

AMENDED IN ASSEMBLY JUNE 1, 2011

AMENDED IN ASSEMBLY APRIL 27, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1300

Introduced by Assembly Member Blumenfield

February 18, 2011

An act to amend ~~Sections 11362.7, 11362.76, and~~ *Section 11362.83* of the Health and Safety Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

AB 1300, as amended, Blumenfield. Medical marijuana.

Existing law establishes the Medical Marijuana Program to exempt certain qualified patients who hold an identification card issued pursuant to the program, and the caregivers of those persons from certain state criminal sanctions related to the possession, cultivation, transportation, processing, or use of limited amounts of marijuana, as specified. The program prohibits certain entities, including a medical marijuana cooperative or collective, from being located within a 600-foot radius of a school. Existing law also specifically provides that these provisions governing the program do not prevent a city or other local governing body from adopting and enforcing laws consistent with the program.

This bill would ~~define a cooperative or collective for purposes of the program. The bill would also~~ revise the latter provision described above to additionally provide that these provisions shall not prevent a city or other local governing body from adopting local ordinances that regulate the location, operation, or establishment of a medical marijuana

cooperative or collective, or from the civil or criminal enforcement of those local ordinances.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 11362.7 of the Health and Safety Code~~
2 ~~is amended to read:~~
3 ~~11362.7. For purposes of this article, the following definitions~~
4 ~~shall apply:~~
5 ~~(a) “Attending physician” means an individual who possesses~~
6 ~~a license in good standing to practice medicine or osteopathy issued~~
7 ~~by the Medical Board of California or the Osteopathic Medical~~
8 ~~Board of California and who has taken responsibility for an aspect~~
9 ~~of the medical care, treatment, diagnosis, counseling, or referral~~
10 ~~of a patient and who has conducted a medical examination of that~~
11 ~~patient before recording in the patient’s medical record the~~
12 ~~physician’s assessment of whether the patient has a serious medical~~
13 ~~condition and whether the medical use of marijuana is appropriate.~~
14 ~~(b) “Cooperative or collective,” for purposes of this article,~~
15 ~~means a location where qualified patients, persons with a valid~~
16 ~~identification card, or the designated primary caregivers of qualified~~
17 ~~patients and persons with identification cards associate within this~~
18 ~~state in order to collectively or cooperatively cultivate or dispense~~
19 ~~marijuana for medical purposes to persons authorized to possess~~
20 ~~medical marijuana pursuant to Section 11362.765 or 11362.77.~~
21 ~~(c) “Department” means the State Department of Public Health.~~
22 ~~(d) “Person with an identification card” means an individual~~
23 ~~who is a qualified patient who has applied for and received a valid~~
24 ~~identification card pursuant to this article.~~
25 ~~(e) “Primary caregiver” means the individual, designated by a~~
26 ~~qualified patient or by a person with an identification card, who~~
27 ~~has consistently assumed responsibility for the housing, health, or~~
28 ~~safety of that patient or person, and may include any of the~~
29 ~~following:~~
30 ~~(1) In any case in which a qualified patient or person with an~~
31 ~~identification card receives medical care or supportive services,~~
32 ~~or both, from a clinic licensed pursuant to Chapter 1 (commencing~~
33 ~~with Section 1200) of Division 2, a health care facility licensed~~

1 pursuant to Chapter 2 (commencing with Section 1250) of Division
2 2, a residential care facility for persons with chronic life-threatening
3 illness licensed pursuant to Chapter 3.01 (commencing with Section
4 1568.01) of Division 2, a residential care facility for the elderly
5 licensed pursuant to Chapter 3.2 (commencing with Section 1569)
6 of Division 2, a hospice, or a home health agency licensed pursuant
7 to Chapter 8 (commencing with Section 1725) of Division 2, the
8 owner or operator, or no more than three employees who are
9 designated by the owner or operator, of the clinic, facility, hospice,
10 or home health agency, if designated as a primary caregiver by
11 that qualified patient or person with an identification card.

12 ~~(2) An individual who has been designated as a primary~~
13 ~~caregiver by more than one qualified patient or person with an~~
14 ~~identification card, if every qualified patient or person with an~~
15 ~~identification card who has designated that individual as a primary~~
16 ~~caregiver resides in the same city or county as the primary~~
17 ~~caregiver.~~

18 ~~(3) An individual who has been designated as a primary~~
19 ~~caregiver by a qualified patient or person with an identification~~
20 ~~card who resides in a city or county other than that of the primary~~
21 ~~caregiver, if the individual has not been designated as a primary~~
22 ~~caregiver by any other qualified patient or person with an~~
23 ~~identification card.~~

24 ~~(f) A primary caregiver shall be at least 18 years of age, unless~~
25 ~~the primary caregiver is the parent of a minor child who is a~~
26 ~~qualified patient or a person with an identification card or the~~
27 ~~primary caregiver is a person otherwise entitled to make medical~~
28 ~~decisions under state law pursuant to Sections 6922, 7002, 7050,~~
29 ~~or 7120 of the Family Code.~~

30 ~~(g) "Qualified patient" means a person who is entitled to the~~
31 ~~protections of Section 11362.5, but who does not have an~~
32 ~~identification card issued pursuant to this article.~~

33 ~~(h) "Identification card" means a document issued by the~~
34 ~~department that identifies a person authorized to engage in the~~
35 ~~medical use of marijuana and the person's designated primary~~
36 ~~caregiver, if any.~~

37 ~~(i) "Serious medical condition" means all of the following~~
38 ~~medical conditions:~~

39 ~~(1) Acquired immune deficiency syndrome (AIDS).~~

40 ~~(2) Anorexia.~~

- 1 ~~(3) Arthritis.~~
2 ~~(4) Cachexia.~~
3 ~~(5) Cancer.~~
4 ~~(6) Chronic pain.~~
5 ~~(7) Glaucoma.~~
6 ~~(8) Migraine.~~
7 ~~(9) Persistent muscle spasms, including, but not limited to,~~
8 ~~spasms associated with multiple sclerosis.~~
9 ~~(10) Seizures, including, but not limited to, seizures associated~~
10 ~~with epilepsy.~~
11 ~~(11) Severe nausea.~~
12 ~~(12) Any other chronic or persistent medical symptom that~~
13 ~~either:~~
14 ~~(A) Substantially limits the ability of the person to conduct one~~
15 ~~or more major life activities as defined in the Americans with~~
16 ~~Disabilities Act of 1990 (Public Law 101-336).~~
17 ~~(B) If not alleviated, may cause serious harm to the patient's~~
18 ~~safety or physical or mental health.~~
19 ~~(j) "Written documentation" means accurate reproductions of~~
20 ~~those portions of a patient's medical records that have been created~~
21 ~~by the attending physician, that contain the information required~~
22 ~~by paragraph (2) of subdivision (a) of Section 11362.715, and that~~
23 ~~the patient may submit to a county health department or the~~
24 ~~county's designee as part of an application for an identification~~
25 ~~card.~~
26 ~~SEC. 2. Section 11362.76 of the Health and Safety Code is~~
27 ~~amended to read:~~
28 ~~11362.76. (a) A person who possesses an identification card~~
29 ~~shall:~~
30 ~~(1) Within seven days, notify the county health department or~~
31 ~~the county's designee of any change in the person's attending~~
32 ~~physician or designated primary caregiver, if any.~~
33 ~~(2) Annually submit to the county health department or the~~
34 ~~county's designee the following:~~
35 ~~(A) Updated written documentation of the person's serious~~
36 ~~medical condition.~~
37 ~~(B) The name and duties of the person's designated primary~~
38 ~~caregiver, if any, for the forthcoming year.~~
39 ~~(b) If a person who possesses an identification card fails to~~
40 ~~comply with this section, the card shall be deemed expired. If an~~

1 identification card expires, the identification card of any designated
2 primary caregiver of the person shall also expire.

3 ~~(e) If the designated primary caregiver has been changed, the~~
4 ~~previous primary caregiver shall return his or her identification~~
5 ~~card to the department or to the county health department or the~~
6 ~~county's designee.~~

7 ~~(d) If the owner or operator or an employee of the owner or~~
8 ~~operator of a provider has been designated as a primary caregiver~~
9 ~~pursuant to paragraph (1) of subdivision (c) of Section 11362.7,~~
10 ~~of the qualified patient or person with an identification card, the~~
11 ~~owner or operator shall notify the county health department or the~~
12 ~~county's designee, pursuant to Section 11362.715, if a change in~~
13 ~~the designated primary caregiver has occurred.~~

14 ~~SEC. 3.~~

15 *SECTION 1.* Section 11362.83 of the Health and Safety Code
16 is amended to read:

17 11362.83. Nothing in this article shall prevent a city or other
18 local governing body from adopting and enforcing any of the
19 following:

20 (a) Adopting local ordinances that regulate the location,
21 operation, or establishment of a medical marijuana cooperative or
22 collective.

23 (b) The civil and criminal enforcement of local ordinances
24 described in subdivision (a).

25 (c) Enacting other laws consistent with this article.

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