

Date of Hearing: April 25, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 1686 (Gloria) – As Amended April 3, 2017

SUBJECT: Nonmedical marijuana and medical cannabis: licenses: application: labor peace agreement.

SUMMARY: Under the Medical Cannabis Regulation and Safety Act (MCRSA), applicants with more than 20 employees seeking licensure to engage in marijuana related business must submit to the licensing authority a statement that the applicant will enter into or demonstrate that it has already entered into a labor peace agreement. This bill would require that the applicant submit electronically a signed and notarized statement to fulfill this requirement.

EXISTING LAW:

- 1) Establishes the Bureau of Marijuana Control, also referred to as the Bureau of Medical Cannabis Regulation (Bureau), under the Department of Consumer Affairs (DCA), to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of cannabis products. (Business and Professions Code (BPC) Section 26000 *et seq.*; BPC Section 19302)
- 2) Sets requirements for licensure of marijuana related businesses, including the requirement that applicants with more than 20 employees seeking licensure to engage in marijuana related business must submit to the licensing authority a statement that the applicant will enter into or demonstrate that it has already entered into a labor peace agreement. (BPC Section 19322)

THIS BILL:

- 1) Requires that applicants for marijuana related licenses, electronically submit a signed and notarized statement to fulfill the requirement in existing law that applicants with more than 20 employees seeking licensure to engage in marijuana related business must submit to the licensing authority a statement that the applicant will enter into or demonstrate that it has already entered into a labor peace agreement. This statement must be signed, notarized, and submitted electronically to the licensing authority.

FISCAL EFFECT: Unknown. This bill has been keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the **United Food and Commercial Workers (UFCW)**. According to the author, “As a former City Council Member of the City of San Diego, I’ve led many initiatives to improve bureaucratic processes, advance efficiency among departments, enhance transparency, and reduce paper waste. The submission of Labor Peace Agreements electronically to state agencies will greatly enhance the approval process for Cannabis Businesses to receive a license and create efficiencies between jurisdictional agencies to ensure compliance among applicants for licensure.”

Background. *History of Legal Cannabis in California.* In 1996, California voters passed Proposition 215, legalizing the use of medical cannabis (MC).. In October 2015, nearly 20 years after the authorization of the use of MC, Governor Jerry Brown signed into law a trio of bills [AB 243 (Wood), Chapter 688, Statutes of 2015, AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey, and Wood), Chapter 689, Statutes of 2015, and SB 643 (McGuire), Chapter 719, Statutes of 2015] collectively known as MCRSA. MCRSA established the state's first regulatory framework for MC. In 2016, the voters of California passed Proposition 64, the Adult Use of Marijuana Act (AUMA), to legalize the recreational use of cannabis in the state by 2018.

As of 2016, 28 states, the District of Columbia, and Guam allow MC programs. Though California was the first to authorize the medical use of cannabis, it was the only state that allowed cannabis use without a robust state regulatory framework until passage of MCRSA. States with MC laws generally have a form of patient registry, which may provide some protection against arrest for possession of up to a certain amount of cannabis for personal medicinal use. A limited number of states restrict MC usage to products with low to zero THC and high CBD concentrations, in an effort to more strictly limit the use of THC due to its known psychoactive effects. To date, eight states, Alaska, Colorado, Oregon, Washington, California, Nevada, Massachusetts, Maine, and the District of Columbia have legalized recreational cannabis.

Under AUMA, the Department of Consumer Affairs (DCA), continues to serve as the lead regulatory agency for all cannabis, both medical and non-medical, and renames the existing Bureau of Medical Cannabis Regulation as the Bureau of Marijuana Control. AUMA includes 19 different license types compared to the 17 in MCRSA and authorizes DCA (and the Bureau) the exclusive authority to create and regulate a license for transportation of cannabis.

While the language of AUMA allows for modifications to the law by majority vote of the legislature, any legislative changes inconsistent with the original intent of the law may require voter approval.

Applicants for Licensure. Current law prescribes 11 steps for licensure of marijuana related businesses. These include transmission of fingerprints, submission to a background check, and fees as well as a requirement that applicants with more than 20 employees seeking licensure to engage in marijuana related business must submit to the licensing authority a statement that the applicant will enter into or demonstrate that it has already entered into a labor peace agreement. The language in this bill would set a standard for the submission of that statement, specifically that it must be signed, notarized, and submitted electronically.

Digital Signatures. According to a 2014 *Techradar* article, digital signatures are being adopted by businesses all over the world, gradually displacing pen and paper processes. This is due to the benefits offered by digital signatures, including: security, resistant to fraud, compliance with a wide variety of legislation and standards, less time wasted collating signatures, reduced costs around paper, and print and transporting documents for signing. Some proponents of digital signatures have advocated for the use of this tool, arguing that it is more secure and significantly more challenging to commit fraud or forgery.

Electronic signatures can be provided by externally-managed, third-party services using proprietary technology, creating serious security, portability and usability limitations.

A digital signature, also known as an advanced, standard or secure electronic signature, is based on industry standards and offers high levels of security and acceptance.

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This process provides proof of signer identity and data integrity for eliminating the possibility of anyone repudiating the signed documents. All this information can be easily verified using widely available applications such as Microsoft Office and most PDF readers.

Current Related Legislation. AB 64 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood) of the current Legislative Session seeks to reconcile a number of differences between MCRSA and AUMA to provide clarity in regulation and enforcement of both medical and recreational cannabis. *STATUS: This bill was passed by the Assembly Committee on Business and Professions on April 18, 2017 and referred to the Committee on Appropriations.*

ARGUMENTS IN SUPPORT:

The **United Food and Commercial Workers Union** writes; “Since January 2017, over 150 LPA’s have been submitted by cannabis business operators to local governments as part of their application to receive a permit to operate. An estimated 10-15% that have been submitted were falsely signed or illegitimate. Furthermore, there are no safeguards currently in place to ensure that all signatures are legal and valid. By adding extra safeguards- requiring all LPA’s be signed, notarized, and electronically submitted will deter fraudulent behavior and make the process more efficient and transparent.

ARGUMENTS IN OPPOSITION:

None on file

IMPLEMENTATION ISSUES:

While this bill simply specifies a particular mode of transmission for the statement required under current law, it is unclear by which means electronic submission is to take place. The author is encouraged to work with the appropriate licensing authorities to ensure that they are equipped to handle this provision.

Based on the author’s concern for fraud and the noted securities against fraud in the use of digital signatures, the author may wish to consider the allowance of the use of digital signatures in addition to a notary.

REGISTERED SUPPORT:

United Food and Commercial Workers Union

REGISTERED OPPOSITION:

None on file

Analysis Prepared by: Jimmy Fremgen and Genna Promnick / B. & P. / 916-319-3301

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