

The background of the entire page is a dark blue color with a subtle, repeating pattern of cannabis leaves. The leaves are rendered in a slightly lighter shade of blue, creating a textured effect. The year '2020' is prominently displayed in the upper right quadrant in a large, light blue, sans-serif font.

2020

2020

ANNUAL REPORT

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CALIFORNIA CANNABIS ADVISORY COMMITTEE

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LETTER FROM THE CANNABIS ADVISORY COMMITTEE

The state has faced unprecedented circumstances in 2020: the global COVID-19 pandemic and resulting recession, a record breaking wildfire season, and the nationwide fight for racial justice and equality. But the Cannabis Advisory Committee remains committed to fulfilling its charge and providing the licensing authorities with advice that protects public health and safety while ensuring that the regulated environment does not perpetuate the illicit market.

With the additional pressures the cannabis industry faces during this challenging time in mind, the Advisory Committee sought to recommend policies that promote public health, set the stage for the proposed consolidation of the licensing authorities, and lead to economic recovery. We hope this section serves to provide the context and background that may inform the adopted recommendations. The Advisory Committee acknowledges the state's tremendous amount of work and ongoing dedication toward protecting and growing the legal cannabis market this year.

BACKGROUND

Under Governor Gavin Newsom's leadership, pre-pandemic California had reason for economic optimism, recently benefitting from "118 consecutive months of net job growth", \$18 billion in reserves, and a bold vision rooted in a commitment to a "California for all." But when state health officials announced the first COVID-19 death and confirmed 53 cases on March 4, that promise of economic success faded into a once-in-a-generation recession.

In response, the governor declared a state of emergency and established numerous protections for Californians such as distribution of PPE, rent relief, increased public program safety nets, ramping up testing capabilities, and bolstering hospital infrastructure. The budget deficit swelled to \$54.3 billion as the governor implemented these vital policies to flatten the curve of infection rates and sought to secure \$1 trillion in funding from the federal government to sustain crucial pandemic relief efforts.¹

BUDGET

Due to the pandemic and ensuing recession, policies presented in the January budget proposal that would have further strengthened the legal market and laid the groundwork for significant programmatic changes were shifted to the 2021–2022 budget process. A major focal point of the budget proposal was an overhaul of the existing regulatory and licensing structure governing commercial cannabis businesses, and consolidation of the three licensing authorities into one agency to be known as the Department of Cannabis Control within the Business, Consumer Services and Housing Agency. Additionally, the proposed budget sought to simplify the manner in which cannabis taxes were collected, proposing that the cultivation tax be collected upon the first transfer of plant material from the cultivator, and that the 15% excise tax be collected at the retailer.

¹ Office of Governor Gavin Newsom, June 29, 2020, [Governor Newsom Signs 2020 Budget Act](#).

Despite postponing the consolidation, the Governor's Administration (Administration) convened multiple working groups of dedicated program staff tasked with improving upon the current regulatory framework and conducting outreach to stakeholders in an effort to address outstanding concerns of the legal industry.

The final budget contained a number of cannabis-specific provisions including the transfer of sworn investigators from the Department of Consumer Affairs' Division of Investigation to the Bureau of Cannabis Control (Bureau), and the funding necessary for the Bureau to hire additional investigators. The Bureau was also allocated funding for the development of a cannabis reference laboratory and \$15 million to disburse in grants to local jurisdictions for equity programs pursuant to the California Cannabis Equity Act.

Additionally, a portion of the budget's proposed \$39 million in the Cannabis Tax Fund revenue to be allocated to the Department of Fish and Wildlife to fund environmental clean-up was slated for a new grant program to assist qualifying licensed cultivators located in impacted watersheds.

COVID-19 CANNABIS EFFORTS

Many immediate actions were also taken to alleviate the challenges faced by the cannabis industry and to help sustain access. On March 19, the governor issued a stay-at-home order to protect the health of all Californians and to slow the spread of COVID-19. Because the order deemed cannabis an essential business, licensees were allowed to continue operating, which helped renew confidence in the legal supply chain.

The governor also issued multiple executive orders ultimately extending the validity of expired Medical Marijuana Identification Cards (MMIC) through December 31, 2020. This important action ensured that the needs of medical patients and their primary caregivers did not fall through the cracks during the pandemic.

Additionally, the California Department of Tax and Fee Administration (CDTFA), the Office of Tax Appeals, and the Franchise Tax Board extended the timeline for state tax return filings and payment of under \$1 million to July 31, 2020, and provided relief from tax interest and penalties. The agencies also provided a 12-month sales and use tax deferral of up to \$50,000 for businesses with under \$5 million in annual taxable sales.

Most notably, though, is the licensing fee deferral program the state created and made available to licensees who were subject to renewal fees between the months of May through August 31, 2020. The licensing fee deferral program provided immediate financial assistance to state cannabis licensees impacted by the pandemic. An estimated quarter of licensees utilized this critical program as a lifeline to stay open, providing much needed stability to the legal industry. Additionally, the licensing authorities provided relief from certain regulatory requirements to individual licensees through their disaster relief provisions.

RACIAL JUSTICE AND SOCIAL EQUITY

In addition to the pandemic, millions of Americans confronted another public health crisis brought forth by the high-profile violent deaths of Black individuals. Their deaths revealed the disproportionate treatment of people of color in our country stemming from systemic racism.

Collectively, many demanded changes to dismantle oppressive policies and practices and for greater investments to be directed toward communities of color in order to transform the lagging social, economic, and health conditions for a more just and equitable future. From this lens, cannabis prohibition has been used to criminalize communities of color for generations, destroying lives while wasting billions of dollars, and with legalization comes opportunity to redress the injustices.

On April 21, under the direction of the Administration, the state moved quickly to distribute \$30 million in funding for small business support services for equity programs “to address systemic discrimination and create real prosperity for all.”² The grants provide investments to communities most harmed by cannabis prohibition. At least \$23 million of the funding was dispersed to local jurisdictions, to allocate directly to applicants and licensees in the form of low/no-interest loans or grants.

The state also recently closed an application cycle for a \$28.8 million award solicitation process for the California Community Reinvestment Grants (CalCRG) program. GO-Biz will award grants to local health departments and qualified community-based nonprofit organizations to support the communities disproportionately affected by past federal and state drug policies.³


WILDFIRE

Driven by climate change, wildfire activity in California has increased in frequency and severity over the last decade. While wildfires are historically a natural part of the landscape, the fire season in California has grown increasingly severe, starting slightly earlier and ending a little later each year.

Since the beginning of 2020, California battled more than 9,000 wildfires, which burned over 4 million acres of land, claimed 31 lives, and destroyed more than 10,000 structures. The August Complex, now the state’s largest wildfire in recorded history, burned more than 1 million acres, impacting the counties of Lake, Mendocino, Humboldt, Trinity, Glen, and Tehama. Ignited by dry lightning storms on August 16 and 17, 2020, the August Complex was not fully contained until rains came in early November.

While wildfires burned throughout the state, destroying homes and livelihoods, the August Complex burned through the middle of Northern California’s Emerald Triangle region. Smoke and ash additionally impacted neighboring legacy farming regions, blocking out the sunlight for many days, impacting the natural flowering cycle of some cannabis crops.

2 California Governor’s Office of Business and Economic Development, and Bureau of Cannabis Control, April 21, 2020, [California Cannabis Equity Grant Program Provides \\$30 Million in Grant Funding to Local Jurisdictions](#).
3 [California Community Reinvestments Grants Program](#).



As licensed farmers scrambled to evacuate their homes, farms, and crops, the state’s licensing authorities worked closely with such impacted licensees to navigate emergency relief regulations. The 2020 wildfire season has and will continue to take its toll on legal cannabis businesses, with some licensees reporting the complete loss of structures and crops, while other licensees continue to assess losses as contamination and quality assurance testing is ongoing.

CONCLUSION

Despite the challenging times, under the leadership of Governor Newsom who publicly supported the legalization of cannabis since the campaign for Proposition 64, California continues to make progress on its legal cannabis framework protecting public health and safety, helping communities impacted by the war on drugs, and generating taxes to invest in critical state programs including quality child care that promotes positive outcomes for our state’s youngest learners.

The Advisory Committee remains dedicated to ensuring the success of the legal market and is grateful for the Administration and state departments’ deep commitment to collaboration with stakeholders and the public. In California, as the fifth largest economy in the world and home to the largest cannabis market in the nation, the Advisory Committee remains resilient, determined to craft a sensible path forward, and maintains hope for the possibility of federal changes. Under the Administration’s leadership, California is poised to fulfill the intent of Proposition 64 to ensure cannabis is implemented in a way that best serves the state and our most underserved communities. We look forward to continuing our work.

In partnership,

Members of the Cannabis Advisory Committee

2020 RECOMMENDATIONS

All Advisory Committee meetings must be publicly noticed and held in a physical location that is available to the public, per the Bagley-Keene Act. As the COVID-19 pandemic developed in the early part of 2020, the ability of the Advisory Committee to meet in person and provide a physical location for public attendance became increasingly difficult. On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which provided a pathway for the Advisory Committee to hold public meetings by teleconference without providing a physical public location, but still allowing for remote public participation.

The first Advisory Committee meeting of the new year was announced for August 20–21, 2020. Because all meetings scheduled in 2020 were held by teleconference, the Advisory Committee was unable to reconvene the subcommittees developed in previous years.

A total of six days of Advisory Committee meetings were scheduled during the 2020 year, with the first four of the meeting days dedicated almost exclusively to discussion and possible action on regulatory questions brought forward by the licensing authorities in preparation for consolidation.

RECOMMENDATIONS RELATED TO STATE LICENSING REQUIREMENTS

The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) currently provides a broad definition for an owner of a cannabis business. MAUCRSA does not provide a definition for financial interest holders, although it does specifically exclude from disclosure persons whose only interest in a cannabis business is through a diversified mutual fund, blind trust, or similar instrument. Furthermore, MAUCRSA does not specify what information and documents regarding financial interest holders must be disclosed when applying for a commercial cannabis license.

Each of the three licensing authorities have implemented regulations that clarify the definition of owner, the definition of financial interest holder, and what information and/or documentation must be provided in an application; however, there are differences.

During the August 20, 2020, meeting, the Advisory Committee was asked what the state should consider when: 1) reconciling the definition of owner, 2) reconciling the definition of financial interest holders, and 3) reconciling the documents related to business formation and finance. After much discussion and robust public comment, the Advisory Committee passed one recommendation, in an effort to respond to the three questions posed by the licensing authorities.

Definition of Owner and Financial Interest Holder

Question for the Advisory Committee: MAUCRSA provides a broad definition for owner of a cannabis business. The licensing authorities have made the definition of owner more specific in their respective regulations. While the regulations are similar, there are differences. What should the state consider when reconciling the regulations into a cohesive definition of owner?

Information and Documents Required from Owners and Financial Interest Holders

Question for the Advisory Committee: MAUCRSA requires applicants to provide a complete list of every person with a financial interest in the cannabis business. The licensing authorities have clarified which persons need to be disclosed as financial interest holders in their respective regulations; however, there are differences. What should the state consider when reconciling the regulations into a cohesive definition of financial interest holders?

Required Documents Related to Business Formation and Finances

Question for the Advisory Committee: MAUCRSA does not specify what information and documents regarding owners and financial interest holders must disclose with the application. The licensing authorities have specified this information in their respective regulations; however, there are differences. What should the state consider when reconciling the regulations?

Recommendation: Recommend the Bureau, California Department of Food and Agriculture (CDFA), and the California Department of Public Health (CDPH) work together to clarify their definition of “owner” and “financial interest holder”, information and documents required from owners and financial interest holders, and that the required business formation documents related to business formation and finances be consistent across license types and streamlined.

Status: The recommendation passed on a 15–1–0 vote.

RECOMMENDATIONS RELATED TO CULTIVATION

CDFA has established tiered application and licensing fees for cultivation licenses. The fees are based on the number of assumed harvests and the maximum canopy allowance for each license type. CDFA currently assumes that Outdoor license types only achieve one harvest per year, Mixed Light Tier 1 license types achieve three harvests per year, and Mixed Light Tier 2 and Indoor license types achieve five harvests per year. The fee structure also assumes that each cultivator is able to plant and harvest the full square footage allowed under the license type issued by the state.

CDFA regulations currently prohibit Outdoor licensees from using light deprivation, and prohibit Mixed Light Tier 1 licensees from cultivating outdoors in open-air. Background information provided to the Advisory Committee and the public states that the licensing authority considered allowing light deprivation at Outdoor cultivation premises but amended the emergency regulations to prohibit light deprivation on outdoor cultivation premises because such methods might produce similar numbers of harvests per year as Mixed Light Tier 1 license types.⁴

The licensing authority went on to express concern that allowing light deprivation for Outdoor cultivation premises would necessitate a reevaluation of application and license fees to account for a similar number of harvests as Mixed-Light Tier 1 licenses. The Advisory Committee was asked to consider whether light deprivation should be allowed at Outdoor cultivation premises.

Additionally, the Advisory Committee was asked to consider the current restrictions on shared cultivation premises areas. California regulations initially prohibited a licensee, holding multiple cultivation licenses, from sharing any portion of the cultivation premises with his/her other cultivation licenses. However, under permanent regulations, CDFA identified pesticide and other agricultural chemical storage area(s), composting area(s), and secured area(s) for cannabis waste as areas that may be shared between licenses held by one licensee. Immature plant area(s), designated processing area(s), and designated packaging area(s), among others, currently cannot be shared between licenses held by one licensee. With respect to nursery license requirements, only licensees propagating immature plants for distribution or seed to another licensee are required to obtain a nursery license.

⁴ Cannabis Advisory Committee, August 20–21, 2020, [Background for Recommendations](#), p. 3.

Allowing Light Deprivation in Outdoor Cultivation

Question for the Advisory Committee: *Should light deprivation be allowed at outdoor cultivation licensed premises?*

Recommendation #1: Recommend a licensee holding multiple cultivation licenses be allowed to share propagation and processing areas in addition to currently shared spaces. Also recommend that the cultivation licenses be restructured in pricing so that a cultivation licensee pays in relationship to the square footage they cultivate and the number of harvests they actually achieve, and in the meantime that Mixed Light Tier 1 cultivators be allowed to conduct open air cultivation.

Status: Recommendation #1 passed on a 14–0–0 vote.

Recommendation #2: Recommend allowing light deprivation as an option for Outdoor cultivation without requiring them to obtain a Mixed Light license.

Status: Recommendation #2 passed on a 14–0–0 vote.

Shareable Areas for Licensee with Multiple Licenses Including Nurseries with Propagated Material

Question for the Advisory Committee: *Should a licensee with multiple licenses be allowed to share propagation areas and other areas among the licensee's multiple licenses?*

Recommendation: Recommend that during consolidation, a pathway is created that allows licensed cultivators to share propagated material and seeds between licensed cultivators and with licensed nurseries and that there also may be opportunity for sharing and sales between cultivators and nurseries. Additionally, there should be a pathway created that allows for cultivation licensees to sell their propagated material if they have to close their license and relocate or for some reason become insolvent.

Status: The recommendation passed on a 15–0–0 vote.

RECOMMENDATIONS RELATED TO MANUFACTURERS

In the fall of 2019, cannabis consumers throughout the nation suffered from E-cigarette and Vaping Associated Lung Injury (EVALI) related illness. Cases occurring in California were predominantly associated with cannabis vaping products obtained from unlicensed, unregulated sources. And although no single chemical agent was identified as the sole cause of the reported illnesses, the state and nation learned more about the various ingredients that might be used in vaping products and their potential risks to public health.

California's manufacturing and laboratory testing regulations currently provide several protections for consumers of inhaled products, including:

- **Ingredient Disclosures**—Cannabis product labels must include a list of all ingredients contained within the product. If an ingredient contains multiple ingredients, those sub-ingredients must also be listed on the label.
- **Restrictions on Heavy Metals, Pesticides, Microbials and Mycotoxins**—Cannabis products are tested for a variety of contaminants and cannot be transferred to retailers or sold if they exceed any of the established action levels.
- **Universal Symbol Required on Cannabis Vaping Products**—Requires the universal symbol for cannabis to be included on the cannabis vape cartridge to inform consumers that the cartridge contains cannabis.

During the Advisory Committee meeting, members were asked to consider restricting inhaled products so that they can only contain cannabis or cannabis oil and botanically derived terpenes (extracted from plants). Furthermore, the Advisory Committee was asked to consider the regulation's current list of product classifications, and whether they should be modified to be based on method of consumption (ingested, inhaled, mucosal absorption, topical).

The licensing authority suggested that such a pathway would create clarity for licensees, and increase consumer protections. Licensees have expressed confusion on determining the proper classification for products which impacts their level of compliance. Compliance requirements—including THC limits, child-resistant packaging, and testing action levels—are based on the product classification. By tying product classifications to the instructions for use, the cannabis licensing authorities would be better able to develop product standards that reflect risks created by a specific method of consumption. Additionally, the licensing authority noted that some licensees have expressed confusion with determining the proper classification for products, potentially complicating ingredient restrictions placed on "inhaled concentrates", and creating compliance challenges for manufacturers.

Permissible Ingredients for Inhaled Cannabis Products

Question for the Advisory Committee: *What ingredients should be allowed or prohibited in inhaled cannabis concentrates (vape cartridges, infused pre-rolls, dabs, etc.)?*

Recommendation: Recommend that inhaled products, including vape cartridges, dab, shatter, wax, and prerolls, can contain only cannabis, cannabis oils, and other ingredients harvested from cannabis plants unless not deemed safe for inhalation by the FDA. Terpenes not part of harvested cannabis plants and flavorings other than those inherent in harvested cannabis plants are not permitted in inhaled and combustible products.

Status: The recommendation failed on a 6–7–1 vote.

Classification of Manufactured Cannabis Goods

Question for the Advisory Committee: *Are the current cannabis product classifications in regulation sufficient to account for the variety of products in the marketplace or does the state need to consider other ways to classify products?*

Recommendation: No action was taken on this item.

RECOMMENDATIONS RELATED TO DISTRIBUTORS

Pursuant to MAUCRSA, all cannabis and cannabis products must be transported by a licensed distributor. Only distributors holding a type 11 distribution license may arrange for regulatory compliance testing and transport cannabis and cannabis products to licensed retailers.

California regulations currently allow licensed type 11 distributors to provide storage-only services to other licensees. However, licensees utilizing storage-only services are required to have their cannabis goods transported from the storage-only distributor, back to their own licensed premises, before the cannabis goods can be distributed to any other licensee.

Additionally, MAUCRSA prohibits licensees from giving away any amount of cannabis or cannabis products, or any cannabis accessories, as part of a business promotion or other commercial activity. This means that samples of cannabis or cannabis goods must be handled in compliance with all of the rules that apply to final form cannabis goods including packaging and labeling requirements, testing requirements, taxation requirements, and may only be sold to a customer via a licensed retailer.

The ability to provide business-to-business samples is further complicated by the fact that licensees are prohibited from consuming cannabis goods on their licensed premises. Licensees have indicated that business-to-business samples are important for small and emerging licensees entering the market, and for retailers to gain a better understanding of the effects of the cannabis goods they intend to sell to customers.

Further complicating matters, and adding compliance cost to both type 11 distributor and transport only self-distribution type 13 licensees, is the regulatory requirement that ensures the cannabis goods they are transporting are locked in a fully enclosed box, container, or cage that is secured to the inside of the vehicle or trailer. No portion of the enclosed box, container, or cage shall be comprised of any part of the body of the vehicle or trailer.

The Advisory Committee was asked to consider these issues and provide recommendations for the licensing authority to consider during the ongoing consolidation process.

Storage-Only Services

Question for the Advisory Committee: *Licensed distributors may provide storage services to other licensees for cannabis. Should the state consider making changes to the storage-only regulatory framework?*

Recommendation: Recommend allowing a licensed distributor to pick up product from a storage-only facility and continue it up the supply chain.

Status: The recommendation passed on a 13–0–0 vote

Trade Samples Between Licensees

Question for the Advisory Committee: *Samples of cannabis goods must be handled in compliance with all the rules that apply to all other cannabis goods in the system. Should the state consider specific regulatory provisions for the handling of commercial cannabis goods trade samples?*

Recommendation: Recommend that the licensing agency create regulations that would allow for samples to be provided to retailers.

Status: The recommendation passed on a 12–0–0 vote.

Required Use of Fully Enclosed Box, Container, or Cage When Transporting Cannabis Goods

Question for the Advisory Committee: *Is the current requirement that cannabis goods be within a fully enclosed box, container, or cage in the vehicle during transport still necessary to ensure public health and safety?*

Recommendation: Recommend parts of the vehicle can be utilized as part of the enclosed box, container, or cage as long as a lock of some sort be utilized to access the box, container, or enclosed area, this would include the gates of the vehicle or trailer.

Status: The recommendation passed on a 9–1–2 vote.

RECOMMENDATIONS RELATED TO TRACK-AND-TRACE SYSTEM

MAUCRSA requires the movement of cannabis goods be recorded in the track-and-trace system. The licensing authorities' regulations do not allow for cannabis or cannabis goods to be transferred to another licensee if connectivity to the track-and-trace system is lost, regardless of the reason for the loss of connectivity.

Licensees have expressed concern over the inability to transfer cannabis and cannabis goods during a period of loss of connectivity. Licensees have pointed out the challenges and frequency by which loss of connectivity may occur. The recent trend in Public Safety Power Shutoff (PSPS) that de-energize power lines during red flag events have increased the likelihood of connectivity issues for many licensees.

As such, the Advisory Committee was asked to consider whether or not cannabis and cannabis goods should be allowed to be transferred during a loss of connectivity and, if so, what requirements should be placed on these transfers.

Operating During Loss of Connectivity with Track-and-Trace System

Questions for the Advisory Committee: *Should the licensing authorities allow for cannabis goods to be transported between licensees during times when a licensee cannot access the track-and trace system? If so, what requirements should be imposed to ensure the information is properly recorded?*

Recommendation: Recommend that the regulations be modified as necessary to allow for alternative methods and timeframes to enter information into the Metrc system that account for natural disasters, power outages, or other loss of connectivity or technology failure that will ensure that licensees can continue to operate uninterrupted.

Status: The recommendation passed on a 12–2–0 vote.

RECOMMENDATIONS RELATED TO RETAILERS

The Advisory Committee was asked to consider five important issues challenging licensed retailers. The first question to be considered was the current prohibition on the sale of non-cannabis food and beverages by licensed retailers. Currently, MAUCRSA, authorizes a local jurisdiction to allow the consumption of cannabis products on the premises of a licensed retailer. Yet the Bureau's regulations do not currently include specific provisions for on-site consumption of cannabis goods, but as mentioned do include a prohibition on the sale of non-cannabis food and beverages by a licensee.

Licensees have expressed concerns that the current prohibition on non-cannabis food and beverages prevents the ability for licensees to operate cannabis consumption lounges that also provide non-cannabis food and beverages. As such, the Advisory Committee was asked to consider where and how food and beverage items should be stored and consumed, how regulations could be modified to provide access to these items, and how records should be kept in regard to non-cannabis food and beverage sales.

Additionally, licensees have expressed concerns about the limits placed on the amount of cannabis goods that can be in a delivery vehicle. Since legalization and the subsequent regulation of commercial cannabis businesses, several local jurisdictions have banned licensed retail sales of cannabis goods, creating what advocates commonly refer to as access deserts.

California regulations currently prohibit a delivery employee from carrying more than \$5,000 worth of cannabis goods which has posed challenges to licensed retail delivery businesses seeking to provide cannabis to areas where legal store-front retail sales are not currently available. The licensing authority has established the limit to minimize the risk of theft or loss of cannabis goods and has expressed concerns that higher limits may increase the risk of theft or diversion. The Advisory Committee was asked to consider an increase to the value of cannabis goods allowed in a licensed retail delivery vehicle.

The third consideration put before the Advisory Committee was in relation to curbside delivery, which became a necessity during the COVID-19 pandemic and the subsequent physical distancing requirements, and stay-at-home orders issued by the state and local jurisdictions. Currently, California regulations require that all sales of cannabis goods take place in the retail area of the retailer's licensed premises. To accommodate the need for curbside delivery, the Bureau provided an exemption to this requirement as a form of disaster relief. Retailers are required to file for this exemption every 30 days, to continue conducting curbside delivery. The Advisory Committee was asked to consider if curbside delivery should be allowed permanently, and if the area where curbside delivery occurs should be within the retailer's licensed premises.

The fourth item brought before the Advisory Committee for consideration was the hours allowed for licensed cannabis retail operations. The state's regulations currently limit retail sales to between the hours of 6 a.m. and 10 p.m. Local jurisdictions are allowed to impose restrictions on the operational hours of licensed retail businesses; however, local jurisdictions are not allowed to extend the hours of operation for licensed retail businesses. As such, the Advisory Committee was asked to consider whether the state's hours of operation should be adjusted.

Lastly, the Advisory Committee was asked to consider the use of minor decoys to ensure compliance with state laws and regulations regarding the sale of adult-use cannabis goods to persons under 21 years of age. While California law allows the use of minor decoys, the law does not address whether it is safe for minor decoys to engage in these activities. The Advisory Committee was asked to consider whether or not the use of minor decoys is feasible, whether or not requirements for minor decoys should be changed, and if so, what the requirements should be.

Sale and Consumption of Cannabis Goods and Non-Cannabis Food Items on Licensed Retail Premises

Questions for the Advisory Committee: *Should the Bureau develop specific requirements for on-site consumption of cannabis goods in addition to any requirements imposed by the local jurisdiction? Should the Bureau also amend the regulations to allow retailers to sell non-cannabis food items and, if so, what requirements should apply?*

Recommendation #1: Recommend the Bureau create a licensed category for commercial cannabis consumption lounges.

Status: The recommendation failed on a 3–8–2 vote.

Recommendation #2: Recommend Bureau regulations be amended to allow a licensee that is permitted to serve cannabis onsite to serve non-cannabis infused food and non-alcoholic beverages for consumption onsite, if allowed by local rules.

Status: The recommendation passed on a 7–3–3 vote.

Amount of Cannabis Goods That Can Be Carried by Delivery Vehicle

Questions for the Advisory Committee: *Should the Bureau change the amount of cannabis goods that a retail delivery employee may carry or use a different standard of measurement to determine delivery vehicle limits? Should the regulations set different limits for cannabis goods that are not part of an order received and processed prior to leaving the retail premises?*

Recommendation: Recommend that the licensing authority increase the \$5,000 threshold for products sold.

Status: The recommendation passed on a 8–4–2 vote.

Curbside Delivery

Question for Advisory Committee: *Should the Bureau develop regulations to allow retailers to conduct the sale of cannabis goods through curbside delivery, and, if so, what should be included in these requirements?*

Recommendation: Recommend that the licensing authority develop a pathway by which curbside delivery may be allowed on a permanent basis so long as the local jurisdiction authorizes it.

Status: The recommendation failed on a 4–7–1 vote.

Hours of Operation

Question for the Advisory Committee: *Should the Bureau amend the allowed operating hours for retail sales at the licensed premises and through delivery?*

Recommendation: No action was taken on this item.

Minor Decoy Requirements

Questions for the Advisory Committee: *Is the use of minor decoys feasible? Should the requirements for minor decoys be changed, and if so, what should the requirements be?*

Recommendation: No action was taken on this item.

RECOMMENDATIONS RELATED TO MICROBUSINESSES

MAUCRSA defines a microbusiness license as being “for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer.”⁵ California regulations further clarify the requirements for holding a microbusiness license and require a microbusiness licensee to engage in at least three of the following activities: cultivation, manufacturing, distribution, and retail sale.

License types created by the CDFA such as the processor license, or the CDPH such as the packaging license (Type P), are not considered qualifying activities for purposes of obtaining a microbusiness license. However, the CDPH-created Type N license, which allows the licensee to manufacture cannabis products other than extracts or concentrates, is considered a qualifying activity for purposes of obtaining a microbusiness license.

Each of the activities performed by a microbusiness licensee must occur on the same licensed premises. Additionally, the areas of the licensed premises for manufacturing and cultivation must be separated from any distribution and retail areas by a wall, and all doors between the areas must remain closed when not in use. In the background materials provided for this agenda item,⁶ the Bureau explained that walls and doors are required between these areas to ensure that cannabis goods that have undergone laboratory testing and are stored in the distribution and retail areas are not contaminated by the cultivation or manufacturing activities occurring on the premises.

The Advisory Committee was asked to consider which activities should be considered qualifiers for a microbusiness license, what number of activities should be required to qualify for a microbusiness license, and if the regulatory requirements for walls and closed doors between activities are necessary.

The Advisory Committee was also asked to consider regulations relating to security for microbusinesses. California regulations currently require microbusiness licensees to comply with the security rules and requirements applicable to the corresponding license type suitable for the activities conducted. For example, a microbusiness engaging in cultivation, retail sales, and distribution would need to comply with the Bureau’s video surveillance requirements in areas where retail sales and distribution activities occur. However, the Bureau’s video surveillance requirements would not be applied to the microbusiness licensees’ cultivation activity areas because CDFA, the regulatory authority for cultivation licensees, does not require video surveillance over cultivation activities.

⁵ Cannabis Advisory Committee, September 24–25, 2020, [Background for Recommendations](#), p. 4.

⁶ Cannabis Advisory Committee, September 24–25, 2020, [Background for Recommendations](#), p. 5–6.

Required Number of Commercial Cannabis Activities and Qualifying Commercial Cannabis Activities Under Microbusiness License

Question for the Advisory Committee: *Should the state consider amending the number of commercial cannabis activities and qualifying commercial cannabis activities under the microbusiness license?*

Recommendation #1: Recommend that the Bureau allow processing as one of the three permissible activities under a microbusiness license.

Status: Recommendation #1 passed on a 7–2–3 vote.

Recommendation #2: Recommend that the licensing authority allow for microbusiness license holders to utilize sales at licensed events to qualify as licensed retailer activity without having to be a delivery service or retail storefront.

Status: Recommendation #2 passed on a 9–0–5 vote.

Premises Requirements for Microbusiness Licenses

Question for the Advisory Committee: *Should the requirements for a microbusiness premises be amended?*

Recommendation: Recommend that the licensing authority take out the requirements to have all the different activities be separated by a physical wall or barrier in a microbusiness.

Status: The recommendation passed on a 5–2–7 vote.

Security Requirements for Microbusiness Licenses

Question for the Advisory Committee: *Are the current security requirements in regulation sufficient, or does the state need to consider other security measures?*

Recommendation: No action was taken on this item.

RECOMMENDATIONS RELATED TO TESTING LABORATORIES

MAUCRSA requires that cannabis and cannabis products shall not be sold unless a representative sample of the cannabis or cannabis product has been tested by a licensed testing laboratory. Each representative sample must be tested for cannabinoids, foreign materials, heavy metals, microbial impurities, mycotoxins, moisture content and water activity, residual pesticides, residual solvents and processing chemicals, and, if applicable, terpenoids.

Certain compounds, such as vitamin E acetate, have recently been found to be harmful in inhaled cannabis products. Now that the regulations have been in place for a period of time, the Advisory Committee was asked to consider if there should be changes to what is required to be tested for. Any changes to the substances and analytes tested for, or the action levels, should ensure cannabis goods are safe for human consumption.

MAUCRSA defines a testing laboratory as a laboratory, facility, or entity in the state that offers or performs tests of cannabis goods, and that is both accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state and licensed by the Bureau. In addition to testing cannabis and cannabis goods produced by licensed entities, testing laboratories are also allowed to receive and test samples of cannabis goods from a qualified patient or primary caregiver with a valid physician's recommendation for cannabis for medicinal purposes, or from a person over 21 when the cannabis has been grown by that person and will be used solely for their own personal use.

However, licensed testing laboratories are prohibited from testing anything other than cannabis or cannabis goods, meaning that licensed testing laboratories are not allowed to test the chocolate a licensee might use for the manufacturing of an edible cannabis product, or the medium a cultivator might use for growing a cannabis plant, for example.

Regulatory Compliance Testing of Analytes and Other Substances in Cannabis Goods

Question for the Advisory Committee: *Should the substances and analytes tested for be changed and, if so, how?*

Recommendation: Recommend that the Agency set regulations to ensure that all inhaled concentrated cannabis goods are tested for solvents including vitamin E acetate and establish action levels for all level 1 pesticides in the testing process.

Status: The recommendation passed on a 13–0–0 vote.

Testing of Non-Cannabis Goods

Question for the Advisory Committee: *Should licensed testing laboratories be allowed to test non-cannabis goods?*

Recommendation: Recommend that the restriction of testing laboratories testing only cannabis products be lifted.

Status: The recommendation passed on a 12–0–0 vote.

RECOMMENDATION RELATED TO THE IMPACTS OF HIGH-THC CONSUMPTION RESEARCH

During the August 21, 2020, Advisory Committee meeting, per the discussion of agenda item 9. *Discussion and Possible Action on Recommendations Related to Manufacturers, a. Permissible Ingredients for Inhaled Cannabis Products, and b. Classification of Manufactured Cannabis Goods*, Member Cermak motioned for the Advisory Committee to recommend CDPH convene a panel of experts to review scientific literature on the consequences of high-THC product use and provide a report with potential public health guidelines. Committee Member Huffman seconded the motion, but before further discussion ensued, it was determined that THC in manufactured products was not on the agenda, and recommended that the topic be placed on the next meeting’s agenda.⁷

This agenda item was then formally placed on the September 25, 2020, agenda and noticed as item 7. *Continuation of Discussion on Impacts of High-THC Consumption Research*. During the September 25 meeting, the Advisory Committee discussed the item, heard public comment, and passed the following recommendation on a 11–0–0 vote:

“[...] that CDPH request and support the Office of the President of the University of California to convene an expert scientific task force, exempt from conflicts of interest, to review the scientific literature on the issue of increasingly high potency (THC content) of cannabis and cannabis products, the state of the science on health implications of increasing potency (for example, but without limitation, upon dependency, mental health, drugged driving, and health benefits), present a summary of the scientific data and make public health recommendations to cannabis regulatory agencies and to the public.”⁸

⁷ Cannabis Advisory Committee, August 21, 2020, [Meeting Minutes](#), p. 7–8.

⁸ Cannabis Advisory Committee, September 25, 2020, [Meeting Minutes](#), p. 19–21.

Following the vote, a concern was expressed that the September 25, 2020, agenda did not clearly indicate the Advisory Committee may take action on the agenda item. As such, the item was again placed on the agenda for the October 30, 2020, Advisory Committee meeting as item *6. Discussion and Possible Action on Recommendations Related to Impacts of High-THC Consumption Research*.

Background materials provided by the licensing authorities ahead of the October 30, 2020, meeting highlighted that the Revenue and Taxation Code provides for research grant funding for public universities to conduct research related to the implementation of Proposition 64.

Grant funding recipients are required to report on their findings and make the reports available to the public. During the October 30, 2020, Advisory Committee meeting, the Bureau reminded committee members and the public that it was currently considering proposals from public universities to receive grant funding, and that \$30 million would be awarded in the process.

Grant recipients were formally announced on November 13, 2020, and fall within one of the several specified categories, including public health, criminal justice and public safety, economic, environmental impacts, and the cannabis industry.⁹

Recommendation: Recommend that CDPH requests and supports the Office of the President of the University of California to convene an expert scientific task force, exempt from conflicts of interest, to review the scientific literature on the issue of increasingly high potency THC content of cannabis and cannabis products, and the state of the science on potential medical benefits and health implications of increasing potency, for example, but without limitation upon dependency, mental health, and drugged driving, and present a summary of the scientific data and make public health recommendation to cannabis, regulatory agencies, and to the public.

Status: The recommendation passed on a 11–0–0 vote.

⁹ Bureau of Cannabis Control, November 13, 2020, [Bureau Of Cannabis Control Announces Public University Research Grant Funding Recipients](#).

RECOMMENDATIONS RELATED TO PERMISSIBLE INGREDIENTS FOR INHALED CANNABIS PRODUCTS

This issue was originally considered during the August 21, 2020, Advisory Committee meeting, per agenda item 9. *Discussion and Possible Action on Recommendations Related to Manufacturers, a. Permissible Ingredients for Inhaled Cannabis Products*. However, as noted in the Recommendations Related to Manufacturers section of this Annual Report, the Advisory Committee failed to pass a recommendation during the meeting.

This issue was then placed on the October 30, 2020, agenda as item 5. *Discussion and Possible Action on Recommendations Related to Permissible Ingredients for Inhaled Cannabis Products*.

Recommendation: Recommend that characterizing flavors not be allowed to be added to cannabis flower or cannabis products for inhalation or combustion.

Status: The recommendation failed on a 3–8–1 vote.

PRESENTATIONS

Two presentations were scheduled before the Advisory Committee this year. Unfortunately, the presentation by The United Core Alliance’s President Brandon Bolton was postponed to next year.

Presentation on Recommendations Related to Addressing the Challenges and Opportunities to Maintaining, Expanding, and Supporting a Diverse, Equitable, and Inclusive Legal Regulated Cannabis Marketplace for Communities, Consumers, Workers, and Owners

Presenter: Brandon Bolton, The United CORE Alliance

Presentation on Metrc Track-and-Trace System: Metrc 2020 System Enhancements and the Future of the California Cannabis Track-and-Trace (CCTT) API for Third Party Integrators

Presenter: California Department of Food and Agriculture

ADDRESSING GLOBAL ISSUES

Because of the pandemic and the late start to this year's meeting schedule, the Advisory Committee was not able to agendaize and discuss some of the unresolved issues brought up in previous years. However, we would like to acknowledge that the Administration, the California Legislature, and the licensing authorities have continued to address overarching issues challenging the cannabis industry.

LEGISLATIVE UPDATE

Because of the immense challenges faced during the 2020 legislative session, the overall number of active bills was vastly reduced compared to recent years. Yet several important cannabis-related bills were passed and signed into law.

- **Assembly Bill 82** (Committee on Budget, Chapter 14, Statutes of 2020) provides peace officer authority to the chief of enforcement at the Bureau and all its investigative staff identified by the director of the Department of Consumer Affairs as specified, among other provisions. This change helps streamline complex cannabis-related investigations and is consistent with the proposed consolidation.
- **Senate Bill 1244** (Bradford, Chapter 309, Statutes of 2020) aids local agencies in enforcement against illicit cannabis activities by clarifying that cannabis testing laboratories may receive and test samples from any local or state law enforcement agency or regulatory body.
- **Assembly Bill 1458** (Quirk, Chapter 269, Statutes of 2020) will temporarily raise the label variance threshold for the milligrams per serving cap on THC in edible products from plus or minus 10% to plus or minus 12% until January 1, 2022.
- **Assembly Bill 1525** (Jones-Sawyer, Chapter 270 Statutes of 2020) will help financial institutions comply with federal reporting requirements and avoid having to file costly and burdensome reports that discourage these entities from providing services to cannabis licensees.
- **Assembly Bill 1872** (Committee on Budget, Chapter 93, Statutes of 2020) suspends for one year, beginning January 1, 2021, the CDTFA's authority to adjust the cannabis cultivation tax for inflation and prevents the wholesale mark-up rate for the purposes of calculating the excise tax from being increased between September 18, 2020, and June 30, 2021. As such, the CDTFA recently notified the public that the excise tax mark-up rate would remain unchanged, at 80%, and that the regularly scheduled adjustment of the cultivation tax for inflation would be postponed until January 1, 2022. The bill also clarifies that local jurisdictions are ineligible for grants issued by the Board of State and Community Corrections, pursuant to Revenue and Taxation Code section 34019, if they ban both indoor and outdoor commercial cultivation or retail sales, rather than cultivation or retail sales.

- **Senate Bill 67** (McGuire, Chapter 298, Statutes of 2020) expanded the state’s county of origin program to also include city of origin, and city and county of origin opportunities. Additionally, the bill established terroir-driven baseline standards for the state’s Cannabis Appellation Program that requires the cannabis be planted in the ground and without the use of a structure nor artificial lighting in the mature canopy area to qualify as an appellation product.

REGULATORY UPDATE

In January, the Bureau promulgated emergency regulations requiring the Quick Response Code (QR Code) Certification to help consumers identify licensed cannabis retailers and avoid illicit vaping products. The new regulation requires licensed cannabis businesses to post their unique QR Code certificate in storefront windows to help educate consumers about the importance of purchasing from the legal market.

Licensees are also required to carry the QR Code certificate with them while transporting or delivering cannabis to assist law enforcement in differentiating between licensed cannabis activity and illegal cannabis activity. When scanned, the QR Code certificate links to the [Bureau’s Online License Search](#) and confirms the cannabis retailer’s license status and displays the license location to ensure that the information is not counterfeit.

Additionally, in November, the Bureau launched a new Application Programming Interface (API) “to provide stakeholders with an additional tool to access the Bureau’s licensing data and to provide greater flexibility in utilizing that information.”¹⁰ The API allows stakeholders to obtain license data that can be integrated into their own software. Users may use the API to obtain information for a single license, a list of licenses, or the entire license directory in a single request.

On May 1, 2020, the California Department of Food and Agriculture (CDFA) released proposed regulations for the OCal Program, a statewide certification program that will establish and enforce cannabis standards comparable to the National Organic Program. On February 20, 2020, the CDFA released the proposed regulations for the Cannabis Appellation Program (CAP). Following the governor’s signature of Senate Bill 67, the agency modified the proposed regulations codifying the expansion of the county of origin program, and the terroir-based baseline standard requirements established for the Cannabis Appellation Program. Both the OCal Program and the Cannabis Appellation Program have statutory start dates of January 1, 2021.

CANNABIS BALLOT INITIATIVES

Over 30 local initiatives related to cannabis were on the ballot this year in California. The majority of these initiatives consisted of tax measures and were approved. The approval of tax initiatives often represents the first step to local permitting and increasing legal access.

¹⁰ Bureau of Cannabis Control, November 17, 2020, [Bureau Of Cannabis Control Announces New API For License Search Data](#).

Despite federal prohibition, legalization efforts have advanced nationwide. Voters in New Jersey, Montana, and Arizona supported the legalization of adult-use cannabis. Mississippi passed medical use and South Dakota legalized both medical and adult-use. As of November 4, 2020, 36 states and four territories allow for medical-use, and 15 states and three territories allow for adult-use.¹¹ Remarkably, one in three Americans now live in a state where adult-use cannabis is legal.

With the potential of reduced criminalization, economic growth, and strong support from America's population, the cannabis market is here to stay for the long-term as the Advisory Committee looks forward to the future of federal removal of cannabis from the Controlled Substances Act.¹²

ACKNOWLEDGMENTS

The Cannabis Advisory Committee would like to acknowledge and thank the following individuals for their leadership and commitment to the mission and work of the Advisory Committee. We are grateful for the valuable support received from the state cannabis licensing authorities' staff, legal counsel, and the technical and stenographic team throughout the course of the year.

The Advisory Committee benefited from the active participation of experts, local officials, business leaders, patient advocates, labor representatives, veteran groups, compassionate use collectives, industry-specific organizations, and members of the community. We would like to thank the individuals who attended the meetings, provided thoughtful public comment, and engaged with the work of the committee. We look forward to your continued participation to improve the industry.

LEADERSHIP

Gavin Newsom, Governor

Nicole Elliott, Senior Advisor on Cannabis, Governor Gavin Newsom, Office of Business and Economic Development

Lourdes Castro Ramírez, Secretary, California Business, Consumer Services and Housing Agency

Lila Mirrashidi, Deputy Secretary, California Business, Consumer Services and Housing Agency

Kimberly Kirchmeyer, Director, Department of Consumer Affairs

¹¹ National Conference of State Legislatures, November 10, 2020, [States Medical Marijuana Laws](#).

¹² *Politico*, November 29, 2020, [Why the next Congress is unlikely to legalize marijuana](#).

BUREAU OF CANNABIS CONTROL

Tamara Colson, Acting Bureau Chief

Andre Jones, Assistant Chief of External and Intergovernmental Affairs

Alex Traverso, Assistant Chief of Communication

Sara Gardner, Attorney III

Angela McIntire, Attorney III

Ashlynn Blackshire, Staff Services Analyst

Kaila Fayne, Associate Governmental Program Analyst

In November 2020, Bureau of Cannabis Control Chief Lori Ajax announced her retirement after nearly 27 years of state service. After spending 21 years at the Department of Alcoholic Beverage Control, Ajax was appointed by Governor Jerry Brown as chief, and retained by Governor Newsom when he took office in 2019. The Advisory Committee would like to thank the former chief for her hard work, dedication, and unwavering commitment to leading the creation of a regulatory structure for cannabis in the world's largest legal cannabis market. We congratulate her on retirement and wish her happiness and success in all future endeavors.

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE | CALCANNABIS CULTIVATION LICENSING DIVISION

Richard Parrott, Director

Melissa Eidson, Assistant Director

Kristi Armstrong, Legislative/Regulations Analyst

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Lindsay Rains, Environmental Program Manager I, Licensing Branch

Tabatha Chavez, Chief, Compliance and Enforcement Branch

Crystal D'Souza, Attorney III, CDFA Legal Office

Lindsay Herrick, Attorney III, CDFA Legal Office

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH | MANUFACTURED CANNABIS SAFETY BRANCH

Miren Klein, Assistant Deputy Director, Center for Environmental Health

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Christina Dempsey, Chief, Policy & Outreach Section, Manufactured Cannabis Safety Branch

Peggy Campbell, Attorney IV, Office of Legal and Regulations Services

Shannon George, Unit Manager, Policy and Regulations Unit, Manufactured Cannabis Safety Branch

Dawn Gordon, Health Program Specialist, Policy and Regulations Unit, Manufactured Cannabis Safety Branch

CANNABIS ADVISORY COMMITTEE MEMBERS

JEFFREY P. FERRO (Chair), Labor Organization Representative; Director, Cannabis Workers Rising/Executive Assistant to the Director of Organizing, United Food and Commercial Workers International Union

KRISTIN HEIDELBACH (Vice Chair), Labor Organization Representative; International Representative/Cannabis Division Director, Teamsters

AVIS BULBULYAN, Cannabis Industry Representative; CEO, SIVA Enterprises/President, Los Angeles Cannabis Task Force

TIMMEN CERMAK, M.D., Physician Representative; Psychiatrist, California Society of Addiction Medicine

MATT CLIFFORD, Environmental Expert Representative; California Water Project Attorney, Trout Unlimited

ERIC HIRATA, Alcoholic Beverage Control Representative; Director, Department of Alcoholic Beverage Control

ALICE A. HUFFMAN, Community Equity Representative; Former President, California Hawaii NAACP

KRISTIN LYNCH, Labor Organization Representative; Strategic Director, Service Employees International Union

KRISTIN NEVEDAL, Cannabis Industry Representative; Executive Director, International Cannabis Farmers Association; Member of the Committee on the Annual Public Report

LAVONNE PECK, Cannabis Industry Representative; Owner, Native Network Consulting

MATT RAHN, City Representative; City Council Member, City of Temecula

KEITH STEPHENSON, Cannabis Industry Representative; Founder and CEO, Purple Heart

TAMAR TODD, Community Equity Representative; Member of the Subcommittee on Equity

HELENA WILLIAMS, State Law Enforcement Representative; Captain, Drug Evaluation & Classification Program, California Highway Patrol

DAVID WOOLSEY, Local Law Enforcement Representative; Sergeant, Division of Cannabis Regulation, San Jose Police Department

BEN WU, Cannabis Industry Representative; Former Chief Operating Officer, Kush Bottles

BEVERLY YU, Labor Organization Representative; State Government Affairs Director, United Domestic Workers/American Federation of State, County and Municipal Employees Local 3930; Member of the Committee on the Annual Public Report

Remembrance of James W. Sweeney, Community Equity Representative; Consultant, James W. Sweeney & Associates; Chair of the Subcommittee on Equity

The Advisory Committee would like to provide our deepest condolences to the family of Mr. James W. Sweeney. We are incredibly grateful for his service on the Committee, especially for his leadership and insight on the Social Equity Subcommittee. Mr. Sweeney will be remembered as a social justice champion and a mentor for young people. We appreciate his engagement on critical issues, his humor, and dedication to the Committee's work.

ACKNOWLEDGMENT OF FORMER ADVISORY COMMITTEE MEMBERS

We would like to thank the following Advisory Committee members for their service on the Committee.

BILL DOMBROWSKI, Business Representative; President and CEO, California Retailers Association (Retired)

CATHERINE JACOBSON, Cannabis Patient Advocate; Director of Clinical Research, Tilray Global

ARNOLD S. LEFF, MD, REHS, Public Health Expert; County Health Officer, Santa Cruz County (Retired)

JOE NICCHITTA, County Representative; Cannabis Management Officer, Office of Cannabis Management, Los Angeles County



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