

Practice Update

California Finally Releases New Proposed Cannabis Regulations

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California just released its much-anticipated proposed regulations to govern medical and adult-use commercial cannabis activity in the state commencing on January 1, 2018. This comprehensive set of proposed regulations replaces a prior set of regulations intended to govern just medical cannabis activity that the state withdrew in recent months. The document, 274 pages in length, is broken into three broad categories: general licensure requirements, manufacturing-specific requirements, and cultivation-specific requirements.

California is a dual-license state, meaning businesses must comply with both state and local regulations. Thus, if a local jurisdiction bans or restricts cannabis businesses in some way different than the state, then the business must comply with the more restrictive local requirements. Below is a broad summary of a few notable state requirements:

Temporary Licenses

- Temporary licenses will be available to existing cannabis businesses that can provide proof that the business has a valid license, permit, or other authorization issued by the local jurisdiction in which the business is operating.
- Temporary licenses will be effective January 1, 2018, and last 120 days from issuance, but may be

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subject to 90-day extensions.

Transition Period

To support a transition of business into the new regulated marketplace, from January 1 to July 1, 2018, California will allow the following:

- Transportation of cannabis good that do not meet new labeling requirements;
- Selling cannabis goods held in inventory that do not meet new packaging requirements;
- Selling cannabis products that do not meet new THC limits per package.

Annual State Licenses

- There is no cap on the number of state licenses that may be held by an applicant.
- There is no restriction on the types of licenses a business may hold, except testing laboratories may not hold other licenses in order to preserve their independence.
- Proof of local license, permit, or other authorization is required.
- “Owner” means a person who: (a) holds at least 20 percent aggregate ownership interest in the business; (b) is a CEO or member of the board of directors of a non-profit; or (c) will be participating in the direction, control, or management of the entity. All owners are subject to background criminal checks.
- Priority licenses are available for a business that can demonstrate that it was in operation and in good standing with the local jurisdiction by September 1, 2016.
- Premises requirements:
 - Businesses must provide proof of permission from landlord/owner and to-scale diagrams.

- 24-hour video security measures are required at licensed premises containing cannabis and cannabis products.
- A business can operate both medical and adult-use at one location if certain restrictions are met.

Distributor Licenses

- Transportation of cannabis between licensees must be conducted by licensed distributors.
- Distributors may hold a license (a) limited to just transportation; (b) to arrange for testing, checking for appropriate packaging and labeling, and collecting taxes; (c) act as a wholesaler.

Retailer/Dispensary Licenses

- Beginning in July 2018, retailers may not package or label cannabis on the premises and all cannabis and cannabis products must be packaged and labeled before arriving at retailer.
- Retail sales are permitted between 6 a.m. and 10 p.m.

Disclaimer

Possessing, using, distributing, and/or selling marijuana or marijuana-based products is illegal under federal law, regardless of any state law that may decriminalize such activity under certain circumstances. Although federal enforcement policy may at times defer to states' laws and not enforce conflicting federal laws, interested businesses and individuals should be aware that compliance with state law in no way assures compliance with federal law, and there is a risk that conflicting federal laws may be enforced in the future. No legal advice we give is intended to provide any guidance or assistance in violating federal law.