

**Department of Cannabis Control
California Code of Regulations Title 4, Division 19**

Final Statement of Reasons

Subject Matter of Proposed Regulations: Authorization and release of applicant information to financial institutions pursuant to Business and Professions Code (BPC) section 26260

Section(s) Affected: Title 4, California Code of Regulations, §§15037.1 and 15037.2

Background

On September 29, 2020, Governor Gavin Newsom (Governor Newsom) signed California Assembly Bill 1525 by Assembly Member Jones-Sawyer. This chaptered bill, known as *Information Sharing with Financial Institutions*, AB 1525, (Jones-Sawyer, Chapter 270, Statutes of 2020), creates a safe harbor under state law for financial institutions and accountants that provide services to the cannabis industry. This also allows cannabis businesses to permit the Department of Cannabis Control (Department) to share licensee application and regulatory information, including track-and-trace data, with financial institutions.

The law became effective January 1, 2021. Prior to the establishment of the Department, the former three cannabis licensing authorities (the Bureau of Cannabis Control, the CalCannabis Licensing Division, and the Manufactured Cannabis Safety Branch) adopted emergency regulations to implement California AB 1525 consistent with Governor Newsom's signing statement directing the cannabis licensing authorities to promulgate regulations necessary to implement the provisions in a manner that protects confidential and proprietary data. The Office of Administrative Law (OAL) approved the initial three emergency actions on February 1, 2021 and filed them the same day with the Secretary of State, making them effective immediately. After the three licensing authorities were consolidated into the Department in July 2021, the Department filed an action with OAL to readopt all three sets of regulations. The readoption action was approved on August 2, 2021 and filed with the Secretary of State the same day, keeping them effective immediately.

Update of Initial Statement of Reasons

As authorized by Government Code section 11346.9, subdivision (d), the Department hereby incorporates the Initial Statement of Reasons prepared in this matter. Unless a specific basis is stated for any modification to the regulations as initially proposed, the necessity for the adoption of new regulations as set forth in the Initial Statement of Reasons continues to apply to the regulations as adopted.

Update of Informative Digest

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Rulemaking.

Local Mandate Determination

The proposed regulations do not impose any mandate on local agencies or school districts.

Significant Effect on Housing Costs Determination

The proposed regulations will have no fiscal or other effect upon housing in the state.

Summary and Response to Comments Received During the 45-Day Public Comment Period

Written comments were received during the 45-day comment period on the proposed regulations. The Department did not receive any request for a public hearing on this proposed regulatory action. The Department's summary and responses to written comments received are shown below:

Comment No. 1: Commenter expresses excitement for the future of cannabis on a global scale.

Department Response: The Department rejects this comment as irrelevant because it does not address provisions of the Department's financial information authorization and release regulations contained in this regulation package.

Comment No. 2: Commenter Expresses support for the new laws.

Department Response: The Department acknowledges the commenter's support.

Comment No. 3: Commenter asks two questions regarding the proposed regulations. First, commenter asks if licensees are required to submit annual authorization. Second, commenter asks if financial institutions may submit a single request to receive recurring information at specific time intervals.

Department Response: The language of the regulation package contains the answers to both questions asked by the commenter. Under the regulation language, annual submission of authorization is not required. However, licensees may revoke the authorization at any time. Under the language of the regulation package, a request must be submitted each time a financial institution would like to receive information.

Comment Nos. 4 through 6: Commenter submitted the same comment letter three times. Commenter expresses displeasure due to the media portrayal of the indigenous Israelite community or Toltec people. Commenter believes that false information regarding the Gulf War has been disseminated by the media. Commenter believes that

the Toltec people have been marginalized and mistreated by the government and the media and are owed an apology. Commenter provides a copy of excerpts from Federal Drug Scheduling laws. Commenter expresses displeasure with the government.

Department Response: The Department rejects these comments as irrelevant because it does not address provisions of the Department's financial information authorization and release regulations contained in this regulation package.

Comment No. 7: Commenter expresses displeasure at the increase in cannabis cultivation taxes. Commenter requests a cannabis cultivation tax structure that adjusts based on the market rates each year.

Department Response: The Department rejects this comment as irrelevant because it does not address provisions of the Department's financial information authorization and release regulations contained in this regulation package.

Comment No. 8: Commenter requests lowering of taxes.

Department Response: The Department rejects this comment as irrelevant because it does not address provisions of the Department's financial information authorization and release regulations contained in this regulation package.

Comment No. 9: Commentor offers their assistance as a cannabis banking consultant.

Department Response: The Department rejects this comment as irrelevant because it does not address provisions of the Department's financial information authorization and release regulations contained in this regulation package.

Comment No. 10: Commenter requests a reduction of taxes for Oakland cannabis businesses.

Department Response: The Department rejects this comment as irrelevant because it does not address provisions of the Department's financial information authorization and release regulations contained in this regulation package.

Comment No. 11: Commenter requests a reduction in all taxes that affect licensed commercial cannabis businesses.

Department Response: The Department rejects this comment as irrelevant because it does not address provisions of the Department's financial information authorization and release regulations contained in this regulation package.

Alternatives Determination

In accordance with Government Code section 11346.9, subdivision (a)(4), the Department has determined that no reasonable alternative it considered would be more effective in carrying out the purpose for which the action is proposed, or would be as

effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Set forth below are the alternatives that were considered and the reason the alternative was rejected:

- Option 1: Not adopt the proposed regulations. This alternative was rejected because AB 1525, as codified in BPC section 26260, requires the Department to provide information to financial institutions when authorized by the licensee. If the Department does not adopt the proposed regulations, there will be no specific process for licensees and financial institutions to follow to have the information disclosed.
- Option 2: Do not require a written request or waiver from a licensee. This alternative was rejected because AB 1525, as codified in BPC section 26260, requires that all requests and waivers for release of licensee information be submitted to the licensing authorities in writing. To ensure that the Department has appropriate authorization to disclose the information to particular financial institutions, it is necessary to adopt these proposed regulations requiring written authorization. These proposed regulations are also necessary to ensure accurate recordkeeping of each request received by the Department.