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AB-1525 Cannabis: financial institutions. (2019-2020)

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Assembly Bill No. 1525

CHAPTER 270

An act to add Chapter 24 (commencing with Section 26260) to Division 10 of the Business and Professions Code, relating to cannabis.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1525, Jones-Sawyer. Cannabis: financial institutions.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), approved by the voters as Proposition 64 at the November 8, 2016, statewide general election, regulates the cultivation, distribution, transport, storage, manufacturing, testing, processing, sale, and use of marijuana for nonmedical purposes by people 21 years of age and older. 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. MAUCRSA imposes duties on the Bureau of Cannabis Control in the Department of Consumer Affairs with respect to the creation, issuance, denial, suspension, and revocation of licenses issued for microbusinesses, transportation, storage, distribution, testing, and sale of cannabis and cannabis products pursuant to MAUCRSA. MAUCRSA requires the Department of Food and Agriculture, in consultation with the bureau, to establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain, as provided.

This bill would provide that an entity, as defined, that receives deposits, extends credit, conducts fund transfers, transports cash or financial instruments, or provides other financial services, including public accounting, as provided, does not commit a crime under any California law solely by virtue of the fact that the person receiving the benefit of any of those services engages in commercial cannabis activity as a licensee. The bill would authorize a person licensed to engage in commercial cannabis activity to request, in writing, that a state or local licensing authority, state or local agency, or joint powers authority share the person's application, license, and other regulatory and financial information, as specified, with a financial institution of the person's designation and would require the request to include a waiver authorizing the transfer of that information and waiving any confidentiality or privilege that applies to that information. The bill would further authorize a state or local licensing authority, state or local agency, or joint powers authority upon receipt of a written request and waiver as described above, to share regulatory and financial information with the designated financial institution for the purpose of facilitating the provision of financial services for the requesting licensee until such time that the state or local licensing authority, state or local agency, or joint powers authority receives a withdrawal of the waiver.

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

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

SECTION 1. Chapter 24 (commencing with Section 26260) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 24. Information Sharing with Financial Institutions

26260. (a) An entity that receives deposits, extends credit, conducts fund transfers, transports cash or financial instruments, or provides other financial services does not commit a crime under any California law, including Chapter 10 (commencing with Section 186.9) of Title 7 of Part 1 of the Penal Code, solely by virtue of the fact that the person receiving the benefit of any of those services engages in commercial cannabis activity as a licensee pursuant to this division.

(b) (1) A person licensed to engage in commercial cannabis activity pursuant to this division may request in writing that a state or local licensing authority, state or local agency, or joint powers authority share the person's application, license, and other regulatory and financial information with a financial institution of the person's designation. The person shall include in that written request a waiver authorizing the transfer of that information and waiving any confidentiality or privilege that applies to that information.

(2) Notwithstanding any other law that might proscribe the disclosure of application, licensee, and other regulatory and financial information, upon receipt of a written request and waiver pursuant to paragraph (1), a state or local licensing authority, state or local agency, or joint powers authority may share application, licensee, and other regulatory and financial information with the financial institution designated by the licensee in that request for the purpose of facilitating the provision of financial services for that licensee.

(3) A person who provides a waiver may withdraw that waiver at any time. Upon receipt of the withdrawal, the state or local licensing authority, state or local agency, or joint powers authority shall cease to share application, licensee, or other regulatory or financial information with the financial institution.

(c) For purposes of this section, all of the following definitions apply:

(1) "Application, licensee, and other regulatory and financial information" includes, but is not limited to, information in the track and trace system established pursuant to Sections 26067 and 26068.

(2) "Entity" means a financial institution as defined in this section, an armored car service licensed by the Department of the California Highway Patrol pursuant to Section 2510 of the Vehicle Code that has been contracted by a financial institution, or a person providing financial services to persons licensed to engage in commercial cannabis activity pursuant to this division.

(3) "Financial institutions" means a licensee defined in Section 185 of the Financial Code.

(4) "Firm" has the same meaning as in Section 5035.1.

(5) "Joint powers authority" is one formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(6) "State or local agency" has the same meaning as in Section 50001 of the Government Code.

(d) An individual or firm, that practices public accounting pursuant to Chapter 1 (commencing with Section 5000) of Division 3, does not commit a crime under California law solely for providing professional accounting services as specified to persons licensed to engage in commercial cannabis activity pursuant to this division.

(e) This section shall be construed to refer only to the disclosure of information by a state or local licensing authority, state or local agency, or joint powers authority reasonably necessary to facilitate the provision of financial services for the licensee making a request pursuant to this section. Nothing in this section shall be construed to authorize the disclosure of confidential or privileged information, nor waive a licensee's rights to assert confidentiality or privilege, except to a financial institution as provided herein and except as reasonably necessary to facilitate the provision of financial services for the licensee making the request.