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# Cannabis Regulation in California

**L E G I S L A T I V E  A N A L Y S T ' S  O F F I C E**

Presented to:
Assembly Committee on Business and Professions
Hon. Evan Low, Chair

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# Proposition 215

## ☑ Medical Cannabis Legal in California for Over 20 Years

- Voters passed Proposition 215 in November 1996. The measure made it legal for individuals to use cannabis in California for medical purposes with a recommendation from a licensed physician.

## ☑ Cannabis Regulation and Taxation Under Proposition 215

- Proposition 215 did not create a statutory framework for regulating or taxing cannabis.
- Under Proposition 215, medical cannabis has mainly been regulated by local governments through ordinances and permit requirements. Local jurisdictions throughout the state have imposed restrictions on the cultivation and sale of medical cannabis or in some cases banned it entirely.
- Local jurisdictions have also imposed various fees and taxes on cannabis businesses.
- While the state largely did not regulate medical cannabis, it did collect sales tax on these products.

# Medical Cannabis Regulation and Safety Act (MCRSA)

## ☑ MCRSA Passed by Legislature in 2015

- Implemented via Chapters 688, 689, and 719 of 2015 (AB 243, Wood; AB 266, Bonta; and SB 643, McGuire, respectively) and subsequently modified in 2016 by budget trailer legislation, Chapter 32 of 2016 (SB 837, Committee on Budget and Fiscal Review).
- Created a new regulatory structure for the licensing and enforcement of the medical cannabis industry, including cultivators, product manufacturers, distributors, testing laboratories, and dispensaries (retailers).
- Assigned regulatory authority to a new bureau within the Department of Consumer Affairs and several state departments as shown in Figure 1.

**Figure 1**

**Medical Cannabis Industry Regulated by Multiple State Agencies Under MCRSA**

| Regulatory Agency | Primary Responsibilities |
|---|---|
| Consumer Affairs | • License distributors, transporters, dispensaries, and testing laboratories.[a] |
| Food and Agriculture | • License cultivators.<br>• Implement track and trace information technology system. |
| Public Health | • License manufacturers. |
| Fish and Wildlife | • Monitor and reduce environmental impacts of cultivation. |
| State Water Resources Control Board | • Regulate water-related impacts of cultivation. |
| Pesticide Regulation | • Develop pesticide use guidelines for cultivation. |

[a] Responsibility for medical cannabis testing laboratories was transferred from the Department of Public Health to the Department of Consumer Affairs pursuant to Chapter 32 of 2016 (SB 837, Committee on Budget and Fiscal Review).

MCRSA = Medical Cannabis Regulation and Safety Act.

- Authorized regulatory agencies to collect fees to fund their activities and deposit these fees into a new fund, subsequently named the Cannabis Control Fund (CCF).
- Instituted a system for regulating, monitoring, and reducing environmental impacts of marijuana cultivation.

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# Proposition 64

## ☑ Proposition 64 Approved by Voters in November 2016

- Legalized the use of cannabis for nonmedical purposes by adults age 21 and over.
- Created a regulatory structure for the licensing and enforcement of nonmedical cannabis similar in many ways to the one created for medical cannabis under MCRSA. For example, it assigned state departments similar regulatory responsibilities to those they were assigned under MCRSA.
- Imposed new state excise taxes on the cultivation and retail sale of cannabis. The measure also excluded medical cannabis from portions of the sales tax with a valid medical ID card.

## ☑ Some Key Differences Exist Between MCRSA and Proposition 64

- ***Vertical Integration.*** MCRSA generally limits a medical cannabis licensee to holding state licenses in no more than two categories. In contrast, Proposition 64 generally allows a nonmedical cannabis licensee to hold licenses in more than two categories.
- ***Independent Distribution.*** Distributor licensees under MCRSA generally are required to be independent entities that do not hold licenses in other license categories. In contrast, distributor licensees under Proposition 64 generally can hold licenses in other license categories.
- ***Verification of Local Permits.*** MCRSA requires state license applicants to provide proof of a local permit or other permission to operate. In contrast, Proposition 64 prohibits the state from requiring applicants to provide proof of a local permit or other permission to operate. (However, Proposition 64 prohibits the state from issuing a license if it is in conflict with local ordinances or other laws.)

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# 2017-18 Budget Trailer Bill Legislation

☑ **Administration Proposes Various Changes Largely Intended to Reconcile Differences Between MCRSA and Proposition 64**

- In April 2017, the Governor released trailer bill legislation that creates a single regulatory structure for medical and nonmedical cannabis. The legislation generally uses Proposition 64 as its foundation, but includes significant provisions from MCRSA. Also, the legislation proposes various other policy choices that were not included in either Proposition 64 or MCRSA.

☑ **Some Changes to Proposition 64 Can Be Made by the Legislature . . .**

- Proposition 64 allows for modifications to the framework of nonmedical cannabis regulation by a majority vote of the Legislature. Modifications to most of Proposition 64's other provisions, such as those related to taxation and criminal offenses, require a two-thirds vote of the Legislature.
- Under the measure, any legislative changes must be consistent with the proposition's stated intent and further its purposes.

☑ **. . . And Others May Require Voter Approval**

- Changes to Proposition 64 not consistent with its stated intent would have to be approved by voters.

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# Funding for Cannabis-Related Regulatory Activities

- The *2016-17 Budget Act* provided resources to various state departments for cannabis regulation to be funded from the General Fund, CCF (using loans from the General Fund), and various other special funds.
- The Governor's 2017-18 budget—including January and May proposals—requests additional resources to implement various cannabis-related regulatory activities. As shown in Figure 2, these proposals would add to previously approved funding and positions and would provide state departments with a total of $118 million (and 527 positions) in 2017-18. The proposals mostly are funded from the CCF—using loans from the General Fund—as well as various other special funds.

**Figure 2**

**Summary of Cannabis-Related Funding and Positions in 2017-18**

*(Dollars in Millions)*

| Funding | | | | |
|---|---|---|---|---|
| | | Governor's 2017-18 Proposals | | |
| Department | Baseline | January | May | Total |
| Food and Agriculture | $3.4 | $22.4 | $3.9 | $29.6 |
| Consumer Affairs | 4.0 | 22.5 | 0.7 | 27.2 |
| Fish and Wildlife | 5.8 | — | 17.2 | 23.0 |
| State Water Resources Control Board | 6.7 | — | 9.8 | 16.5 |
| Public Health | 2.5 | 1.0 | 9.3 | 12.8 |
| Board of Equalization | 0.0 | 5.4 | — | 5.4 |
| Pesticide Regulation | 0.7 | — | 1.3 | 2.0 |
| Cannabis Control Appeals Panel | — | — | 1.0 | 1.0 |
| **Totals** | **$23.0** | **$51.4** | **$43.2** | **$117.6** |