



May 19, 2022

The Honorable Gavin Newsom  
Governor  
State of California  
State Capitol, First Floor  
Sacramento, CA 95814

The Honorable Anthony Rendon  
Speaker of the Assembly  
State of California  
1021 O Street, Suite 8330  
Sacramento, CA 95814

The Honorable Toni Atkins  
Senate President Pro Tempore  
State of California  
1021 O Street, Suite 8518  
Sacramento, CA 95814

Dear Governor Newsom, Pro Tempore Atkins and Speaker Rendon:

On behalf of California's leading cannabis trade organizations representing cultivators, manufacturers, processors, distributors, laboratories and retailers across California's regulated cannabis supply chain, we write in response to the "Cannabis Tax Reform" trailer bill proposal outlined in the Governor's May Revise Budget Proposal.

1. We support setting the cultivation tax rate at zero beginning July 1, 2022 and appreciate this first step towards simplifying the existing tax framework.
2. We do not object to shifting the point of collection and remittance for excise tax from distribution to retail on January 1, 2023. However, by applying the excise tax to the retail price rather than the wholesale price plus a mark-up rate, this results in an effective tax increase when compared to the existing tax framework.
3. Tax revenue goals for Allocation 3 funding should be inextricably linked to the overall health of the regulated industry, establishing a trigger that allows the excise tax to fluctuate up or down to balance the state's dual goals of funding programs and migrating consumers to the legal market.
4. A significant concern with the proposal is the automatic excise tax rate increase from 15% to 19% by July 1, 2025, which is an effective tax increase when compared to the existing tax framework. We object to tax increases.

As a stand-alone policy, setting the cultivation tax at zero reduces overall tax revenues by 3.14%<sup>1</sup> of total retail sales. In contrast, by shifting the point of collection from distribution to retail, this results in an immediate increase in tax revenues by 2.16%<sup>2</sup> of total retail sales. The net impact is a 0.98% reduction in taxes as a percentage of retail sales, assuming the excise tax rate remains at 15%. This is not meaningful reform. In fact, it's a tax increase proposal once the excise tax rate spikes to 19% within three years.

<sup>1</sup> 3.14% = 2021 Cultivation Taxes of \$163M less 2021 Taxable Sales of \$5.2B

<sup>2</sup> 2.16% = 15% less 12.84% (12.84% = 2021 Excise Taxes of \$668M divided by 2021 Taxable Sales of \$5.2B)

Establishment of an excise tax rate to anything above 16% would be an effective tax increase above the existing cannabis tax structure. This proposal as it currently stands would, within three years, increase the effective tax rate far above the status quo, driving up prices to the end consumer, further destabilizing a fragile legal market and further empowering a formidable illicit market.

Within three years, or sooner based on the proposed triggers, this proposal would automatically increase the excise tax from 15% to 19%, which is a 12% increase in tax revenues above the existing tax framework, as illustrated in the table below using 2021 Baseline Revenue data as reported from the California Department of Tax and Fee Administration (dollar amounts in millions).

	<b>Taxable Sales</b>	<b>Cultivation Tax</b>	<b>Excise Tax</b>	<b>Sales Tax</b>	<b>Total Taxes</b>	<b>Delta 2021</b>
Baseline (2021)	\$5,204	\$163	\$668	\$462	\$1,294	0%
Scenario 1 (15%)	\$5,204	\$0	\$780	\$462	\$1,243	-4%
Scenario 2 (16%)	\$5,204	\$0	\$832	\$462	\$1,295	0%
Scenario 3 (19%)	\$5,204	\$0	\$988	\$462	\$1,451	12%

Our organizations cannot accept a proposal that significantly increases the consumer tax burden on cannabis products. For the legal market to have any chance of long-term stability – and for the state to transition consumers to the regulated market in meaningful numbers – we must have competitive pricing with the illicit market. Currently, illegal products are less than half the cost of legal products. As written, after a brief reprieve, the “Cannabis Tax Reform” proposal will amplify the disparity.

While we are in favor of zeroing-out the convoluted, weight-based cultivation tax, we do not view this as a tax reduction effort when combined with shifting the point of tax collection from distribution to retail and the automatic increase up to 19%. Shifting the point of collection from distributors to retailers, rationalizes the supply chain and reduces abrasions, but increases the effective excise tax rate immediately. Accounts receivable for product payments across the supply chain may also be further exacerbated, as distributors would not be in the same position to demand payment on invoices as they are today as tax collectors.

The proposal streamlines the administrative burden of collecting, auditing, and reconciling taxes, but automatically increases the effective tax rate to levels above the existing tax framework, the impact of which would be devastating to the legal cannabis industry.

Currently, the illicit market is robbing Californians of billions of tax dollars per year. The Allocation 3 recipients of cannabis funds – including youth education / intervention / treatment, environmental restoration, and state and local law enforcement programs – should be gravely concerned with combating California’s illicit cannabis market.

Tax increases will reduce regulated transactions, eliminate thousands of jobs, drive consumers to seek out alternative, illicit products, and is counter to California's stated goal of fostering a safe and sustainable cannabis industry. Within one year of Washington State's adult use program coming online, cannabis products were cheaper in state sanctioned stores than the pre-existing unregulated medical stores. The unregulated stores couldn't compete and the regulated system prevailed. According to Global Go Analytics, Washington has an 88% compound annual growth rate, versus Colorado at 58%, Oregon at 57%, and California at 21%.

Capturing a larger tax base by converting existing cannabis users who are currently buying from the illicit market should be the focus. Increasing legal points of access at the local level in conjunction with lowering taxes are the most effective ways to achieve this goal. The former issue of local control is perhaps the most substantive barrier to the success of the legal market. In essence, when local jurisdictions ban cannabis retail, "local control" means "no control." All cannabis commerce in these areas is illicit and untaxed.

Tax relief is the only way for the state to effectively combat the illicit market. The recent [Reason Foundation report](#) illustrates how a reduction to the excise tax rate would yield faster growth of the legal market thereby increasing overall tax revenue. By way of example, in 2019 the City of Long Beach lowered local taxes to 1% and within 2 years the overall tax revenue doubled and jobs increased from 500 to 1,100. This case study is an example of what can be achieved on a larger scale with a statewide temporary tax reduction initiative.

Comprehensive tax reform, inclusive of streamlining tax collection along with true tax relief will reduce the gap in price between regulated and illicit products, increasing affordable access to regulated cannabis versus the dangerous alternatives: less expensive, untested products which are more readily available to youth and diversion markets, fueling criminal activity. Addressing unlicensed and illegal operators should be our highest priority, and in doing so would significantly bolster participation in the legal market and increase tax revenues to the state.

We urge policymakers to look at the wealth of available data that supports the economic as well as public safety arguments for implementing comprehensive tax reform that both streamlines the process for collecting taxes and provides for tax relief to the legal industry and consumers. As written, we are opposed to the 19% automatic increase which drives the effective tax rate above current levels on the already egregiously over-taxed cannabis industry. In place of the mandatory increase to 19% (and 15% floor), we ask that you consider establishing a trigger that allows the excise tax to fluctuate up or down to balance the state's dual goals of funding programs and migrating consumers to the legal market.



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CANNABIS  
DISTRIBUTION  
ASSOCIATION

March 15, 2022

The Honorable Anna Caballero  
California State Senate  
Capitol Office, 1021 O Street, Suite 5140  
Sacramento, CA 95814

**RE: SB 1326 (Caballero) Cannabis Commerce Agreements - SUPPORT**

Dear Senator Caballero:

On behalf of the Board of Directors of the Cannabis Distribution Association (CDA), we write to express the organization's support of your Senate Bill 1326. The bill would allow the State of California to enter into agreements with other states to authorize commercial cannabis commerce between the two states.

California legalized cannabis for both medicinal and adult-use through the passage of Prop 215 (1996) and Prop 64 (2016), respectively, and regulated operators through the implementation of MAUCRSA beginning in 2018. Licensed businesses that have put everything on the line to enter the legal industry can't afford to wait for federal legalization to provide California cannabis to other legal markets, especially markets that traditionally import agricultural products from California to supply their retail shelves, where thousands of medical patients and adult-use consumers need access to high-quality cannabis and cannabis products. Initiating interstate commerce now rather than potentially waiting years for federal legalization would benefit both producer and consumer states, as well as patients, consumers, small and social equity businesses, and the environment.

Federal law currently prohibits all cannabis activities - personal or commercial - and does not distinguish between interstate activities and those occurring entirely within one state's borders. However, this does not prevent a state from choosing to legalize some or all cannabis activities under its own state laws, regardless of where those activities occur. As many as 18 states have legalized recreational use of cannabis, and 38 states and the District of Columbia have legalized medicinal cannabis. Despite the bipartisan momentum to decriminalize and legalize cannabis at the federal level, federal legalization may be several years away from effective implementation. Coordinated action by states that have legalized commercial cannabis, and the development of a sensible and secure multi-state legal cannabis market, can provide necessary expansion opportunities for existing legal operators while supporting a policy shift and help guide the federal conversation in the coming years.

SB 1326 (Caballero) would allow the cross jurisdictional import and export to other states cannabis and cannabis products by authorizing the Governor to enter into an agreement to provide lawful interstate commerce. This would allow the transportation and delivery of cannabis across state lines by cannabis distributors. SB 1326 requires the agreement to include public health, safety, and labeling standards, a system to regulate and track cannabis items, collection of applicable taxes, and that out-of-state cannabis items delivered to California be tested, packaged, and labeled in compliance with California state law.



CANNABIS  
DISTRIBUTION  
ASSOCIATION

Founded in 2016, the Cannabis Distribution Association (CDA) has been the leading voice for cannabis distributors - spearheading regulatory and legislative priorities to ensure economic viability for small business, promote supply chain integrity, and prioritize consumer safety. The Cannabis Distribution Association appreciates your leadership in authoring this important legislation to allow for California to enter into agreements with other states who have enacted adult-use and/or medical cannabis programs.

Sincerely,

Jennifer Gallerani  
Co-Chair of the Board

Lauren Fraser Cote'  
Co-Chair of the Board