

AMENDED IN ASSEMBLY JANUARY 25, 2016

AMENDED IN ASSEMBLY JANUARY 13, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 26

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

December 1, 2014

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~~ *licensing authority* responsible for approving and regulating the programs and would prohibit the ~~bureau~~ *licensing authority* 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~~ *licensing authority*. *This bill would require each state licensing authority to charge each training program a fee, as specified, to cover the costs for approving the training program. This bill would require that the fees collected be deposited in the appropriate account within the Medical Marijuana Regulation and Safety Act Fund. This bill would authorize each licensing authority to adjust fees as needed once a year to cover the costs of training program approval.*

(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

1 state license issued pursuant to this chapter shall do all of the
2 following:

3 (1) Electronically submit to the Department of Justice fingerprint
4 images and related information required by the Department of
5 Justice for the purpose of obtaining information as to the existence
6 and content of a record of state or federal convictions and arrests,
7 and information as to the existence and content of a record of state
8 or federal convictions and arrests for which the Department of
9 Justice establishes that the person is free on bail or on his or her
10 own recognizance, pending trial or appeal.

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

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

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

20 (2) Provide documentation issued by the local jurisdiction in
21 which the proposed business is operating certifying that the
22 applicant is or will be in compliance with all local ordinances and
23 regulations.

24 (3) Provide evidence of the legal right to occupy and use the
25 proposed location. For an applicant seeking a cultivator, distributor,
26 manufacturing, or dispensary license, provide a statement from
27 the owner of real property or their agent where the cultivation,
28 distribution, manufacturing, or dispensing commercial medical
29 cannabis activities will occur, as proof to demonstrate the
30 landowner has acknowledged and consented to permit cultivation,
31 distribution, manufacturing, or dispensary activities to be conducted
32 on the property by the tenant applicant.

33 (4) If the application is for a cultivator or a dispensary, provide
34 evidence that the proposed location is located beyond at least a
35 600-foot radius from a school, as required by Section 11362.768
36 of the Health and Safety Code.

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

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

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

7 (C) For purposes of this paragraph, “supervisor” means an
8 individual having authority, in the interest of the licensee, to hire,
9 transfer, suspend, lay off, recall, promote, discharge, assign,
10 reward, or discipline other employees, or responsibility to direct
11 them or to adjust their grievances, or effectively to recommend
12 such action, if, in connection with the foregoing, the exercise of
13 that authority is not of a merely routine or clerical nature, but
14 requires the use of independent judgment.

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

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

21 (9) For an applicant seeking a cultivation license, provide a
22 statement declaring the applicant is an “agricultural employer,” as
23 defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural
24 Labor Relations Act of 1975 (Part 3.5 (commencing with Section
25 1140) of Division 2 of the Labor Code), to the extent not prohibited
26 by law.

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

30 (11) Pay all applicable fees required for licensure by the
31 licensing authority.

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

- 36 (1) Cultivation.
- 37 (2) Extraction and infusion methods.
- 38 (3) The transportation process.
- 39 (4) Inventory procedures.
- 40 (5) Quality control procedures.

1 (c) For all applicants, the application shall also include a detailed
2 description of the agent and employee training program that the
3 applicant has instituted, or will institute, pursuant to Section
4 19326.5. A licensing authority shall not approve an application
5 unless the applicant's training program is approved by the ~~bureau~~
6 *licensing authority*. The ~~bureau~~ *licensing authority* shall not
7 approve a training program provided, or proposed to be provided,
8 by or through an apprenticeship program approved by the Chief
9 of the Division of Apprenticeship Standards.

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

12 19323. (a) The licensing authority shall deny an application
13 if either the applicant or the premises for which a state license is
14 applied ~~to~~ *does* not qualify for licensure under this chapter.

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

18 (1) Failure to comply with the provisions of this chapter or any
19 rule or regulation adopted pursuant to this chapter, ~~including~~
20 *including*, but not limited to, any requirement imposed to protect
21 natural resources, instream flow, and water quality pursuant to
22 subdivision (a) of Section 19332.

23 (2) Conduct that constitutes grounds for denial of licensure
24 pursuant to Chapter 2 (commencing with Section 480) of Division
25 1.5.

26 (3) A local agency has notified the licensing authority that a
27 licensee or applicant within its jurisdiction is in violation of state
28 rules and regulation relating to commercial cannabis activities,
29 and the licensing authority, through an investigation, has
30 determined that the violation is grounds for termination or
31 revocation of the license. The licensing authority shall have the
32 authority to collect reasonable costs, as determined by the licensing
33 authority, for investigation from the licensee or applicant.

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

36 (5) The applicant or licensee has been convicted of an offense
37 that is substantially related to the qualifications, functions, or duties
38 of the business or profession for which the application is made,
39 except that if the licensing authority determines that the applicant
40 or licensee is otherwise suitable to be issued a license and granting

1 the license would not compromise public safety, the licensing
2 authority shall conduct a thorough review of the nature of the
3 crime, conviction, circumstances, and evidence of rehabilitation
4 of the applicant, and shall evaluate the suitability of the applicant
5 or licensee to be issued a license based on the evidence found
6 through the review. In determining which offenses are substantially
7 related to the qualifications, functions, or duties of the business or
8 profession for which the application is made, the licensing authority
9 shall include, but not be limited to, the following:

10 (A) A felony conviction for the illegal possession for sale, sale,
11 manufacture, transportation, or cultivation of a controlled
12 substance.

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

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

17 (D) A felony conviction involving fraud, deceit, or
18 embezzlement.

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

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

27 (8) The applicant, or any of its officers, directors, or owners,
28 has been sanctioned by a licensing authority or a city, county, or
29 city and county for unlicensed commercial medical cannabis
30 activities or has had a license revoked under this chapter in the
31 three years immediately preceding the date the application is filed
32 with the licensing authority.

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

36 (c) The licensing authority shall deny an application unless the
37 applicant's agent and employee training program is approved by
38 the ~~bureau~~ *licensing authority* pursuant to subdivision (c) of Section
39 19322.

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

3 19326.5. (a) A licensee shall institute and maintain a training
4 program to educate, inform, and train the licensee's agents and
5 employees on compliance with this chapter. The training program
6 shall be approved by the ~~bureau~~ *state licensing authority* and shall
7 include, but is not limited to, training on applicable substantive
8 legal requirements, industry best practices, occupational health
9 and safety standards, and individual organizational or company
10 policies.

11 (b) (1) ~~The bureau~~ *Each state licensing authority* shall adopt
12 standards for the approval of training programs and ~~shall be the~~
13 ~~sole state agency~~ *each state licensing authority shall be* responsible
14 for approving and regulating ~~the training programs.~~ *programs*
15 *relevant to their licensees.*

16 (2) ~~The bureau~~ *A state licensing authority* shall not approve a
17 training program provided, or proposed to be provided, by or
18 through an apprenticeship program approved by the Chief of the
19 Division of Apprenticeship Standards.

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

23 (d) (1) *Each state licensing authority shall charge each training*
24 *program a fee to cover costs incurred for approving the training*
25 *program pursuant to this section. Revenues collected pursuant to*
26 *this subdivision shall be deposited in the appropriate fee account*
27 *within the Medical Marijuana Regulation and Safety Act Fund*
28 *established pursuant to Section 19350 of the Business and*
29 *Professions Code. Total fees assessed shall not exceed the*
30 *reasonable regulatory costs for training program approval. Each*
31 *licensing authority may adjust fees as needed, but no more than*
32 *once per year, to generate sufficient revenue to cover the costs of*
33 *training program approval.*

34 (2) *By July 1, 2018, revenue collected pursuant to this*
35 *subdivision shall be projected to fairly and proportionately*
36 *generate sufficient revenue to fully cover the costs of training*
37 *program approval.*

38 SEC. 4. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

O