

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 243

Introduced by Assembly Member Wood

February 5, 2015

An act to add Sections 11362.769 and 11362.777 to the Health and Safety Code, and to add Section 13276 to the Water Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

AB 243, as amended, Wood. Medical marijuana cultivation.

(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 and cultivation of marijuana for medical purposes. Existing law makes it a crime to plant, cultivate, harvest, dry, or process marijuana, except as otherwise authorized by law. Under existing law, qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate in order collectively and cooperatively to cultivate marijuana for medical purposes, are not subject to criminal sanctions solely on the basis of that fact.

This bill would *generally* require all persons who cultivate marijuana for medical purposes, *except those cultivating for personal use, as specified*, to obtain a permit to cultivate marijuana from the county, *city, city and county*, or from a state agency to be designated by the Governor if the ~~board of supervisors of the county, city, or city and~~

county chooses not to be the responsible entity for these purposes. The bill would allow the county, *city*, *city and county*, or state agency to charge a fee in an amount sufficient to cover the reasonable cost of issuing the permits and carrying out the program. The bill would prohibit marijuana from being cultivated within 100 feet of an occupied legal residential home or school if grown outdoors, or within 100 feet of a school if grown at a residence. The bill would require the county, *city*, *city and county*, or designated state agency to issue zip ties for the identification of marijuana plants and would allow the county, *city*, *city and county*, or state agency to charge a fee to cover the reasonable costs of issuing the zip ties, monitoring, tracking, and inspecting the plants, and for enforcing specified requirements. The bill would require a copy of a current and valid state-issued medical marijuana ID card or physician recommendation to be displayed at all cultivation sites. The bill would allow a county, *city*, *city and county*, or designated state agency to revoke or suspend a permit, deny the reissuance of a permit, or impose fines, for a violation of these requirements, or abate a violation as a nuisance. *The bill would not apply to a county, city, or city and county that has an existing ordinance pertaining to cultivation of marijuana.*

The bill would also require indoor and outdoor medical marijuana cultivation to be conducted in accordance with state and local laws and best practices related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. This bill would require state agencies to address environmental impacts of medical marijuana cultivation and coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

The bill would state the intent of the Legislature that the multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, continue their enforcement efforts on a statewide level and permanent status.

(2) Under existing law, the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with responsibility for the coordination and control of water quality in the state.

This bill would require each regional board, and would allow the state board, to address discharges of waste resulting from medical marijuana cultivation and associated activities.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. It is the intent of the Legislature that the*
2 *multiagency task force, the Department of Fish and Wildlife and*
3 *State Water Resources Control Board pilot project to address the*
4 *Environmental Impacts of Cannabis Cultivation, assigned to*
5 *respond to the damages caused from marijuana cultivation on*
6 *public and private lands in California, will continue their*
7 *enforcement efforts on a statewide level and permanent status to*
8 *ensure the reduction of the adverse impacts of marijuana*
9 *cultivation on water quality and fish and wildlife throughout the*
10 *state.*

11 **SECTION 1.**

12 *SEC. 2. Section 11362.769 is added to the Health and Safety*
13 *Code, to read:*

14 11362.769. Indoor and outdoor medical marijuana cultivation
15 shall be conducted in accordance with state and local laws and
16 best practices related to land conversion, grading, electricity usage,
17 water usage, water quality, woodland and riparian habitat
18 protection, agricultural discharges, and similar matters. State
19 agencies, including, but not limited to, the State Board of Forestry
20 and Fire Protection, the Department of Fish and Wildlife, the State
21 Water Resources Control Board, the California regional water
22 quality control boards, and traditional state law enforcement
23 agencies shall address environmental impacts of medical marijuana
24 cultivation and shall coordinate, when appropriate, with cities and
25 counties and their law enforcement agencies in enforcement efforts.

26 ~~SEC. 2.~~

27 *SEC. 3. Section 11362.777 is added to the Health and Safety*
28 *Code, to read:*

29 11362.777. (a) ~~A board of supervisors~~ *county, city, or city and*
30 *county* may choose not to be the responsible entity for purposes
31 of implementing this section. No later than July 1, 2016, a county,
32 *city, or city and county* shall adopt an ordinance to implement this

1 section, or shall, by resolution, opt out of the requirements of this
2 section. The Governor shall designate an appropriate state agency
3 to implement this section in each county, *city, or city and county*
4 that adopts a resolution to opt out of the requirements of this
5 section. For purposes of this section, “designated state agency”
6 means the state agency designated by the Governor to implement
7 this program in ~~counties in which the board of supervisors~~ *a county,*
8 *city, or city and county* that has chosen not to be responsible for
9 implementing the requirements of this section.

10 (b) ~~AH~~ *Except as provided in subdivision (d), all* qualified
11 patients and designated primary ~~care-givers~~ *caregivers* cultivating
12 marijuana pursuant to Section 11362.5, and all qualified patients,
13 persons with valid identification cards, and the designated primary
14 caregivers of qualified patients and persons with identification
15 cards, who associate within the State of California in order
16 collectively or cooperatively to cultivate marijuana for medical
17 purposes, are subject to all of the following:

18 (1) Each patient, primary caregiver, collective, or cooperative
19 that cultivates marijuana shall obtain a permit to cultivate marijuana
20 from the sheriff, *chief of police,* or other entity designated by the
21 ~~board of supervisors of the county, city, city and county,~~ or from
22 the designated state agency. Each permit shall specify the location
23 being permitted and the number of plants that may be grown at
24 that location. ~~The board of supervisors~~ *county, city, city and county,*
25 or the designated state agency may charge a fee in an amount
26 sufficient to cover the reasonable cost of issuing the permit and
27 carrying out the requirements of this section. The permits
28 authorized by this section shall be renewed annually.

29 (2) Each county, *city, or city and county* shall establish the
30 number of plants that may be cultivated on an outdoor parcel or
31 at an indoor facility. Except for cultivation at a residential home
32 pursuant to paragraph (5), cultivation shall only be permitted in
33 areas that are zoned specifically for the cultivation of marijuana.
34 ~~In counties~~ *a county, city, or city and county* where the
35 requirements of this section are being implemented by the
36 designated state agency, the maximum number of plants that may
37 be cultivated at any given site shall not exceed 99 plants. ~~The board~~
38 ~~of supervisors~~ *county, city, city and county,* or designated state
39 entity may set a maximum limit on the square footage that may
40 be cultivated at a single location.

1 (3) Marijuana cultivated outdoors shall not be cultivated within
2 100 feet of any occupied legal residential home or within 100 feet
3 of a school offering kindergarten and grades 1 to 12, inclusive,
4 education. A county, *city*, or *city and county* may increase this
5 distance, not to exceed one mile. All outdoor cultivation sites shall
6 be within a secure fence that is not less than six feet in height and
7 that fully encloses the cultivation area. All marijuana cultivated
8 outdoors shall be out of the public's view. Use of light assistance
9 for outdoor cultivation shall not exceed a maximum of 1,200 watts
10 of lighting capacity per 100 square feet of cultivated area.

11 (4) Indoor cultivation of marijuana shall not occur within 100
12 feet of a school offering kindergarten and grades 1 to 12, inclusive,
13 education.

14 (5) Marijuana cultivated at a residential home shall not exceed
15 the number of plants per home established by the county, *city*, or
16 *city and county*. In a county, *city*, or *city and county* where the
17 requirements of this section are being implemented by the
18 designated state agency, the maximum number of plants that may
19 be cultivated at a residential home shall not exceed six plants unless
20 the county, *city*, or *city and county* adopts an ordinance permitting
21 a higher number. Cultivation of marijuana that exceeds the six
22 plants or the number of plants per home established by the county,
23 *city*, or *city and county* shall be conducted in areas specifically
24 zoned for the cultivation of marijuana. Cultivation of marijuana
25 at a residential home shall not occur within 100 feet of a school
26 offering kindergarten and grades 1 to 12, inclusive, education. A
27 county, *city*, or *city and county* may increase this distance, not to
28 exceed one mile.

29 (6) All buildings where marijuana is cultivated or stored shall
30 be properly secured to prevent unauthorized entry.

31 (7) A county, *city*, *city and county*, or the designated state agency
32 shall issue zip ties for the identification of medical marijuana
33 plants. A county, *city*, or *city and county* may designate the sheriff
34 or *chief of police* to issue the zip ties. Zip ties shall be attached at
35 the base of each plant. The county, *city*, *city and county*, or
36 designated state agency may charge a fee to cover the reasonable
37 costs of issuing the zip ties, monitoring, tracking, and inspecting
38 the plants, and for enforcing the requirements of Section
39 11362.769.

1 (8) A copy of a current and valid state-issued medical marijuana
2 ID card or physician recommendation shall be displayed at all
3 cultivation sites in a manner that allows law enforcement officers
4 to see the card or recommendation without entering a building or
5 fenced area.

6 (c) A county, *city, city and county*, or the designated state agency
7 may revoke or suspend a permit, deny the reissuance of a permit,
8 or impose fines for a violation of this section. A county may also
9 abate a violation of this section through the abatement process
10 established by Section 25845 of the Government Code. ~~Code and~~
11 *a city may declare what constitutes a nuisance by ordinance*
12 *pursuant to Section 38771 of the Government Code.* The county,
13 *city, or city and county* may set maximum noise levels specifically
14 related to the cultivation of marijuana.

15 (d) *This section does not apply to a qualified patient cultivating*
16 *marijuana pursuant to Section 11362.5 if he or she cultivates*
17 *marijuana for his or her personal medical use and does not sell,*
18 *distribute, donate, or provide marijuana to any other person or*
19 *entity. This section does not apply to a primary caregiver*
20 *cultivating marijuana pursuant to Section 11362.5 if he or she*
21 *cultivates marijuana exclusively for the personal medical use of*
22 *no more than five specified qualified patients for whom he or she*
23 *is the primary caregiver within the meaning of Section 11362.7*
24 *and who does not receive remuneration for these activities, except*
25 *for compensation provided in full compliance with subdivision (c)*
26 *of Section 11362.765. This section does not preclude a county,*
27 *city, or city and county from regulating or banning the cultivation,*
28 *possession, storage, manufacture, transport, provision, distribution,*
29 *donation, or sale of marijuana, or any other activity, by a person*
30 *specified in this subdivision, or impair the enforcement of the same.*

31 (e) *This section does not apply to a county, city, or city and*
32 *county that has an existing ordinance pertaining to the cultivation*
33 *of marijuana, unless the county, city, or city and county adopts an*
34 *ordinance to participate in the provisions of this section.*

35 (f) A county, city, or city and county that opts out of the
36 requirements of this section pursuant to subdivision (a) may adopt
37 an ordinance to participate in the provisions of this section at a
38 later date, in which case the designated state agency shall
39 cooperate with that local jurisdiction to phase out the designated
40 state agency's operation of the program.

1 ~~SEC. 3.~~

2 *SEC. 4.* Section 13276 is added to the Water Code, to read:

3 13276. Each regional board shall, and the State Water
4 Resources Control Board may, address discharges of waste
5 resulting from medical marijuana cultivation and associated
6 activities, including by adopting a general permit, establishing
7 waste discharge requirements, or taking action pursuant to Section
8 13269. In addressing these discharges, each regional board shall
9 include conditions to address items that include, but are not limited
10 to, all of the following:

- 11 (a) Site development and maintenance, erosion control, and
12 drainage features.
- 13 (b) Stream crossing installation and maintenance.
- 14 (c) Riparian and wetland protection and management.
- 15 (d) Soil disposal.
- 16 (e) Water storage and use.
- 17 (f) Irrigation runoff.
- 18 (g) Fertilizers and soil.
- 19 (h) Pesticides and herbicides.
- 20 (i) Petroleum products and other chemicals.
- 21 (j) Cultivation-related waste.
- 22 (k) Refuse and human waste.
- 23 (l) Cleanup, restoration, and mitigation.

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