

AMENDED IN ASSEMBLY JUNE 1, 2015

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 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~~ *establish a program* for the identification of *permitted* marijuana plants and would allow the county, city, city and county, or state agency to *issue a unique identifier* and charge a fee to cover the reasonable costs of issuing the ~~zip ties~~ *unique identifier*, 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 cultivation
9 on water quality and fish and wildlife throughout the state.

10 SEC. 2. Section 11362.769 is added to the Health and Safety
11 Code, to read:

12 11362.769. Indoor and outdoor medical marijuana cultivation
13 shall be conducted in accordance with state and local laws and
14 best practices related to land conversion, grading, electricity usage,
15 water usage, water quality, woodland and riparian habitat
16 protection, agricultural discharges, and similar matters. State
17 agencies, including, but not limited to, the State Board of Forestry
18 and Fire Protection, the Department of Fish and Wildlife, the State
19 Water Resources Control Board, the California regional water
20 quality control boards, and traditional state law enforcement
21 agencies shall address environmental impacts of medical marijuana
22 cultivation and shall coordinate, when appropriate, with cities and
23 counties and their law enforcement agencies in enforcement efforts.

24 SEC. 3. Section 11362.777 is added to the Health and Safety
25 Code, to read:

26 11362.777. (a) A county, city, or city and county may choose
27 not to be the responsible entity for purposes of implementing this
28 section. No later than July 1, 2016, a county, city, or city and
29 county shall adopt an ordinance to implement this section, or shall,
30 by resolution, opt out of the requirements of this section. The
31 Governor shall designate an appropriate state agency to implement
32 this section in each county, city, or city and county that adopts a

1 resolution to opt out of the requirements of this section. For
2 purposes of this section, “designated state agency” means the state
3 agency designated by the Governor to implement this program in
4 a county, city, or city and county that has chosen not to be
5 responsible for implementing the requirements of this section.

6 (b) Except as provided in subdivision (d), all qualified patients
7 and designated primary caregivers cultivating marijuana pursuant
8 to Section 11362.5, and all qualified patients, persons with valid
9 identification cards, and the designated primary caregivers of
10 qualified patients and persons with identification cards, who
11 associate within the State of California in order collectively or
12 cooperatively to cultivate marijuana for medical purposes, are
13 subject to all of the following:

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

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

35 (3) Marijuana cultivated outdoors shall not be cultivated within
36 100 feet of any occupied legal residential home or within 100 feet
37 of a school offering kindergarten and grades 1 to 12, inclusive,
38 education. A county, city, or city and county may increase this
39 distance, not to exceed one mile. All outdoor cultivation sites shall
40 be within a secure fence that is not less than six feet in height and

1 that fully encloses the cultivation area. All marijuana cultivated
2 outdoors shall be out of the public's view. Use of light assistance
3 for outdoor cultivation shall not exceed a maximum of 1,200 watts
4 of lighting capacity per 100 square feet of cultivated area.

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

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

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

25 (7) A county, city, city and county, or the designated state
26 agency shall ~~issue zip ties~~ *establish a program* for the identification
27 of *permitted* medical marijuana plants *at a cultivation site during*
28 *the cultivation period*. A county, city, or city and county may
29 designate the sheriff or chief of police to issue ~~the zip ties~~. *Zip ties*
30 *a unique identifier, such as, but not limited to, a zip tie. The unique*
31 *identifier* shall be attached at the base of each plant. The county,
32 city, city and county, or designated state agency may charge a fee
33 to cover the reasonable costs of issuing the ~~zip ties~~ *unique*
34 *identifier*, monitoring, tracking, and inspecting the plants, and for
35 enforcing the requirements of Section 11362.769.

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

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

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

27 (e) This section does not apply to a county, city, or city and
 28 county that has an existing ordinance pertaining to the cultivation
 29 of marijuana, unless the county, city, or city and county adopts an
 30 ordinance to participate in the provisions of this section.

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

37 SEC. 4. Section 13276 is added to the Water Code, to read:
 38 13276. Each regional board shall, and the State Water
 39 Resources Control Board may, address discharges of waste
 40 resulting from medical marijuana cultivation and associated

1 activities, including by adopting a general permit, establishing
2 waste discharge requirements, or taking action pursuant to Section
3 13269. In addressing these discharges, each regional board shall
4 include conditions to address items that include, but are not limited
5 to, all of the following:

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