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AB-1159 Cannabis: legal services. (2017-2018)

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Assembly Bill No. 1159

CHAPTER 530

An act to add Section 1550.5 to the Civil Code, and to amend Section 956 of the Evidence Code, relating to cannabis.

[Approved by Governor October 06, 2017. Filed with Secretary of State October 06, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1159, Chiu. Cannabis: legal services.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, authorizes the consumption of nonmedical marijuana, also known as adult-use cannabis, by persons over 21 years of age and establishes a system for the licensure and regulation of certain commercial nonmedical marijuana activities. Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, expands and modifies this system to also include the licensure and regulation of certain commercial medicinal cannabis activities.

Existing law prescribes the manner in which contracts may be created and requires that a contract be for a lawful object. Under existing law a contract that is contrary to an express provision of law, contrary to the policy of express law, or that is otherwise contrary to good morals is not lawful.

This bill would provide that commercial activity relating to medicinal cannabis or adult-use cannabis conducted in compliance with state law and any applicable local standards and regulations is a lawful object of a contract, is not contrary to an express policy or provision of law or to good morals, and is not against public policy.

Existing law grants a lawyer's client a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the client and lawyer, as defined, if the privilege is claimed by the holder of the privilege, a person who is authorized to claim the privilege by the holder, or the person who was the lawyer at the time of the confidential communication, as specified. Existing law excepts communications from the privilege if the services of the lawyer were sought or obtained to enable or aid anyone to commit, or plan to commit, a crime or fraud.

This bill would provide that the above exception does not apply to legal services rendered in compliance with state or local laws on medicinal cannabis or adult-use cannabis and that confidential communications provided for the purpose of rendering those services are confidential communications, as specified.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1550.5 is added to the Civil Code, to read:

1550.5. (a) The Legislature finds and declares all of the following:

(1) The Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorized the use of marijuana for medical purposes in this state.

(2) The Legislature passed the Medical Cannabis Regulation and Safety Act, formerly 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code, to regulate and license medical cannabis in the state.

(3) The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, authorized the consumption of nonmedical marijuana by persons over 21 years of age and provided for the licensure and regulation of certain commercial nonmedical marijuana activities in this state.

(4) The Legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business and Professions Code) to consolidate the licensure and regulation of certain commercial activities with respect to medicinal cannabis and nonmedical marijuana, now known as adult-use cannabis.

(b) Notwithstanding any law, including, but not limited to, Sections 1550, 1667, and 1668 and federal law, commercial activity relating to medicinal cannabis or adult-use cannabis conducted in compliance with California law and any applicable local standards, requirements, and regulations shall be deemed to be all of the following:

(1) A lawful object of a contract.

(2) Not contrary to, an express provision of law, any policy of express law, or good morals.

(3) Not against public policy.

SEC. 2. Section 956 of the Evidence Code is amended to read:

956. (a) There is no privilege under this article if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(b) This exception to the privilege granted by this article shall not apply to legal services rendered in compliance with state and local laws on medicinal cannabis or adult-use cannabis, and confidential communications provided for the purpose of rendering those services are confidential communications between client and lawyer, as defined in Section 952, provided the lawyer also advises the client on conflicts with respect to federal law.