

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2385 (Jones-Sawyer) – As Amended April 5, 2016

**SUBJECT:** Medical Marijuana Regulation and Safety Act: state licenses: Measure D.

**SUMMARY:** Amends the recently-enacted Medical Marijuana Regulation and Safety Act to clarify state licensing requirements for commercial cannabis activity in the City of Los Angeles. Specifically, **this bill:**

- 1) Prohibits, with regard to commercial cannabis activity in the City of Los Angeles (Los Angeles) and notwithstanding any other provision of the Medical Marijuana Regulation and Safety Act (MMRSA), state licensing authorities from requiring a local license, permit, or other authorization.
- 2) Requires state licensing authorities to issue a state license to engage in commercial cannabis activity in Los Angeles only if the licensing authorities determine the applicant satisfies all of the requirements of the MMRSA and demonstrates that it meets all of the following criteria established by Measure D, approved by the voters of Los Angeles at the May 21, 2013, general election:
  - a) The applicant was operating in Los Angeles as a medical marijuana (MM) business by September 14, 2007, as evidenced by a business tax registration certificate issued by Los Angeles on or before November 13, 2007;
  - b) The applicant registered with the Los Angeles city clerk by November 13, 2007, in accordance with all of the requirements of the Los Angeles' Interim Control Ordinance; and,
  - c) The applicant obtained a Los Angeles business tax registration for taxation as an MM collective, as specified.
- 3) Provides that a state license issued, pursuant to the provisions of 1) and 2), above, for commercial cannabis activity shall have the same force and effect and shall confer the same benefits and responsibilities as licenses issued to licensees outside of Los Angeles that obtain a license, permit, or other authorization from the local jurisdiction.
- 4) Provides that the exemption for local licensing in Los Angeles as outlined in 1) through 3), above, shall be superseded if the voters of Los Angeles approve an initiative that authorizes Los Angeles to issue local licenses to MM businesses after January 1, 2016, but prior to the time that the State of California begins issuing state licenses.

**EXISTING LAW:**

- 1) Prohibits, pursuant to the Compassionate Use Act (CUA, also known as Proposition 215), criminal prosecution of a qualified patient with specified illnesses, or a patient's primary

caregiver, for the possession or cultivation of MM upon the written or oral recommendation or approval of an attending physician.

- 2) Provides, pursuant to MMRSA, for the licensing and regulation by both state and local governments of MM and its cultivation.
- 3) Allows licensing authorities administering the MMRSA to issue state licenses only to qualified applicants engaging in commercial cannabis activity, pursuant to the MMRSA.
- 4) Prohibits any person, upon the date of implementation of regulations by the licensing authority, from engaging in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization.
- 5) Prohibits a person or entity from submitting an application for a state license, unless that person or entity has received a license, permit, or authorization by a local jurisdiction.
- 6) Prohibits a licensee from commencing activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.
- 7) Provides that issuance of a state license or a determination of compliance with local law by the licensing authority shall in no way limit the ability of Los Angeles to prosecute any person or entity for a violation of, or otherwise enforce, Proposition D, nor may issuance of a license or determination of compliance with local law by the licensing authority be deemed to establish, or be relied upon, in determining satisfaction with the immunity requirements of Proposition D, as specified.
- 8) Defines "licensing authority" to mean the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the license.

**FISCAL EFFECT:** This bill is keyed fiscal.

**COMMENTS:**

- 1) **Bill Summary.** This bill clarifies that existing MM businesses operating in Los Angeles in compliance with that city's MM ordinance, which does not require a local license, may operate under a state license without having to obtain a local license.

This bill prohibits state licensing authorities from requiring a local permit from these MM businesses. Instead, this bill requires state licensing authorities to issue a state license only if the licensing authorities determine the applicant meets the requirements of the MMRSA and demonstrates that it meets specified criteria established by Measure D, which Los Angeles voters approved in 2013.

This bill contains a mechanism that would eliminate this local licensing exemption for Los Angeles if Los Angeles voters approve an initiative that authorizes Los Angeles to issue local

licenses to MM businesses after January 1, 2016, but prior to the time that the state begins issuing state licenses.

This bill is sponsored by the United Food and Commercial Workers, Western States Council and the UCBA Trade Association.

- 2) **Author's Statement.** According to the author, "Under the Medical Marijuana Regulation and Safety Act (MMRSA), California will start issuing licenses to medical cannabis businesses after January 1, 2018. MMRSA requires a license, permit or other authorization from a local jurisdiction in order to apply and receive a state license.

"This legislation will give state agencies direction to issue state licenses to respect the will of Los Angeles voters, which is to permit patients to be able to obtain medical marijuana. This legislation will permit Measure D-compliant medical marijuana businesses to continue to operate as they have been in compliance with local zoning, environmental, and tax requirements."

- 3) **Background.** Last year, the Legislature approved three measures that collectively established the MMRSA: AB 243 (Wood), Chapter 688, Statutes of 2015; AB 266 (Bonta, et al), Chapter 689, Statutes of 2015; and, SB 643 (McGuire), Chapter 719, Statutes of 2015. The MMRSA established a regulatory framework for the cultivation, manufacturing, transport, distribution, sale and product safety of MM.

Voters approved the CUA in 1996, well before the enactment of the MMRSA. The CUA established the right of patients to obtain and use MM to treat specified illnesses, including any illness for which it provides relief. The CUA prohibits prosecution for cultivating or possessing MM for qualified patients and their primary caregivers. Additionally, the CUA exempts qualified patients and their primary caregivers from California drug laws prohibiting possession and cultivation of MM.

- 4) **Measure D.** After passage of the CUA, but before the MMRSA was approved, many local jurisdictions established MM ordinances, including Los Angeles. Los Angeles voters approved Measure D on May 21, 2013, which generally prohibited the operation or establishment of MM businesses but provided limited immunity for MM businesses that met the following four requirements:

- a) Were timely registered with the city clerk under Los Angeles' 2007 Interim Control Ordinance;
- b) Timely applied for registration under Los Angeles' 2010 Medical Marijuana Ordinance, as amended by the 2011 Temporary Urgency Ordinance;
- c) Registered under Measure M regarding taxation of medical marijuana in 2011 or 2012; and,
- d) Complied with other operating and location restrictions, pursuant to Measure D.

Since passage of Measure D, 716 medical marijuana businesses have been closed across Los Angeles. The City Attorney's Office has also filed 365 criminal cases against 1,444 defendants.

- 5) **Related Legislation.** AB 21 (Wood, et al.), Chapter 1, Statutes of 2016, amended the MMRSA to clarify the authority of cities and counties to regulate medical marijuana cultivation in their jurisdictions.
- 6) **Previous Legislation.** SB 643 (McGuire), Chapter 719, Statutes of 2015; AB 243 (Wood), Chapter 688, Statutes of 2015; and, AB 266 (Bonta, et al.), Chapter 689, Statutes of 2015, were a package of bills that comprised the MMRSA, which provided for the licensing and regulation by both state and local entities of MM and its cultivation.
- 7) **Arguments in Support.** The United Food and Commercial Workers, Western States Council, and the UCBA Trade Association, co-sponsors of this measure, write, "In 2013, over 63% of the City of Los Angeles voters passed Measure D allowing approximately 135 dispensaries to remain open while banning others. Under Measure D, the City of Los Angeles does not actually issue permits or licenses to those 135 dispensaries; instead, the city gave the right to assert limited immunity to these medical marijuana operators.  
  
"As medical marijuana business operators start to apply for state licenses after January 1, 2018, the California Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health will need proof from operators in the city of Los Angeles that they are Measure D compliant...This legislation will ensure that the state does not issue licenses to operators that are not following Measure D requirements."
- 8) **Arguments in Opposition.** None on file.
- 9) **Double-Referral.** This bill is double-referred to the Business and Professions Committee, where it is scheduled to be heard on April 19, 2016.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

UCBA Trade Association [SPONSOR]

United Food and Commercial Workers, Western States Council [SPONSOR]

##### **Opposition**

None on file

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