

AMENDED IN ASSEMBLY MARCH 28, 2017

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

ASSEMBLY BILL

No. 259

Introduced by Assembly Member Gipson

January 31, 2017

~~An act to amend Section 1317 of the Health and Safety Code, relating to health care facilities.~~ *An act to amend Sections 19322 and 26054.1 of the Business and Professions Code, relating to cannabis.*

LEGISLATIVE COUNSEL'S DIGEST

AB 259, as amended, Gipson. ~~Health care facilities: emergency departments.~~ *Medical cannabis and nonmedical marijuana: California residency requirement for licensing.*

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), added by Proposition 64 at the November 8, 2016, statewide general election, authorizes a person 21 years of age or older to possess and use specified amounts of marijuana. AUMA provides for the licensing and regulation of cultivation, manufacture, distribution, testing, and retail sale of nonmedical marijuana and nonmedical marijuana products. Until December 31, 2019, AUMA requires a person to demonstrate continuous California residency from or before January 1, 2015, in order to be issued a license for commercial nonmedical marijuana activity. AUMA authorizes legislative amendment of its provisions with a $\frac{2}{3}$ vote of both houses, without submission to the voters, to further its purposes and intent.

Existing law, the Medical Cannabis Regulation and Safety Act (MCRSA), authorizes a person who obtains both a state license under the MCRSA and the relevant local license to engage in commercial medical cannabis activity pursuant to those licenses, as specified.

Existing law prescribes requirements for a licensing authority to issue a license, including submission of an application and payment of a fee.

This bill would require a person to demonstrate 3 years of continuous California residency prior to the date of application before being issued a license under either AUMA or MCRSA.

This bill would declare that its provisions further the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

~~Existing law requires a health facility maintaining or operating an emergency department to provide emergency services and care to any person requesting those services and care for any condition in which the person is in danger of loss of life, or serious injury or illness. Existing law prohibits a health facility or its employees or health care providers from refusing to provide emergency services to a patient based upon their ability to pay or upon certain specified characteristics.~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: no.

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.

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

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

7 (2) Provide documentation issued by the local jurisdiction in
8 which the proposed business is operating certifying that the
9 applicant is or will be in compliance with all local ordinances and
10 regulations.

11 (3) Provide evidence of the legal right to occupy and use the
12 proposed location. For an applicant seeking a cultivator, distributor,
13 manufacturing, testing, transporter, or dispensary license, provide
14 a statement from the owner of real property or their agent where
15 the cultivation, distribution, manufacturing, testing, transport, or
16 dispensing of commercial medical cannabis activities will occur,
17 as proof to demonstrate the landowner has acknowledged and
18 consented to permit cultivation, distribution, manufacturing, testing,
19 transport, or dispensary activities to be conducted on the property
20 by the tenant applicant.

21 (4) If the application is for a cultivator or a dispensary, provide
22 evidence that the proposed location is located beyond at least a
23 600-foot radius from a school, as required by Section 11362.768
24 of the Health and Safety Code.

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

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

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

34 (C) For purposes of this paragraph, “supervisor” means an
35 individual having authority, in the interest of the licensee, to hire,
36 transfer, suspend, lay off, recall, promote, discharge, assign,
37 reward, or discipline other employees, or responsibility to direct
38 them or to adjust their grievances, or effectively to recommend
39 such action, if, in connection with the foregoing, the exercise of

1 that authority is not of a merely routine or clerical nature, but
2 requires the use of independent judgment.

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

7 (8) *Demonstrate three years of continuous California residency*
8 *prior to the date of application.*

9 ~~(8)~~

10 (9) Provide any other information required by the licensing
11 authority.

12 ~~(9)~~

13 (10) For an applicant seeking a cultivation license, provide a
14 statement declaring the applicant is an “agricultural employer,” as
15 defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural
16 Labor Relations Act of 1975 (Part 3.5 (commencing with Section
17 1140) of Division 2 of the Labor Code), to the extent not prohibited
18 by law.

19 ~~(10)~~

20 (11) Pay all applicable fees required for licensure by the
21 licensing authority.

22 ~~(11)~~

23 (12) Provide proof of a bond to cover the costs of destruction
24 of medical cannabis or medical cannabis products if necessitated
25 by a violation of licensing requirements.

26 (b) For applicants seeking licensure to cultivate, distribute,
27 manufacture, test, or dispense medical cannabis or medical
28 cannabis products, the application shall also include a detailed
29 description of the applicant’s operating procedures for all of the
30 following, as required by the licensing authority:

- 31 (1) Cultivation.
- 32 (2) Extraction and infusion methods.
- 33 (3) The transportation process.
- 34 (4) Inventory procedures.
- 35 (5) Quality control procedures.
- 36 (6) Security protocols.

37 *SEC. 2. Section 26054.1 of the Business and Professions Code*
38 *is amended to read:*

39 26054.1. (a) ~~No~~A licensing authority shall *not* issue or renew
40 a license to ~~any~~ a person that cannot demonstrate continuous

1 California residency ~~from or before January 1, 2015~~. *for three*
2 *years prior to the date of application*. In the case of an applicant
3 or licensee that is an entity, the entity shall not be considered a
4 resident if any person controlling the entity cannot demonstrate
5 continuous California residency ~~from and before January 1, 2015~~.
6 *for three years prior to the date of application*.

7 (b) Subdivision (a) shall cease to be operative on December 31,
8 ~~2019, unless reenacted prior thereto by the Legislature~~. *2023*.

9 *SEC. 3. The Legislature finds and declares that this act furthers*
10 *the purposes and intent of the Control, Regulate and Tax Adult*
11 *Use of Marijuana Act.*

12 ~~SECTION 1. Section 1317 of the Health and Safety Code is~~
13 ~~amended to read:~~

14 ~~1317. (a) Emergency services and care shall be provided to~~
15 ~~any person requesting the services or care, or for whom services~~
16 ~~or care is requested, for any condition in which the person is in~~
17 ~~danger of loss of life, or serious injury or illness, at any health~~
18 ~~facility licensed under this chapter that maintains and operates an~~
19 ~~emergency department to provide emergency services to the public~~
20 ~~when the health facility has appropriate facilities and qualified~~
21 ~~personnel available to provide the services or care.~~

22 ~~(b) In no event shall the provision of emergency services and~~
23 ~~care be based upon, or affected by, the person's ethnicity,~~
24 ~~citizenship, age, preexisting medical condition, insurance status,~~
25 ~~economic status, ability to pay for medical services, or any other~~
26 ~~characteristic listed or defined in subdivision (b) or (c) of Section~~
27 ~~51 of the Civil Code, except to the extent that a circumstance such~~
28 ~~as age, sex, preexisting medical condition, or physical or mental~~
29 ~~disability is medically significant to the provision of appropriate~~
30 ~~medical care to the patient.~~

31 ~~(c) Neither the health facility, its employees, nor any physician~~
32 ~~and surgeon, dentist, clinical psychologist, or podiatrist shall be~~
33 ~~liable in any action arising out of a refusal to render emergency~~
34 ~~services or care if the refusal is based on the determination,~~
35 ~~exercising reasonable care, that the person is not suffering from~~
36 ~~an emergency medical condition, or that the health facility does~~
37 ~~not have the appropriate facilities or qualified personnel available~~
38 ~~to render those services.~~

39 ~~(d) Emergency services and care shall be rendered without first~~
40 ~~questioning the patient or any other person as to his or her ability~~

1 to pay. However, the patient or his or her legally responsible
2 relative or guardian shall execute an agreement to pay therefor or
3 otherwise supply insurance or credit information promptly after
4 the services are rendered.

5 (e) If a health facility subject to this chapter does not maintain
6 an emergency department, its employees shall nevertheless exercise
7 reasonable care to determine whether an emergency exists and
8 shall direct the persons seeking emergency care to a nearby facility
9 that can render the needed services, and shall assist the persons
10 seeking emergency care in obtaining the services, including
11 transportation services, in every way reasonable under the
12 circumstances.

13 (f) No act or omission of any rescue team established by any
14 health facility licensed under this chapter, or operated by the federal
15 or state government, a county, or by the Regents of the University
16 of California, done or omitted while attempting to resuscitate any
17 person who is in immediate danger of loss of life shall impose any
18 liability upon the health facility, the officers, members of the staff,
19 nurses, or employees of the health facility, including, but not
20 limited to, the members of the rescue team, or upon the federal or
21 state government or a county, if good faith is exercised.

22 (g) "Rescue team," as used in this section, means a special group
23 of physicians and surgeons, nurses, and employees of a health
24 facility who have been trained in cardiopulmonary resuscitation
25 and have been designated by the health facility to attempt, in cases
26 of emergency, to resuscitate persons who are in immediate danger
27 of loss of life.

28 (h) This section shall not relieve a health facility of any duty
29 otherwise imposed by law upon the health facility for the
30 designation and training of members of a rescue team or for the
31 provision or maintenance of equipment to be used by a rescue
32 team.