

## CONCURRENCE IN SENATE AMENDMENTS

AB 1775 (Haney)

As Amended August 23, 2024

Majority vote

**SUMMARY**

Authorizes local jurisdictions to allow cannabis retailers to prepare and serve non-cannabis food and beverages, and to sell tickets to live musical or other performances, in the area of the premises where consumption of cannabis and cannabis goods is authorized.

**Senate Amendments**

- 1) Require the entrance to the area where cannabis consumption is allowed to prominently post a warning that cannabis consumption, including smoking of cannabis, is permitted inside.
- 2) Require local jurisdictions that choose to authorize additional activities in a consumption area to consider whether to require adequate ventilation and filtration systems, as specified.
- 3) Provide that employees working in a consumption lounge shall be permitted to wear a mask for respiration, including N95 and NIOSH N95 rated masks in any area where cannabis is smoked, and employers are required to pay for the mask.
- 4) Require that employees working where cannabis is smoked to be provided guidance regarding secondhand cannabis smoke and require secondhand smoke to be included in a business's analysis of potential work hazards for purposes of their injury and illness prevention programs.
- 5) Prohibit loitering in or around a cannabis retailer where consumption occurs under the bill.

**COMMENTS**

*Cannabis Consumption Lounges.* The author states that the intent of this bill is to allow for cannabis retailers to engage in a business model analogous to establishments found in Amsterdam. While cannabis is officially a controlled substance in the Netherlands and both possession and cultivation of the plant is a crime, the country has long applied what is referred to as *gedoogbeleid*—a policy of tolerance. The Dutch Ministry of Justice has consistently tolerated possession of up to five grams of cannabis for personal and cultivation of up to five plants. This policy effectively decriminalizes recreational consumption of cannabis, though possession or cultivation beyond personal use is still subject to criminal penalties.

As a result of the country's tolerance policy, there has been a proliferation of so-called "coffeeshops" in cities such as Amsterdam where cannabis may be sold and consumed. While there is no formally lawful way for these establishments to purchase bulk cannabis for resale, consumers may safely purchase and consume cannabis within the personal use limits on the premises. According to the author, these establishments often serve as social hubs where live music may be performed, and food and beverages not containing cannabis are available for purchase and consumption.

There are some restrictions on the Amsterdam model. Dutch law prohibits the sale and consumption of alcohol in coffeeshops, and a national tobacco smoking ban applies to those establishments. Since 2008, Dutch law has prohibited coffeeshops from being operated within 250m of schools. In an effort to combat concerns of "drug tourism," the Dutch government announced in 2011 that tourists were to be banned from patronizing coffeeshops.

The coffeeshop establishment model is arguably only partially allowable under California law. MAUCRSA generally prohibits smoking, vaporizing, or ingesting cannabis or cannabis products in any public place. However, Proposition 64 authorized local jurisdictions to allow for cannabis to be consumed on the premises of a retailer under certain conditions. This language gave cities and counties the option of locally allowing for the establishment of settings referred to as "consumption lounges" where cannabis use can occur socially. MAUCRSA law does not expressly allow for licensees to sell non-cannabis food or beverages within a consumption lounge. The law also does not speak to the legality of selling tickets to performances held on the premises. However, the Department's regulations states: "In addition to cannabis goods, a licensed retailer may sell only cannabis accessories and the branded merchandise of any licensee." This regulation historically prohibited cannabis retailers from selling food or beverages not infused with cannabis, including on the premises of a consumption lounge.

This prohibition would not allow for the type of consumption lounges proposed by the City of West Hollywood, which adopted a Cannabis Ordinance on November 20, 2017. License applicants presented the city with hospitality-focused business proposals, where customers would be able to consume cannabis and cannabis products in a "social lounge" setting. One proposal described itself as a "full service restaurant" offering meals "featuring local, organic ingredients with farm-to-table preparation." Under the proposal, these meals could be optionally enhanced "with CBD and THC infused dressings and sauces, natural agave sweeteners, and wellness shots." The City of West Hollywood sponsored multiple bills to preempt the Department's regulations, but these measures did not reach the Governor's desk.

In 2022, the Department revised its regulations to additionally state that cannabis retailers who operate a consumption area to "may also sell prepackaged, non-cannabis-infused, non-alcoholic food and beverages if the applicable local jurisdiction allows such sales." The Department's revised regulations further clarified that nothing in its regulations prevents consumers from "bringing or receiving non-cannabis-infused, non-alcoholic food and beverages from a restaurant or food delivery service for consumption in the designated consumption area on the licensed premises, if the applicable local jurisdiction allows such activities." The Department's revised regulations created a model wherein non-cannabis food and beverages can be sold and consumed in a consumption lounge. However, the law still doesn't allow cannabis retailers to prepare fresh food or beverages on the premises. The regulations also do not allow for any other types of sales to occur on the premises of a cannabis retailer, including the sale of tickets to live musical performances.

This bill seeks to preempt the Department's regulations and amend MAUCRSA to explicitly allow cannabis retailers to sell non-cannabis-infused food, nonalcoholic beverages, and tickets to live musical or other performances. This allowance would remain within the context of the consumption lounge model, which requires local authorization and approval. The bill would also retain MAUCRSA's prohibition against cannabis retailers selling or serving alcoholic beverages or tobacco products, and access to the consumption lounge area would remain restricted to persons 21 or older and be kept out of sight from the general public.

The author believes that by expressly allowing for these sales to occur under MAUCRSA, California can more effectively market consumption lounges as a social venue where consumers can enjoy activities that are more inclusive than simply consuming cannabis. The author of this proposal introduced a bill in 2023 that was substantially similar to this one. Assembly Bill 374 (Haney) was passed by the Legislature but was ultimately vetoed by the Governor, who cited concerns that had been raised by opposition to the bill by public health advocacy organizations. In his veto message, the Governor wrote:

"I appreciate the author's intent to provide cannabis retailers with increased business opportunities and an avenue to attract new customers. However, I am concerned this bill could undermine California's long-standing smoke-free workplace protections. Protecting the health and safety of workers is paramount. I encourage the author to address this concern in subsequent legislation."

In response to the concerns raised in the Governor's veto message, this bill includes several new provisions aimed at reducing health risks to employees and consumers in consumption lounge environments. Among other new safeguards, the bill would require local governments to consider requiring adequate ventilation and filtration systems to prevent smoke and odors from migrating to any other part of the building hosting the consumption lounge or any neighboring building or grounds. Employees would explicitly be allowed to wear masks, at the employer's expense, and would be provided guidance regarding secondhand cannabis smoke. The author believes this new language appropriately balances public health concerns with the intended benefits of the bill.

### **According to the Author**

"California is known worldwide as the birthplace of cannabis culture—but California's small cannabis businesses are struggling. Issues like over-saturation, high taxes, and the thriving illicit market are hurting cannabis businesses who follow the rules and pay taxes. California's decade of medical marijuana only policies has led to pharmacy-like cannabis "dispensaries" that encourage customers to buy cannabis and leave. Other cities, like Amsterdam, are known for their social, community style cannabis cafés. While consuming cannabis on site is technically legal in California, selling non-cannabis-infused products is not. AB 1775 legalizes cannabis cafes by allowing the sale of non-cannabis food and soft drink, allowing small cannabis retailers to diversify their business and move away from the limiting dispensary model."

### **Arguments in Support**

*Americans for Safe Access* (ASA) writes the following in support of the bill: "All activities permitted by AB 1775 would be subject to prior local approval, as well as applicable state and local laws. Additionally, the HVAC and air exchange requirements for these establishments are the result of local ordinances. Historically these ordinances are so rigorous that workers in these lounges face no health risks relating to the air they breathe while at work. The augmented services contemplated in AB 1775 would enhance the clean, quiet operations that have always characterized consumption lounges in California. The highly regulated nature of these establishments ensures that both patrons and employees face no risks, health or otherwise, if they populate these venues."

### **Arguments in Opposition**

The *American Cancer Society Cancer Action Network*, the *American Heart Association*, and the *American Lung Association* write jointly in opposition to this bill: "Secondhand marijuana

smoke contains many of the same toxins and carcinogens found in directly inhaled marijuana smoke, in similar amounts if not more. In addition, particulate levels from marijuana smoke are higher than tobacco smoke. Exposure to fine particulate matter can cause cardiovascular disease, lung irritation, asthma attacks and makes respiratory infections more likely. Marijuana smoke has been shown to injure the cell linings of the large airways, and can lead to symptoms such as chronic cough, phlegm production, wheeze and acute bronchitis." The coalition argues that "California has fought hard to protect workers and ensure a safe, healthy, smoke-free work environment. AB 1775 will undo that by re-creating the harmful work environments of the past."

## FISCAL COMMENTS

This bill is keyed nonfiscal by the Legislative Counsel.

## VOTES:

### ASM BUSINESS AND PROFESSIONS: 14-2-2

**YES:** Berman, Flora, Alanis, Juan Carrillo, Chen, Grayson, Jackson, Low, Lowenthal, McKinnor, Stephanie Nguyen, Pellerin, Soria, Zbur

**NO:** Dixon, Sanchez

**ABS, ABST OR NV:** Bains, Irwin

### ASM GOVERNMENTAL ORGANIZATION: 13-2-7

**YES:** Blanca Rubio, Lackey, Lee, Gabriel, Haney, Jones-Sawyer, Low, McKinnor, Pacheco, Papan, Ramos, Valencia, Wallis

**NO:** Davies, Dixon

**ABS, ABST OR NV:** Addis, Bains, Cervantes, Gipson, Jim Patterson, Soria, Ta

### ASSEMBLY FLOOR: 58-6-16

**YES:** Aguiar-Curry, Alanis, Alvarez, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Flora, Mike Fong, Friedman, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, McCarty, McKinnor, Ortega, Pacheco, Papan, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Wicks, Wilson, Wood, Zbur, Robert Rivas

**NO:** Davies, Dixon, Vince Fong, Irwin, Jim Patterson, Sanchez

**ABS, ABST OR NV:** Addis, Arambula, Bains, Cervantes, Megan Dahle, Essayli, Gabriel, Gallagher, Maienschein, Mathis, Muratsuchi, Stephanie Nguyen, Reyes, Luz Rivas, Ta, Weber

### SENATE FLOOR: 30-7-3

**YES:** Allen, Alvarado-Gil, Archuleta, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Laird, Limón, McGuire, Min, Newman, Niello, Padilla, Roth, Skinner, Smallwood-Cuevas, Stern, Umberg, Wiener, Wilk

**NO:** Hurtado, Jones, Menjivar, Nguyen, Ochoa Bogh, Seyarto, Wahab

**ABS, ABST OR NV:** Ashby, Portantino, Rubio

## UPDATED

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CONSULTANT: Robert Sumner / B. & P. / (916) 319-3301

FN: 0004860