

AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 847**

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**Introduced by Senator Correa**

February 18, 2011

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~~An act to add Division 8.9 (commencing with Section 22992.10) to the Business and Professions Code, relating to cannabis, and making an appropriation therefor. An act to amend Section 11362.768 of the Health and Safety Code, relating to medical marijuana.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 847, as amended, Correa. ~~Medical Cannabis Licensing Act. Marijuana Program: zoning restrictions: residential use.~~

Existing law, the Compassionate Use Act of 1996, an initiative measure, prohibits prosecution, pursuant to provisions of law relating to the possession or cultivation of marijuana, of a patient or a patient's primary caregiver who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

*Existing law, the Medical Marijuana Program, requires the State Department of Public Health to establish a voluntary program for the issuance of identification cards to patients and primary caregivers under the Compassionate Use Act and grants immunity from arrest for violation of proscribed provisions relating to the cultivation, possession, transportation, and sale of marijuana, if conditions of the act are met.*

*The Medical Marijuana Program prohibits a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider from being located within a 600-foot radius of a school.*

*This bill would, also, prohibit a marijuana cooperative, collective, dispensary, operator, establishment, or provider from being located*

*within 600-foot radius of a residential zone or residential use. By changing the definition of an existing crime, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~This bill would establish the Medical Cannabis Licensing Act, to require a producer, distributor, or seller to be licensed by the State Department of Public Health to engage in the production, distribution, or sale of medical marijuana, and would require the license to be renewed every 12 months. This bill would require an applicant for a license to provide specified information. This bill would require establishment of an indicia program, to be administered by the State Board of Equalization, to require traceable, secure indicia of licensure to be placed on medical marijuana, would require establishment of a product testing program and a facilities inspection program administered by the department, and would authorize assessment of related fees.~~

~~This bill would require all moneys collected to be deposited in the Medical Cannabis Licensing Fund, which would be created in the State Treasury, and would, except for moneys derived from penalties, continuously appropriate moneys in the fund solely for the purpose of implementing, enforcing, and administering the licensing program.~~

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

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

- 1     *SECTION 1. Section 11362.768 of the Health and Safety Code*
- 2     *is amended to read:*
- 3     11362.768. (a) This section shall apply to individuals specified
- 4     in subdivision (b) of Section 11362.765.
- 5     (b) No medical marijuana cooperative, collective, dispensary,
- 6     operator, establishment, or provider who possesses, cultivates, or
- 7     distributes medical marijuana pursuant to this article shall be
- 8     located within a 600-foot radius of a school, *residential zone, or*
- 9     *residential use.*

1 (c) The distance specified in this section shall be the horizontal  
2 distance measured in a straight line from the property line of the  
3 school, *residential zone*, or *residential use*, to the closest property  
4 line of the lot on which the medical marijuana cooperative,  
5 collective, dispensary, operator, establishment, or provider is to  
6 be located without regard to intervening structures.

7 (d) This section shall not apply to a medical marijuana  
8 cooperative, collective, dispensary, operator, establishment, or  
9 provider that is also a licensed residential medical or elder care  
10 facility.

11 (e) This section shall apply only to a medical marijuana  
12 cooperative, collective, dispensary, operator, establishment, or  
13 provider that is authorized by law to possess, cultivate, or distribute  
14 medical marijuana and that has a storefront or mobile retail outlet  
15 which ordinarily requires a local business license.

16 (f) Nothing in this section shall prohibit a city, county, or city  
17 and county from adopting ordinances or policies that further restrict  
18 the location or establishment of a medical marijuana cooperative,  
19 collective, dispensary, operator, establishment, or provider.

20 (g) Nothing in this section shall preempt local ordinances,  
21 adopted prior to January 1, 2011, that regulate the location or  
22 establishment of a medical marijuana cooperative, collective,  
23 dispensary, operator, establishment, or provider.

24 (h) For the purposes of this section, “school” means any public  
25 or private school providing instruction in kindergarten or grades  
26 1 to 12, inclusive, but does not include any private school in which  
27 education is primarily conducted in private homes.

28 *SEC. 2. No reimbursement is required by this act pursuant to*  
29 *Section 6 of Article XIII B of the California Constitution because*  
30 *the only costs that may be incurred by a local agency or school*  
31 *district will be incurred because this act creates a new crime or*  
32 *infraction, eliminates a crime or infraction, or changes the penalty*  
33 *for a crime or infraction, within the meaning of Section 17556 of*  
34 *the Government Code, or changes the definition of a crime within*  
35 *the meaning of Section 6 of Article XIII B of the California*  
36 *Constitution.*

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**All matter omitted in this version of the bill  
appears in the bill as introduced in the  
Senate, February 18, 2011. (JR11)**

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