

AMENDED IN SENATE APRIL 26, 2018

AMENDED IN SENATE APRIL 9, 2018

SENATE BILL

No. 1302

Introduced by Senator Lara
(Coauthors: Senators ~~Galgiani~~ and *Bradford, Galgiani, and*
***Wieckowski*)**

February 16, 2018

An act to amend Section 26200 of the Business and Professions Code, relating to cannabis.

LEGISLATIVE COUNSEL'S DIGEST

SB 1302, as amended, Lara. Cannabis: local jurisdiction: prohibitions on delivery.

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. MAUCRSA authorizes a licensee who obtains a retailer, microbusiness, or a specified type of nonprofit to deliver cannabis or cannabis products, and imposes requirements on the delivery of cannabis or cannabis products. MAUCRSA prohibits a local jurisdiction from preventing the delivery of cannabis or cannabis products on public roads by a licensee who is acting in compliance with MAUCRSA as well as any local law adopted pursuant to MAUCRSA. MAUCRSA generally authorizes a

local jurisdiction to adopt and enforce local ordinances to regulate licensed businesses located within the local jurisdiction.

This bill would prohibit a local government from adopting or enforcing any ordinance that would prohibit a licensee from delivering cannabis within or outside of the jurisdictional boundaries of the local jurisdiction.

The bill would include findings that the changes proposed by this bill address a matter of statewide concern, rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 26200 of the Business and Professions
- 2 Code is amended to read:
- 3 26200. (a) (1) This division shall not be interpreted to
- 4 supersede or limit the authority of a local jurisdiction to adopt and
- 5 enforce local ordinances to regulate businesses licensed under this
- 6 division, including, but not limited to, local zoning and land use
- 7 requirements, business license requirements, and requirements
- 8 related to reducing exposure to secondhand smoke, or to completely
- 9 prohibit the establishment or operation of one or more types of
- 10 businesses licensed under this division within the local jurisdiction.
- 11 (2) This division shall not be interpreted to supersede or limit
- 12 existing local authority for law enforcement activity, enforcement
- 13 of local zoning requirements or local ordinances, or enforcement
- 14 of local license, permit, or other authorization requirements.
- 15 (b) This division ~~shall not be interpreted to~~ *does not* require a
- 16 licensing authority to undertake local law enforcement
- 17 responsibilities, enforce local zoning requirements, or enforce local
- 18 licensing, permitting, or other authorization requirements.

1 (c) A local jurisdiction shall notify the bureau upon revocation
2 of any local license, permit, or authorization for a licensee to
3 engage in commercial cannabis activity within the local
4 jurisdiction. Within 10 days of notification, the bureau shall inform
5 the relevant licensing authorities. Within 60 days of being so
6 informed by the bureau, the relevant licensing authorities shall
7 begin the process to determine whether a license issued to the
8 licensee should be suspended or revoked pursuant to Chapter 3
9 (commencing with Section 26030).

10 (d) For facilities issued a state license that are located within
11 the incorporated area of a city, the city shall have full power and
12 authority to enforce this division and the regulations promulgated
13 by the bureau or any licensing authority, if delegated by the state.
14 Notwithstanding Sections 101375, 101400, and 101405 of the
15 Health and Safety Code or any contract entered into pursuant
16 thereto, or any other law, the city shall assume complete
17 responsibility for any regulatory function pursuant to this division
18 within the city limits that would otherwise be performed by the
19 county or any county officer or employee, including a county
20 health officer, without liability, cost, or expense to the county.

21 (e) This division does not prohibit the issuance of a state
22 temporary event license to a licensee authorizing onsite cannabis
23 sales to, and consumption by, persons 21 years of age or older at
24 a county fair or district agricultural association event, provided
25 that the activities, at a minimum, comply with the requirements
26 of paragraphs (1) to (3), inclusive, of subdivision (g), that all
27 participants are licensed under this division, and that the activities
28 are otherwise consistent with regulations promulgated and adopted
29 by the bureau governing state temporary event licenses. These
30 temporary event licenses shall only be issued in local jurisdictions
31 that authorize such events.

32 (f) This division, or any regulations promulgated thereunder,
33 shall not be deemed to limit the authority or remedies of a city,
34 county, or city and county under any provision of law, including,
35 but not limited to, Section 7 of Article XI of the California
36 Constitution.

37 (g) Notwithstanding paragraph (1) of subdivision (a) of Section
38 11362.3 of the Health and Safety Code, a local jurisdiction may
39 allow for the smoking, vaporizing, and ingesting of cannabis or

1 cannabis products on the premises of a retailer or microbusiness
2 licensed under this division if all of the following are met:

3 (1) Access to the area where cannabis consumption is allowed
4 is restricted to persons 21 years of age and older.

5 (2) Cannabis consumption is not visible from any public place
6 or nonage-restricted area.

7 (3) Sale or consumption of alcohol or tobacco is not allowed
8 on the premises.

9 (h) A local jurisdiction shall not adopt or enforce any ordinance
10 that would prohibit a licensee from delivering cannabis within or
11 outside of the jurisdictional boundaries of that local jurisdiction.

12 SEC. 2. The Legislature finds and declares that Section 1 of
13 this act amending Section 26200 of the Business and Professions
14 Code addresses a matter of statewide concern, rather than a
15 municipal affair as that term is used in Section 5 of Article XI of
16 the California Constitution. Therefore, Section 1 of this act applies
17 to all cities, including charter cities.

18 SEC. 3. The Legislature finds and declares that Section 1 of
19 this act amending Section 26200 of the Business and Professions
20 Code furthers the purposes and intent of the Control, Regulate and
21 Tax Adult Use of Marijuana Act.