



CONSULTING AND FACILITATION SERVICES

NEVADA COUNTY



CANNABIS REGULATION COMMUNITY PLANNING
PROCESS

CAG MEETING #5



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(530) 753-9606 | www.migcom.com

in association with:
ECONorthwest | Sam Kamin

CAG #5 AGENDA

1. Welcome and Introductions
2. Presentation of State Cannabis Regulations
3. Review of Issues Related to Inspections, Monitoring and Enforcement in the County
4. Review and Discussion of CAG Topics Discussed to Date
5. Public Comment
6. Close...

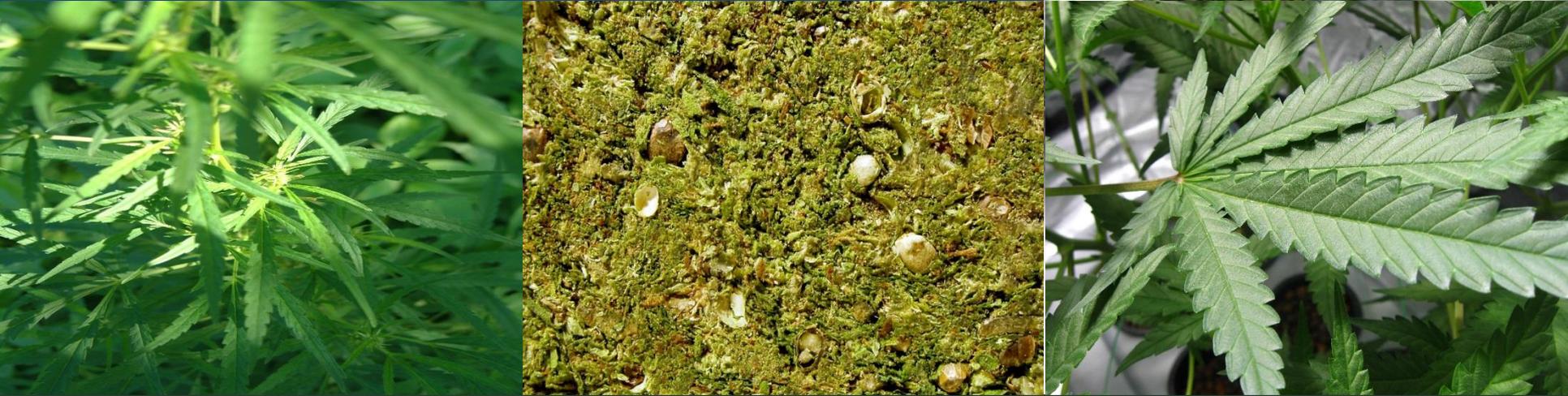
CAG Process Update: Phased Discussions

1. Potential Allowable Activities at Cultivation Sites
2. Land Use and Zoning Requirements
3. Permitting Process
4. Inspections, Monitoring and Enforcement
5. Other: Public Health, Tax Revenue, etc.

Presentation of State Cannabis Regulations

Arthur Wylene and Paul Smith, Rural County Representatives of California (RCRC)

Amber Morris, Branch Chief, CalCannabis Cultivation Licensing, California Department of Food and Agriculture



2017 CANNABIS LICENSING & REGULATORY UPDATE

NEVADA COUNTY
JULY 25, 2017





CalCannabis
Cultivation Licensing



Cannabis Cultivation Program Update

Amber Morris, Branch Chief

Presented to the Nevada County Community Advisory Group (CAG)

July 25, 2017

The Ogden Memo

Issued by the U.S Department of Justice, Obama Administration, October 19, 2009

- “As a general matter, pursuit of these priorities [prosecuting illegal drug traffickers] should not focus federal resources in your States on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana.”

The Cole Memo

Issued by the U.S Department of Justice, Obama Administration,
August 29, 2013

Prompted by passage of Amendment 64 in Colorado and Initiative 205 in Washington

U.S. Department of Justice goals in order to receive low-priority status in federal marijuana enforcement:

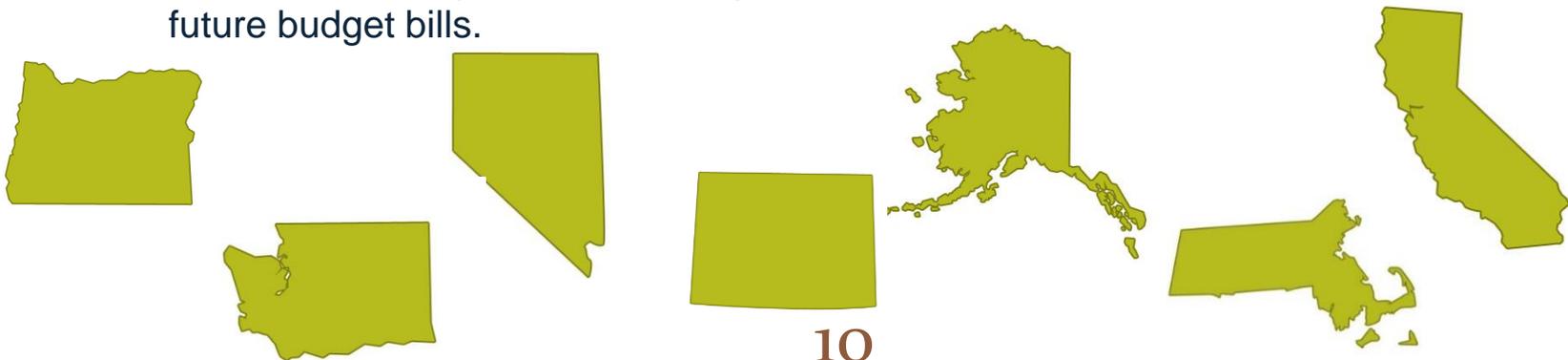
- 1) Preventing the distribution of marijuana to minors;
- 2) Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- 3) Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- 4) Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

The Cole Memo

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and,
- Preventing marijuana possession or use on federal property.

There is a New Sheriff in Town

- President Trump's position?
- Attorney General Jeff Session's position?
 - Indications are that the Trump Administration will continue current federal policy with respect to "medical" cannabis.
 - Unclear on how federal enforcement would/could occur in states that have sanctioned "adult-use" cannabis
 - Rohrabacher Amendment (federal budget rider) prohibits the Department of Justice from spending federal dollars to prosecute individuals acting in compliance with state medical marijuana laws. (U.S v. McIntosh (9th Cir. 2016) 833 F.3d 1163.) Currently in force through September 2017. Mr. Sessions has requested that this provision not be included in future budget bills.



2015 Medical Cannabis Legislative Package

Medical Cannabis Regulation and Safety Act

AMENDED IN ASSEMBLY SEPTEMBER 11, 2015
AMENDED IN ASSEMBLY SEPTEMBER 4, 2015
AMENDED IN ASSEMBLY SEPTEMBER 1, 2015
AMENDED IN ASSEMBLY AUGUST 18, 2015
AMENDED IN ASSEMBLY AUGUST 17, 2015
AMENDED IN SENATE JUNE 3, 2015
AMENDED IN SENATE MAY 6, 2015
AMENDED IN SENATE APRIL 6, 2015

No. 643

SENATE BILL

Introduced by Senator McGuire
February 27, 2015

An act to amend Section 2220.05 of Sections 144, 2220.05, 2242.1 of, to add Sections 19302.1, 19319, 19320, 19322, 19323 and 19325 to, to add Article 25 (commencing with Section Chapter 3 of Division 2 of, and to add Article 6 (commencing with Section 19331), Article 7.5 (commencing with Section 19337), and Article 11 (commencing with Section 19348) to Chapter 3.5 of Division 8 of the Professions Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

SB 643, as amended, McGuire. Medical marijuana
~~Existing~~
(1) Existing law, the Compassionate Use Act, measure enacted by the approval of Proposition

AMENDED IN SENATE SEPTEMBER 11, 2015
AMENDED IN SENATE SEPTEMBER 4, 2015
AMENDED IN SENATE SEPTEMBER 1, 2015
AMENDED IN SENATE AUGUST 17, 2015
AMENDED IN SENATE JULY 2, 2015
AMENDED IN ASSEMBLY JUNE 1, 2015
AMENDED IN ASSEMBLY APRIL 22, 2015
AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015-16 REGULAR SESSION

ASSEMBLY BILL

No. 243

Introduced by Assembly Member Wood
(Coauthors: Assembly Members Rendon and Williams)
(Principal coauthor: Assembly Member Rendon)
(Coauthor: Assembly Member Williams)

February 5, 2015

An act to amend Section 2220.05 of add Article 6 (commencing with Section 19331), Article 13 (commencing with Section 19350), and Article 17 (commencing with Section 19360) to Chapter 3.5 of Division 8 of the Business and Professions Code, to add Section 12029 to the Fish and Game Code, to add Sections 11362.769 and 11362.777 to the Health and Safety Code, and to add Section 13276 to the Water Code, relating to medical marijuana, and declaring the urgency thereof, to take effect immediately, marijuana, and making an appropriation therefor.

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AMENDED IN SENATE SEPTEMBER 11, 2015
AMENDED IN SENATE SEPTEMBER 4, 2015
AMENDED IN SENATE SEPTEMBER 1, 2015
AMENDED IN SENATE AUGUST 17, 2015
AMENDED IN SENATE JULY 13, 2015
AMENDED IN SENATE JUNE 30, 2015
AMENDED IN ASSEMBLY JUNE 2, 2015
AMENDED IN ASSEMBLY MAY 11, 2015
AMENDED IN ASSEMBLY MAY 5, 2015
AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015-16 REGULAR SESSION

ASSEMBLY BILL

No. 266

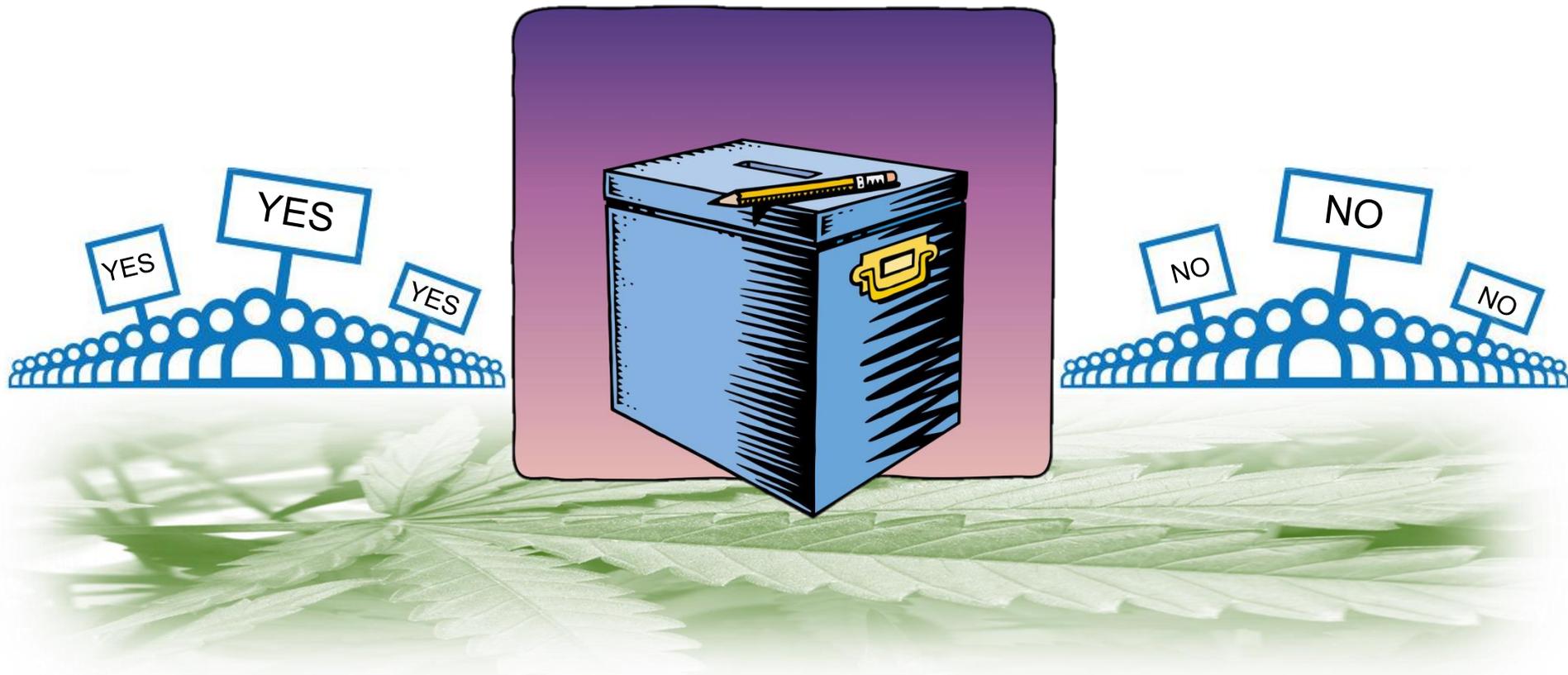
Introduced by Assembly Members Bonta, Cooley, Jones-Sawyer,
and Lackey, and Wood
(Coauthor: Assembly Member Chiu)

February 10, 2015

An act to amend Section 2220.05 of the Business and Professions Code, relating to medical marijuana. An act to amend Sections 27 and 28 of, to add Section 205.1 to, and to add Chapter 3.5 (commencing with Section 19300) to Division 8 of, the Business and Professions Code, to amend Section 9147.7 of the Government Code, to amend Section 11362.775 of the Health and Safety Code, to amend Section 147.5 of the Labor Code, and to add Section 31020 to the Revenue and Code, relating to medical marijuana.

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Proposition 64 (Adult Use of Marijuana Act)



Proposition 64 (Adult Use of Marijuana Act)

- In November, the voters enacted Proposition 64 which:
 - Allows persons age 21 or older to possess, process, share or transport no more than one ounce of marijuana for personal consumption and not for sale
 - Allows persons to cultivate, on private property no more than 6 marijuana plants for personal consumption
 - Provides local governments the option and ability to regulate, control, permit, license, and tax activities surrounding the use, cultivation and sale of marijuana
 - Authorizes resentencing and destruction of records for prior cannabis convictions
 - Establishes packaging, labeling, advertising, and marketing standards and restrictions for cannabis products
 - Permits use in a private home or at a business licensed for on-site cannabis consumption
- **Proposition 64's proposed regulatory scheme is, for the most part, congruent with the Medical Cannabis Regulation and Safety Act enacted in 2015 by the Legislature**

Proposition 64 (Adult Use of Marijuana Act)

- Personal Cultivation and Local Control
 - Permits an individual to grow up to 6 plants within a single private residence, or accessory structure to a private residence
 - Prohibits local governments from banning individuals from engaging in personal cultivation
- Defines “private residence” as a house, an apartment unit, a mobile home, and other similar dwelling



Health & Safety Code 11362.2

Proposition 64 (Adult Use of Marijuana Act)

- However...
 - Proposition 64 authorizes local governments to ban outdoor personal cultivation and/or establish “**reasonable regulations**” for indoor personal cultivation
 - Scope of “reasonable” regulation (for six plant indoor cultivation) already subject to litigation. (Harris v. City of Fontana, San Bernardino County Superior Court Case No. CIVDS1710589, filed Jun. 5, 2017.) Challenged provisions include:

- Permit requirement (and \$400+ fee)
- Notarized landlord consent
- Home inspection
- Criminal background check
- Persons with certain felony convictions prohibited from cultivating



Health & Safety Code 11362.2

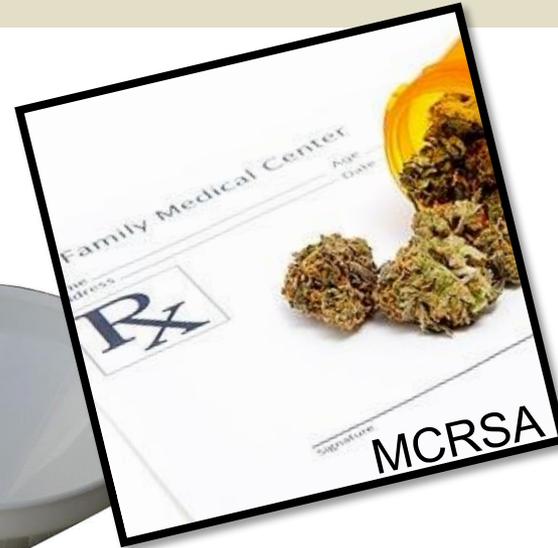
Proposition 64/Medical Cannabis Personal Use



- Restrictions on Personal Use
 - Where smoking tobacco is prohibited
 - Within 1,000 feet of a school, youth center, etc. (unless within a residence)
 - While driving or riding in a vehicle
 - In a public place (except where authorized locally) – Recreational Only
- Local governments may prohibit cannabis use and possession in buildings owned, leased, or occupied by a city or county
- Employers (including counties) may maintain drug-free workplaces



Governor's Cannabis Budget Trailer Bill



Governor's Trailer Bill

2017 Cannabis Budget Trailer Bill

Senate Bill No. 94

CHAPTER 27

An act to amend Sections 26000, 26001, 26011, 26012, 26013, 26014, 26030, 26031, 26038, 26040, 26043, 26044, 26050, 26052, 26053, 26054, 26054.2, 26055, 26057, 26058, 26060, 26061, 26063, 26065, 26066, 26070, 26070.5, 26080, 26090, 26104, 26106, 26120, 26130, 26140, 26150, 26151, 26152, 26153, 26154, 26155, 26160, 26161, 26180, 26181, 26190, 26191, 26200, 26202, 26210, and 26211 of, to amend the heading of Chapter 13 (commencing with Section 26100) and the heading of Chapter 13 (commencing with Section 26130) of Division 10 of, to amend the heading of Division 10 (commencing with Section 26000) of, to amend and renumber Section 26101 of, to add Sections 26010.5, 26011.5, 26013.5, 26046, 26047, 26051.5, 26060.1, 26062.5, 26070.1, 26121, 26131, 26132, 26133, 26134, 26135, 26156, 26162, 26162.5, 26180.5, 26190.5, and 26210.5, to, to add Chapter 6.5 (commencing with Section 26067) and Chapter 22 (commencing with Section 26220) to Division 10 of, to add and repeal Section 26050.1 of, to repeal Sections 26054.1, 26056, 26056.5, 26064, 26067, 26100, and 26103 of, to repeal Chapter 3.5 (commencing with Section 19300) of Division 8 of, to repeal Chapter 17 (commencing with Section 26170) of Division 10 of, and to repeal and add Sections 26010, 26032, 26033, 26034, 26045, 26051, 26062, 26102, and 26110 of, the Business and Professions Code, to amend Sections 1602 and 1617 of the Fish and Game Code, to amend Sections 37104, 54036, and 81010 of the Food and Agricultural Code, to amend Sections 11006.5, 11014.5, 11018, 11018.1, 11018.2, 11018.5, 11032, 11054, 11357, 11358, 11359, 11360, 11361, 11361.1, 11361.5, 11362.1, 11362.2, 11362.3, 11362.4, 11362.45, 11362.7, 11362.71, 11362.715, 11362.765, 11362.768, 11362.77, 11362.775, 11362.78, 11362.785, 11362.79, 11362.795, 11362.8, 11362.81, 11362.83, 11362.85, 11362.9, 11364.5, 11470, 11478, 11479, 11479.2, 11480, 11485, 11532, 11553, and 109925 of, to amend the heading of Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of, and to repeal Section 11362.777 of, the Health and Safety Code, to amend Sections 34010, 34011, 34012, 34013, 34014, 34015, 34016, 34018, 34019, and 34021.5 of, to amend the heading of Part 14.5 (commencing with Section 34010) of Division 2 of, and to add Section 34012.5 to, the Revenue and Taxation Code, to amend Section 23222 of, and to add Section 2429.7 to, the Vehicle Code, and to amend Sections 1831, 1847, and 13276 of the Water Code, relating to cannabis, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2017. Filed with Secretary of State June 27, 2017.]

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- Senate Bill 94 (Senate Budget Committee)
 - Adopted and took effect upon Governor Brown's signature on June 27th
- Unifies both the medical scheme and the adult-use scheme to achieve a single regulatory structure
- Largely relies on Proposition 64 (adult-use) structure; most of MCRSA is repealed

Key Local Control Provisions in Cannabis Budget Trailer Bill

26055 (d) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

Business & Professions Code 26055 (d)

Key Local Control Provisions in Cannabis Budget Trailer Bill

26200. (a)(1) This division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) This division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(e) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that the activities, at a minimum, comply with the requirements of paragraphs (1) to (3), inclusive, of subdivision (g), that all participants are licensed under this division, and that the activities are otherwise consistent with regulations promulgated and adopted by the bureau governing state temporary event licenses. These temporary event licenses shall only be issued in local jurisdictions that authorize such events.

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

Cannabis Budget Trailer Bill – State Verification of Local Approval

- Like AUMA, the Cannabis Budget Trailer Bill does not require that applicants for state licenses must first obtain a local permit.

However . . .

- The Cannabis Budget Trailer Bill includes a communication process between State licensing agencies and local jurisdictions to ensure that only locally-approved facilities receive State licenses:
 - 1) Each jurisdiction must send a copy of their commercial cannabis ordinance (if any) to the Bureau of Cannabis Control. State license applications in jurisdictions whose ordinances ban that type of cannabis activity must be denied.
 - 2) In all other cases, the state licensing agency would send notification to the local jurisdiction. The local jurisdiction would have 60 business days to respond (positively or negatively). If the local jurisdiction responds that the applicant is not in compliance with local ordinances, the state license will be denied.
 - 3) If the local jurisdiction does not respond within 60 business days, the State may presume that the applicant complies with local ordinances and can proceed with the licensing process. This will not preclude the local jurisdiction from subsequently taking enforcement action if the applicant/licensee does not, in fact, comply.

Key Aspects of the Cannabis Budget Trailer Bill

Ending the Collective Model – Strict Licensing Scheme

- “All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this division.”
- Health and Safety Code 11362.775 (providing for marijuana collectives and cooperatives) is repealed, effective one year after state licensing authorities begin issuing commercial cannabis licenses.

Business & Professions Code 26053/Health & Safety Code 11362.775(e)

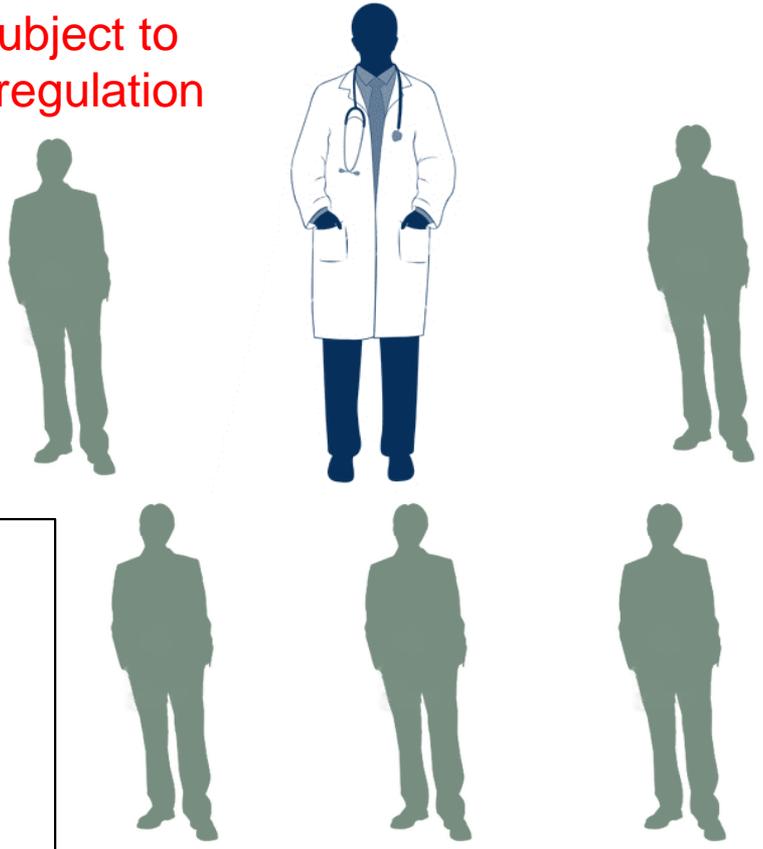
Key Aspects of the Cannabis Budget Trailer Bill

Licensure Exemptions

Still subject to local regulation



Personal Grows Exemption



Patient Caregivers Exemption

Key Aspects of the Cannabis Budget Trailer Bill

Temporary CEQA Exemption

- The trailer bill enacts a temporary CEQA exemption (through July 1, 2019) for the adoption of local ordinances that regulate commercial cannabis facilities through discretionary permits.



Business & Professions Code 26055(h)

County Taxing Authority Over Cannabis

- Explicit and broad county taxing authority
 - Referenced in Revenue & Taxation Code 34021.5



Commercial Cannabis State License Categories

Adult	Medical	Type	Classification
		Type 1	Cultivation; Specialty outdoor; Max 5,000 sq ft per premise/ 50 mature plants
		Type 1A	Cultivation; Specialty indoor; Max 5,000 sq ft per premise
		Type 1B	Cultivation; Specialty mixed-light; Max 5,000 sq ft per premise
		Type 1C	Cultivation; “Specialty cottage”
		Type 2	Cultivation; Outdoor; 5,001 – 10,000 sq ft per premise
		Type 2A	Cultivation; Indoor; 5,001 – 10,000 sq ft per premise
		Type 2B	Cultivation; Mixed-light; 5,001 – 10,000 sq ft per premise
		Type 3	Cultivation; Outdoor; 10,001 – 1 acre sq ft per premise*
		Type 3A	Cultivation; Indoor; 10,001 – 22,000 sq ft per premise*
		Type 3B	Cultivation; Mixed-light; 10,001 – 22,000 sq ft per premise*
		Type 4	Nursery; Can transport live plants
		Type 5^	Cultivation; Outdoor large; greater than 1 acre
		Type 5a^	Cultivation; Indoor large; greater than 22,000 sq ft
		Type 5b^	Cultivation; Mixed light large; greater than 22,000 sq ft
		Type 6	Manufacturer 1; Products using nonvolatile solvents
		Type 7	Manufacturer 2; Products using volatile solvents
		Type 8	Testing Laboratory
		Type 10	Retailer
		Type 11	Distributor
		Type 12	Microbusiness

*CDFA shall have a limit on the number of licenses in this type.

^Delayed issuance until January 1, 2023

Category	Outdoor	Indoor	Mixed-light
Specialty Cottage	Up to 25 mature plants	Up to 500 sq ft	Up to 2,500 sq ft
Specialty	Up to 5,000 sq ft, or up to 50 mature plants	Up to 5,000 sq ft	Up to 5,000 sq ft
Small	5,001-10,000 sq ft	5,001-10,000 sq ft	5,001-10,000 sq ft
Medium	10,001 sq ft-1 acre	10,001- 22,000 sq ft	10,001- 22,000 sq ft
Large	Greater than 1 acre	Greater than 22,000 sq ft	Greater than 22,000 sq ft
Nursery	No size limit defined in statute		

Water Use and Water Quality Regulatory Efforts



NCRWQCB



CVRWQCB



SWRCB



Existing Regional Regulatory Orders

- North Coast Waiver of Waste Discharge Requirement
 - Adopted August, 2015
- Central Valley Waiver of Waste Discharge Requirement
 - Adopted October, 2015

Development of State Regulations

- SB 837 (2016) requires the State Water Resources Control Board (SWRCB) to adopt “principles and guidelines” for the diversion and use of water for cannabis cultivation.
- MCRSA/SB 94 requires SWRCB & Regional Boards to address discharges of waste resulting from commercial cannabis cultivation
- SWRCB issued draft “Principles and Guidelines” and draft statewide “Waste Discharge Requirements” for Cannabis Cultivation Activities on July 7, 2017. Comment period closes September 6, 2017.
- Draft statewide Waste Discharge Requirements builds on the existing Regional Orders.

Key Elements of Regional and Draft State Orders

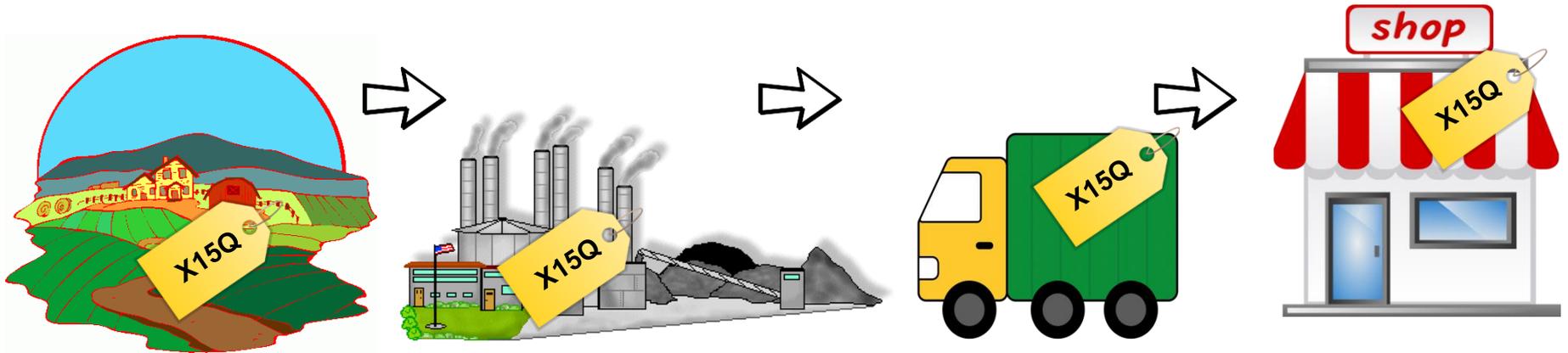
- Defer to county ordinances
- Impose monitoring & reporting requirements
- Establish regulatory fee schedules
- Draft “Principles and Guidelines” establish detailed requirements for water diversion, runoff, erosion control, etc. for cannabis cultivation to address water quality and flow impacts
- State law provides fine and penalties for non-compliance
- No county obligations

Timelines and Priorities

- No requirement that local jurisdictions have permitting program in place by 2018.
- State agencies may begin issuing state licenses January 1, 2018
- Likely to begin accepting licensing applications immediately after the date, with first licenses issued 6-12 months later
- State agencies shall give priority in issuing state licenses for applicants operating in compliance with the Compassionate Use Act before September 1, 2016
- Temporary state licenses may be issued for locally-permitted applicants through January 1, 2019



Track & Trace Requirement



- All plants must be tagged with unique identifier
- Data subject to inspection at all times
- Minimize inversion and diversion
- Helpful tool for tax and fee collection

Business & Professions Code 26067-26069.9



Technology Projects

**CalCannabis is deploying
two technology projects by
Jan 2018:**

1. Online licensing system
2. Track and trace system

Mobile Deliveries

- Mobile deliveries must originate from a licensed retailer or microbusiness.
- Deliveries must be “in compliance with . . . local law as adopted under Section 26200.”

But . . .

- Local governments cannot “prevent delivery of cannabis . . . on public roads.”



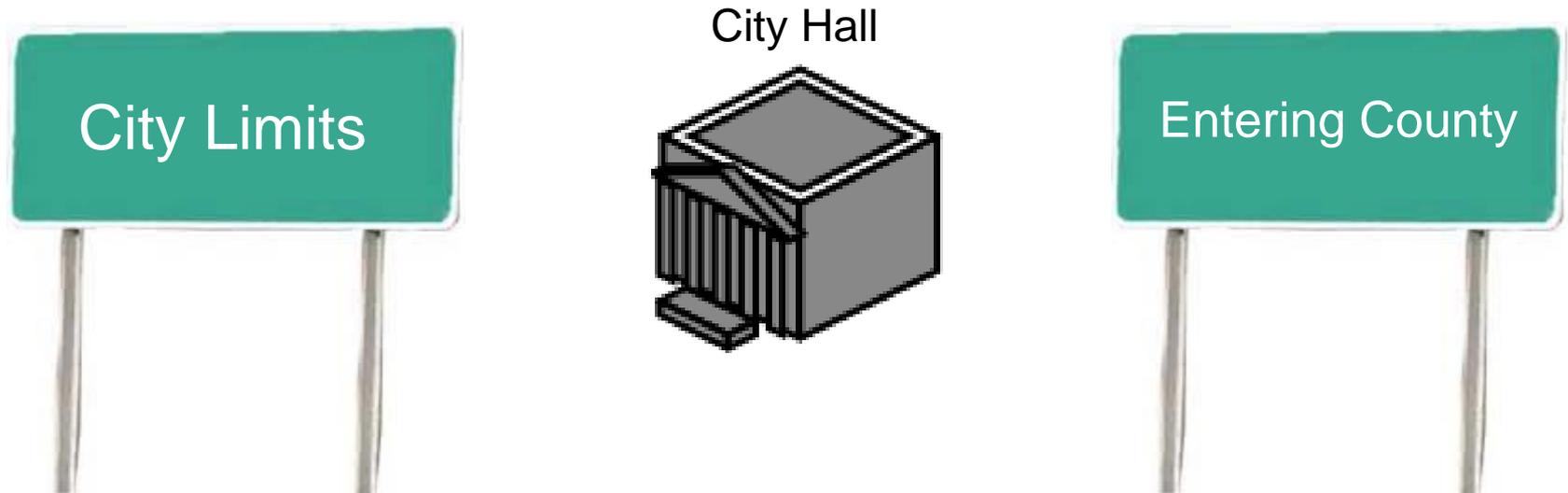
Business & Professions Code 26090

Mobile Deliveries

- Licensed deliveries must be made in response to a specific "delivery request" (i.e., no roaming mobile vending)
- Growing consensus among commentators (ranging from the League of California Cities to NORML) that local jurisdictions can ban deliveries occurring within their boundaries
- Local governments cannot prohibit licensed delivery personnel from traveling through their jurisdiction on public roads
- Does Proposition 64/Trailer Bill Language allow deliveries to physically occur “on public roads” (i.e., on the roadside) regardless of local bans? Probably not, but the language is poorly written

Local Enforcement – Broad Authority

This division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.



Business & Professions Code 26200(a)(2)

Local Role in Enforcement - License Revocation

- Specifies grounds for disciplinary action and license revocation
 - A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 60 days of being so informed by the bureau, the relevant licensing authorities shall begin the process to determine whether a license issued to the licensee should be suspended or revoked . . . (Business & Professions Code 26200(c))
 - A licensing authority may suspend or revoke a license when a local agency has notified the licensing authority that a licensee within its jurisdiction is in violation of state rules and regulations relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for suspension or revocation of the license.. (Business & Professions Code 26031(b))



State/Local Enforcement - Cultivation

- Requires indoor and outdoor cultivation of cannabis to be conducted in accordance with state and local laws. (Business & Professions Code 26060)
- Designates state agencies as the primary enforcement agencies when addressing environmental impacts, but requires those agencies to coordinate, when appropriate, with local agencies and local law enforcement in enforcement efforts. (Business & Professions Code 26066)
- Authorizes the California Department of Food & Agriculture to enter into cooperative agreements with county agricultural commissioners to administer, investigate, inspect, and license medical cannabis cultivation. (Business & Professions Code 26069.1)



Cities Could Have Regulatory Function

For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

Business & Professions Code 26200(d)

Background Checks/License Restrictions/Criminal Record

- Prospective licensees must submit to State Department of Justice background checks
- Persons convicted of certain crimes may be ineligible to receive state licenses



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Business & Professions Code 26051.5 and 26057

Retailer Requirements

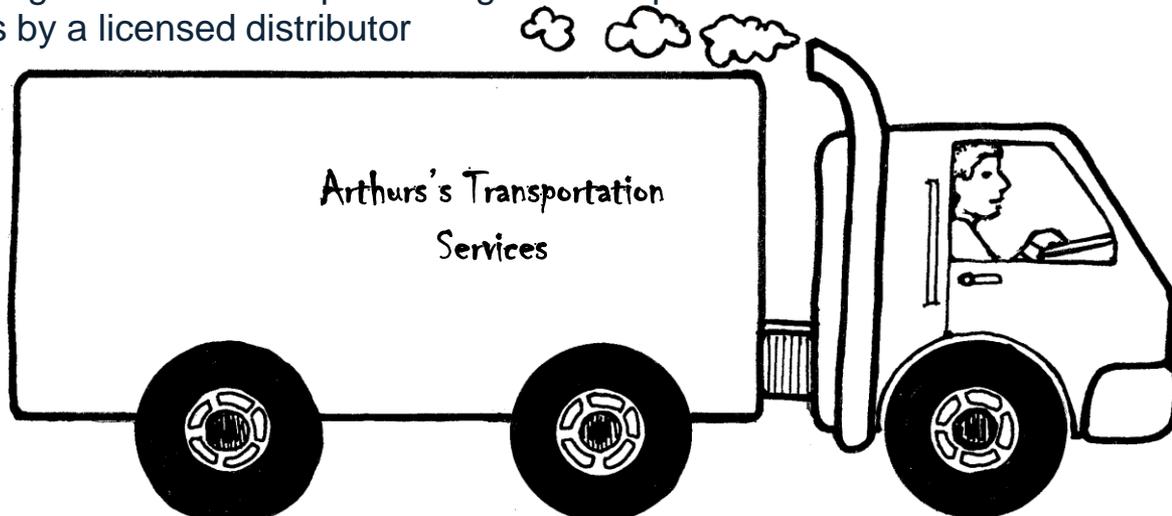
- Requires a retailer to implement security measures to deter and prevent diversion of cannabis and cannabis-related products. Examples include:
 - Establishing limited access areas accessible only to authorized retailer personnel
 - Storing all finished cannabis and cannabis-related products in a secured and locked room, safe, or vault
- Requires a retailer to notify the licensing authority and the appropriate law enforcement authorities within 24 hours after theft or diversion of cannabis and cannabis-related products



Business & Professions Code 26070

Transport Requirements

- Authorizes limited marijuana transport between licensees
- Only licensed distributors may transport between licensed cannabis facilities
- Provides that licensed distributors be bonded and insured
- Requires that Bureau to establish minimum security requirements for the commercial transportation, storage, and delivery of cannabis and cannabis-related products
- Requires licensed distributors to complete and maintain electronic shipping manifest as prescribed by the Bureau
- Prohibits a local government from preventing the transportation of cannabis and related products on public roads by a licensed distributor



State Licensing Agencies

Unified regulatory scheme confers much regulatory authority to licensing agencies:

Bureau of Cannabis Control	Department of Public Health Licenses	Department of Food and Agriculture Licenses
Retailers	Manufacturers	Cultivators
Microbusinesses		Nurseries
Distributors		
Testing Laboratories		

Proposed Cannabis Regulatory Package

- Draft regulations for medical cannabis from all three licensing agencies were released on April 28, 2017.
- Proposed medical regulations will be withdrawn once the Governor's Cannabis Budget Trailer Bill is signed into law
- New emergency regulations (for both medical and adult use) will be put forth in the Summer
- CDFA released a Draft EIR for the state licensing program for both medical and adult-use cannabis cultivation on June 15, 2017. The comment period for the EIR ends July 31st.

Proposed Cultivation Regulations

- Definitions
- Application
- Licensing
- Site Specific Requirements
- Records & Track and Trace
- Inspections
- Enforcement

Drugged Driving

- Requires the Bureau to contract with the California Cannabis Research Program, known as the Center for Medicinal Cannabis Research to develop a study that identifies the impact that cannabis has on motor skills
- DUI Cannabis Impairment - Makes no changes to driving under the influence laws (Health & Human Services Code 11362.45(a))



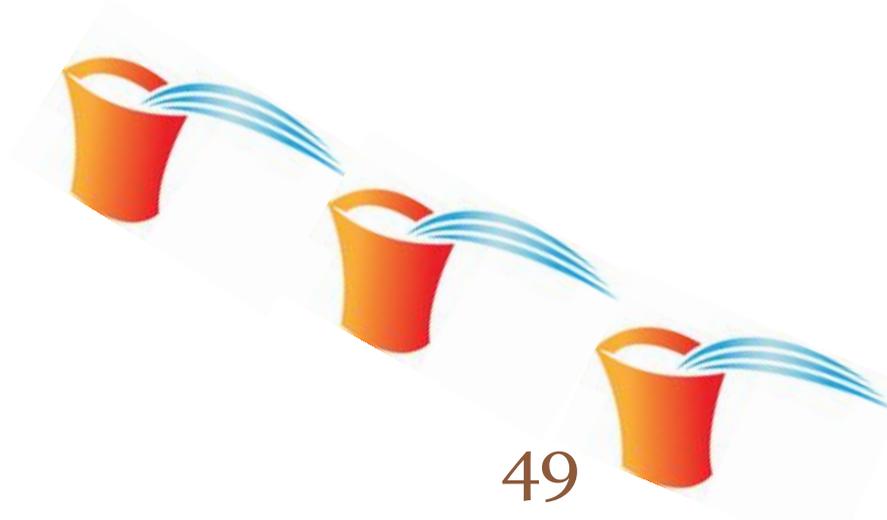
State Tax Aspects of Proposition 64

- Imposes a State 15% excise tax @ retail - Referenced in Revenue & Taxation Code 34011 (a)
- No sales & use tax on medical cannabis; to qualify, patient must present county-issued medical identification card - Referenced in Revenue & Taxation Code 34011 (g)
- State cultivation tax: Flowers: \$9.25 per ounce/Leaves: \$2.75 per ounce - Referenced in Revenue & Taxation Code 34012
- Taxes will be collected by distributors from cultivation, retailer, and manufacturer licensees, and remitted to Board of Equalization
- Board of Equalization:
 - Receives & administers
 - Can make adjustment
 - Use tax stamps
 - Link to track & trace
 - Personal cultivation and caregiver exemption
 - Paid quarterly
 - Effective January 1, 2018
 - May require licensees to have security requirements for tax liabilities



State Tax Aspects of Proposition 64

- Proceeds from taxes placed in Marijuana Tax Fund
 - Administration, then:
 - 60% = Youth-related use
 - 20% = Environment-related
 - 20% = Local government & California Highway Patrol (local grants in this category are limited to jurisdictions that do not ban outdoor cultivation or retail sale)
- Legislature can change tax distribution formula after July 1, 2028



What Other Rural Counties Are Currently Doing

Restricted to personal grows

County	Method
Madera	Maximum 120 square feet indoors in a residence or detached outdoor structure that is enclosed and covered; other restrictions apply.
Mariposa	Medical Marijuana: Maximum 12 plants, indoors or outdoors, if one qualified individual resides on premises; max. 24 plants for 2 or more qualified individuals on the same premises; other restrictions apply.
San Benito	Urgency ordinance: 6 plants max., indoors or outdoors; other restrictions apply; permanent regulations for both personal and commercial cultivation under consideration by Planning Commission and Board of Supervisors.
Glenn	Urgency ordinance: 6 plants max., indoors or outdoors; other restrictions apply.

Glenn County's Ordinance

- Latest RCRC-member county ordinance
- Approved on June 27, 2017
- Repeals pre-existing ordinance on medical cannabis
- Complete ban on cultivation with exception of Proposition 64's six plant indoor personal use limitation
- Urgency ordinance
 - Board revisiting within 45 Days



Enforcement Options and Concerns

- Many rural counties face difficulty enforcing cultivation ordinances – too many non-compliant grows, not enough resources.
- Criminal (misdemeanor) enforcement of cultivation ordinances potentially problematic after Kirby v. County of Fresno (2015) 242 Cal.App.4th 940.
- Administrative abatement is often the most effective tool. Successful ordinances can include an efficient hearing process that allows rapid action to remove violations, while still providing due process of law.
- Many jurisdictions also impose administrative penalties for cannabis ordinance violations.
- Jurisdictions with an active and unified growers' organization have sometimes found success in developing self-policing efforts.

Some Rural Counties Are Sanctioning Commercial Grows

- Humboldt
- Inyo
- Mendocino
- Santa Cruz
- Sonoma
- Trinity
- Yolo (Medical Only)

Industrial Hemp



- Proposition 64 also decriminalizes and regulates cultivation of industrial hemp under state law.
- “Industrial hemp” consists of “the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) . . .”
- State regulatory program for industrial hemp is completely separate from other commercial cannabis laws and regulations.
- Industrial hemp cultivators will be required to register with the County Agricultural Commissioner. Other details of the state regulatory program remain under development by the California Department of Food & Agriculture Advisory Board.
- State law does not appear to pre-empt additional local regulations (or bans) of industrial hemp cultivation.
- Cultivation of industrial hemp remains largely illegal under federal law. (2014 federal Farm Bill - 7 U.S.C. § 5940 - legalized cultivation of industrial hemp for research purposes by qualifying institutions, but commercial cultivation by private parties remains prohibited by the Controlled Substances Act.)

Cannabis Activities – Native American Tribes

AMENDED IN SENATE JUNE 27, 2017
CALIFORNIA LEGISLATURE—2017-18 REGULAR SESSION

ASSEMBLY BILL **No. 924**

Introduced by Assembly Member Gray Bonta

February 16, 2017

~~An act to amend Section 19605.25 of the Business and Professions Code, relating to horse racing.~~ *An act to add Chapter 23 (commencing with Section 26240) to Division 10 of the Business and Professions Code, relating to cannabis.*

LEGISLATIVE COUNSEL'S DIGEST

AB 924, as amended, ~~Gray Bonta. Horse racing: minisatellite wagering facilities.~~ *Indian tribes: commercial cannabis activity.*
The Medical Cannabis Regulation and Safety Act (MCRSA), enacted by the Legislature, provides for the state licensure and regulation of commercial medical cannabis activities by specified state agencies. The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative statute enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, provides for state licensure and regulation of commercial adult use cannabis activity by specified state agencies. AUMA authorizes the Legislature to amend its provisions by a bill passed with a 2/3 vote of each house of the Legislature, if the amendment furthers its purposes and intent. AUMA also authorizes the Legislature to amend other provisions by a bill passed by a majority vote if the bill implements specified substantive provisions and the amendments are consistent with and further the purposes and intent of the act.
Under the existing federal doctrine of tribal immunity and the federal Indian Commerce Clause, the state, with certain exceptions, is precluded

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- Wilkinson Memo (October, 2014)
- Assembly Bill 924 (Bonta) – “Gut & Amend” on June 27, 2017
- Assembly G.O. Committee Oversight Hearing in June 2017
- What is the role of state and locals?
- Moving cannabis products off tribal lands?
- Tribal-issued licenses?
- Tribal MOU’s with locals?

Contact Us!



Visit our website and join our email list:

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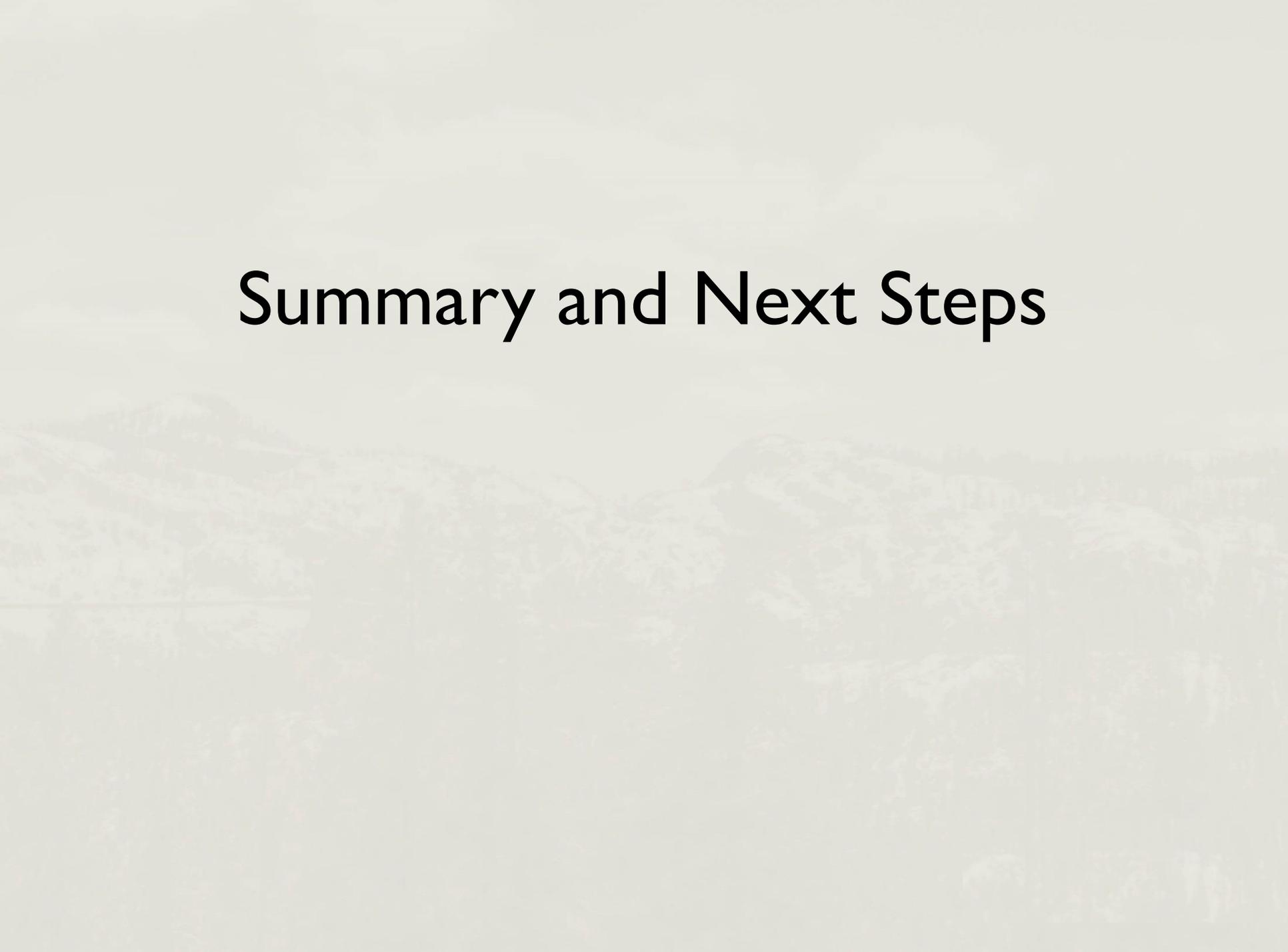


calcannabis@cdfa.ca.gov

Questions?

Public Comment

The background of the slide is a faded, light-colored image of a mountainous landscape. It shows a valley with a road or path winding through it, surrounded by forested hills and mountains in the distance. The overall tone is soft and muted.



Summary and Next Steps



Thank You!



CONSULTING AND FACILITATION SERVICES

NEVADA COUNTY



CANNABIS REGULATION COMMUNITY PLANNING PROCESS



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