

## ASSEMBLY THIRD READING

AB 2506 (Hart)

As Amended April 8, 2026

2/3 vote

**SUMMARY**

Authorizes the Governor to enter into an agreement with a federally recognized Indian tribe to allow for commercial cannabis activity between licensees of the Department of Cannabis Control (DCC) and licensees of the tribal government if specified conditions are met.

**Major Provisions**

- 1) Provide that the Governor may enter into an agreement with an Indian tribe authorizing medicinal or adult-use commercial cannabis activity, or both, between entities licensed under the laws of the tribal government and entities operating with a state license, under the same conditions as required for an agreement with another state.
- 2) Requires an agreement between the state and a tribal government to include provisions requiring the DCC and the appropriate regulatory authorities of the tribal government to address public health and welfare emergencies concerning cannabis and to require the appropriate regulatory authorities of the tribal government to investigate instances of alleged noncompliance with the commercial cannabis regulatory programs in the same manner as required in agreements with other states.

**COMMENTS**

*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, which requires businesses to obtain both state and local permission to operate. 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.

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." 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. 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. However, California continues to disallow cannabis commerce between the state's licensed cannabis market and tribal licensees without a limited waiver of sovereign immunity.

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, consistent with specified conditions and requirements.

Amendments to the bill 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. This bill would extend that same authority to allow the Governor to enter into agreements with tribal governments, allowing for commercial cannabis activity to take place between state and tribal licensees within the same framework that has been enacted for interstate commerce.

### **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."

### **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."

## FISCAL COMMENTS

According to the Assembly Committee on Appropriations, no state costs.

## VOTES

### **ASM BUSINESS AND PROFESSIONS: 19-0-0**

**YES:** Berman, Johnson, Addis, Ahrens, Alanis, Bains, Aguiar-Curry, Caloza, Chen, Elhawary, Hadwick, Haney, Hart, Irwin, Jackson, Lowenthal, Macedo, Nguyen, Pellerin

### **ASM APPROPRIATIONS: 13-0-2**

**YES:** Wicks, Hoover, Aguiar-Curry, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Tangipa

**ABS, ABST OR NV:** Arambula, Ta

## UPDATED

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