

Date of Hearing: April 25, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 171 (Lackey) – As Introduced January 17, 2017

SUBJECT: Medical Cannabis Regulation and Safety Act: licensure: reporting.

SUMMARY: Adds conditional licenses to the list of data that must be included in each licensing authority's annual report to the Legislature.

EXISTING LAW:

- 1) Establishes the 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) Requires licensing authorities to annually submit to the Legislature a report on the authorities' activities and include: (Business and Professions Code (BPC) Section 19353)
 - a) The amount of funds allocated and spent by the licensing authority for medical cannabis licensing, enforcement, and administration.
 - b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.
 - c) The average time for processing state license applications, by state license category.
 - d) The number of appeals from the denial of state licenses or other disciplinary actions taken by the licensing authority and the average time spent on these appeals.
 - e) The number of complaints submitted by citizens or representatives of cities or counties regarding licensees, provided as both a comprehensive statewide number and by geographical region.
 - f) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the bureau.
 - g) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

THIS BILL:

- 1) Would add conditional licenses to the items that must be disclosed by the licensing authority in its annual report.

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

COMMENTS:

Purpose. This bill is author sponsored. According to the author, “In 2015, California enacted a series of bills known as Medical Cannabis Regulatory and Safety Act (MCRSA) to regulate medical marijuana. Beginning in 2023, each licensing authority implementing the MCRSA will begin submitting annual reports to the Legislature detailing their activities. AB 171 updates the reporting requirements for the licensing authorities to include information on the number of conditional state licenses issued, renewed, denied, suspended or revoked. Licensing authorities were given the ability to issue conditional licenses by SB 837, a budget trailer bill from 2016, as a policy tool for processing applicants as the state begins issuing licenses to medical cannabis operators beginning in 2018. The Legislature would greatly benefit from also receiving reporting information about conditional licenses so it can determine how extensively they are being used and whether any policy changes are warranted.”

Background. *History of Legal Cannabis in California.* In 1996, California voters passed Proposition 215, legalizing the use of medical cannabis (MC) in the state. 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 the Medical Cannabis Regulation and Safety Act (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 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.

The authors of AUMA sought to make use of much of the regulatory structure and authorities set out by MCRSA while making a few notable changes to the structure being implemented. In addition, the AUMA approved by the voters adopted the January 1, 2018 deadline for state implementation of recreational cannabis in addition to the regulations required in MCRSA that are scheduled to take effect on the same date. The same agencies under MCRSA remain responsible for implementing regulations for adult use.

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 to 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. .

This bill only changes the reporting requirements under MCRSA and does not amend the AUMA, however, because AUMA references this code section, this change would apply to both medical and recreational cannabis. Accordingly, it does not require approval by the voters. As the state licensing entities have not begun to issue licenses under MCRSA, it is unclear how widely utilized conditional licenses will be. Collecting this data will assist regulators, the public, and the legislature to more clearly evaluate the licensing procedures at the various licensing authorities.

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 heard by the Assembly Committee on Business and Professions on April 18, 2017 and referred to the Committee on Appropriations.*

AB 420 (Wood) of the current Legislative Session requires a license number to be disclosed on all cannabis advertising. *STATUS: This bill has been referred to the Assembly Committee on Business and Professions and will be heard on April 18, 2017.*

Prior Related Legislation. AB 1575 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood) of 2015 language on non-storefront dispensaries, corporate restructuring, and intellectual property. *NOTE: This bill was held in the Senate Appropriations Committee.*

ARGUMENTS IN SUPPORT:

City of Santa Monica: “AB 171 (Lackey) will ensure that the Legislature has relevant data about these conditional licenses to help inform policy decisions going forward. This bill aligns with the City of Santa Monica’s ongoing support for regulating the production, cultivation, distribution, licensure, and use of cannabis.”

ARGUMENTS IN OPPOSITION:

None on File

REGISTERED SUPPORT:

City of Santa Monica

REGISTERED OPPOSITION:

None on File

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

Date of Hearing: April 25, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 171 (Lackey) – As Introduced January 17, 2017

SUBJECT: Medical Cannabis Regulation and Safety Act: licensure: reporting.

SUMMARY: Adds conditional licenses to the list of data that must be included in each licensing authority's annual report to the Legislature.

EXISTING LAW:

- 1) Establishes the 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) Requires licensing authorities to annually submit to the Legislature a report on the authorities' activities and include: (Business and Professions Code (BPC) Section 19353)
 - a) The amount of funds allocated and spent by the licensing authority for medical cannabis licensing, enforcement, and administration.
 - b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.
 - c) The average time for processing state license applications, by state license category.
 - d) The number of appeals from the denial of state licenses or other disciplinary actions taken by the licensing authority and the average time spent on these appeals.
 - e) The number of complaints submitted by citizens or representatives of cities or counties regarding licensees, provided as both a comprehensive statewide number and by geographical region.
 - f) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the bureau.
 - g) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

THIS BILL:

- 1) Would add conditional licenses to the items that must be disclosed by the licensing authority in its annual report.

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

COMMENTS:

Purpose. This bill is author sponsored. According to the author, “In 2015, California enacted a series of bills known as Medical Cannabis Regulatory and Safety Act (MCRSA) to regulate medical marijuana. Beginning in 2023, each licensing authority implementing the MCRSA will begin submitting annual reports to the Legislature detailing their activities. AB 171 updates the reporting requirements for the licensing authorities to include information on the number of conditional state licenses issued, renewed, denied, suspended or revoked. Licensing authorities were given the ability to issue conditional licenses by SB 837, a budget trailer bill from 2016, as a policy tool for processing applicants as the state begins issuing licenses to medical cannabis operators beginning in 2018. The Legislature would greatly benefit from also receiving reporting information about conditional licenses so it can determine how extensively they are being used and whether any policy changes are warranted.”

Background. *History of Legal Cannabis in California.* In 1996, California voters passed Proposition 215, legalizing the use of medical cannabis (MC) in the state. 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 the Medical Cannabis Regulation and Safety Act (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 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.

The authors of AUMA sought to make use of much of the regulatory structure and authorities set out by MCRSA while making a few notable changes to the structure being implemented. In addition, the AUMA approved by the voters adopted the January 1, 2018 deadline for state implementation of recreational cannabis in addition to the regulations required in MCRSA that are scheduled to take effect on the same date. The same agencies under MCRSA remain responsible for implementing regulations for adult use.

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 to 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. .

This bill only changes the reporting requirements under MCRSA and does not amend the AUMA, however, because AUMA references this code section, this change would apply to both medical and recreational cannabis. Accordingly, it does not require approval by the voters. As the state licensing entities have not begun to issue licenses under MCRSA, it is unclear how widely utilized conditional licenses will be. Collecting this data will assist regulators, the public, and the legislature to more clearly evaluate the licensing procedures at the various licensing authorities.

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 heard by the Assembly Committee on Business and Professions on April 18, 2017 and referred to the Committee on Appropriations.*

AB 420 (Wood) of the current Legislative Session requires a license number to be disclosed on all cannabis advertising. *STATUS: This bill has been referred to the Assembly Committee on Business and Professions and will be heard on April 18, 2017.*

Prior Related Legislation. AB 1575 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood) of 2015 language on non-storefront dispensaries, corporate restructuring, and intellectual property. *NOTE: This bill was held in the Senate Appropriations Committee.*

ARGUMENTS IN SUPPORT:

City of Santa Monica: “AB 171 (Lackey) will ensure that the Legislature has relevant data about these conditional licenses to help inform policy decisions going forward. This bill aligns with the City of Santa Monica’s ongoing support for regulating the production, cultivation, distribution, licensure, and use of cannabis.”

ARGUMENTS IN OPPOSITION:

None on File

REGISTERED SUPPORT:

City of Santa Monica

REGISTERED OPPOSITION:

None on File

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