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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 10. Cannabis [26000 - 26325] (*Heading of Division 10 amended by Stats. 2017, Ch. 27, Sec. 3.*)

CHAPTER 20. Local Control [26200 - 26202] (*Chapter 20 added November 8, 2016, by initiative Proposition 64, Sec. 6.1.*)

26200. (a) (1) Except as set forth in the Medicinal Cannabis Patients' Right of Access Act (Chapter 26 (commencing with Section 26320)), this division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) Except as set forth in the Medicinal Cannabis Patients' Right of Access Act (Chapter 26 (commencing with Section 26320)), this division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(b) This division shall not be interpreted to require the department to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

(c) A local jurisdiction shall notify the department upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 60 days of being so informed, the department shall begin the process to determine whether a license issued to the licensee should be suspended or revoked pursuant to Chapter 3 (commencing with Section 26030).

(d) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the department, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(e) (1) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature, provided that the activities, at a minimum, comply with all the following:

(A) The requirements of subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (g).

(B) All participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event are licensed under this division to engage in that activity.

(C) The activities are otherwise consistent with regulations promulgated and adopted by the department governing state temporary event licenses, except as otherwise provided in paragraphs (6), (7), and (8).

(D) A state temporary event license shall only be issued in local jurisdictions that authorize such events.

(E) A licensee who submits an application for a state temporary event license shall, 60 days before the event, provide to the department a list of all licensees that will be providing onsite sales of cannabis or cannabis products at the event. If any changes occur in that list, the licensee shall provide the department with a final updated list to reflect those changes. A person shall not engage in the onsite retail sale of cannabis or cannabis products, or in any way participate in the event, who is not included in the list, including any updates, provided to the department.

(2) The department may impose a civil penalty on any person who violates this subdivision, or any regulations adopted by the department governing state temporary event licenses, in an amount up to three times the amount of the license fee for each violation, consistent with Sections 26018 and 26038.

(3) The department may require the event and all participants to cease operations without delay if in the opinion of the department or local law enforcement it is necessary to protect the immediate public health and safety of the people of the state. The department may also require the event organizer to immediately expel from the event any participant selling cannabis or cannabis products without a license from the department that authorizes the participant to sell cannabis or cannabis products. If the unlicensed participant does not leave the event, the department may require the event and all participants to cease operations immediately.

(4) The order by the department for the event to cease operations pursuant to paragraph (3) does not entitle the event organizer or any participant in the event to a hearing or an appeal of the decision. Chapter 3 (commencing with Section 490) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to the order by the department for the event to cease operations pursuant to paragraph (3).

(5) The smoking of cannabis or cannabis products at temporary events authorized pursuant to this subdivision is prohibited in locations where smoking is prohibited. For purposes of this section, "smoking" has the same meaning as defined in subdivision (c) of Section 22950.5.

(6) (A) All licensees who are issued a state temporary event license allowed pursuant to this subdivision may, upon completion or cessation of the temporary event, reconcile unsold inventory of cannabis or cannabis products and return it to the licensee's retail premises.

(B) All unsold inventory of cannabis or cannabis products from the temporary event shall be noted in track and trace prior to transport.

(C) All unsold inventory of cannabis or cannabis products from the temporary event shall be in its original packaging in which it was placed pursuant to Chapter 12 (commencing with Section 26120).

(7) The inventory of cannabis or cannabis products authorized to be sold by a state temporary event license pursuant to this subdivision shall only be transported to and from the temporary event by a licensed distributor or licensed microbusiness.

(8) The department shall not deny an application for a state temporary event license pursuant to this subdivision solely on the basis that there is a license issued pursuant to the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000)) for the proposed premises of the event. Furthermore, the Department of Alcoholic Beverage Control shall not take any disciplinary action against a person licensed pursuant to the Alcoholic Beverage Control Act on the basis of a state temporary event license issued by the department to a licensee pursuant to this subdivision that utilizes the same premises as the person licensed pursuant to the Alcoholic Beverage Control Act.

(A) All on- and off-sale privileges of alcoholic beverages at the venue shall be suspended for the day of the event and shall not resume until 6 a.m. on the day after the event has ended.

(B) Alcohol consumption on the venue premises shall be strictly prohibited for the day of the event and shall not resume until 6 a.m. on the day after the event has ended.

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

(g) (1) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, if all of the conditions in paragraph (2) are met, a local jurisdiction may allow for any of the following:

(A) Smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division that has been granted authority by a local jurisdiction to engage in onsite cannabis consumption.

(B) (i) Preparation or sale of noncannabis food or beverage products in compliance with all applicable provisions of the California Retail Food Code (Chapter 1 (commencing with Section 113700) of Part 7 of Division 104 of the Health and Safety Code) by a retailer or microbusiness licensed under this division in the area where the consumption of cannabis is allowed.

(ii) For purposes of this subparagraph, "noncannabis food or beverage products" shall not include industrial hemp products or hemp products, as defined in Section 111920 of the Health and Safety Code.

(C) Live musical or other performances on the premises of a retailer or microbusiness licensed under this division in the area where the consumption of cannabis is allowed, and the sale of tickets for those performances.

(2) A local jurisdiction may allow any of the activities provided in paragraph (1) if all of the following conditions are met:

(A) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older and each entrance to the area prominently posts a warning that cannabis consumption, including smoking of cannabis, is permitted inside.

(B) Cannabis consumption is not visible from any public place or nonage-restricted area.

(C) Sale or consumption of alcohol or tobacco is not allowed on the premises.

(D) Noncannabis food or beverage products are not contaminated by or commingled with any cannabis products sold or served on the premises where the consumption of cannabis is allowed.

(E) (i) Smoking or vaporizing of any cannabis product by an employee or customer is not allowed in the food preparation, food storage, or warewashing area of a food facility located on the premises.

(ii) For purposes of this subparagraph, the following definitions apply:

(I) "Food facility" has the same meaning as that term is defined in Section 113789 of the Health and Safety Code.

(II) "Warewashing" has the same meaning as that term is defined in Section 113940 of the Health and Safety Code.

(F) The local jurisdiction considers whether to require adequate ventilation and filtration systems.

(i) Ventilation and filtration systems are considered adequate for the purpose of this subparagraph if they prevent smoke and odors from migrating to any other part of the building hosting the consumption lounge or any neighboring building or grounds.

(ii) Nothing in this subparagraph prohibits a local jurisdiction from allowing one or more forms of cannabis consumption on the premises of a retailer or microbusiness licensed under this division, including smoking, vaporizing, and ingesting of cannabis or cannabis products, while prohibiting other forms of cannabis consumption on the premises of a retailer or microbusiness licensed under this division.

(G) (i) Employees are permitted at their discretion and without penalty or sanction to wear a mask for respiration, including N95 and NIOSH N95 rated masks in any area where cannabis is smoked.

(ii) Employers are required to pay for the mask.

(H) When hired, employees who will be working where cannabis is smoked shall be provided in writing the Department of Public Health or its successor's guidance regarding secondhand cannabis smoke.

(I) A cannabis consumption lounge that offers on-site consumption of cannabis products shall include secondhand smoke in their analysis of potential work hazards for purposes of their injury and illness prevention programs required by Section 3203 of Title 8 of the California Code of Regulations.

(J) Loitering in or around the business is prohibited, and the retailer or microbusiness shall ensure the absence of loitering.

(h) This division shall not be interpreted to supersede Section 6404.5 of the Labor Code.

(i) This section does not alter or affect the prohibition on the sale of alcoholic beverages by a licensee, as provided in Section 26054, on or at a venue premises licensed under this division.

(j) If a retailer or microbusiness license issued under this division is suspended, the licensee shall not engage in activities authorized under subdivision (g) for the duration of the license suspension.

(k) All noncannabis food and beverages present, pursuant to this section, on the premises of a retailer or microbusiness licensed under this division shall be stored and displayed separately and distinctly from all cannabis and cannabis products present on the premises.

(l) Subdivision (g) does not authorize a retailer or microbusiness licensed under this division to prepare or sell industrial hemp, as defined in Section 11018.5 of the Health and Safety Code, or any products containing industrial hemp.

(Amended by Stats. 2024, Ch. 1004, Sec. 1. (AB 1775) Effective January 1, 2025. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)

26201. Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)

26202. (a) A local jurisdiction may enforce this division and the regulations promulgated by the department if delegated the power to do so by the department.

(b) The department shall implement the delegation of enforcement authority in subdivision (a) through an agreement between the department and the local jurisdiction to which enforcement authority is to be delegated.

(Amended by Stats. 2021, Ch. 70, Sec. 86. (AB 141) Effective July 12, 2021. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)