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**SB-1459 Cannabis: provisional license.** (2017-2018)

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**Senate Bill No. 1459**

**CHAPTER 857**

An act to add and repeal Section 26050.2 of the Business and Professions Code, relating to cannabis, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor September 27, 2018. Filed with Secretary of State September 27, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1459, Cannella. Cannabis: provisional license.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities.

Existing law requires an applicant for any type of MAUCRSA license to provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate. Existing law requires the issuance of MAUCRSA licenses to be valid for 12 months from the date of issuance and authorizes the license to be renewed annually. MAUCRSA prohibits a licensing authority from approving an application for a state license if approval of the state license will violate the provisions of certain local ordinances or regulations. MAUCRSA, until January 1, 2019, authorizes a state licensing authority to issue a temporary license if the applicant submits, among other things, a copy of a specified authorization issued by a local jurisdiction. MAUCRSA requires the temporary license to be valid for a period of 120 days and authorizes the temporary license to be extended for additional 90-day period at the discretion of the licensing authority. MAUCRSA establishes the Cannabis Control Appeals Panel and authorizes any person aggrieved by specified decisions of a licensing authority related to disciplining any license to appeal the licensing authority's written decision to the panel. MAUCRSA prohibits the refusal by the licensing authority to issue or extend a temporary license from entitling the applicant or licensee to a hearing or an appeal of the decision.

This bill, until January 1, 2020, would authorize a licensing authority to issue a provisional license if specified conditions are met. By requiring additional applications to be signed under penalty of perjury, the bill would expand the scope of the crime of perjury, and would thereby impose a state-mandated local program. The bill would require the provisional annual license to be valid for 12 months and would prohibit the license from being renewed. The bill would require the provisions of MAUCRSA to apply to a provisional license in the same manner as to an annual license, except as specified. The bill would exempt the issuance of a provisional license from the California Environmental Quality Act. The bill would prohibit the refusal by the licensing authority to issue a provisional license or revocation or suspension by the licensing authority of a provisional license from entitling the applicant or licensee to a hearing or an appeal of the decision.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Control, Regulate and Tax Adult Use of Marijuana Act, an initiative measure, authorizes the Legislature to amend the act to further the purposes and intent of the act with a  $\frac{2}{3}$  vote of the membership of both houses of the Legislature.

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

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

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

**SECTION 1.** Section 26050.2 is added to the Business and Professions Code, to read:

**26050.2.** (a) A licensing authority may, in its sole discretion, issue a provisional license to an applicant if the following conditions are met:

(1) The applicant holds or held a temporary license for the same premises and the same commercial cannabis activity for which the license may be issued pursuant to this section.

(2) The applicant has submitted a completed license application to the licensing authority, including evidence that compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) is underway.

(b) A provisional license issued pursuant to this section shall be valid for 12 months from the date issued and shall not be renewed. Except as specified in this section, the provisions of this division shall apply to a provisional license in the same manner as to an annual license.

(c) Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the issuance of a license pursuant to this section by the licensing authority.

(d) Refusal by the licensing authority to issue a license pursuant to this section or revocation or suspension by the licensing authority of a license issued pursuant to this section shall not entitle the applicant or licensee to a hearing or an appeal of the decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to licenses issued pursuant to this section.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**SEC. 3.** The Legislature finds and declares that Section 1 of this act adding Section 26050.2 to the Business and Professions Code furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016.

**SEC. 4.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

The significant number of cultivation license applications pending with local authorities that do not have adequate resources to process these applications before the applicants' temporary licenses expire on January 1, 2019, threatens to create a major disruption in the commercial cannabis marketplace.