



California's Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") and Licensing for Cultivators, Manufacturers, Distributors, and Retailers

What are the major differences between MAUCRSA and the Medical Cannabis Regulation and Safety Act ("MCRSA")?

- The Bureau of Marijuana Control is renamed the Bureau of Cannabis Control.
- The types of licenses for adult and medical use are the same, and applicants will have to get Type M licenses or Type A licenses, but each and every license must be located on "separate and distinct" "premises."
- You can have both medical and adult use operations.
- Type 10A producing dispensary and transporter licenses are no longer available.
- Definition of "owner" has changed slightly and is now outlined as follows:
 - A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance
 - The chief executive officer of a nonprofit or other entity
 - A member of the board of directors of a nonprofit
 - An individual who will be participating in the direction, control, or management of the person applying for a license
- Prop. 215 priority now starts on September 1, 2016.
- You can be your own distributor.
- Distributors will be responsible for transporting inventory, testing, and compliance with packaging and labeling requirements.
- Vertical integration is allowed with only a few exceptions.

- There is no limitation on the number of licenses you can hold, with the exception of Type 3s.
- The 2.5-year residency required by AUMA is gone.
- Local approval has changed, but is still required.
- Temporary licenses will be available.
- Retailers and microbusinesses can have “on-site consumption” facilities so long as their city or county allows for it.
- Retailers can deliver from non-storefront facilities (i.e., delivery only) and can use a technology platform to deliver so long as they own and control it.
- The excise tax on retailers is no longer measured by gross receipts but by the average market price of the retail sale, and the cultivation tax is \$9.25 per dry weight ounce and the leaf tax is \$2.75 per dry weight ounce.
- Hardcore advertising restrictions are now in play.
- “Volatile” is re-defined as basically any flammable gas or vapor capable of producing explosive mixtures.
- Cannabis cooperative associations are now in play.

Requirements for all Licensees:

Every license applicant must:

- Have each owner of the applicant (i.e., the business applying for the license) electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of “obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.”
- Provide evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property or that landowner’s agent where the commercial cannabis activity will occur as proof that the landowner has acknowledged and consented to permit

commercial cannabis activities to be conducted on the property by the tenant applicant.

- Provide evidence that the proposed location is not within 600 feet of a school, day care, or youth center.
- Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.
- For applicants with 20 or more employees (not including supervisors), provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.
- Provide the applicant's valid seller's permit number.
- For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer" and the source or sources of water the applicant will use for cultivation.
- Pay all applicable fees required for licensure by the licensing authority, which has not been established yet for any license type.
- Provide proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirement. The amount of that bond has yet to be set.
- Include in the application a detailed description of the applicant's operating procedures for all of the following, as required by the relevant licensing authority:
 - Cultivation
 - Extraction and infusion methods
 - The transportation process
 - Inventory procedures
 - Quality control procedures
 - Security protocols
- Provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description

of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy, including aggregate square footage and individual square footage of separate cultivation areas, if any, roads, water crossings, points of diversion, water storage, and all other facilities and infrastructure related to the cultivation.

- Provide a complete list of every person with a financial interest in the person applying for the license as required by the licensing authority. “Persons with a financial interest” does not include persons whose only interest in a licensee is an interest in a diversified mutual fund, blind trust, or similar instrument.

Criminal background checks for all license applicants:

- A license application can be denied if any of the following conditions apply:
 - Failure to provide all information required by the state;
 - The applicant, owner, or licensee has been convicted of an offense that is “substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or licensee to be issued a license based on the evidence found through the review.”
 - In determining which offenses are substantially related to the qualifications, functions, or duties of the license type, the state will include, but not be limited to, the following:
 - A violent felony conviction;
 - A serious felony conviction;
 - A felony conviction involving fraud, deceit, or embezzlement;
 - A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor;

- A felony conviction for drug trafficking with enhancements
 - With a few exceptions, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and will not be the sole ground for denial of a license.
 - Any convictions for *any* controlled substance felony subsequent to licensure are automatic grounds for revocation of a license or denial of the renewal of a license;
 - The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands;
 - The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities, has had a license suspended or revoked in the three years immediately preceding the date the application is filed with the state;
 - Failure to obtain and maintain a valid seller’s permit; and
 - Any other condition specified in law (meaning that the state can add to this list through MAUCRSA rulemaking).

Retailers, Distributors, and Microbusinesses:

- **Regulating agency:**
 - Bureau of Cannabis Control
- **Key definitions:**
 - “Cannabis retailer” means a “person” required to be licensed as “a retailer, microbusiness, or nonprofit” that sells “cannabis, cannabis products, and cannabis accessories” to qualified patients and adults 21 and up. Regarding the nonprofit retailer licenses, MAUCRSA mandates that the Bureau explore the creation of one or more classifications of nonprofit licenses for retail services (among potential other services)

- “Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer
 - “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees. As of now, distributors are the only licensees that can transport inventory between licensees
 - “Microbusinesses” will conduct cultivation of cannabis on an area less than 10,000 square feet and act as a licensed distributor, Level 1 manufacturer, and retailer (i.e., the winery model for cannabis)
- **License types and fees:**
 - For retailers:
 - Type 10
 - For distributors:
 - Type 11
 - For microbusinesses:
 - Type 12
 - No license fees have been set yet for retailer, distributors, or microbusinesses
- **Highlights from MAUCRSA:**
 - A retailer must have a licensed premises, which is a physical location from which commercial cannabis activities are conducted
 - A retailer’s premises may be closed to the public
 - A retailer may conduct sales exclusively by delivery
 - The Bureau must continue to consider if an “excessive concentration” of licensees exists in determining whether to grant, deny, or renew a retail license, microbusiness license, or nonprofit license
 - A local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness if all of the following are met:
 - Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older;
 - Cannabis consumption is not visible from any public place or nonage-restricted area; and
 - Sale or consumption of alcohol or tobacco is not allowed on the premises.
 - A distributor licensee shall be bonded and insured at a minimum level established by the state

- A licensee is not required to sell cannabis or cannabis products to a distributor and may directly contract for sale with a licensee authorized to sell cannabis and cannabis products to purchasers, but all cultivation and manufacturing licensees must still go through the distributor for testing as well as packaging and labeling quality assurance
 - For distribution and delivery, those licensees have to use their own employees (who must be 21 years of age or older) for those tasks
 - The distributor is in charge of quality assurance testing and must store all inventory at a fixed location while testing takes place (the initial standards for labels and packaging are in MAUCRSA starting at SEC. 74. Section 26120(a))
 - The distributor also has the responsibility of ensuring that all packaging and labeling meets all state regulations
 - After successful testing and quality assurance review of packaging and labeling, the distributor may sell the cannabis products to a retailer or microbusiness for sale
 - The Bureau's quality assurance compliance monitor will be the one to oversee distribution quality assurance of packaging and labeling
 - Distributors must also collect and remit taxes to the state on behalf of other licensees, and distributors must get a Board of Equalization permit to do this
- **Changes from the proposed MCRSA rules and what we don't know:**
 - Type 10A producer licenses no longer exist, but microbusinesses are in play. We don't yet know how regulated the microbusinesses will be since no iteration of them was included in the MCRSA rules.
 - We don't yet know what license fees will look like. The MCRSA rules never addressed fees for retailers or distributors.
 - We don't know if retailers will be able to buy cannabis accessories from unlicensed third parties or if they'll have to buy those from other licensees.
 - We don't yet know if online sales at the retail level will be allowed (though delivery through a "tech platform" owned and controlled by the operator will be allowed).
 - We don't know if "premises" will allow for multi-tenant licensee operations (the state is debating that)
 - The vertical integration restrictions for manufacturers are not included in MAUCRSA.
 - We anticipate that the state will issue a slew of distributor licenses to ensure that California does not end up like Nevada (where only

wholesale alcohol distributors where granted the exclusive right to transport cannabis), particularly since only distributors can transport product and everyone can be their own distributor.

Manufacturers:

- **Regulating agency:**
 - Department of Public Health’s Office of Manufactured Cannabis Safety

- **Key Definitions**
 - “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code
 - “Edible cannabis product” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code
 - “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product
 - “Manufacturer” means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

- **License Types and Fees**
 - **Two types of manufacturing licenses:**
 - “Manufacturing Level 1,” for sites that manufacture cannabis products using nonvolatile solvents, or no solvents. A Manufacturing Level 1 M-Type 6 licensee shall only

- manufacture cannabis products for sale by a retailer with an M-Type 10 license
 - “Manufacturing Level 2,” for sites that manufacture cannabis products using volatile solvents. A Manufacturing Level 2 M-Type 7 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license
- “Volatile solvents” shall have the same meaning as in paragraph (3) of subdivision (d) of Section 11362.3 of the Health and Safety Code:
 - “Volatile solvent” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures
- Edibles shall be:
 - Not designed to be appealing to children or easily confused with commercially sold non-cannabis candy or foods;
 - Produced and sold with a standardized concentration of cannabinoids not to exceed ten (10) milligrams THC per serving;
 - Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis product in solid form;
 - Homogenized to ensure uniform disbursement of cannabinoids throughout the product;
 - Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the Bureau, that are similar to the standards for preparation, storage, handling, and sale of food products;
 - Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product;
 - Marked with a universal symbol, as determined by the State Department of Public Health through regulation.
- A cannabis product will be considered adulterated if:
 - It has been produced, prepared, packed, or held under unsanitary conditions;
 - It consists in whole or in part of any filthy, putrid, or decomposed substance;
 - It bears or contains any poisonous or deleterious substance;
 - It bears or contains a substance that is restricted or limited under this division or regulations promulgated pursuant to

this division and the level of substance in the product exceeds the limits specified pursuant to this division or in regulation;

- Its concentrations differ from, or its purity or quality is below, that which it is represented to possess;
 - The methods, facilities, or controls used for its manufacture, packing, or holding do not conform to, or are not operated or administered in conformity with, practices established by regulations adopted under this division to ensure that the cannabis product meets the requirements of this division as to safety and has the concentrations it purports to have and meets the quality and purity characteristics that it purports or is represented to possess;
 - Its container is composed, in whole or in part, of any poisonous or deleterious substance;
 - It is an edible cannabis product and a substance has been mixed or packed with it after testing by a testing laboratory so as to reduce its quality or concentration or if any substance has been substituted, wholly or in part, for the edible cannabis product;
 - It is unlawful for a person to manufacture, sell, deliver, hold, or offer for sale a cannabis product that is adulterated (cannabis or cannabis concentrate is NOT considered an adulterant);
 - It is unlawful for a person to adulterate a cannabis product;
 - It is unlawful for a person to receive in commerce a cannabis product that is adulterated or to deliver or proffer for delivery any such cannabis product.
- **Changes from the proposed MCRSA rules and what we don't know:**
 - Type P and Type N licenses no longer exist.
 - We don't yet know what license fees will look like. Under the MCRSA rules, license fees were on a sliding scale based on the licensee's annual gross revenue. This is not addressed in MAUCRSA.
 - We don't yet have specifics regarding what types of manufacturing, including requirements for closed-loop systems, mechanical extractions, etc., will be allowed, as we had with the MCRSA rules.
 - We don't yet know what types of manufactured products will be allowed on the market.
 - The specific requirements re: edibles have all been repealed, and we won't know what these will consist of until the rules are re-drafted. MCRSA included a prohibition on cannabis-infused alcohol, caffeine

- and nicotine products, and other restrictions on potentially hazardous edibles. MAUCRSA does not address these requirements.
- The vertical integration restrictions for manufacturers are not included in MAUCRSA.

Cultivators:

- **Regulating agency:**
 - California Department of Food and Agriculture
- **Key definitions:**
 - “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis
 - “Cultivation site” means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs
 - “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis
 - “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals, and harvested at the same time
- **License types:**
 - Type 1 (specialty outdoor), up to 5,000 square feet of total canopy or up to 50 mature plants on noncontiguous plots
 - Type 1A (specialty indoor) for indoor cultivation using exclusively artificial lighting of between 501 and 5,000 square feet of total canopy size on one premises
 - Type 1B (specialty mixed-light) for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between 2,501 and 5,000 square feet of total canopy size on one premises
 - Type 1C (specialty cottage) for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of 2,500 square feet or less of total canopy size for mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises

- Type 2 (small outdoor) for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises
 - Type 2A (small indoor) for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises
 - Type 2B (small mixed-light) for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises
 - Type 3 (outdoor) for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department shall limit the number of licenses allowed of this type
 - Type 3A (indoor) for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department shall limit the number of licenses allowed of this type
 - Type 3B (mixed-light) for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food shall limit the number of licenses allowed of this type
 - Type 4 (nursery) for cultivation of cannabis solely as a nursery.
 - Type 5 (outdoor) means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises. Not available before January 1, 2023
 - Type 5A (indoor) means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises. Not available before January 1, 2023
 - Type 5B (mixed-light) means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises. Not available before January 1, 2023
- **Changes from the proposed MCRSA rules and what we don't know:**
 - No license fees have been set yet for cultivators.
 - Starting on January 1, 2023, a Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6, Type 7, or Type 10 license.

- A Type 5, Type 5A, or Type 5B license will not be able to hold a Type 8, Type 11, or Type 12 license.
- Requires an application for a license for cultivation to identify their source of water supply.
- AUMA required the California Department of Food and Agriculture (CDFA), along with the Bureau, to establish a certified organic designation and certification program. MAUCRSA eliminates the Bureau's role in this program and requires the CDFA, no later than 01/01/21, to establish a program similar to the federal National Organic Program and the California Organic Food and Farming Act.
- The CDFA, instead of the Bureau, will now be responsible for establishing standards for recognition of a particular appellation of origin. The CDFA will also have until 01/01/21 to establish appellations of standards, practices, and varieties.
- Will there still be a license type for processors? MAUCRSA does not list processors as a license type.
- As with the MCRSA, there will be a limit to the number of Type 3 licenses but will it be limited to one per person?
- Members of a cannabis cooperative shall not grow more than four acres of total canopy size of cultivation throughout the state during the period that the respective licensees are valid.
- Under the MCRSA, a person's total licensed canopy could not exceed four acres. Will that restriction apply to all persons or just cooperatives?