

Overview Key Differences - BMCR Provisions

Adult Use of Marijuana (AUMA) Compared to Medical Cannabis Regulation and Safety Act (MCRSA) and Compassionate Use Act of 1996 (Prop 215/SB420)

TOPIC	AUMA	MCRSA	Prop 215 & SB 420
Jurisdiction	Addresses adult use, and sale to those with recommendations between the ages of 18 and 20.	Addresses medical use.	<p>Declares purpose of Compassionate Use Act (H&S §11362.5, Prop 215) is to:</p> <ul style="list-style-type: none"> -Ensure right for seriously ill to obtain and use marijuana when deemed appropriate and recommended by physician. -Ensure patients and primary caregivers who obtain recommendations -Encourage state and federal government to implement a plan to provide for safe and affordable distribution -Decriminalizes for patients, primary care givers, and physicians if certain criteria are met. <p>SB 420 contains sections implementing the intent of Prop 215. References to H&S Codes in this column that are not to H&S §11362.5, refer to legislation not Prop 215.</p>

TOPIC	AUMA	MCRSA	Prop 215/SB 420
Who may use	Persons 21 or older. (H&S §11362.1)	Patients with recommendation from physician.	Patients with recommendation from physician. (H&S §11362.5-Prop 215)
Amounts Allowable	<p>Non-concentrate – Possess, process, transport, purchase, obtain, or give away no more than 28.5 grams.</p> <p>Concentrate- Possess, process, transport, purchase, obtain, or give away no more than 8 grams.</p> <p>Plants- Possess, plant, cultivate, harvest, dry, or process no more than 6 plants + cannabis produced from plants.</p> <p>May smoke or ingest, and may possess, transport, purchase, obtain, use, manufacture, or give away accessories to persons over 21.</p> <p>(H&S §11362.1)</p>	No similar limits on amounts.	<p>Dried Flower-8 ounces of dried marijuana per qualified patient.</p> <p>Plants- A patient or primary caregiver may also maintain no more than 6 mature or 12 immature marijuana plants per patient.</p> <p>If doctor’s recommendation that does not meet patient needs, may possess amount consistent with needs.</p> <p>City/County may retain or enact medical marijuana guidelines that exceed the state limits set above.</p> <p>Only dried mature processed flowers of female cannabis plant or the plant conversion is considered when determining allowable quantities.</p> <p>(H&S §11362.77)</p>

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	<p>DOES NOT ALLOW:</p> <ul style="list-style-type: none"> *Smoking or ingesting cannabis or cannabis products in a public place unless locals authorize under BPC §26200. *Smoking in place where smoking tobacco prohibited. *Smoking w/in 1,000 foot of school, day care, youth center while children present, except as provided for in BPC §26200 or BCP §19300 if not detectable by others. *Possess, smoke or ingest on grounds school, daycare, and youth center. *Patients and caregivers may not manufacture concentrated cannabis with volatile substance unless licensed under BPC §19300 et seq. *Smoking, ingesting, or open container while in passenger compartment of motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation. (H&S §11362.3) <p>*Does not amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act. (BPC §11362.3)</p> <p>Violations may result in infractions or other punishments for similar violations. (H&S §11362.4, 11362.45, 11357, 11359)</p>		<p>DOES NOT ALLOW:</p> <ul style="list-style-type: none"> *Smoking where prohibited by law. *Smoking w/in 1,000 foot of school, recreation center, or youth center unless smoking takes place within a residence. *On a school bus. *While in a motor vehicle that is being operated. *While operating a boat. <p>(H&S §11362.79)</p>
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Cultivation at Private Residence	Local jurisdiction may enact reasonable regulations and may prohibit outdoor cultivation at private residence but may not completely prohibit indoor cultivation at private residence. Over 28.5 grams in residence or on grounds in locked space and not visible from public place. No more than 6 plants at any one time. (H&S §11362.2 and §11358)	Local jurisdictions may ban. (BPC §19315)	Allows patients or primary caregivers to cultivate for personal medical use of patient upon recommendation of physician. (H&S §11362.5-Prop 215)
Licensing Authorities	Expands power and duties of existing state agencies responsible for medical cannabis to include the power and duty to control and regulate the commercial nonmedical cannabis industry. BMCR becomes Bureau of Marijuana Control. (actually refers to BMMR established by BPC §19302) (BPC §26010)	Powers and duties to control and regulate medical cannabis and medical-cannabis products only. (BPC §19304)	Department of Public Health for the voluntary Medical Marijuana ID Program (MMP). Counties have role in process for MMP. (H&S §11362.71)
Regulations	Authority to promulgate, finding of emergency, shall mandate only commercially feasible procedure, technology, or other requirements, and shall not unreasonably restrain or inhibit development of alternate procedures or technology, or make compliance unreasonable impracticable. (BPC §26013)	Authority to promulgate, finding of emergency. (BPC §19304)	Attorney General shall develop and adopt appropriate guidelines to ensure the security and non-diversion of marijuana grown for medical use by patients. (H&S §11362.81)

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Licenses Issued	Begin January 1, 2018. (BPC §260012)	No time statutorily mandated.	DPH voluntary medical marijuana identification cards for qualified patients part of SB 420 which became effective January 1, 2004.
Cultivation Licenses	CDFA (BPC §26012) BMC for microbusiness Type 12. (BPC §26050)	CDFA (BPC §19302.1)	No license required for patients and primary caregivers to cultivate. (H&S §11362.5-Prop 215) May associate collectively or cooperatively to cultivate for medical purposes. Sunset one year after Bureau posts notice commenced issuing licenses. (H&S §11362.775)
Manufacturer Licenses	CDPH (BPC §26012)	CDPH (BPC §19302.1)	N/A
Testing Licenses	CDPH (BPC §26012)	BMCR (BPC §19302.1)	N/A
Transporter Licenses	BMC No transporter license but can regulate transport activities. Establish minimum security and transportation safety requirements for distribution and delivery, shall at minimum include: *types of vehicles *minimum qualifications of persons who operate vehicles. (BPC §26070)	Type 12 Transporter License (BPC §19334)	No license required. A qualified patient or primary caregiver may transport or possess marijuana. Ability to transport related to patient's needs has been implied by case law. (H&S §11362.5-Prop 215)

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Distributor Licenses	BMC Incorporates section 19326 from MCRSA into AUMA. But not clearly stated whether one can be own distributor for quality assurance. (BPC §26050; BPC §26070)	BMCR (BPC §19334)	N/A
Retail Sale Licenses	BMC Type 10 Retail. (BPC §26050; BPC §26070)	Type 10 Dispensary. (BPC §19334)	Medical collectives, cooperatives, and dispensaries only requires seller's permit.
Nonprofit Licenses	By January 1, 2018, Bureau investigates feasibility of creating nonprofit license, in consultation with locals. (BPC §26070.5)	Does not require or prohibit.	Nothing in Proposition 215 or the MMP authorizes collectives, cooperatives, or individuals to profit from the sale or distribution of marijuana. (H&S §11362.765)
Microbusiness License	BMC Type 12. (BPC §26050; BPC §26070)	No Microbusiness, Type 12 – Transporter. (BPC §19334)	N/A
Temporary Licenses	May issue less than 12 months ends Jan. 1, 2019. (BPC §26050)	May issue conditional licenses or create new license types. (BPC §19323 & §19302.1)	N/A
License Combinations	*MCRSA licensees may hold licenses under AUMA. *AUMA may hold more than one AUMA license. *Testing licensees may only hold testing licenses for both laws. *Appears dispensaries can have medical and AUMA at same location. (BPC §26053; BPC §26140)	Specific combinations in statute - does not account for AUMA licenses. (BPC §19328)	N/A

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Other Licenses	No retail alcohol or tobacco products license. (BPC §26054)	No retail alcohol license. (BPC §19329)	N/A
Residency	No license issued or renewed unless can demonstrate continuous residency in CA from or before January 1, 2015. Requirement ceases on December 31, 2019. (BPC §26054.1)	No residency requirement.	N/A
Priority Licensing	Operated in compliance with AUMA and implement laws before September 1, 2016, or currently operates in compliance with MCRSA. Bureau must request local jurisdictions identify potential applicants for licensure based on prior operation in compliance and make information available to licensing authorities. Applicant may furnish other evidence to demonstrate operation in compliance. This ceases on December 31, 2019. (BPC §26054.2)	Operation and good standing with local January 1, 2016. No end time. (BPC §19321)	N/A
Operation While License Pending		Premises or person operating in compliance with other state and local requirements on or before January 1, 2018 can continue until license approved or denied if all required documentation into licensing authority be specific date and continue to operate in compliance. (BPC §19321)	N/A

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Owner	Aggregate ownership of 20% or more in the licensee and the power to direct or caused to be directed, the management or control of the licensee. *publicly traded – CEO, board directors, 20% interest. *nonprofit – CEO & board directors. (BPC §2601)	Owner includes all persons or entities having a financial interest, or *participating in direction, control, or management ; *publicly traded- CEO & aggregate interest of 5% or more. (BCP §19300.5)	N/A
Local Authorization or Compliance for License	Proof of authorization not required. Shall not approve an application for state licensure if state license would violate local ordinance or regulation. (BPC §26055)	Local permit, license or other authorization required before state application submitted. (BPC §19322)	All counties must participate in the MMP. (H&S §11362.71)
Convictions	Substantially related convictions (key additional to MCRSA) *Felony for using a minor in controlled substance activity or offering to sale/give a controlled substance to a minor. *Felony for drug trafficking with enhancements pursuant to H&S §11370.4 & 11379.8. ** Felony for illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance where sentence is completed is NOT substantially related and cannot be sole basis for denial, unless it is one of the two listed above related to minors. (BPC §26057)	Crimes that are substantially related (additional to AUMA) *Felony for illegal possession for sale, sale, manufacture, transport, or cultivation of a controlled substance. (BPC §19323)	N/A
Licensing Factors to	May deny if reasonably foreseeable issuance, denial or renewal could:	No similar provision.	N/A

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Consider	<ul style="list-style-type: none"> *unreasonably restrain competition allowing unlawful monopoly; *perpetuate illegal market in or out of state *excessive concentration of licenses -ratio of licenses to population in county exceeded unless will unduly limit denial of legal market, or ratio of licenses to population in census tract exceeds allowable by local ordinance; *unreasonable risk of minors exposed; or *violations of environmental laws. (BPC §26051) 		
Grounds for Denial	<p>Not in MCRSA:</p> <p>(9) Any other condition. (BPC §26057)</p>	<p>Not in AUMA:</p> <p>(9) Failure to comply with required operating procedures.</p> <p>(10) Conduct that is grounds for disciplinary action.</p> <p>(BPC §19323)</p>	<p>May deny MMP ID card application for the following reasons:</p> <ul style="list-style-type: none"> *If applicant didn't provide required info (H&S §11362.715). *Information given was false. *Applicant does not meet criteria set forth in Prop 215/SB 420. *Applicant reapplied before 6 months of initial denial. (H&S §11362.74)
Grounds for Disciplinary Action	<p>Not in MCRSA:</p> <p>(e) Knowing violations of worker protections or legal rights of employees.</p> <p>(f) Failure to comply with the requirement of a local ordinance regulating commercial cannabis activity.</p>	<p>Not in AUMA:</p> <p>(e) Failure to maintain safe conditions for inspection by a licensing authority.</p> <p>(f) Failure to comply with operating procures submitted to licensing authority. (BPC §19311)</p>	<p>Not subject to arrest if valid card and amount allowed by law, unless:</p> <ul style="list-style-type: none"> *A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county

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	<p>(g) Intentional and knowing sale by licensee to minor. (BPC §26030, p.186)</p> <p>Anticompetitive activities. (BPC §26052)</p>	<p>No specific provision.</p>	<p>health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining an identification card.</p> <p>*A person who steals or fraudulently uses any person's identification card in order to acquire, possess, cultivate, transport, use, produce, or distribute marijuana.</p> <p>*A person who counterfeits, tampers with, or fraudulently produces an identification card.</p> <p>(4) A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program. (H&S §11362.71)</p>
<p>Protocol for Ensuring Compliance with Other State Laws &</p>	<p>Bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to: environmental impacts, natural resource protection,</p>	<p>Not required of Bureau.</p>	<p>Attorney General shall develop and adopt appropriate guidelines to ensure the security and nondiversion of marijuana grown for medical use by patients qualified under the</p>

TOPIC	AUMA	MCRSA	Prop 215/SB 420
Regulations	water quality, water supply, hazardous materials, pesticides, CEQA, etc. (BPC §26056.5)		Compassionate Use Act of 1996. (H&S §11362.81)
Delivery	Retailer, microbusiness, or nonprofit licensees only. (BPC §26090)	Only by dispensaries (retailer). (BPC §19340)	A qualified patient or primary caregiver may transport marijuana. Ability to transport related to patient's needs has been implied by case law. (H&S §11362.5-Prop 215)
Testing	All cannabis and cannabis products should be Quality Assurance, inspection, and testing in the same manner as provided in BPC §19326 (MCRSA) except as provided by law. (BPC §26110) Testing prior to distribution to retailers, microbusinesses and nonprofits (BPC §26104)	Testing prior to distribution to dispensaries. (BPC §19326)	N/A
Minors	Prohibitions related to minors: *no selling to persons under 21; *no one under 21 on licensed premises; *no employing or retaining anyone under 21; and *valid government ID showing 21 or older before sold. Exceptions to prohibitions: *decoys under 21 may be used (similar to ABC provision); and *Also MCRSA licensed dispensary may allow on premises and sell to any person 18 or older with valid H&S 11362.71 and	No age restriction or use of decoys provisions.	No age restriction in text of Prop 215.

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	government ID card. (BPC §26140)		

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Use on Premises	<p>Local jurisdiction may allow for smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness if:</p> <ul style="list-style-type: none"> *access to consumption area is restricted to 21 years and older; and *consumption is not visible from any public place or non-age restricted area; and *sale or consumption of alcohol or tobacco is not allowed on the premises. (BPC §26200) 	Not specifically addressed.	<p>Prohibited</p> <ul style="list-style-type: none"> *Smoking in places prohibited by law. *In or within 1,000 ft of the grounds of a school, recreation center, or youth center, unless medical use occurs within a residence. *On a school bus. *While in a motor vehicle that is being operated. *While operating a boat. (H&S §11362.79)
Advertising	<ul style="list-style-type: none"> *Shall accurately and legibly identify licensee. *Broadcast, cable, radio, print, digital communications only is displayed where at least 71.6% of audience reasonably expected to be 21 or older. *No false, untrue, misleading – truthful & appropriately substantiated. *No billboard on interstate or state highway which crosses border of any other state. *Intended to encourage persons under 21 to consume. *Content known to appeal primarily to those under 21. *1,000 feet daycare, school K-12. *No give away as part of promotion or other commercial activity. (BPC §26140; 26150-26155) 	Not specifically addressed for BMCR licensees.	N/A

TOPIC	AUMA	MCRSA	Prop 215/SB 420
Changes to law	<p>Legislature may by majority vote enact laws to implement as long as laws are consistent with purpose and intent of AUMA. (BPC §2600)</p> <p>*Majority vote sections 5 – 5.5 (use marijuana for medical purposes) and 6-6.3 (marijuana regulation and safety) to implement substantive.</p> <p>*Majority vote can amend, add, or repeal to further reduce penalties for any offenses addressed by AUMA.</p> <p>*Protections to employees and other workers sections 6 – 6.3, deemed consistent with intent and purpose if expand legal rights of the workers.</p> <p>*All other provisions may be amended by two-thirds vote.</p>	Can be changed by future legislative action.	SB 420 can be changed by future legislative action.
Tax	<p>Excise Tax 15%, Cultivation Tax, and Sales Tax</p> <p>Applies to both AUMA and MCRSA sales, except not sales tax for medical cannabis sales to patients with a card pursuant to BPC §34011-34012.</p>	No Excise, Cultivation, or Sales Tax specifically provided for in MCRSA.	No tax specifically provided for in Prop 215 or SB 420. BOE requests seller's permit and cities/counties often require business license for cooperatives and collectives.
Appeals Board	<p>Marijuana Control Appeals Panel (BPC §26040, p.186), review any licensing authority related to license, limited to:</p> <p>*Whether proceeded without or in excess of jurisdiction;</p> <p>*Whether proceeding in manner required by law;</p>	No appeals board, superior court writ mechanism to challenge denial of license or enforcement action.	N/A

TOPIC	AUMA	MCRSA	Prop 215/SB 420
	*Whether decision supported by findings; and *Whether findings supported by substantial evidence. (BPC §26043)		
Advisory committee	Required – shall include but not limited to industry, labor, state and local agencies, public health experts, other subject matter experts, including representatives from ABC Annual Report required beginning January 2019. (BPC §26014)	Permissive. (BPC §19306)	N/A
Conflicts	Clear prohibits receiving direct or indirect financial interests, or benefits. (BPC §26012)	No specific prohibitions in MCRSA.	N/A