

AMENDED IN SENATE AUGUST 1, 2016

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 licensee to implement, as specified, an employee training program for the licensee's employees regarding compliance with MMRSA, as specified. The bill would require an applicant with 20 or more employees to attest on the application that the applicant will 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 require each licensing authority 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 each licensing authority to charge a fee for approving an employee training 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 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 shall not submit an application for a state
4 license issued by a licensing authority pursuant to this chapter
5 unless that person has received a license, permit, or authorization
6 from the local jurisdiction. An applicant for any type of state
7 license issued pursuant to this chapter shall do all of the following:

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

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

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

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

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

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

1 (4) If the application is for a cultivator or a dispensary, provide
2 evidence that the proposed location is located beyond at least a
3 600-foot radius from a school, as required by Section 11362.768
4 of the Health and Safety Code.

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

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

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

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

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

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

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

34 (10) Pay all applicable fees required for licensure by the
35 licensing authority.

36 (11) Provide proof of a bond to cover the costs of destruction
37 of medical cannabis or medical cannabis products if necessitated
38 by a violation of licensing requirements.

39 (b) For applicants seeking licensure to cultivate, distribute,
40 manufacture, test, or dispense medical cannabis or medical

1 cannabis products, the application shall also include a detailed
2 description of the applicant’s operating procedures for all of the
3 following, as required by the licensing authority:

- 4 (1) Cultivation.
- 5 (2) Extraction and infusion methods.
- 6 (3) The transportation process.
- 7 (4) Inventory procedures.
- 8 (5) Quality control procedures.
- 9 (6) Security protocols.

10 (c) *On and after July 1, 2018, an applicant with 20 or more*
11 *employees shall attest on the application that the applicant will*
12 *implement an employee training program approved by the licensing*
13 *authority within one year of licensure, pursuant to Section 19326.5.*

14 *SEC. 2. Section 19323 of the Business and Professions Code*
15 *is amended to read:*

16 19323. (a) A licensing authority shall deny an application if
17 the applicant or the premises for which a state license is applied
18 does not qualify for licensure under this chapter or the rules and
19 regulations for the state license.

20 (b) A licensing authority may deny an application for licensure
21 or renewal of a state license, or issue a conditional license, if any
22 of the following conditions apply:

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

28 (2) Conduct that constitutes grounds for denial of licensure
29 pursuant to Chapter 2 (commencing with Section 480) of Division
30 1.5.

31 (3) The applicant has failed to provide information required by
32 the licensing authority.

33 (4) The applicant or licensee has been convicted of an offense
34 that is substantially related to the qualifications, functions, or duties
35 of the business or profession for which the application is made,
36 except that if the licensing authority determines that the applicant
37 or licensee is otherwise suitable to be issued a license and granting
38 the license would not compromise public safety, the licensing
39 authority shall conduct a thorough review of the nature of the
40 crime, conviction, circumstances, and evidence of rehabilitation

1 of the applicant, and shall evaluate the suitability of the applicant
2 or licensee to be issued a license based on the evidence found
3 through the review. In determining which offenses are substantially
4 related to the qualifications, functions, or duties of the business or
5 profession for which the application is made, the licensing authority
6 shall include, but not be limited to, the following:

7 (A) A felony conviction for the illegal possession for sale, sale,
8 manufacture, transportation, or cultivation of a controlled
9 substance.

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

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

14 (D) A felony conviction involving fraud, deceit, or
15 embezzlement.

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

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

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

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

33 (9) The applicant or any of its officers, directors, owners,
34 employees, or authorized agents have failed to comply with any
35 operating procedure required pursuant to subdivision (b) of Section
36 19322.

37 (10) Conduct that constitutes grounds for disciplinary action
38 pursuant to this chapter.

39 (c) *On and after July 1, 2018, the licensing authority shall deny*
40 *an application of an applicant with 20 or more employees unless*

1 *the applicant attests on the application that the applicant will*
2 *implement an employee training program approved by the licensing*
3 *authority within one year of licensure, pursuant to Section 19326.5.*

4 SECTION 1. ~~Section 19322 of the Business and Professions~~
5 ~~Code is amended to read:~~

6 ~~19322. (a) A person or entity shall not submit an application~~
7 ~~for a state license issued by the department pursuant to this chapter~~
8 ~~unless that person or entity has received a license, permit, or~~
9 ~~authorization by a local jurisdiction. An applicant for any type of~~
10 ~~state license issued pursuant to this chapter shall do all of the~~
11 ~~following:~~

12 ~~(1) Electronically submit to the Department of Justice fingerprint~~
13 ~~images and related information required by the Department of~~
14 ~~Justice for the purpose of obtaining information as to the existence~~
15 ~~and content of a record of state or federal convictions and arrests,~~
16 ~~and information as to the existence and content of a record of state~~
17 ~~or federal convictions and arrests for which the Department of~~
18 ~~Justice establishes that the person is free on bail or on his or her~~
19 ~~own recognizance, pending trial or appeal.~~

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

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

26 ~~(C) The Department of Justice shall charge the applicant a fee~~
27 ~~sufficient to cover the reasonable cost of processing the requests~~
28 ~~described in this paragraph.~~

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

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

1 distribution, manufacturing, or dispensary activities to be conducted
2 on the property by the tenant applicant.

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

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

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

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

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

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

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

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

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

39 (11) Pay all applicable fees required for licensure by the
40 licensing authority.

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

- 5 ~~(1) Cultivation.~~
- 6 ~~(2) Extraction and infusion methods.~~
- 7 ~~(3) The transportation process.~~
- 8 ~~(4) Inventory procedures.~~
- 9 ~~(5) Quality control procedures.~~

10 ~~(c) On and after July 1, 2018, an applicant with 20 or more~~
11 ~~employees shall attest on the application that the applicant will~~
12 ~~implement an employee training program approved by the licensing~~
13 ~~authority within one year of licensure, pursuant to Section 19326.5.~~

14 ~~SEC. 2. Section 19323 of the Business and Professions Code~~
15 ~~is amended to read:~~

16 ~~19323. (a) The licensing authority shall deny an application~~
17 ~~if either the applicant or the premises for which a state license is~~
18 ~~applied does not qualify for licensure under this chapter.~~

19 ~~(b) The licensing authority may deny the application for~~
20 ~~licensure or renewal of a state license if any of the following~~
21 ~~conditions apply:~~

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

27 ~~(2) Conduct that constitutes grounds for denial of licensure~~
28 ~~pursuant to Chapter 2 (commencing with Section 480) of Division~~
29 ~~1.5.~~

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

38 ~~(4) The applicant has failed to provide information required by~~
39 ~~the licensing authority.~~

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

15 ~~(A) A felony conviction for the illegal possession for sale, sale,~~
16 ~~manufacture, transportation, or cultivation of a controlled~~
17 ~~substance.~~

18 ~~(B) A violent felony conviction, as specified in subdivision (e)~~
19 ~~of Section 667.5 of the Penal Code.~~

20 ~~(C) A serious felony conviction, as specified in subdivision (e)~~
21 ~~of Section 1192.7 of the Penal Code.~~

22 ~~(D) A felony conviction involving fraud, deceit, or~~
23 ~~embezzlement.~~

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

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

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

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

1 ~~(e) On and after July 1, 2018, the licensing authority shall deny~~
2 ~~an application of an applicant with 20 or more employees unless~~
3 ~~the applicant attests on the application that the applicant will~~
4 ~~implement an employee training program approved by the licensing~~
5 ~~authority within one year of licensure, pursuant to Section 19326.5.~~

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

8 19326.5. (a) A licensee shall implement an employee training
9 program to educate, inform, and train the licensee’s employees on
10 compliance with this chapter. A licensee may employ or contract
11 with a third-party provider to provide the employee training
12 program. An employee training program shall include, but is not
13 limited to, training on applicable statutory requirements, industry
14 best practices, occupational health and safety standards, and
15 workplace protections.

16 (b) (1) Each licensing authority shall adopt standards for the
17 approval of employee training programs. Those standards shall
18 prohibit approval of an employee training program provided by a
19 ~~third-party provider that operates or through~~ an apprenticeship
20 program approved by the Chief of the Division of Apprenticeship
21 Standards.

22 (2) A licensing authority may approve a workplace training
23 organization as a third-party provider of an employee training
24 program. For purposes of this paragraph, a “workplace training
25 organization” is a labor union organization representing wage
26 earners or salaried employees for mutual aid and protection and
27 for dealing collectively with cannabis employers. *A licensing*
28 *authority shall not be limited to approving workplace training*
29 *organizations as third-party providers of employee training*
30 *programs.*

31 (c) A licensing authority shall revoke the license of any licensee
32 with 20 or more employees that fails to implement an employee
33 training program as required by this section within one year of
34 ~~licensure~~ *licensure*.

35 (d) Each licensing authority shall charge a fee for approving an
36 employee training program. Revenues collected pursuant to this
37 subdivision shall be deposited in the appropriate fee account within
38 the Medical Marijuana Regulation and Safety Act Fund established
39 pursuant to Section 19350. Total fees assessed shall not exceed
40 the reasonable regulatory costs. Each licensing authority may adjust

1 fees as needed, but no more than once per year, to generate
2 sufficient revenue to cover the costs of employee training program
3 approval.

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

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