Date of Hearing: April 7, 2026

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 2506 (Hart) – As Amended March 2, 2026

SUBJECT: Cannabis licensure: tribal government licensure.

SUMMARY: Authorizes commercial cannabis activity between licensees of the Department of Cannabis Control (DCC) and licensees of an Indian tribe if the DCC certifies that the tribal government imposes requirements on its licensees that meet or exceed the state's requirements.

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 DCC 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) Establishes grounds for disciplinary action against cannabis licensees, including failures to comply with state requirements as well as local laws and ordinances. (BPC § 26030)

4) Authorizes the DCC to issue a citation to a licensee or unlicensed person for violating any provision of MAUCRSA. (BPC § 26031.5)

5) Prohibits a person or entity from engaging in commercial cannabis activity without a state license issued by the DCC. (BPC § 26037.5)

6) Authorizes the Attorney General or a city or county counsel or city prosecutor to bring an action against persons engaged in unlicensed commercial cannabis activity for civil penalties. (BPC § 26038)

7) Authorizes a cannabis licensee to bring an action in superior court against a person engaging in commercial cannabis activity without a license. (BPC § 26038.1)

8) Establishes a process for the voluntary recall and remediation or destruction of cannabis products that the DCC identifies as adulterated or misbranded. (BPC §§ 26039.1 – 26039.6)

9) Authorizes a peace officer, including a peace officer within the DCC, to seize cannabis, industrial hemp, and cannabis products in specified circumstances, including when industrial hemp is in violation of an applicable tribal plan. (BPC § 26039.4)

10) Provides the DCC with authority for issuing various types of commercial cannabis licenses including subtypes for cultivation, manufacturing, testing, retail, distribution, and microbusiness. (BPC § 26050)

11) Requires the DCC to establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier and is capable of capturing and providing specified information. (BPC § 26067)

12) Prohibits cannabis or cannabis products from being sold unless a representative sample of has been tested by a licensed testing laboratory. (BPC § 26100)

13) Subjects cannabis and cannabis product batches to quality assurance standards and testing. (BPC § 26110)

14) Prohibits cannabis and cannabis product packages and labels from being made to be attractive to children. (BPC § 26120)

15) Requires the DCC to set packaging and labeling standards for manufactured cannabis products, including a requirement that products not be designed to be appealing to children or easily confused with commercially sold candy or other non-cannabis foods. (BPC § 26130)

16) Prohibits a cannabis licensee from doing any of the following:

    a) Advertising or marketing in a manner that is false or untrue in any, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

    b) Publishing or disseminating advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on its labeling.

    c) Publishing or disseminating advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

    d) Advertising or marketing on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

    e) Advertising or marketing cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

    f) Publishing or disseminating advertising or marketing that is attractive to children.

    g) Advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

    h) Publishing or disseminating advertising or marketing while the licensee's license is suspended.

    (BPC § 26152)

17) Prohibits a cannabis licensee from publishing or disseminating advertising or marketing containing any health-related statement that is untrue or tends to create a misleading impression as to the effects on health of cannabis consumption. (BPC § 26154)

18) Specifies that MAUCRSA does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances regulating cannabis licensees. (BPC § 26200)

19) Authorizes the Governor to enter into an agreement with another state to allow for medicinal or adult-use commercial cannabis activity between entities licensed under the laws of a contracting state (foreign licensees) and entities licensed by the DCC (state licensees), if specified criteria are met. (BPC § 26301)

20) Prohibits foreign licensees from engaging in commercial cannabis activity within the boundaries of California without a state license and subjects a foreign licensee to the jurisdiction of California for the purpose of actions taken for violation of California commercial cannabis laws and regulations. (BPC § 26302)

21) Requires an interstate cannabis agreement to require that the contracting state impose requirements on foreign licensees with regard to cannabis and cannabis products to be sold or otherwise transferred or distributed within this state that meet or exceed the requirements applicable to state licensees, including all of the following:

    a) Enforceable public health and safety standards that are equivalent to the requirements of MAUCRSA.

    b) Mandatory participation in a system administered by the state to regulate and track the cultivation, manufacturing, distribution, transportation, sale, and destruction of cannabis and cannabis products from seed to sale.

    c) Standards for the testing of cannabis or cannabis products that meet or exceed the standards applicable to testing laboratories licensed under MAUCRSA.

    d) Requirements for the packaging and labeling of cannabis and cannabis products that meet or exceed the packaging and labeling requirements established under MAUCRSA.

    e) Requirements for quality assurance and inspection of cannabis or cannabis products that meet or exceed the requirements applicable to cannabis or cannabis products cultivated, manufactured, or sold by state licensees.

    f) Restrictions on marketing, labeling, and advertising within this state by foreign licensees that meet or exceed the restrictions on state licensees established under MAUCRSA.

    g) A process for the identification of adulterated or misbranded cannabis products, and the destruction of those products, using standards that meet or exceed the standards and procedures established under MAUCRSA.

    (BPC § 26303)

22) Requires an interstate cannabis agreement to require the DCC and the appropriate regulatory authorities of the contracting state to address public health and welfare emergencies concerning cannabis or cannabis products that are sold or intended for sale within California, including for the prompt recall or embargo of adulterated or misbranded cannabis or cannabis products. (BPC § 26304)

23) Requires an interstate cannabis agreement to include provisions determined by the Governor to promote the inclusion and support of individuals and communities in the cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization. (BPC § 26305)

24) Requires an interstate cannabis agreement to provide for collection of all applicable taxes. (BPC § 26306)

25) Exempts the Governor from the rulemaking procedures and requirements of the Administrative Procedure Act when entering into interstate cannabis agreements or amendments to agreements, provided that the Governor submit the proposed interstate cannabis agreement or amendment to the Joint Legislative Budget Committee for review and comment and post the proposed interstate cannabis agreement or amendment on the DCC's website for public comment for 30 days. (BPC § 26307)

26) Provides that an interstate cannabis agreement shall not take effect unless one of the following occurs:

    a) Federal law is amended to allow for the interstate transfer of cannabis or cannabis products between authorized commercial cannabis businesses.

    b) Federal law is enacted that specifically prohibits the expenditure of federal funds to prevent the interstate transfer of cannabis or cannabis products between authorized commercial cannabis businesses.

    c) The United States Department of Justice issues an opinion or memorandum allowing or tolerating the interstate transfer of cannabis or cannabis products between authorized commercial cannabis businesses.

    d) The Attorney General issues a written opinion that state law authorization under an interstate cannabis agreement will not result in significant legal risk to the State of California under the federal Controlled Substances Act, based on review of applicable law, including federal judicial decisions and administrative actions.

    (BPC § 26308)

27) Provides California with criminal jurisdiction and civil adjudicatory jurisdiction over tribal lands within its borders, but not civil regulatory jurisdiction. (Public Law 83-280)

THIS BILL:

1) Defines "tribal licensee" as an entity that has been licensed by a federally recognized Indian tribe located within California.

2) Authorizes a state licensee to engage in commercial cannabis activity with a tribal licensee if the DCC certifies that the relevant tribal government imposes requirements on the tribal licensee with regard to cannabis and cannabis products to be sold or otherwise transferred or distributed within California that meet or exceed the requirements applicable to state licensees, including all of the following:

a) Enforceable public health and safety standards that are equivalent to the requirements of MAUCRSA.

b) Mandatory participation in a system administered by the state to regulate and track the cultivation, manufacturing, distribution, transportation, sale, and destruction of cannabis and cannabis products from seed to sale.

c) Standards for the testing of cannabis or cannabis products that meet or exceed the standards applicable to testing laboratories licensed under MAUCRSA.

d) Requirements for the packaging and labeling of cannabis and cannabis products that meet or exceed the packaging and labeling requirements established under MAUCRSA.

e) Requirements for quality assurance and inspection of cannabis or cannabis products that meet or exceed the requirements applicable to cannabis or cannabis products cultivated, manufactured, or sold by state licensees.

f) Restrictions on marketing, labeling, and advertising within this state by foreign licensees that meet or exceed the restrictions on state licensees established under MAUCRSA.

g) A process for the identification of adulterated or misbranded cannabis products, and the destruction of those products, using standards that meet or exceed the standards and procedures established under MAUCRSA.

3) Finds and declares that the provisions of the bill further the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act (Proposition 64).

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

COMMENTS:

Purpose. This bill is sponsored by *Twenty-Nine Palms Band of Mission Indians*. According to the author:

> AB 2506 supports tribal sovereignty in California while combating illegal cannabis. This bill builds off existing legislation and similar laws in Oregon and Washington, among others, to give the State the ability to certify that tribal entities can sell cannabis to state licensed retailers. This mirrors the existing structure that allows out-of-state growers to sell into California, requiring the exact same or stronger protections to safeguard consumers. This integration of tribal markets respects their sovereignty while broadening the availability and lowering the price of regulated and safe cannabis products.

Background.

Brief History of Cannabis Regulation in California. Consumption of cannabis was first made lawful in California in 1996 when voters approved Proposition 215, 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. 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 persistent 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 organizational consolidation and make other changes to cannabis regulation.

Tribal Governments and Cannabis. A document issued by the United States Attorney General in 2013 known as the "Cole memorandum" indicated that the existence of a strong and effective state regulatory system, and a cannabis operation's compliance with such a system, could allay the threat of federal enforcement interests. Federal prosecutors were urged under the memo to review cannabis cases on a case-by-case basis and consider whether a cannabis operation was in compliance with a strong and effective state regulatory system prior to prosecution.

The Cole memorandum was followed by a "Policy Statement Regarding Marijuana Issues in Indian Country," referred to as the "Wilkinson memorandum." This memorandum essentially extended the Cole memorandum to tribal lands contained within the borders of states that possess strong and effective state regulatory systems for cannabis, and that effectively comply with that regulatory system. Both the Cole and Wilkinson memoranda were rescinded by Attorney General Jeff Sessions in January 2018.

In March 2022, a coalition of nine United States senators sent a letter to then-Attorney General Merrick Garland, urging the Department of Justice to respect tribal sovereignty and cease enforcement of the Controlled Substances Act on tribal lands where cannabis activities are legalized by the tribes. The letter emphasized that tribal governments should have the right to determine their own cannabis policies without federal interference. In October 2025, Attorney General Pam Bondi testified in a Senate Judiciary Committee hearing that the federal Department of Justice would look into questions of whether tribal governments could legally transport cannabis products into state jurisdictions.

Neither the AUMA nor MAUCRSA included any language expressly authorizing recognized Indian tribes to engage in licensed cannabis activity within California. The DCC's regulations provide that a cannabis licensee "that may fall within the scope of sovereign immunity that may be asserted by a federally recognized Indian tribe or other sovereign entity must waive any sovereign immunity defense that the applicant or licensee may have." The DCC's prohibition on cannabis delivery to publicly owned lands also "applies to land held in trust by the United States for a tribe or an individual tribal member unless the delivery is authorized by and consistent with applicable tribal law."

It is generally accepted that members of a recognized Indian tribe may engage in cannabis activities on tribal land as long as this activity does not intermix with the market outside that tribal land and any involved individuals are exempted from the state's cannabis license requirements through a claim of sovereign immunity. However, this has led to frustration among tribes that wish to engage in the state's regulated industry without having to waive sovereign immunity, as required by the DCC's regulations. One obstacle to this policy goal is Public Law 280, which does not allow the state's licensing authorities to enter that tribal land to engage in civil regulatory enforcement, meaning a tribe's compliance with MAUCRSA could not be monitored and confirmed without a waiver of sovereign immunity.

Additionally, even to the extent that members of a tribe do not themselves intend to engage in regulated cannabis activities, they remain unable to lease any part of their land for cannabis cultivation to a California licensee. Tribal land is not technically within a local government capable of authorizing the activity locally under the state's scheme for dual-licensure. Meanwhile, tribal governments also see significant adverse impacts from the illicit cannabis market, including environmental damage and other criminal activity.

In mid-2018, the California Native American Cannabis Association (C-NACA), represented by former Lieutenant Governor Cruz Bustamante, advocated in support of AB 924 (Bonta), referred to as the Cannabis Regulatory Enforcement Act for Tribal Entities or the "CREATE Act." The bill proposed to authorize the Governor to enter into an agreement with a tribe that would authorize commercial cannabis and hemp activity between entities located and licensed in Indian country and state licensees. The bill provided that a tribe entering into an agreement would establish a cannabis regulatory program to enforce requirements comparable to MAUCRSA.

AB 924 received considerable pushback from Administration officials serving under Governor Jerry Brown, who opposed any proposal to authorize tribal licensees to engage in commercial cannabis activity within the jurisdiction of California without a limited waiver of sovereign immunity to allow the state's licensing authorities to conduct inspections and enforcement operations. On July 2, 2018, the bill was amended to primarily consist only of intent language, and on July 3, the Governor's office convened a meeting comprised of representatives of the Administration, the Legislature, C-NACA, and key cannabis stakeholders. This meeting resulted in the recognition of an irreconcilable ideological divergence between the Administration and tribal leaders regarding state regulatory oversight of cross-jurisdictional cannabis activity by tribal licensees. Following the demise of AB 924, C-NACA lobbied Governor Gavin Newsom for more favorable consideration of a similar proposal, but subsequently claimed to have been "ignored" by the newly elected governor.[1]

Several recent court decisions have further developed this policy landscape. In January 2026, a federal judge dismissed most of the claims brought by representatives of the Round Valley Indian Tribe against the California Highway Patrol and local law enforcement for conducting raids on cannabis cultivation operations on tribal land, ruling that "when the state has jurisdiction to enforce a criminal law on a reservation, inherent tribal sovereignty does not prevent state law enforcement from investigating and prosecuting those laws."[2] That same month, the Ninth Circuit Court of Appeals issued a ruling that held that the dormant commerce clause's protections for interstate commerce under the United States Constitution do not apply to commercial cannabis activities because of the illegal status of that activity under federal law.[3]

According to the Indigenous Cannabis Industry Association, approximately a quarter of all federally recognized Indian tribes are currently involved in some form of cannabis or hemp operation.[4] However, California continues to disallow cannabis commerce between the state's licensed cannabis market and tribal licensees without a limited waiver of sovereign immunity. This bill would authorize the DCC to certify that a tribal government imposes requirements on its licensees meet or exceed the requirements of MAUCRSA and would permit state licensees to engage in commercial cannabis activity with licensees of a certified tribe. However, the bill would not expressly allow California regulators to conduct investigation or enforcement operations against tribal licensees, invoking the same policy discussions that have long remained unresolved.

Current Related Legislation. AB 1496 (B. Rubio) would reestablish prior task force on state and local regulation of commercial cannabis activity and expands the membership of the task force to include representatives of tribal governmental entities. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

Prior Related Legislation. SB 1326 (Caballero), Chapter 396, Statutes of 2022 empowers the Governor to enter into agreements with other states that allow for interstate commerce between licensed cannabis businesses across state lines, subject to certain conditions.

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[1] Nieves, Alexander. "Tribes Frustrated at Being Locked out of California Cannabis Market." *Politico*, July 2019.
[2] *Round Valley Indian Tribes v. Kendall.* No. 1:25-cv-03736-RMI. United States District Court, Northern District of California, January 2026. Order granting in part and denying in part motions to dismiss.
[3] *Peridot Tree WA, Inc. v. Washington State Liquor and Cannabis Control Board.* 162 F.4th 1179. United States Court of Appeals for the Ninth Circuit, January 2026.
[4] Adams, Benjamin. "Map Shows One in Four Continental U.S. Tribes Work in Cannabis or Hemp." *Forbes*, May 2025.

AB 1710 (Wood), Chapter 123, Statutes of 2019 would have authorized the County of Del Norte to enter into an agreement with the Elk Valley Rancheria, a federally recognized Indian tribe, regarding local authorization for the tribe to engage in commercial cannabis activity, with an agreement that the tribe comply with state laws and regulations regarding cannabis. *This language was replaced with contents addressing an unrelated topic.*

AB 924 (Bonta) of 2018 would have required a tribe entering into a tribal cannabis regulatory agreement with the Governor, as ratified by the Legislature, to establish a tribal cannabis regulatory commission or agency pursuant to the tribe's established governmental process. *This bill was held on suspense in the Senate Committee on Appropriations.*

AB 1096 (Bonta) of 2017 would have authorized the Governor to enter into agreements concerning medical and recreational marijuana with a federally recognized sovereign Indian tribe. *This language was replaced with contents addressing an unrelated topic and the bill did not receive a hearing in the Assembly Committee on Governmental Organization.*

AB 2545 (Bonta) of 2016 would have authorized the Governor to enter into agreements concerning medical cannabis with federally recognized sovereign Indian tribes. *This bill was held on suspense in the Assembly Committee on Appropriations.*

SB 94 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2017 combined the AUMA and MCRSA into MAUCRSA, a unified system for the regulation of cannabis.

ARGUMENTS IN SUPPORT:

Twentynine Palms Band of Mission Indians, the sponsor of this bill, writes: "AB 2506 seeks to utilize the existing statutory safeguards for cross-jurisdictional commercial cannabis activities to implement a commonsense policy that combats the illicit underground cannabis market by creating a pathway for California's Indian Tribes to partner with the State of California and the Department of Cannabis Control in order to enter into the State's cannabis market."

ARGUMENTS IN OPPOSITION:

The *California Cannabis Operators Association* (CaCOA) opposes this bill. CaCOA writes: "Licensed operators continue to face significant challenges, including an entrenched illicit market, high taxes, and substantial regulatory costs. At this juncture, introducing a fundamental shift in the state's commercial framework, without fully resolving questions of regulatory parity and enforcement, risks further destabilizing an already fragile market and may inadvertently disadvantage operators who remain fully subject to the state's existing requirements."

POLICY ISSUE(S) FOR CONSIDERATION:

Lack of State Enforcement Authority. As with prior proposals to allow for licensees of federally recognized Indian tribes to engage in commercial cannabis activity with licensees of the DCC, this bill would not authorize California regulators to engage in oversight or enforcement activities regarding tribal licensees. Existing regulations adopted by the DCC do allow for applicants operating within a tribal jurisdiction to obtain a state license; however, they must agree to a limited waiver of sovereign immunity as a condition of that license. Otherwise, it is understood that Public Law 280 would prohibit the DCC or any other state agency from engaging in enforcement against that licensee for any noncriminal misconduct.

This bill would require the DCC to certify that a tribal government imposes requirements on tribal licensees that meet or exceed the requirements of MAUCRSA. However, the DCC would not be authorized to conduct inspections to ensure compliance with those requirements, and would be fully relying on the certified tribe to administer and enforce those requirements. As long as California's cannabis market is intended to remain a closed-loop system, this lack of authority may be considered undesirable by the Legislature.

Threat of Federal Enforcement. Among the enumerated powers granted to the Congress by the United States Constitution is the power "to regulate Commerce … among the several States." Commonly referred to as the "Interstate Commerce Clause," this provision is understood to authorize the federal government to impose laws on the states regulating activities taking place across their boundaries. This includes the Controlled Substances Act; in 2005, the United States Supreme Court affirmed in *Gonzales v. Raich* that the cultivation of cannabis could be federally criminalized even though it took place lawfully in California under Proposition 215.

The authority of the federal government to nationally ban what may authorized at the state level is further established through the Constitution's Supremacy Clause. This provision provides that federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the Contrary notwithstanding." Constitutionally speaking, the continued Schedule I status of cannabis under the Controlled Substances Act renders cultivation and sale of the plant illegal as a matter of federal law. While each memorandum has been clear that the federal government *could* enforce the Controlled Substances Act in states that have established legal schemes for cannabis commerce, there has generally been an understanding that these actions would not take priority. However, there remain certain policy areas within the domain of cannabis legalization that have been perceived as risking increased federal interest.

The Cole memorandum specifically enumerated certain enforcement priorities that states should take care to consider when legalizing cannabis. One of those priorities was "preventing the diversion of marijuana from states where it is legal under state law in some form to other states." The memoranda additionally suggested that "a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states." While Department of Justice policy expressly deprioritized enforcement against "strong and effective regulatory and enforcement systems" consisting only of intrastate cannabis commerce, the memoranda also made it clear that care should be taken to prevent cannabis from crossing state lines. The Wilkinson memorandum extended similar concepts to commerce between states and tribal entities.

When the Trump Administration rescinded the Cole and Wilkinson memoranda, the reasoning provided was to provide federal prosecutors *broader* authority to enforce the Controlled Substances Act in states that legalized cannabis. There was subsequently no new guidance from the Biden Administration regarding what factors the Department of Justice would consider prior to enforcement, nor has the current iteration of the Trump Department of Justice indicated its position on enforcing federal cannabis laws. However, given longstanding policy that the transport of cannabis beyond state boundaries is potential cause for antagonism with the federal government, reservations have been raised about whether it would be appropriate to authorize California cannabis licensees to engage in commercial activity with entities outside the state absent some form of federal reassurance.

In 2022, the Legislature enacted SB 1326 (Caballero), which authorized the Governor to enter into agreements with other states that allow for interstate commerce between licensed cannabis businesses across state lines. However, amendments to the bill taken in this committee provided that this authority would not take effect until federal action or guidance to allow for such commerce, or until the Attorney General issues a written opinion that such commerce would not result in significant legal risk to the state. The provisions of this bill authorizing cannabis activity between state licensees and tribal licensees would utilize some, but not all, of SB 1326's framework for cannabis activity between state licensees and licensees of other states.

If this bill does not provide for exemptions to Public Law 280 or a requirement for a limited waiver of sovereign immunity for tribal licensees engaged in cross-jurisdictional activity, then those participating tribes are functionally similar to those foreign states who currently quality for an interstate cannabis agreement under SB 1326. The Legislature may therefore wish to be consistent in the framework for any cannabis commerce extending beyond the boundaries of California, whether it be into another state or onto tribal land. The policy rationale behind requiring some form of federal action or assurance for the provisions of SB 1326 to go into effect would then additionally apply to the agreements contemplated by this bill. The author may therefore wish to restructure this bill to add tribal licensees to the existing provisions of law established for interstate commerce, rather than replicating only a portion of those laws for purposes of commerce with tribal licensees.

AMENDMENTS:

To restructure the bill to incorporate tribal licensees into existing law providing for interstate cannabis agreements, delete the current contents of the bill and amend Chapter 25 of Division 10 of the Business and Professions Code as follows:

26300. *As used in this chapter, the following definitions apply:*

(a) "Agreement" means an agreement relating to commercial cannabis authorized under this chapter and entered into between this state and another state or states.

(b) "Contracting state" means a state of the United States, including a district, commonwealth, territory, or possession subject to the legislative authority of the United States, with which the Governor has entered into an agreement pursuant to this chapter.

(c) "Foreign license" means a commercial cannabis license issued under the laws of another state or an Indian tribe that has entered into an agreement pursuant to this chapter.

(d) "Indian tribe" means a federally recognized Indian tribe in this state.

(e) "State license" means a commercial cannabis license issued by a licensing authority pursuant to this division.

26301. *(a) The Governor may enter into an agreement with another state or states, or an Indian tribe authorizing medicinal or adult-use commercial cannabis activity, or both, between entities licensed under the laws of the contracting state or tribal government and entities operating with a state license, provided that both of the following criteria are met:*

(1) The commercial cannabis activities are lawful and subject to licensure under the laws of the contracting state or tribal government.

(2) With respect to the interstate transportation of cannabis or cannabis products, the agreement prohibits both of the following:

(A) The transportation of cannabis and cannabis products by any means other than those authorized under both the laws of the contracting state or tribal government and the regulations of the department.

(B) The transportation of cannabis and cannabis products through the jurisdiction of a state, district, commonwealth, territory, or possession of the United States that does not authorize that transportation.

(b) Notwithstanding any other law, the execution of, and compliance with the terms of, an agreement does not constitute a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

26303. *(a) An agreement shall require that the contracting state or tribal government impose requirements on foreign licensees with regard to cannabis and cannabis products to be sold or otherwise transferred or distributed within this state that meet or exceed the requirements applicable to state licensees, including all of the following:*

(1) Enforceable public health and safety standards that are equivalent to the requirements of this division.

(2) Mandatory participation in a system administered by the state or tribal government to regulate and track the cultivation, manufacturing, distribution, transportation, sale, and destruction of cannabis and cannabis products from seed to sale.

(3) Standards for the testing of cannabis or cannabis products that meet or exceed the standards applicable to testing laboratories licensed under this division.

(4) Requirements for the packaging and labeling of cannabis and cannabis products that meet or exceed the packaging and labeling requirements established pursuant to Chapter 12 (commencing with Section 26120).

(5) Requirements for quality assurance and inspection of cannabis or cannabis products that meet or exceed the requirements applicable to cannabis or cannabis products cultivated, manufactured, or sold by state licensees.

(6) Restrictions on marketing, labeling, and advertising within this state by foreign licensees that meet or exceed the restrictions on state licensees established in Section 26063 and Chapter 15 (commencing with Section 26150).

(7) A process for the identification of adulterated or misbranded cannabis products, and the destruction of those products, using standards that meet or exceed the standards and procedures established pursuant to this division.

(b) An agreement shall require that the contracting state or tribal government impose restrictions upon advertising, marketing, labeling, or sale within the contracting state that meet or exceed the restrictions established in Section 26063.

***26304**. (a) An agreement shall include provisions requiring the department and the appropriate regulatory authorities of the contracting state or tribal government to address public health and welfare emergencies concerning cannabis or cannabis products that are sold or intended for sale within this state, including for the prompt recall or embargo of adulterated or misbranded cannabis or cannabis products.*

(b) An agreement shall include provisions requiring the appropriate regulatory authorities of each state or tribal government to investigate instances of alleged noncompliance with the commercial cannabis regulatory programs upon request by the other state or tribal government and in accordance with mutually agreed-upon procedures. An agreement shall include provisions requiring the contracting state or tribal government to reasonably cooperate with California investigations concerning foreign licensees, and requiring the department to reasonably cooperate with investigations by the contracting state or tribal government concerning persons or entities holding state licenses.

REGISTERED SUPPORT:

Twentynine Palms Band of Mission Indians *(Sponsor)*

REGISTERED OPPOSITION:

California Cannabis Operators Association

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