

Date of Hearing: April 2, 2019

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 545 (Low) – As Introduced February 13, 2019

SUBJECT: Cannabis: Bureau of Cannabis Control: Cannabis Control Appeals Panel.

SUMMARY: Provides for regular legislative oversight of the Bureau of Cannabis Control (BCC) through the sunset review process.

EXISTING LAW:

- 1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act 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 al.)
- 2) 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)
- 3) Establishes the BCC within the Department of Consumer Affairs, previously named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation, for purposes of regulating microbusinesses, transportation, storage, distribution, testing, and sale of cannabis and cannabis products within the state. (BPC § 26010)
- 4) Establishes the Cannabis Control Appeals Panel, which provides for an appellate forum for persons aggrieved by a licensing authority's decision on their cannabis license. (BPC § 26040)
- 5) Authorizes the Legislature to, by majority vote, enact laws to implement the state's regulatory scheme for cannabis if those laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act (Proposition 64). (BPC § 26000)
- 6) Establishes the sunset review process, which provides for a comprehensive analysis by the Legislature to determine the effectiveness and necessity of regulatory boards and bureaus under the Department of Consumer Affairs, with the BCC specifically exempted. (BPC § 9147.7)

THIS BILL:

- 1) States that the powers and duties of the BCC shall be subject to review by the appropriate policy committees of the Legislature as though the BCC's authority was to be repealed as of January 1, 2021.
- 2) States that the powers and duties of the Cannabis Control Appeals Panel shall be subject to review by the appropriate policy committees of the Legislature as though the BCC's authority was to be repealed as of January 1, 2021.

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

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author:

California's legal cannabis market will only succeed if our regulations correctly balance consumer protection and industry innovation. As the black market continues to threaten legitimate business, AB 545 will provide responsible legislative oversight of the Bureau of Cannabis Control through the sunset review process. Currently, the BCC is the only board or bureau under the Department of Consumer Affairs that does not go through sunset review. While the Legislature retains its authority to conduct oversight hearings and make inquiries to the bureau, this process is less structured and comprehensive than a standard sunset review. Once the state's licensure of cannabis businesses is fully implemented, more standardized oversight will be beneficial to ensuring an appropriate balance of public protection and industry support.

Background.

In order to ensure that California's myriad professional boards and bureaus are meeting the state's public protection priorities, authorizing statutes for these regulatory bodies are subject to statutory dates of repeal, at which point the entity "sunsets" unless the date is extended by the Legislature. The sunset process provides a regular forum for discussion around the successes and challenges of various programs and the consideration of proposed changes to laws governing the regulation of professionals.

Currently, the sunset review process applies to 36 different boards and bureaus under the Department of Consumer Affairs, which range from the Medical Board of California to the Bureau of Automotive Repair to the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. On a schedule averaging every four years, each board and bureau is required to present a report to the Legislature's policy committees, which in return prepare a comprehensive on the efficacies and efficiencies of their licensing and enforcement programs. Both the Administration and regulated professional stakeholders actively engage in this process. Legislation is then subsequently introduced extending the repeal date for the entity along with any reforms identified during the sunset review process.

Several entities that go through sunset review were created through the initiative process and are thus not technically subject to repeal without the matter being returned to the voters. This includes the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California. Language providing for sunset review of these entities states instead that the review shall be conducted as though the boards were to be repealed on a certain date.

Currently, the BCC is the only board or bureau under the Department of Consumer Affairs that does not go through sunset review. As the newest entity created under that department, the BCC was provided adequate time to begin its regulatory responsibilities prior to receiving comprehensive evaluation by the Legislature. As the state's licensing of legal cannabis business continues to be effectuated, however, regular review by the Legislature through the sunset process is arguably a more predictable and efficient mechanism for legislative policy committees to provide oversight for the bureau, while providing a structured forum for industry stakeholders to weigh in on what reforms may be needed to statute governing the BCC's activities.

Current Related Legislation. AB 228 (Aguiar-Curry) would authorize cannabis businesses to sell products containing CBD derived from hemp. *This bill is pending in the Assembly Appropriations Committee.*

AB 286 (Bonta) would reduce the excise tax rate on cannabis and suspend the cannabis cultivation tax until June 1, 2022. *This bill is pending in the Assembly Revenue and Taxation Committee.*

AB 141 (Cooper) would authorize cannabis licensees to participate in informational, educational, or training event for government officials and their employees. *This bill is pending in the Assembly Business and Professions Committee.*

AB 420 (Lackey) would allow the University of San Diego Center for Medicinal Cannabis Research to cultivate cannabis for research purposes. *This bill is pending in the Assembly Appropriations Committee.*

AB 404 (Stone) would authorize a testing laboratory to amend a certificate of analysis or retest a sample under certain conditions. *This bill is pending in the Assembly Business and Professions Committee.*

AB 545 (Low) would require the Bureau of Cannabis Control to undergo sunset review. *This bill is pending in the Assembly Business and Professions Committee.*

AB 1530 (Cooley) would allow local governments to ban cannabis delivery within a jurisdiction. *This bill is pending in the Assembly Business and Professions Committee.*

AB 1288 (Cooley) would require cannabis delivery to be included in track and trace. *This bill is pending in the Assembly Business and Professions Committee.*

Prior Related Legislation. SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017) combined AUMA and MCRSA into one system for the regulation of cannabis, resulting in MAUCRSA.

REGISTERED SUPPORT:

None on file.

REGISTERED OPPOSITION:

None on file.

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