

AMENDED IN ASSEMBLY JANUARY 13, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 26**

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**Introduced by Assembly Member Jones-Sawyer**  
***(Coauthor: Assembly Member Bonilla)***

December 1, 2014

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An act to amend Sections 19322 and 19323 of, and to add Section 19326.5 to, the Business and Professions Code, relating to medical cannabis.

LEGISLATIVE COUNSEL'S DIGEST

AB 26, as amended, Jones-Sawyer. Medical cannabis.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law, the Medical Marijuana Regulation and Safety Act (MMRSA), enacted by the Legislature, establishes within the Department of Consumer Affairs the Bureau of Medical Marijuana Regulation, and provides for the state licensure and regulation of certain commercial medical marijuana activities by the Department of Consumer Affairs, the Department of Food and Agriculture, or the State Department of Public Health, as specified. MMRSA requires an applicant for state licensure to provide specified information and a statement, signed by the applicant under penalty of perjury, that the information is complete, true, and accurate. MMRSA authorizes a state licensing authority to deny an application if specified conditions are met, and requires a state licensee, among other things, to obtain

applicable local licenses prior to commencing commercial cannabis activity and to keep accurate records of commercial cannabis activity.

This bill would require a state licensee to institute and maintain a training program for the licensee’s agents and employees regarding compliance with MMRSA, as specified, and would require that an application for state licensure include a detailed description of the applicant’s program, thereby modifying the crime of perjury and imposing a state-mandated local program. The bill would make the bureau the sole state agency responsible for approving and regulating the programs and would prohibit the bureau from approving a program provided by or through certain apprenticeship programs. The bill would require a state licensing authority to deny the application of an applicant that does not have, or revoke the license of a state licensee that fails to institute or maintain, a program approved by the bureau.

(2) 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 19322 of the Business and Professions  
 2 Code is amended to read:  
 3 19322. (a) A person or entity shall not submit an application  
 4 for a state license issued by the department pursuant to this chapter  
 5 unless that person or entity has received a license, permit, or  
 6 authorization by a local jurisdiction. An applicant for any type of  
 7 state license issued pursuant to this chapter shall do all of the  
 8 following:  
 9 (1) Electronically submit to the Department of Justice fingerprint  
 10 images and related information required by the Department of  
 11 Justice for the purpose of obtaining information as to the existence  
 12 and content of a record of state or federal convictions and arrests,  
 13 and information as to the existence and content of a record of state  
 14 or federal convictions and arrests for which the Department of  
 15 Justice establishes that the person is free on bail or on his or her  
 16 own recognizance, pending trial or appeal.

1 (A) The Department of Justice shall provide a response to the  
2 licensing authority pursuant to paragraph (1) of subdivision (p) of  
3 Section 11105 of the Penal Code.

4 (B) The licensing authority shall request from the Department  
5 of Justice subsequent notification service, as provided pursuant to  
6 Section 11105.2 of the Penal Code, for applicants.

7 (C) The Department of Justice shall charge the applicant a fee  
8 sufficient to cover the reasonable cost of processing the requests  
9 described in this paragraph.

10 (2) Provide documentation issued by the local jurisdiction in  
11 which the proposed business is operating certifying that the  
12 applicant is or will be in compliance with all local ordinances and  
13 regulations.

14 (3) Provide evidence of the legal right to occupy and use the  
15 proposed location. For an applicant seeking a cultivator, distributor,  
16 manufacturing, or dispensary license, provide a statement from  
17 the owner of real property or their agent where the cultivation,  
18 distribution, manufacturing, or dispensing commercial medical  
19 cannabis activities will occur, as proof to demonstrate the  
20 landowner has acknowledged and consented to permit cultivation,  
21 distribution, manufacturing, or dispensary activities to be conducted  
22 on the property by the tenant applicant.

23 (4) If the application is for a cultivator or a dispensary, provide  
24 evidence that the proposed location is located beyond at least a  
25 600-foot radius from a school, as required by Section 11362.768  
26 of the Health and Safety Code.

27 (5) Provide a statement, signed by the applicant under penalty  
28 of perjury, that the information provided is complete, true, and  
29 accurate.

30 (6) (A) For an applicant with 20 or more employees, provide  
31 a statement that the applicant will enter into, or demonstrate that  
32 it has already entered into, and abide by the terms of a labor peace  
33 agreement.

34 (B) For the purposes of this paragraph, “employee” does not  
35 include a supervisor.

36 (C) For purposes of this paragraph, “supervisor” means an  
37 individual having authority, in the interest of the licensee, to hire,  
38 transfer, suspend, lay off, recall, promote, discharge, assign,  
39 reward, or discipline other employees, or responsibility to direct  
40 them or to adjust their grievances, or effectively to recommend

1 such action, if, in connection with the foregoing, the exercise of  
 2 that authority is not of a merely routine or clerical nature, but  
 3 requires the use of independent judgment.

4 (7) Provide the applicant’s seller’s permit number issued  
 5 pursuant to Part 1 (commencing with Section 6001) of Division 2  
 6 of the Revenue and Taxation Code or indicate that the applicant  
 7 is currently applying for a seller’s permit.

8 (8) Provide any other information required by the licensing  
 9 authority.

10 (9) For an applicant seeking a cultivation license, provide a  
 11 statement declaring the applicant is an “agricultural employer,” as  
 12 defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural  
 13 Labor Relations Act of 1975 (Part 3.5 (commencing with Section  
 14 1140) of Division 2 of the Labor Code), to the extent not prohibited  
 15 by law.

16 (10) For an applicant seeking licensure as a testing laboratory,  
 17 register with the State Department of Public Health and provide  
 18 any information required by the State Department of Public Health.

19 (11) Pay all applicable fees required for licensure by the  
 20 licensing authority.

21 (b) For applicants seeking licensure to cultivate, distribute, or  
 22 manufacture medical cannabis, the application shall also include  
 23 a detailed description of the applicant’s operating procedures for  
 24 all of the following, as required by the licensing authority:

- 25 (1) Cultivation.
- 26 (2) Extraction and infusion methods.
- 27 (3) The transportation process.
- 28 (4) Inventory procedures.
- 29 (5) Quality control procedures.

30 (c) For all applicants, the application shall also include a detailed  
 31 description of the agent and employee training program that the  
 32 applicant has instituted, or will institute, pursuant to Section  
 33 19326.5. A licensing authority shall not approve an application  
 34 unless the applicant’s training program is approved by the bureau.  
 35 The bureau shall not approve a training program provided, or  
 36 proposed to be provided, by or through an apprenticeship program  
 37 approved by the Chief of the Division of Apprenticeship Standards.

38 SEC. 2. Section 19323 of the Business and Professions Code  
 39 is amended to read:

1 19323. (a) The licensing authority shall deny an application  
2 if either the applicant or the premises for which a state license is  
3 applied do not qualify for licensure under this chapter.

4 (b) The licensing authority may deny the application for  
5 licensure or renewal of a state license if any of the following  
6 conditions apply:

7 (1) Failure to comply with the provisions of this chapter or any  
8 rule or regulation adopted pursuant to this chapter, including but  
9 not limited to, any requirement imposed to protect natural  
10 resources, instream flow, and water quality pursuant to subdivision  
11 (a) of Section 19332.

12 (2) Conduct that constitutes grounds for denial of licensure  
13 pursuant to Chapter 2 (commencing with Section 480) of Division  
14 1.5.

15 (3) A local agency has notified the licensing authority that a  
16 licensee or applicant within its jurisdiction is in violation of state  
17 rules and regulation relating to commercial cannabis activities,  
18 and the licensing authority, through an investigation, has  
19 determined that the violation is grounds for termination or  
20 revocation of the license. The licensing authority shall have the  
21 authority to collect reasonable costs, as determined by the licensing  
22 authority, for investigation from the licensee or applicant.

23 (4) The applicant has failed to provide information required by  
24 the licensing authority.

25 (5) The applicant or licensee has been convicted of an offense  
26 that is substantially related to the qualifications, functions, or duties  
27 of the business or profession for which the application is made,  
28 except that if the licensing authority determines that the applicant  
29 or licensee is otherwise suitable to be issued a license and granting  
30 the license would not compromise public safety, the licensing  
31 authority shall conduct a thorough review of the nature of the  
32 crime, conviction, circumstances, and evidence of rehabilitation  
33 of the applicant, and shall evaluate the suitability of the applicant  
34 or licensee to be issued a license based on the evidence found  
35 through the review. In determining which offenses are substantially  
36 related to the qualifications, functions, or duties of the business or  
37 profession for which the application is made, the licensing authority  
38 shall include, but not be limited to, the following:

1 (A) A felony conviction for the illegal possession for sale, sale,  
2 manufacture, transportation, or cultivation of a controlled  
3 substance.

4 (B) A violent felony conviction, as specified in subdivision (c)  
5 of Section 667.5 of the Penal Code.

6 (C) A serious felony conviction, as specified in subdivision (c)  
7 of Section 1192.7 of the Penal Code.

8 (D) A felony conviction involving fraud, deceit, or  
9 embezzlement.

10 (6) The applicant, or any of its officers, directors, or owners, is  
11 a licensed physician making patient recommendations for medical  
12 cannabis pursuant to Section 11362.7 of the Health and Safety  
13 Code.

14 (7) The applicant or any of its officers, directors, or owners has  
15 been subject to fines or penalties for cultivation or production of  
16 a controlled substance on public or private lands pursuant to  
17 Section 12025 or 12025.1 of the Fish and Game Code.

18 (8) The applicant, or any of its officers, directors, or owners,  
19 has been sanctioned by a licensing authority or a city, county, or  
20 city and county for unlicensed commercial medical cannabis  
21 activities or has had a license revoked under this chapter in the  
22 three years immediately preceding the date the application is filed  
23 with the licensing authority.

24 (9) Failure to obtain and maintain a valid seller's permit required  
25 pursuant to Part 1 (commencing with Section 6001) of Division 2  
26 of the Revenue and Taxation Code.

27 (c) The licensing authority shall deny an application unless the  
28 applicant's agent and employee training program is approved by  
29 the bureau pursuant to subdivision (c) of Section 19322.

30 SEC. 3. Section 19326.5 is added to the Business and  
31 Professions Code, to read:

32 19326.5. (a) A licensee shall institute and maintain a training  
33 program to educate, inform, and train the licensee's agents and  
34 employees on compliance with this chapter. The training program  
35 ~~must~~ shall be approved by the bureau and ~~must~~ shall include, but  
36 is not limited to, training on applicable substantive legal  
37 requirements, industry best practices, occupational health and  
38 safety standards, and individual organizational or company policies.

1 (b) (1) The bureau shall adopt standards for the approval of  
2 training programs and shall be the sole state agency responsible  
3 for approving and regulating the training programs.

4 (2) The bureau shall not approve a training program provided,  
5 or proposed to be provided, by or through an apprenticeship  
6 program approved by the Chief of the Division of Apprenticeship  
7 Standards.

8 (c) A state licensing authority shall revoke the license of any  
9 licensee that fails to institute or maintain a training program  
10 approved by the bureau pursuant to this section.

11 SEC. 4. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section 17556 of  
17 the Government Code, or changes the definition of a crime within  
18 the meaning of Section 6 of Article XIII B of the California  
19 Constitution.