

New Regulatory Structure for Medical and Non-Medical Cannabis Laws

07.03.2017

ATTORNEYS

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SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, merges medical and non-medical cannabis regulations into a single regulatory scheme and may impact local cannabis ordinances. Before SB 94, medical cannabis was regulated by the Medical Cannabis Regulation and Safety Act ("MCRSA") and non-medical cannabis was regulated by the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), also known as Proposition 64. SB 94 took effect immediately when Governor Brown signed it on June 27, 2017.

SB 94 blends together medical and non-medical cannabis regulations by repealing the MCRSA and inserting certain licensing provisions from the MCRSA into the AUMA. SB 94 is a mixed blessing for local control over cannabis businesses. Although local jurisdictions will continue to retain complete control over what type, if any, of commercial cannabis businesses can operate in their jurisdiction, SB 94 eliminates the dual licensing scheme previously established by the MCRSA, whereby an applicant was required to obtain a local license or permit to operate a cannabis business before being issued a State license. Instead, SB 94 now requires a local jurisdiction to provide the newly created Bureau of Cannabis Control a copy of any ordinance related to commercial cannabis activity and the contact information for the person designated by the local jurisdiction to serve as the contact person regarding commercial cannabis activity within the jurisdiction.

Whenever a State licensing authority receives an application from a prospective cannabis business, the authority must notify the contact person of the corresponding local jurisdiction. The local jurisdiction must then notify the State licensing authority whether an applicant is compliant with local ordinances. The local jurisdiction's failure to respond within 60 business days results in a rebuttable presumption that the applicant is compliant with local ordinances, so it is important that each local jurisdiction designate a staff person to be responsible for these responses.

Local jurisdictions should not wait until an applicant applies for a State license to operate in their jurisdiction before adopting an ordinance either regulating or prohibiting cannabis businesses. Beginning January 1, 2018, cannabis businesses can lawfully sell cannabis and cannabis products, even if the cannabis and cannabis products are untested, if they have a State license. SB 94 also authorizes the State licensing authorities to issue temporary licenses for a period of 120 days (which can be extended for an additional 90 days) if the applicant provides a copy of a valid license, permit, or other authorization issued by a local jurisdiction that enables the applicant to conduct commercial cannabis activity at the location requested for the temporary license. The issuance of a temporary State license does not create a vested right in the licensee to either an extension of the temporary license or to the granting of a non-temporary license.

For further information about SB 94 and other laws relating to cannabis, please contact **Maricela Marroquin**.