

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

AB 471 (Kalra) – As Introduced February 6, 2023

**NOTE:** This bill is double-referred and if passed by this Committee will be referred to the Assembly Committee on Governmental Organization.

**SUBJECT:** Cannabis catering.

**SUMMARY:** Authorizes the Department of Cannabis Control (Department) to issue a state caterer license that authorizes the licensee to serve cannabis at a private event approved by a local jurisdiction for the purpose of allowing event attendees to consume the cannabis.

**EXISTING LAW:**

- 1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to provide for a comprehensive regulatory framework for the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medicinal and adult-use cannabis. (Business and Professions Code (BPC) §§ 26000 *et seq.*)
- 2) Establishes the Department within the Business, Consumer Services, and Housing Agency (previously established as the Bureau of Cannabis Control, the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation), for purposes of administering and enforcing MAUCRSA. (BPC § 26010)
- 3) Provides for twenty total types of cannabis licenses including subtypes for cultivation, manufacturing, testing, retail, distribution, and microbusiness; requires each licensee except for testing laboratories to clearly designate whether their license is for adult-use or medicinal cannabis. (BPC § 26050)
- 4) Requires the Department to convene an advisory committee to advise state licensing authorities on the development of standards and regulations for legal cannabis, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose such barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis. (BPC § 26014)
- 5) Establishes grounds for disciplinary action against cannabis licensees, including failures to comply with state licensing requirements as well as local laws and ordinances. (BPC § 26030)
- 6) Prohibits a cannabis licensee from selling alcoholic beverages or tobacco products on its premises. (BPC § 26054)
- 7) Requires cannabis or cannabis products purchased by a customer to be placed in an opaque package prior to leaving a licensed retail premises. (BPC § 26070.1)
- 8) Expresses that state cannabis laws shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabis businesses. (BPC § 26200(a))

- 9) Authorizes the Department to issue 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 event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature, provided that the activities comply with the following:
- a) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older, cannabis consumption is not visible from any public place or nonage-restricted area, and the sale or consumption of alcohol or tobacco is not allowed on the premises.
  - b) All participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event are licensed to engage in that activity.
  - c) The activities are otherwise consistent with regulations promulgated and adopted by the Department governing state temporary event licenses.
  - d) A state temporary event license shall only be issued in local jurisdictions that authorize such events.
  - e) A licensee who submits an application for a state temporary event license shall, 60 days before the event, provide to the department a list of all licensees that will be providing onsite sales of cannabis or cannabis products at the event.

(BPC § 28200(e))

- 10) Authorizes a local jurisdiction to allow for cannabis use on the premises of a cannabis retailer or microbusiness that does not sell or allow for the consumption of alcohol or tobacco on the premises, among other restrictions. (BPC § 26200(g))

**THIS BILL:**

- 1) Authorizes the Department to issue a state caterer license that authorizes the licensee to serve cannabis at a private event approved by a local jurisdiction for the purpose of allowing event attendees to consume the cannabis or cannabis products.
- 2) Defines “private event” as an event that is not open to the public and is not hosted, sponsored, or advertised by the caterer licensee.
- 3) Requires that access to the area where cannabis is consumed at a catered private event be restricted to persons 21 years of age or older and that the area not be visible to any public place or nonage-restricted area.
- 4) Allows for a cannabis caterer licensee to serve cannabis or cannabis products at a private event that the caterer brought to, but did not serve at, a prior event, if the cannabis or cannabis products have not been removed from their original packaging.
- 5) To the extent authorized by the local jurisdiction, permits the consumption of alcohol or tobacco consumption on the premises of an event approved to be catered if no alcoholic beverage license is required.

- 6) Prohibits a caterer licensee from selling, serving, or providing alcoholic beverages on the premises of an event approved to be catered.
- 7) Prohibits a caterer licensee from serving cannabis or cannabis products at any one premises for more than 36 events in one calendar year, unless the local jurisdiction determines additional events may be catered to satisfy substantial public demand.
- 8) Exempts applicants for licensure as a caterer from various requirements that cannabis license applicants provide information regarding the location or premises where they intend to engage in regulated activity.

**FISCAL EFFECT:** Unknown; this bill is keyed fiscal by the Legislative Counsel.

**COMMENTS:**

**Purpose.** This bill is sponsored by the **United Cannabis Business Association**. According to the author:

“Despite recreational cannabis becoming an integral part of the California experience for visitors and residents alike, the state has yet to regulate cannabis catering at hotels and throughout the travel industry. Safety is paramount for not only California’s hospitality workforce but the visitors to the state so that there may be controlled, mindful consumption of cannabis at hospitality group gatherings like weddings. AB 471 would ensure greater oversight by authorizing the Department of Cannabis Control (DCC) to create cannabis catering licenses so that licensees can serve cannabis or cannabis products at private events.”

**Background.**

*Brief History of Cannabis Regulation in California.* Consumption of cannabis was first made lawful in California in 1996 when voters approved Proposition 215, or the Compassionate Use Act. Proposition 215 protected qualified patients and caregivers from prosecution relating to the possession and cultivation of cannabis for medicinal purposes, if recommended by a physician. This regulatory scheme was further refined by SB 420 (Vasconcellos) in 2003, which established the state’s Medical Marijuana Program. After several years of lawful cannabis cultivation and consumption under state law, a lack of a uniform regulatory framework led to persistent problems across the state. Cannabis’s continued illegality under the federal Controlled Substances Act, which classifies cannabis as a Schedule I drug ineligible for prescription, generated periodic enforcement activities by the United States Department of Justice. Threat of action by the federal government created apprehension within California’s cannabis community.

After several prior attempts to improve the state’s regulation of cannabis, the Legislature passed the Medical Marijuana Regulation and Safety Act—subsequently retitled the Medical Cannabis Regulation and Safety Act (MCRSA)—in 2015. MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis. While entrusting state agencies to promulgate extensive regulations governing the implementation of the state’s cannabis laws, MCRSA fully preserved local control. Under MCRSA, local governments may establish their own ordinances to regulate medicinal cannabis activity. Local jurisdictions could also choose to ban cannabis establishments altogether.

Not long after the Legislature enacted MCRSA, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). The passage of the AUMA legalized cannabis for non-medicinal adult use in a private home or licensed business; allowed adults 21 and over to possess and give away up to approximately one ounce of cannabis and up to eight grams of concentrate; and permitted the personal cultivation of up to six plants. The proponents of the AUMA sought to make use of much of the regulatory framework and authorities set out by MCRSA while making a few notable changes to the structure still being implemented.

In the spring of 2017, SB 94 (Committee on Budget and Fiscal Review) was passed to reconcile the distinct systems for the regulation, licensing, and enforcement of legal cannabis that had been established under the respective authorities of MCRSA and the AUMA. The single consolidated system established by the bill—known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)—created a unified series of cannabis laws. On January 16, 2019, the state’s three cannabis licensing authorities—the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health—officially announced that the Office of Administrative Law had approved final cannabis regulations promulgated by the three agencies respectively.

In early 2021, the Department of Finance released trailer bill language to create a new Department with centralized authority for cannabis licensing and enforcement activities. This new department was created through a consolidation of the three prior licensing authorities’ cannabis programs. As of July 1, 2021, the Department has been the single entity responsible for administering and enforcing the majority of MAUCRSA. New regulations went into effect on January 1, 2023 to effectuate the consolidation and make other changes to cannabis regulation.

*Cannabis Consumption and Temporary Events.* Proposition 64 made it generally lawful for persons 21 years of age or older to smoke or ingest cannabis or cannabis products. There are few restrictions on adults consuming cannabis on private property; for example, MAUCRSA does not generally prohibit the co-consumption of cannabis and alcohol in a private setting. However, Proposition 64 did not permit any person to smoke or ingest cannabis products in a public place; in a location where smoking tobacco is prohibited; within 1,000 feet of a school, day care center, or youth center while children are present; or while driving, operating, or riding in a vehicle.

While MAUCRSA generally prohibits smoking, vaporizing, or ingesting cannabis or cannabis products in any public place. However, Proposition 64 authorized local jurisdictions to allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under certain conditions. This language gave cities and counties the option of locally authorizing the establishment of settings like “consumption lounges” where cannabis use can occur socially.

MAUCRSA also authorizes the Department to approve temporary event licenses to current cannabis licensees, which authorize onsite cannabis sales to, and consumption by, persons 21 years of age or older. These temporary events can take place at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature. Local jurisdictions must authorize these events for them to be approved by the Department.

Both consumption lounges on retail premises and temporary events place additional restrictions on where cannabis or cannabis premises may be consumed. Access to the area where cannabis consumption is permitted must be restricted to persons who are 21 years of age or older.

Cannabis consumption may not be visible from any public place or nonage-restricted area. Finally, the sale or consumption of alcohol or tobacco on the premises is strictly prohibited.

*Cannabis Catering for Private Events.* This bill seeks to create a regulatory environment specifically intended to allow for cannabis catering at private events such as weddings. The intent of the author is to allow for a new category of licensee to bring pre-purchased cannabis to an event location where it can be provided for free to guests, similar to how an “open bar” for alcoholic beverages functions at similar events. The caterer would not themselves be licensed as a retailer.

This model would be distinct from the existing temporary event license in several ways. First, only those already licensed by the Department under MAUCRSA, such as retailers and microbusinesses, may receive a temporary event license; this bill would allow individuals not otherwise licensed to serve as caterers if approved by the Department. Second, this bill would allow cannabis to be provided free of charge to event guests, prepaid by the event host; temporary events only allow for individual sales to take place on the premises. Finally, while alcohol and tobacco are prohibited at temporary events, this bill would allow for the consumption of both at private catered events within specified parameters.

**Current Related Legislation.** AB 374 (Haney) would authorize a local jurisdiction to allow for a cannabis retailer to conduct business activities on the premises other than the consumption of cannabis or cannabis products, including, but not limited to, selling non-cannabis-infused food, selling nonalcoholic beverages, and allowing, and selling tickets for, live musical or other performances. *This bill is pending in this committee.*

**Prior Related Legislation.** AB 2844 (Kalra) was substantially similar to this measure. *This bill died on the Assembly Appropriations Committee’s suspense file.*

AB 2210 (Quirk, Chapter 391, Statutes of 2022) authorized the Department to issue a state temporary event license for an event held at a venue that is licensed by the Department of Alcoholic Beverage Control under certain conditions.

AB 2020 (Quirk, Chapter 749, Statutes of 2018) authorized a state temporary event license to be issued to a licensee for an event to be held at any other venue expressly approved by a local jurisdiction for events.

#### **ARGUMENTS IN SUPPORT:**

The **California Travel Association** (CalTravel) supports this bill. CalTravel states: “Despite recreational cannabis consumption becoming an integral part of the California experience for visitors and residents, there is a gap in current DCC authority to license controlled consumption of cannabis at hospitality gatherings.” CalTravel argues that “AB 471 creates increased flexibility for the hospitality industry to responsibly integrate cannabis into visitor experiences.”

#### **ARGUMENTS IN OPPOSITION:**

None on file.

**REGISTERED SUPPORT:**

California Travel Association

**REGISTERED OPPOSITION:**

None on file.

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