

AMENDED IN SENATE JUNE 20, 2016

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~~ *implement, as specified*, a training program for the licensee's agents and employees regarding compliance with MMRSA, ~~as specified, and specified. The bill would require that an application for state licensure~~ *an applicant with 20 or more employees to include in an application for state licensure* a detailed description of the ~~applicant's program, training program the applicant has implemented or will implement,~~ thereby modifying the crime of perjury and imposing a state-mandated local program. The bill would make the licensing authority responsible for approving and regulating the programs ~~instituted and maintained by licensees and 3rd-party providers of the programs. The bill would prohibit the licensing authority from approving a program provided by or through certain apprenticeship programs. The bill would authorize the licensing authority to approve a workplace training organization, as defined, as a 3rd-party provider.~~ *instituted and maintained by licensees and 3rd-party providers of the programs. The bill would prohibit the licensing authority from approving a program provided by or through certain apprenticeship programs. The bill would authorize the licensing authority to approve a workplace training organization, as defined, as a 3rd-party provider.* The bill would require a state licensing authority to deny the application of an applicant that does not ~~have, implement, or revoke the license of a state licensee that fails to~~ *institute or maintain, implement within one year of obtaining a license,* a program approved by the licensing ~~authority. This authority or provided by an approved 3rd-party provider. The bill would require each state licensing authority to charge each training program~~ *authority. This authority or provided by an approved 3rd-party provider. The bill would require each state licensing authority to charge each training program* *instituted and maintained by a licensee* a fee, as specified, to cover the costs for approving the training program. ~~This The bill would require each state licensing authority to charge each 3rd-party provider of training programs a fee, as specified, to cover the costs for approving the 3rd-party provider. The bill would require that the fees collected be deposited in the appropriate account within the Medical Marijuana Regulation and Safety Act Fund. This The bill would authorize each licensing authority to adjust fees as needed once a year to cover the costs of training program and 3rd-party provider 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
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.

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

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

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

26 (2) Provide documentation issued by the local jurisdiction in
27 which the proposed business is operating certifying that the
28 applicant is or will be in compliance with all local ordinances and
29 regulations.

30 (3) Provide evidence of the legal right to occupy and use the
31 proposed location. For an applicant seeking a cultivator, distributor,
32 manufacturing, or dispensary license, provide a statement from
33 the owner of real property or their agent where the cultivation,
34 distribution, manufacturing, or dispensing commercial medical
35 cannabis activities will occur, as proof to demonstrate the

1 landowner has acknowledged and consented to permit cultivation,
2 distribution, manufacturing, or dispensary activities to be conducted
3 on the property by the tenant applicant.

4 (4) If the application is for a cultivator or a dispensary, provide
5 evidence that the proposed location is located beyond at least a
6 600-foot radius from a school, as required by Section 11362.768
7 of the Health and Safety Code.

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

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

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

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

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

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

31 (9) For an applicant seeking a cultivation license, provide a
32 statement declaring the applicant is an “agricultural employer,” as
33 defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural
34 Labor Relations Act of 1975 (Part 3.5 (commencing with Section
35 1140) of Division 2 of the Labor Code), to the extent not prohibited
36 by law.

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

1 (11) Pay all applicable fees required for licensure by the
2 licensing authority.

3 (b) For applicants seeking licensure to cultivate, distribute, or
4 manufacture medical cannabis, the application shall also include
5 a detailed description of the applicant's operating procedures for
6 all of the following, as required by the licensing authority:

7 (1) Cultivation.

8 (2) Extraction and infusion methods.

9 (3) The transportation process.

10 (4) Inventory procedures.

11 (5) Quality control procedures.

12 (c) ~~For all applicants,~~ *applicants with 20 or more employees,*
13 the application shall also include a detailed description of the agent
14 and employee training program that the applicant has ~~instituted,~~
15 *implemented,* or will ~~institute,~~ *implement,* pursuant to Section
16 19326.5. A licensing authority shall not approve an application
17 unless the applicant's training program *or the third-party provider*
18 *of the applicant's training program* is approved by the licensing
19 authority. The licensing authority shall not approve a training
20 program provided, or proposed to be provided, by or through an
21 apprenticeship program approved by the Chief of the Division of
22 Apprenticeship Standards.

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

25 19323. (a) The licensing authority shall deny an application
26 if either the applicant or the premises for which a state license is
27 applied does not qualify for licensure under this chapter.

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

31 (1) Failure to comply with the provisions of this chapter or any
32 rule or regulation adopted pursuant to this chapter, including, but
33 not limited to, any requirement imposed to protect natural
34 resources, instream flow, and water quality pursuant to subdivision
35 (a) of Section 19332.

36 (2) Conduct that constitutes grounds for denial of licensure
37 pursuant to Chapter 2 (commencing with Section 480) of Division
38 1.5.

39 (3) A local agency has notified the licensing authority that a
40 licensee or applicant within its jurisdiction is in violation of state

1 rules and regulation relating to commercial cannabis activities,
2 and the licensing authority, through an investigation, has
3 determined that the violation is grounds for termination or
4 revocation of the license. The licensing authority shall have the
5 authority to collect reasonable costs, as determined by the licensing
6 authority, for investigation from the licensee or applicant.

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

9 (5) The applicant or licensee has been convicted of an offense
10 that is substantially related to the qualifications, functions, or duties
11 of the business or profession for which the application is made,
12 except that if the licensing authority determines that the applicant
13 or licensee is otherwise suitable to be issued a license and granting
14 the license would not compromise public safety, the licensing
15 authority shall conduct a thorough review of the nature of the
16 crime, conviction, circumstances, and evidence of rehabilitation
17 of the applicant, and shall evaluate the suitability of the applicant
18 or licensee to be issued a license based on the evidence found
19 through the review. In determining which offenses are substantially
20 related to the qualifications, functions, or duties of the business or
21 profession for which the application is made, the licensing authority
22 shall include, but not be limited to, the following:

23 (A) A felony conviction for the illegal possession for sale, sale,
24 manufacture, transportation, or cultivation of a controlled
25 substance.

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

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

30 (D) A felony conviction involving fraud, deceit, or
31 embezzlement.

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

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

1 (8) The applicant, or any of its officers, directors, or owners,
2 has been sanctioned by a licensing authority or a city, county, or
3 city and county for unlicensed commercial medical cannabis
4 activities or has had a license revoked under this chapter in the
5 three years immediately preceding the date the application is filed
6 with the licensing authority.

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

10 (c) The licensing authority shall deny an application unless the
11 applicant’s agent and employee training program *that the applicant*
12 *implements* is approved by the licensing authority *or provided by*
13 *an approved third-party provider* pursuant to subdivision (c) of
14 Section 19322.

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

17 19326.5. (a) A licensee shall ~~institute and maintain~~ *implement*
18 a training program to educate, inform, and train the licensee’s
19 agents and employees on compliance with this chapter. ~~The A~~
20 *licensee shall implement a training program by either instituting*
21 *and maintaining a training program or hiring a third-party*
22 *provider approved by the state licensing authority to provide a*
23 *training program. A training program instituted and maintained*
24 *by a licensee shall be approved by the state licensing authority and*
25 *shall include, but is not limited to, training on applicable*
26 ~~substantive legal~~ *statutory* requirements, industry best practices,
27 occupational health and safety standards, and ~~individual~~
28 ~~organizational or company policies.~~ *workplace protections.*

29 (b) (1) Each state licensing authority shall adopt standards for
30 the approval of training programs ~~and each~~ *instituted and*
31 *maintained by a licensee and standards for the approval of*
32 *third-party providers of training programs. Each state licensing*
33 *authority shall be responsible for approving and regulating training*
34 *programs and third-party providers of training programs* relevant
35 to their licensees.

36 (2) A state licensing authority shall not approve a training
37 program provided, or proposed to be provided, by or through an
38 apprenticeship program approved by the Chief of the Division of
39 Apprenticeship Standards.

1 (3) *A state licensing authority may approve a workplace training*
 2 *organization as a third-party provider. For purposes of this*
 3 *paragraph, a “workplace training organization” is a labor union*
 4 *organization in good standing representing wage earners or*
 5 *salaried employees for mutual aid and protection and for dealing*
 6 *collectively with cannabis employers.*

7 (c) A state licensing authority shall revoke the license of any
 8 licensee that fails to ~~institute or maintain~~ *implement* a training
 9 program ~~approved pursuant to as required by this section. section~~
 10 *within one year of the licensee’s obtaining a license.*

11 (d) (1) Each state licensing authority shall charge each training
 12 program *instituted and maintained by a licensee* a fee to cover
 13 costs incurred for approving the training program pursuant to this
 14 section. *Each state licensing authority shall charge each*
 15 *third-party provider of training programs a fee to cover costs*
 16 *incurred for approving the third-party provider pursuant to this*
 17 *section.* Revenues collected pursuant to this subdivision shall be
 18 deposited in the appropriate fee account within the Medical
 19 Marijuana Regulation and Safety Act Fund established pursuant
 20 to ~~Section 19350 of the Business and Professions Code. 19350.~~
 21 Total fees assessed shall not exceed the reasonable regulatory costs
 22 for training program *or third-party provider* approval. Each
 23 licensing authority may adjust fees as needed, but no more than
 24 once per year, to generate sufficient revenue to cover the costs of
 25 training program *and third-party provider* approval.

26 (2) By July 1, 2018, revenue collected pursuant to this
 27 subdivision shall be projected to fairly and proportionately generate
 28 sufficient revenue to fully cover the costs of training program *and*
 29 *third-party provider* approval.

30 SEC. 4. No reimbursement is required by this act pursuant to
 31 Section 6 of Article XIII B of the California Constitution because
 32 the only costs that may be incurred by a local agency or school
 33 district will be incurred because this act creates a new crime or
 34 infraction, eliminates a crime or infraction, or changes the penalty
 35 for a crime or infraction, within the meaning of Section 17556 of
 36 the Government Code, or changes the definition of a crime within
 37 the meaning of Section 6 of Article XIII B of the California
 38 Constitution.

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