

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 847

Introduced by Senator Correa

February 18, 2011

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 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 a 600-foot radius of a residential zone or residential use *unless*

a local ordinance, which may be more or less restrictive than the standard, is passed by the city council or county board of supervisors specifically regulating the location of these establishments in relation to residential zones 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: 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) (1) No medical marijuana cooperative, collective,
6 dispensary, operator, establishment, or provider who possesses,
7 cultivates, or distributes medical marijuana pursuant to this article
8 shall be located within a 600-foot radius of a ~~school, residential~~
9 ~~zone, or residential use.~~ school.

10 (2) *No medical marijuana cooperative, collective, dispensary,*
11 *operator, establishment, or provider who possesses, cultivates, or*
12 *distributes medical marijuana pursuant to this article shall be*
13 *located within a 600-foot radius of a residential zone or residential*
14 *use unless the city council or county board of supervisors adopts,*
15 *for its respective jurisdiction, an ordinance specifically regulating*
16 *the location of those establishments in relation to residential zones*
17 *or residential use. Notwithstanding subdivision (f), a local*
18 *ordinance enacted pursuant to this paragraph may be more or*
19 *less restrictive than the 600-foot radius standard that applies in*
20 *the absence of a local ordinance.*

21 (c) The distance specified in this section shall be the horizontal
22 distance measured in a straight line from the property line of the
23 school, residential zone, or residential use, to the closest property
24 line of the lot on which the medical marijuana cooperative,

collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.

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

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

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

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

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

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

CORRECTIONS:

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