

AMENDED IN SENATE JUNE 23, 2016

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 implement, as specified, ~~a~~ *an employee training program for the licensee's agents and employees regarding compliance with MMRSA, as specified.* The bill would require an applicant with 20 or more employees to ~~include in an attest on the application for state licensure a detailed description of the training program that the applicant has implemented or will implement,~~ *implement an employee training program approved by the licensing authority within one year of licensure, as specified,* thereby modifying the crime of perjury and imposing a state-mandated local program. ~~The bill would require the licensing authority to deny an application of an applicant with 20 or more employees unless the applicant makes the above-mentioned attestation on the application.~~ The bill would ~~make~~ *the* require each licensing authority responsible for approving and regulating the programs instituted and maintained by licensees and 3rd-party providers of the *to adopt standards for the approval of employee training 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 implement, or revoke the license of a state licensee that fails to implement within one year of obtaining a license, a program approved by the licensing 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. The bill would require each state licensing authority to charge each 3rd-party provider of *a fee for approving an employee training programs a fee, as specified, to cover the costs for approving the 3rd-party provider. program, as specified.* The bill would require that the fees collected be deposited in the appropriate account within the Medical Marijuana Regulation and Safety Act Fund. The bill would authorize each licensing authority to adjust

fees as needed once a year to cover the costs of *employee* training program and ~~3rd-party provider~~ approval. *The bill would make these provisions operative on July 1, 2018.*

(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

1 applicant is or will be in compliance with all local ordinances and
2 regulations.

3 (3) Provide evidence of the legal right to occupy and use the
4 proposed location. For an applicant seeking a cultivator, distributor,
5 manufacturing, or dispensary license, provide a statement from
6 the owner of real property or their agent where the cultivation,
7 distribution, manufacturing, or dispensing commercial medical
8 cannabis activities will occur, as proof to demonstrate the
9 landowner has acknowledged and consented to permit cultivation,
10 distribution, manufacturing, or dispensary activities to be conducted
11 on the property by the tenant applicant.

12 (4) If the application is for a cultivator or a dispensary, provide
13 evidence that the proposed location is located beyond at least a
14 600-foot radius from a school, as required by Section 11362.768
15 of the Health and Safety Code.

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

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

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

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

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

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

39 (9) For an applicant seeking a cultivation license, provide a
40 statement declaring the applicant is an “agricultural employer,” as

1 defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural
2 Labor Relations Act of 1975 (Part 3.5 (commencing with Section
3 1140) of Division 2 of the Labor Code), to the extent not prohibited
4 by law.

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

8 (11) Pay all applicable fees required for licensure by the
9 licensing authority.

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

- 14 (1) Cultivation.
- 15 (2) Extraction and infusion methods.
- 16 (3) The transportation process.
- 17 (4) Inventory procedures.
- 18 (5) Quality control procedures.

19 ~~(c) For applicants~~ *On and after July 1, 2018, an applicant with*
20 ~~20 or more employees, the application~~ *employees shall also include*
21 ~~a detailed description of the agent and employee training program~~
22 ~~that the applicant has implemented, or will implement, pursuant~~
23 ~~to Section 19326.5. A licensing authority shall not approve an~~
24 ~~application unless the applicant's training program or the~~
25 ~~third-party provider of the applicant's training program is approved~~
26 ~~by the licensing authority. The licensing authority shall not approve~~
27 ~~a training program provided, or proposed to be provided, by or~~
28 ~~through an apprenticeship program approved by the Chief of the~~
29 ~~Division of Apprenticeship Standards.~~ *attest on the application*
30 *that the applicant will implement an employee training program*
31 *approved by the licensing authority within one year of licensure,*
32 *pursuant to Section 19326.5.*

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

35 19323. (a) The licensing authority shall deny an application
36 if either the applicant or the premises for which a state license is
37 applied does not qualify for licensure under this chapter.

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

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

6 (2) Conduct that constitutes grounds for denial of licensure
7 pursuant to Chapter 2 (commencing with Section 480) of Division
8 1.5.

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

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

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

33 (A) A felony conviction for the illegal possession for sale, sale,
34 manufacture, transportation, or cultivation of a controlled
35 substance.

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

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

1 (D) A felony conviction involving fraud, deceit, or
2 embezzlement.

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

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

11 (8) The applicant, or any of its officers, directors, or owners,
12 has been sanctioned by a licensing authority or a city, county, or
13 city and county for unlicensed commercial medical cannabis
14 activities or has had a license revoked under this chapter in the
15 three years immediately preceding the date the application is filed
16 with the licensing authority.

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

20 (c) ~~The~~ *On and after July 1, 2018, the licensing authority shall*
21 *deny an application of an applicant with 20 or more employees*
22 *unless the agent and employee training program that the applicant*
23 *implements is approved by the licensing authority or provided by*
24 *an approved third-party provider pursuant to subdivision (c) of*
25 *Section 19322. applicant attests on the application that the*
26 *applicant will implement an employee training program approved*
27 *by the licensing authority within one year of licensure, pursuant*
28 *to Section 19326.5.*

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

31 19326.5. (a) A licensee shall implement ~~a~~ *an employee* training
32 program to educate, inform, and train the licensee's ~~agents and~~
33 employees on compliance with this chapter. A licensee ~~shall~~
34 ~~implement a training program by either instituting and maintaining~~
35 ~~a training program or hiring may employ or contract with a~~
36 ~~third-party provider approved by the state licensing authority to~~
37 ~~provide a~~ *the employee* training program. ~~A~~ *An employee* training
38 program ~~instituted and maintained by a licensee shall be approved~~
39 ~~by the state licensing authority and shall include, but is not limited~~
40 ~~to, training on applicable statutory requirements, industry best~~

1 practices, occupational health and safety standards, and workplace
2 protections.

3 (b) (1) ~~Each state licensing authority shall adopt standards for~~
4 ~~the approval of employee training programs instituted and~~
5 ~~maintained by a licensee and standards for the approval of~~
6 ~~third-party providers of training programs. Each state licensing~~
7 ~~authority shall be responsible for approving and regulating training~~
8 ~~programs and third-party providers of training programs relevant~~
9 ~~to their licensees. programs. Those standards shall prohibit~~
10 ~~approval of an employee training program provided by a~~
11 ~~third-party provider that operates an apprenticeship program~~
12 ~~approved by the Chief of the Division of Apprenticeship Standards.~~

13 (2) ~~A state licensing authority shall not approve a training~~
14 ~~program provided, or proposed to be provided, by or through an~~
15 ~~apprenticeship program approved by the Chief of the Division of~~
16 ~~Apprenticeship Standards.~~

17 (3) ~~A state~~

18 (2) A licensing authority may approve a workplace training
19 organization as a third-party provider. *provider of an employee*
20 *training program.* For purposes of this paragraph, a “workplace
21 training organization” is a labor union organization ~~in good~~
22 ~~standing~~ representing wage earners or salaried employees for
23 mutual aid and protection and for dealing collectively with cannabis
24 employers.

25 (c) ~~A state licensing authority shall revoke the license of any~~
26 ~~licensee with 20 or more employees that fails to implement a an~~
27 ~~employee training program as required by this section within one~~
28 ~~year of the licensee’s obtaining a license. licensure~~

29 (d) (1) ~~Each state~~ *Each* licensing authority shall charge ~~each~~
30 ~~training program instituted and maintained by a licensee a fee to~~
31 ~~cover costs incurred for approving the training program pursuant~~
32 ~~to this section. Each state licensing authority shall charge each~~
33 ~~third-party provider of training programs a fee to cover costs~~
34 ~~incurred for approving the third-party provider pursuant to this~~
35 ~~section. a fee for approving an employee training program.~~
36 Revenues collected pursuant to this subdivision shall be deposited
37 in the appropriate fee account within the Medical Marijuana
38 Regulation and Safety Act Fund established pursuant to Section
39 19350. Total fees assessed shall not exceed the reasonable
40 regulatory ~~costs for training program or third-party provider~~

1 ~~approval~~ *costs*. Each licensing authority may adjust fees as needed,
2 but no more than once per year, to generate sufficient revenue to
3 cover the costs of *employee* training program ~~and third-party~~
4 ~~provider~~ approval.

5 ~~(2) By July 1, 2018, revenue collected pursuant to this~~
6 ~~subdivision shall be projected to fairly and proportionately generate~~
7 ~~sufficient revenue to fully cover the costs of training program and~~
8 ~~third-party provider approval.~~

9 *(e) This section shall become operative on July 1, 2018.*

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