

Prior Related Legislation. SB 1454 (Ashby), Chapter 484, Statutes of 2024 extended the sunset date for the BSIS until January 1, 2029, and made additional changes to the various practice acts regulating these professions, including language permitting the BSIS to issue licenses to tribes and tribally-owned businesses, and technical changes to the BSIS's scope of enforcement.

AB 229 (Holden), Chapter 697, Statutes of 2021 made significant reforms to private security training standards, including expanding power to arrest training to include appropriate use of force topics and a mandate that 50 percent of the appropriate use of force training be provided through traditional classroom instruction.

REGISTERED SUPPORT:

None on file

REGISTERED OPPOSITION:

None on file

Analysis Prepared by: Edward Franco / B. & P. / (916) 319-3301

Date of Hearing: July 1, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 779 (Archuleta) – As Amended June 17, 2025

SENATE VOTE: 39-0

SUBJECT: Contractors: civil penalties

SUMMARY: Establishes new, and increases existing, minimum civil penalties to be assessed by the Contractors State License Board (CSLB) for a violation of the Contractors State License Law (License Law), authorizes CSLB to increase the minimum civil penalties every five years to account for inflation, and increases the CSLB's revenue fund cap from 6 months of authorized expenditures to 12 months.

EXISTING LAW:

1) Establishes, until January 1, 2025, the CSLB under the Department of Consumer Affairs to implement and enforce the License Law, which includes the licensing and regulation of contractors and home improvement salespersons. (Business and Professions Code (BPC) §§ 7000 *et seq.*)

2) Requires, until January 1, 2025, the CSLB to appoint a registrar of contractors, to be the executive officer and secretary of the CSLB, and to carry out all of the administrative duties of the CSLB. (BPC § 7011)

3) Establishes an enforcement division within the CSLB to rigorously enforce the License Law, prohibiting all forms of unlicensed activity and enforcing the obligation to secure the payment of valid and current workers' compensation insurance, as specified. (BPC § 7011.4(a))

4) Specifies that, if upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor or salesperson within this state without having a license or registration in good standing to so act or engage, and the person is not otherwise exempted from the License Law, the registrar shall issue a citation to that person. Each citation must be in writing and describe with particularity the basis of the citation. Each citation must contain an order of abatement and an assessment of a civil penalty in an amount not less than $200 nor more than $15,000. (BPC § 7028.7)

5) Exempts from the License Law a work or operation on one undertaking or project by one or more contracts if the aggregate price for labor, materials, and all other items is less than $1,000 that work or operation being considered of casual, minor, or inconsequential nature, and the work or operation does not require a building permit. (BPC § 7048)

6) Authorizes the CSLB to issue licenses to individual owners, partnerships, corporations, and limited liability companies. (BPC § 7065(b))

7) Requires the CSLB to promulgate regulations covering the assessment of civil penalties that consider the gravity of the violation, the good faith of the licensee or applicant for licensure being charged, and the history of previous violations. Except as otherwise provided, prohibits the CSLB from assessing a civil penalty that exceeds $8,000. Specifies that the CSLB may assess a civil penalty up to $30,000 for specified violations (e.g., willful or deliberate disregard and violation of state and local building laws; aiding or abetting an unlicensed person to violate the License Law; entering into a contract with an unlicensed person; and committing workers' compensation insurance fraud). (BPC § 7099.2)

8) Requires the CSLB to fix licensing fees to generate revenues sufficient to maintain the CSLB's reserve fund at a level not to exceed approximately six months of annual authorized expenditures. (BPC § 7138.1)

THIS BILL:

1) Beginning July 1, 2026, increases from $200 to $1,500 the minimum civil penalty for a person believed to be acting in the capacity of or engaging in the business of a contractor or salesperson without a valid license or registration.

2) Authorizes the CSLB, beginning July 1, 2026, to adjust the minimum civil penalty for unlicensed activity every five years to account for inflation. The adjustment must be equivalent to the percentage, if any, that the Consumer Price Index at that time exceeds the Consumer Price Index when this bill takes effect. Increases greater than $100 must be in multiples of $100.

3) Strikes a cross-reference to BPC § 7125.4 in BPC 7099.2(b), which currently caps the amount that the CSLB may assess for workers' compensation violations at $30,000.

4) Establishes a $1,500 minimum civil penalty for violations of BPC § 7110, 7114, and 7118, and a $500 minimum civil penalty for all other violations, unless otherwise stated in the License Law, to take effect on July 1, 2026.

5) Authorizes the CSLB, beginning July 1, 2026, to adjust all minimum civil penalties (other than for unlicensed activity) every five years to account for inflation. The adjustment must be equivalent to the percentage, if any, that the Consumer Price Index exceeds the Consumer Price Index when this bill takes effect. Increases greater than $100 but less than $1,000 must be in multiples of $100, and increases greater than $1,000 must be in multiples of $1,000.

6) Increases the maximum level of the CSLB's reserve fund for purposes of calculating fee amounts from 6 to 12 months of reserve.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, no significant state costs anticipated.

COMMENTS:

Purpose. This bill is sponsored by the *Contractors State License Board*. According to the author:

> The Legislature has recently increased "maximum" fines in statute (for example from $5,000 to $8,000 and from $15,000 to $30,000 for specified violations) in the last few years. But each time this was done, existing "minimum" amounts remained unchanged. As a result, an administrative law judge must consider a wide range of potential fines between an out-of-date minimum (for example, $200) and an updated statutory maximum (for example, $8,000 or $30,000 for some violations), which often results in greatly reduced fine compared to the originally assessed amount. This is contrary to CSLB's consumer protection mandate and confounds legislative intent that reflects the seriousness of the violations. [This bill] increases minimum civil penalty (aka enforcement fine) amounts, and establishes minimum civil penalty amounts where they do not currently exist. This will prevent the fines being reduced to nominal amounts and preserve the deterrent effect and corrective intent of the civil penalty.

Background. The CSLB is responsible for implementing and enforcing the License Law, which governs the licensure, practice, and discipline of contractors in California. A license is required for construction projects valued at $1,000 or more, including labor and materials. The CSLB issues licenses to business entities and sole proprietors. Each license requires a qualifying individual (a "qualifier") who satisfies the experience and examination requirements for licensure and directly supervises and controls construction work performed under the license. The CSLB issues four types of licenses: "A" General Engineering Contractor; "B" General Building Contractor; "B-2" Residential Remodeling Contractor; and "C" Specialty Contractor, of which there are 42 classifications. Each licensing classification (i.e., electrical, drywall, painting, plumbing, roofing, and fencing) authorizes a specific type of construction work. At the time of this writing, there are more than 241,000 contractors with an active license in California.

CSLB Citations and Fines. The CSLB is authorized to take disciplinary action against licensed and unlicensed contractors who have violated the License Law and is empowered to use an escalating scale of penalties, ranging from citations and fines (referred to as civil penalties) to license suspension and revocation.

Under current law, citations for unlicensed activity must be accompanied by a civil penalty between $200 and $15,000. This bill would increase the minimum to $1,500, and authorize the CSLB to adjust that amount every five years for inflation, as specified. BPC § 7099.2 prohibits the CSLB from assessing a civil penalty in excess of $8,000 for most other violations. The CSLB may assess a civil penalty up to $30,000 for aiding and abetting an unlicensed person, entering into a contract with an unlicensed person, filing false workers' compensation materials, and willful or deliberate disregard of state building, labor, and safety laws. This bill would establish a $500 minimum for violations subject to the $8,000 cap and a $1,500 minimum for violations subject to the $30,000 cap. It would also allow the CSLB to adjust the amount every five years, consistent with increases in the Consumer Price Index.

The majority of the current civil penalty amounts are established by regulation. 16 CCR § 884 establishes ranges for 63 violations of the License Law. The minimum civil penalty for all but five violations is $500 or less, with the majority being $100 or $200. The CSLB last updated the minimum civil penalties in 2007.

When issuing a citation, the CSLB is required by law to consider the gravity of the violation, the good faith of the licensee or applicant for licensure being charged, and the history of previous

violations. Regulations additionally require CSLB to consider whether the citation includes multiple violations; whether the person has a history of the same or similar violations; whether, in the judgment of the registrar, a person has exhibited bad faith or the violation is serious or harmful; if the citation involves a violation or violations perpetuated against a senior citizen or disabled person; and/or whether the citation involves a violation or violations involving a construction project in connection with repairs for damages caused by a natural disaster.

However, a cited individual may appeal the citation. Because the civil penalty minimums are so low, the CSLB has found that administrative law judges (ALJ) often significantly reduce the amount of the civil penalty. According to the CSLB:

> Between [Fiscal Year (FY)] 2019/20 and FY 2022/23, CSLB issued 5,597 citations totaling $18,091,356 in fines. During this time, the average pre-appeal fine per citation was $3,232. ALJs lowered fine amounts for 2,014 of these citations on appeal to $1,840, a difference of $3,706.540. CSLB issued 1,364 citations in FY 2023/24 averaging $4,817 per citation for a total of $6,570,450. While some FY 2023/24 citations are still under appeal, CSLB's most recent data indicates that ALJs have lowered fine amounts by 50% on average. These reductions result in fines that are not commensurate with the violation, do not adequately support [CSLB's] workload, do not provide an inventive to comply with the Contractors State License Law and provide minimal ability for the Board to recuperate the cost of litigating an administrative citation.[1]

The purpose of the minimums is to deter violations by making the penalty more expensive than compliance. For example, the minimum civil penalty for unlicensed activity is currently $200. However, the application for a license is $450, plus miscellaneous other fees. By raising the minimum to $1,500, unlicensed contractors may be more enticed to obtain a license.

Although the CSLB could raise civil penalty minimums at any time, according to CSLB staff, codifying civil penalty minimums is more expedient than the CSLB's regulatory process. An additional benefit sought under this bill is to establish a definitive process and timeline for raising the minimums in the future. The CSLB proposed establishing/increasing civil penalty minimums in statute during their 2024 Sunset Review, but the proposed changes were not included due to timing.

CSLB Reserve Fund and Licensing Fees. As a special fund agency, the CSLB receives no General Fund support and relies solely on fees assessed from licensees and applicants to fund the CSLB's operations. Since 2020 the CSLB has spent approximately 57% on enforcement; 5% on examinations; 15% on licensing; and 12% on administrative expenses, on average. There are 22 fees assessed by the CSLB, most of which are subject to a fee range codified in BPC § 7137. Fee amounts are determined via the regulatory process. Per 16 CCR § 811, all fees subject to a range are currently set at the statutory minimum.

During the CSLB's Sunset Review in 2019, the CSLB was experiencing declining reserves, which led the CSLB to conduct a fee study and subsequently propose fee increases. In 2019, the CSLB amended its regulations through an emergency rulemaking to increase its license and

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[1] Contractors State License Board, *December 12, 2024 Board Meeting Packet*, at 92.

registration renewal fee to their then-statutory maximums. In 2022, SB 607 (Min), Chapter 367, Statutes of 2021, statutorily increased several other fees, implemented a new renewal fee structure based on license entity type, and set new fee ranges. During the CSLB's 2024 Sunset Review, the CSLB anticipated having five months' worth of operating expenses in reserve in FY 2024/25, a steady increase compared to 0.1 months in FY 2019/20. BPC § 7138.1 prohibits the CSLB from maintaining a reserve fund of more than six months. This bill would increase the fund cap to 12 months. According to background materials provided by the author's office:

> CSLB anticipates exceeding its current reserve cap next fiscal year. CSLB is projected to have 6.7 months or $50 million in reserve July 1, 2025, which is above the six-month threshold. This is not unique to CSLB. There has been a recent effort by the Department of Consumer Affairs (DCA) and the Legislature to eliminate individual program reserve caps or increase them to 24 months. Two DCA programs undergoing sunset review this year are either having their caps increased to 24 months or eliminated altogether. It is staff's understanding that once these two programs increase or eliminate their reserve caps, CSLB will be one of only two DCA programs that have a low six-month reserve cap. Given the size of CSLB's reserve fund when compared to other, smaller DCA programs, CSLB staff felt 12 months would be a sufficient increase instead of the 24 months granted to those other DCA programs.

Current Related Legislation. SB 291 (Grayson), as it relates to this bill, would establish minimum civil penalties for workers' compensation insurance violations. *SB 291 is pending in the Assembly Insurance Committee.*

Prior Related Legislation. SB 1079 (Mello), Chapter 774, Statutes of 1990, required the CSLB to issue a citation for unlicensed activity that is between $200 and $4,500, and required the CSLB to adopt regulations covering the assessment of a civil penalty which gives due consideration to the gravity of the violation, and any history of previous violations.

AB 3240 (Eastin), Chapter 606, Statutes of 1992, increased the maximum civil penalty for unlicensed activity to $15,000, and authorized the CSLB to assess a $15,000 civil penalty for aiding and abetting an unlicensed person and entering into a contract with an unlicensed person.

AB 2494 (Margett), Chapter 282, Statutes of 1996, as it relates to this bill, capped the amount that the CSLB may assess for a civil penalty at $2,000 and capped the amount that the CSLB may assess as a civil penalty for aiding and abetting an unlicensed person and entering into a contract with an unlicensed person at $15,000.

AB 1382 (Correa), Chapter 363, Statutes of 2003, in part, increased from $2,000 to $5,000 the maximum civil penalty that the CSLB may assess for general violations of the License Law.

AB 569 (Grayson), Chapter 94, Statues of 2021, increased the maximum civil penalty for general violations of License Law from $5,000 to $8,000 and increased the maximum civil penalty from $15,000 to $30,000 for violations related to aiding and abetting an unlicensed person, entering into a contract with an unlicensed person, or filing false workers' compensation materials.

AB 1747 (Quirk), Chapter 757, Statutes of 2022, authorized the CSLB to assess a civil penalty up to $30,000 for the willful or deliberate disregard of state building, labor, and safety laws.

ARGUMENTS IN SUPPORT:

As the sponsor of this bill, the *CSLB* writes in support:

> [This bill] establishes minimum enforcement fine amounts commensurate with recent statutory maximum increases and requires future increases to minimum enforcement fine amounts to be based on increases to the Consumer Price Index every five years, as provided. Increases to the minimum enforcement fine amount ensure that the fines are commensurate with the seriousness of the violation and provide an incentive to comply with [the] Contractors Law.
>
> [This bill] also increases CSLB's fund reserve cap from six to 12 months. Increasing CSLB's fund reserve cap to 12 months will help CSLB responsibly manage its resources, proactively respond to emergencies, and fulfill CSLB's consumer protection mandate should license renewals decrease due to a recession or economic downturn.

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

IMPLEMENTATION ISSUES:

Civil Penalties for Workers' Compensation Violations. SB 291 (Grayson) would, in part, codify minimum civil penalty amounts for workers' compensation insurance violations in BPC § 7125.4. Additionally, that bill would repeal the cross-reference to BPC § 7125.4 in BPC 7099.2(b), which currently caps the amount that the CSLB may assess for workers' compensation violations at $30,000. This bill prematurely deletes the cross-reference to BPC § 7125.4 in BPC § 7099.2(b) in anticipation of SB 219 becoming law. If this bill is signed into law as currently drafted, and SB 219 is not, the civil penalty for workers' compensation violations could be capped at $8,000 instead of $30,000.

AMENDMENTS:

To address the implementation issue above, amend the bill as follows:

1. On page 4, in line 32, strike out "or 7118." and insert: 7118, or 7125.4.
2. On page 5, strike out line 12 and insert: 7118, or 7125.4.

REGISTERED SUPPORT:

Contractors State License Board (sponsor)
California Landscape Contractors Association

REGISTERED OPPOSITION:

There is no opposition on file.

Analysis Prepared by: Kaitlin Curry / B. & P. / (916) 319-3301