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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

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Governor's May Revision: Budget Trailer Bill Changes to the Medical Marijuana Regulation and Safety Act





Overview of the MMRSA



Medical Marijuana Regulation and Safety Act (MMRSA) Passed by Legislature in 2015, Took Effect January 2016

- Implemented via three pieces of legislation: Chapters 688, 689, and 719 of 2015 (AB 243, Wood; AB 266, Bonta; and SB 643, McGuire).



Establishes New Regulatory Framework for Medical Marijuana Industry

- Implements new structure for licensing and enforcement of medical marijuana cultivation, product manufacturing, testing, transportation, storage, and distribution. Assigns various responsibilities to both state and local governments.
- Authorizes state and local governments to collect specified fees and taxes, as well as issue penalties for violations. State departments can establish licensing fees to cover regulatory costs.
- Requires state to set standards for labeling, testing, and packaging medical marijuana products and to develop an information technology (IT) system to track such products throughout the supply chain.
- Institutes system for regulating, monitoring, and reducing environmental impacts of marijuana cultivation.



Establishes New State Regulatory Entity, New Special Fund

- Creates Bureau of Medical Marijuana Regulation (BMMR) within the Department of Consumer Affairs (DCA).
- Establishes Medical Marijuana Regulation and Safety Act Fund (MMRSAF) to receive fees and penalties assessed under the act, and to be used for associated regulatory and enforcement activities. Provides one-time loan of up to \$10 million from the General Fund to the MMRSAF to begin implementation of the act.



Governor's 2016-17 MMRSA-Related Budget Proposals



January Budget Proposals

- Provides a total of \$24.6 million and 126 positions across the following six state departments: DCA, California Department of Food and Agriculture (CDFA), Department of Public Health (DPH), Department of Fish and Wildlife (DFW), State Water Resources Control Board (SWRCB), and Department of Pesticide Regulation.
- Roughly half of funding is from MMRSF, half from the General Fund.
- Provides an additional \$11 million loan from the General Fund to the MMRSF in 2016-17.



May Revision Budget Proposals

- Provides additional funding for DCA (\$6 million) and CDFA (\$2 million) to support the development of licensing and product tracking IT systems. Also includes budget bill language allowing the administration to increase funding for these projects after legislative notification.
- Increases proposed one-time loan from the General Fund to the MMRSF from \$11 million to \$19 million to cover costs associated with IT systems.
- Provides \$500,000 from the General Fund for DPH to participate in a Centers for Disease Control and Prevention Foundation and Institute of Medicine study review that seeks to better understand the health consequences of marijuana use.
- Includes various statutory changes in budget trailer legislation (see next page).



Major Changes to MMRSA in May Revision Budget Trailer Legislation

- ***BMMR Name Change.*** Changes BMMR's name to the Bureau of Medical Cannabis Regulation.
- ***Licensing Authority.*** Clarifies that implementing departments have the authority to create license types, set license fees, and conduct enforcement against licensees.
- ***Licensing Requirements.*** Adds additional conditions for licensure and grounds for disciplinary actions against licensees. Authorizes implementing departments to provide conditional licenses and establish deadlines for applying for licensure.
- ***Regulatory Authority.*** Authorizes implementing departments to promulgate regulations and provides them with emergency regulation authority.
- ***Department Roles for Track and Trace System.*** Specifies that CDFA is the licensing authority responsible for creating the track and trace IT system and provides the State Board of Equalization (BOE) access to the system. Eliminates a requirement for BOE to establish a reporting system for marijuana.
- ***Testing Laboratory Licensing Authority.*** Transfers licensing authority for marijuana testing laboratories from DPH to DCA.
- ***Product Packaging and Safety.*** Adds requirements for labeling and child-proof packaging. Defines and prohibits misbranding and the sale of adulterated products.
- ***Protection of Instream Flows.*** Clarifies roles of SWRCB, CDFA, and DFW in ensuring that cannabis cultivation does not negatively affect stream flows needed for fish and water quality. Institutes process for establishing and enforcing both interim and permanent requirements for cultivation-related water diversion and use.



Issues for Legislative Consideration

The Governor's proposed budget trailer legislation includes a number of policy and programmatic changes to MMRSA. As such, the Legislature will want to ensure that these changes are consistent with its priorities and preferred approach to regulating medical marijuana. Below, we highlight several potential questions that the Legislature may wish to ask as it reviews the proposed changes to MMRSA.

- ***Clear Rationale.*** Has the administration provided a clear rationale for the proposed changes to MMRSA? For example, why does the administration propose new requirements and enforcement procedures for cannabis-related water diversions rather than relying upon existing water law?
- ***Impacts of Changes.*** What are the possible budgetary and policy impacts of the proposed changes to MMRSA? For example, transferring responsibilities for licensing marijuana testing laboratories would suggest a need for a corresponding budgetary change.
- ***Urgency of Proposed Changes.*** Which provisions of the proposed language are particularly important to be implemented in the next few weeks in conjunction with the budget act? Alternatively, are there proposed changes that could be made through the policy process where taking more time would not cause significant problems for the implementing departments?
- ***Relationship to Proposed Non-Medical Marijuana Initiative.*** How would these proposed changes be impacted by the proposed ballot initiative to legalize recreational marijuana should it be passed by voters in November? For example, the initiative as proposed assumes DPH as the licensing authority for marijuana testing laboratories, whereas the proposed trailer bill language tasks DCA with this responsibility.
- ***Drafting Issues.*** Are new requirements placed in appropriate statutes? For example, some water-related requirements are proposed for Business and Professions Code rather than Water Code.