

Date of Hearing: May 5, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 287 (Quirk) – As Amended March 25, 2021

Policy Committee:	Judiciary	Vote:	11 - 0
	Business and Professions		19 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill extends the statute of limitations, from one year to three years, to file a civil action against a person or business engaged in unlicensed activity pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

FISCAL EFFECT:

- 1) Possible cost pressures (Trial Court Trust Fund) in the low hundreds of thousands of dollars annually to the trial courts in increased workload given this bill extends the statute of limitations to bring an action for civil penalties against a person or business engaged in unlicensed activity in violation of the MAUCRSA. The estimated cost of one eight-hour court day is approximately \$7,644. It unknown how many claims may be filed. However, if five cases otherwise outside the existing statute of limitations are filed in civil court requiring 48 total hours (six days) of workload, the cost would be approximately \$229,320.

Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the GF to perform existing duties. This is particularly true given that courts have delayed hundreds of trials and civil motions during the COVID-19 pandemic resulting in a serious backlog that must be resolved. The Governor's 2021-22 budget proposes \$72.2 million dollars in ongoing GF revenue for trial courts to continue addressing the backlog of cases in order to provide timely access to justice

- 2) Possibly significant increase in GF revenue to the extent the Department of Justice (DOJ) is able to prevail on civil actions otherwise precluded by the statute of limitations in existing law. Business and Professions Code section 26038, subdivision (b) requires any penalty issued for unlawful commercial cannabis activity be deposited into the GF.

COMMENTS:

- 1) **Purpose and Background.** According to the author:

Cannabis investigations are complex and often involve multiple local and state agencies that investigate not only the cultivation or manufacturing aspect of the cannabis industry, but also environmental crimes associated with the grow. By the time each of these agencies have completed their respective investigations,

the one-year clock may have already run, preventing cases from being fully prosecuted.

The Legislature passed the Medical Marijuana Regulation and Safety Act—subsequently retitled the Medical Cannabis Regulation and Safety Act (MCRSA)—in 2015. The MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution and sale of medicinal cannabis. The framework was to be administered by the newly established Board of Cannabis Control within the Department of Consumer Affairs, the California Department of Public Health and the California Department of Food and Agriculture, with implementation relying on each agency's area of expertise. Not long after the Legislature enacted MCRSA, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). The passage of the AUMA legalized cannabis for non-medicinal adult use in a private home or licensed business; allowed adults 21 and over to possess and give away up to approximately one ounce of cannabis and up to eight grams of concentrate and permitted the personal cultivation of up to six plants. In 2017, the Legislature enacted the MAUCRSA, which created a unified set of cannabis laws. MAUCRSA also clarified a number of components, including but not limited to licensing, local control, taxation, testing and edibles. Currently, civil actions against unlicensed cannabis businesses fall under a general one-year statute of limitations by default since unlawful commercial cannabis activity does not include a specific statute of limitations. This bill extends that statute to three years consistent with other causes of action for violations of government regulations aimed at controlling the black market.

- 2) **Prior Legislation.** SB 94, (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2017, combined AUMA and MCRSA into one system for the regulation of cannabis, resulting in MAUCRSA.

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