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AB-1291 Adult-use cannabis and medicinal cannabis: license application: labor peace agreements.
(2019-2020)

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Assembly Bill No. 1291

CHAPTER 826

An act to amend Section 26051.5 of the Business and Professions Code, relating to cannabis.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1291, Jones-Sawyer. Adult-use cannabis and medicinal cannabis: license application: labor peace agreements.

The Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (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 and requires an applicant for any type of license issued under MAUCRSA to provide to the licensing authority specified information, including a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate. MAUCRSA also requires an applicant with 20 or more employees to provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

This bill would require an applicant with 20 or more employees to provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement. This bill would also require an applicant for a state license under MAUCRSA, if the applicant has less than 20 employees and has not yet entered into a labor peace agreement, to provide a notarized statement as a part of its application indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 20th employee. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

AUMA authorizes the Legislature to amend, by a majority vote, certain provisions of the act to implement specified substantive provisions, provided that the amendments are consistent with and further the purposes and intent of the act.

This bill would declare that its provisions implement specified substantive provisions of AUMA. The bill would also declare that its provisions further the purposes and the intent of the act.

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.

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

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

SECTION 1. Section 26051.5 of the Business and Professions Code is amended to read:

26051.5. (a) An applicant for any type of state license issued pursuant to this division shall do all of the following:

(1) Require that each owner electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all applicants for any type of state license issued pursuant to this division, for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and state and federal arrests, and also information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on their own recognizance pending trial or appeal.

(A) Notwithstanding any other law, the Bureau of Cannabis Control, the Department of Food and Agriculture, and the State Department of Public Health may obtain and receive, at their discretion, criminal history information from the Department of Justice and the Federal Bureau of Investigation for an applicant for any state license under this division, including any license established by a licensing authority by regulation pursuant to subdivision (b) of Section 26012.

(B) When received, the Department of Justice shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation for the purpose of obtaining a federal criminal history records check. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the licensing authority.

(C) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

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

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

(2) Provide evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property or that landowner's agent where the commercial cannabis activity will occur, as proof to demonstrate the landowner has acknowledged and consented to permit commercial cannabis activities to be conducted on the property by the tenant applicant.

(3) Provide evidence that the proposed location is in compliance with subdivision (b) of Section 26054.

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

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

(ii) For an applicant with less than 20 employees that has not yet entered into a labor peace agreement, provide a notarized statement as a part of its application indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 20th employee.

(iii) Nothing in this paragraph shall be construed to limit the authority of the Bureau of Cannabis Control, the Department of Food and Agriculture, and the State Department of Public Health to revoke or suspend a license for a violation of this paragraph.

(B) For the purposes of this paragraph, "employee" does not include a supervisor.

(C) For the purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the applicant, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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

(7) Provide any other information required by the licensing authority.

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

(9) Pay all applicable fees required for licensure by the licensing authority.

(10) Provide proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.

(11) (A) Provide a statement, upon initial application and application for renewal, that the applicant employs, or will employ within one year of receiving or renewing a license, one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course. This paragraph shall not be construed to alter or amend existing requirements for employers to provide occupational safety and health training to employees.

(B) An applicant with only one employee shall not be subject to subparagraph (A).

(C) For purposes of this paragraph “employee” has the same meaning as provided in subparagraph (B) of paragraph (5) and “supervisor” has the same meaning as provided in subparagraph (C) of paragraph (5).

(b) An applicant shall also include in the application a detailed description of the applicant’s operating procedures for all of the following, as required by the licensing authority:

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

(4) Inventory procedures.

(5) Quality control procedures.

(6) Security protocols.

(7) For applicants seeking licensure to cultivate, the source or sources of water the applicant will use for cultivation, as provided in subdivisions (a) to (c), inclusive, of Section 26060.1. For purposes of this paragraph, “cultivation” as used in Section 26060.1 shall have the same meaning as defined in Section 26001. The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this paragraph.

(c) The applicant shall also provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy, including aggregate square footage and individual square footage of separate cultivation areas, if any, roads, water crossings, points of diversion, water storage, and all other facilities and infrastructure related to the cultivation.

(d) Provide a complete list of every person with a financial interest in the person applying for the license as required by the licensing authority. For purposes of this subdivision, “persons with a financial interest” does not include persons whose only interest in a licensee is an interest in a diversified mutual fund, blind trust, or similar instrument.

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, amending Section 26051.5 of the Business and Professions Code, furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act because it enacts protections for employees and other workers of licensees that are in addition to the protections provided for in the Control, Regulate and Tax Adult Use of Marijuana Act.