AB 64 (Bonta/Cooley/Jones-Sawyer/Lackey/Wood)

Reconciling the Medical Cannabis Regulation and Safety Act and the Adult Use of Marijuana Act, Proposition 64.

As introduced December 12, 2016

Summary
AB 64 begins the conversation around reconciling and unifying the regulatory structures under the Medical Cannabis Regulation and Safety Act and the Adult Use of Marijuana Act, Proposition 64.

Background
In 1996, California became the first state in the nation to allow the use of medical cannabis after voters approved Proposition 215, the California Compassionate Use Act. In 2003, California enacted Senate Bill 420, the Medical Marijuana Program Act, which allowed the medical cannabis industry to organize as collectives and cooperatives, and provided limited protections from prosecution. In 2015, California enacted the Medical Cannabis Regulation and Safety Act (MCRSA), by passing Assembly Bill 266 (Bonta, Cooley, Jones-Sawyer, Lackey, and Wood), Assembly Bill 243 (Wood), and Senate Bill 643 (McGuire). The Medical Cannabis Regulation and Safety Act was the first proactive regulatory framework for medical cannabis in the state’s history. The MCRSA was revised in 2016 with the passage of Senate Bill 837 and Assembly Bill 2516, which made changes to implement the act and create a new cottage cultivation license.

In 2016, two decades after the approval of Proposition 215, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA). The regulatory system contained within AUMA was modeled after the MCRSA, as approved by the Legislature in 2015, but contained policy differences and did not reflect legislative amendments made to the MCRSA prior to AUMA’s approval. Both acts require state licenses to be issued by the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health, and both require compliance with local ordinances regulating commercial cannabis activity.

AUMA directs the state to begin issuing licenses to businesses in the adult use cannabis industry by January 1, 2018, despite having only been approved by the voters on November 8, 2016. This is an aggressive timeline for implementation given that it leaves state licensing authorities with less than 14 months to engage in the stakeholder process, determine how to regulate the adult use cannabis industry and to what extent these regulations should differ from those they develop for the medical cannabis industry, and begin issuing multiple types of licenses under AUMA and the MCRSA, two systems with significant policy differences.

The Blue Ribbon Commission report published on July 22, 2015, highlighted the benefits and drawbacks of a unitary, reconciled system for regulating medical and adult use cannabis, suggesting that under such a system regulated businesses can reach the entire market of both adult use and medical consumers under one set of licenses, which would help reduce the costs of compliance with regulations and enable the businesses to remain competitive with the illicit market.

Robust standards for the cultivation, manufacturing, testing, distribution, and transportation of cannabis are required under both the MCRSA and AUMA and should be uniform in order to protect communities, the environment, public safety, and patients, while easing the transition for business.

Both the MCRSA and AUMA place local control at the core of their regulatory structures, reflecting the diversity of opinions surrounding medical and adult use cannabis in cities throughout California. As such, the regulatory options at the state level should reflect that diversity by providing for
medical dispensaries, adult use dispensaries, and nonstorefront dispensaries.

AUMA provides for amendment by the Legislature when consistent with and furthering the intent and text of the initiative. Creating a viable regulatory structure for both medical and adult use, which this act does, is core to and furthers that intent.

It is the intent of the Legislature that this act reconcile the Medical Cannabis Regulation and Safety Act and the Control, Regulate and Tax Adult Use of Marijuana Act in order to protect public safety, communities, patients, consumers, and the environment.

Key Provisions:

Advance $3 Million in CHP Funding:
Of critical importance to law enforcement and local communities is the development of standards to recognize impairment and impaired driving. While funding is allocated for these purposes in AUMA, it does not begin until the 18-19 fiscal year at the earliest. This would advance those funds to the 17-18 fiscal year, so CHP can begin improving road safety immediately.

Recognize Non-Storefront Dispensaries:
Nonstorefront dispensaries currently exist as delivery services, where they fulfill an important need by providing patients access to cannabis from the safety of their own homes. By recognizing nonstorefront dispensaries, AB 64 provides a pathway to licensure and guides local governments in allowing their use.

Facilitate Corporate Restructuring:
Allow businesses presently operating as medical cannabis collectives and cooperatives to operate on a “for profit” basis and engage in any necessary corporate restructuring prior to applying for a state license. Additionally, explicitly allow medical cannabis licensees to operate for profit.

Protect Cannabis Advertising Standards:
AUMA provides significant restrictions on advertisements and marketing by licensees of the adult use cannabis system. However, this does not include licensees of the medical cannabis system, nor does it include the many ancillary cannabis-related entities which advertise and market cannabis or cannabis products. AB 64 confronts this exception by applying the standards to all entities in the medical and adult use cannabis spaces.

Preserve Intellectual Property
Medical cannabis businesses have been developing innovative brands, but are unable to protect their intellectual property with trademarks. AB 64 allows the Secretary of State to issue state trademarks for medical & adult use cannabis & cannabis products.

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