

Medical Marijuana Legislation

UCC Briefing
2015

Three Bill Package

- ▶ **AB 243 (Wood)**

Primarily contains provisions related to medical marijuana cultivation and environmental provisions.

- ▶ **AB 266 (Bonta)**

The main vehicle for much of the year and contains dual licensing structure, local control and regulatory provisions.

- ▶ **SB 643 (McGuire)**

Regulatory provisions, county taxing authority.

CSAC, UCC, RCRC Principles

Three organizations had the following common principles for a licensing/regulatory structure:

- ▶ Preserving local control
- ▶ Explicit taxing authority
- ▶ Ending the collective model
- ▶ Addressing environmental impacts

AB 243 Key Provisions

- ▶ Labeling and standards for edible products.
- ▶ Unique identifier procedures.
- ▶ State grant program.
- ▶ Medical cannabis is defined as an agricultural product.
- ▶ Medical Cannabis Cultivation Program which includes zip tie program.
- ▶ Local control related to cultivation; permissive zoning; local license must be obtained first.

AB 266 – Key Provisions

- ▶ Defines delivery to include technology platforms owned and controlled by the dispensary or independently licensed.
- ▶ Provides local control language to provide that nothing in the bill can be interpreted to supersede or limit existing local authority, and allows cities and counties to adopt ordinances to establish additional standards on cannabis activity.
- ▶ Requires a local license or permit prior to receiving a state license in order to commence cannabis activity.

AB 266 – Continued

- ▶ Allows for existing businesses operating in compliance with local zoning and prior to January 1, 2018, to continue its operations until its application is approved or denied. The licensing authority shall prioritize any facility that can demonstrate that it was in good standing with the local jurisdiction prior to January 1, 2016.
- ▶ Requires explicit prohibition on mobile deliveries by a city or county otherwise deliveries are allowed.
- ▶ Provision for labeling edible products by DPH.
- ▶ Elimination of the collective model.

SB 643 – Key Provisions

- ▶ Creates the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.
- ▶ Provides an exemption for personal medical purposes.
- ▶ State and Local license provisions.
- ▶ Licensed cultivation sites including cross-licensing provisions.
- ▶ Unique Identifier and Track and Trace Program.
- ▶ Licensed transporters including provisions related to transportation on public roads.
- ▶ Provides for permissive County Taxing Authority.

Key Aspects of the Package

Preserving Local Control (AB 266)

- ▶ Nothing in this chapter shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements.
- ▶ Other local control provisions B&P 19316 (a); B&P 19316 (c).

Key Aspects of the Package

Dual Licensing

- ▶ Critical to the cities to obtain dual licensing – locals go first.
- ▶ Exemptions for personal grows and for patient caregivers (Proposition 215).
- ▶ In order to be eligible for a state license, a licensee must first obtain a local license.

Key Aspects of Package

Mobile Deliveries Ordinance

- ▶ Allows for mobile deliveries including technology platforms (apps) to operate in California.
- ▶ Mobile deliveries are allowed unless specifically prohibited by a local ordinance.
- ▶ Mobile deliveries must originate from a licensed dispensary.

Key Aspects of the Package

Cities have the option to Enforce (AB 266)

- ▶ Upon approval of the state, cities can assume enforcement role.
- ▶ Counties have no liability and cities must cover county costs if contracted.
- ▶ City contracts with counties must be honored.
- ▶ Counties do not have explicit authority to enforce.

Key Aspects of Package

Background Checks / License Restrictions (SB 643)

- ▶ Licensees must submit to DOJ background checks.
- ▶ Previous criminal violations that could trigger failure to obtain state license.

Key Aspects of Package

Environmental Enforcement

- ▶ Fine and penalty monies dedicated to state and local environmental enforcement efforts.
- ▶ Bureau of Marijuana Regulation must establish a grant program for regulation and enforcement assistance.
- ▶ Water diversion protections.

Key Aspects of Package

Status of (c) (4) in AB 243

- ▶ Currently AB 243 provides that if a city or county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressively or otherwise under principles of permissive zoning or chooses not to administer a conditional permit program, then starting March 1, 2016, the Division shall be the sole licensing authority for medical marijuana cultivation applicants in that city or county.

Key Aspects of Package

- ▶ AB 243 provides that exemption from the requirements of this section (for personal grows and patients) does not limit or prevent a city or county from regulating or banning the cultivation, storage, manufacture, transport, provision, or other activity by the exempt person, or impair the enforcement of that regulation or ban.
- ▶ Future of this section -- H&S 11362.77 (g) could be at risk.

Other Provisions

- ▶ Employer Restrictions
- ▶ Ending Collective Model
- ▶ Transportation standards
- ▶ Cross-Ownership restrictions
- ▶ Environmental Enforcement
- ▶ No reference to drug as unadulterated food product

Pending in 2016

- ▶ Clean-up to AB 243 to remove March 1, 2016 date.
- ▶ AB 1548 and AB 1549 by Assemblymember Wood to do a cultivation tax and to establish a state bank.
- ▶ Other clean up bills.
- ▶ Ballot measures.

Key Takeaways for Counties

- ▶ If your county has an adopted ordinance on medical marijuana including a ban, this will still be protected under the Legislation.
- ▶ If your county has not prohibited mobile deliveries you may want to consider updating your ordinance.
- ▶ With the establishment of dual licensing, your county will need to start to establish a local licensing framework.
- ▶ If AB 243 is not fixed quickly you may need to pass an ordinance on cultivation or your authority will be given to the State.

Recreational Initiatives

- ▶ Main ballot initiative is the Adult Use of Marijuana Act which is sponsored by Sean Parker and Gavin Newsom.
- ▶ While other ballot initiatives have been filed – the Parker initiative is the one that is funded and the one which is gaining the most traction.
- ▶ The Adult Use of Marijuana Act would allow for the recreational use of marijuana for those 21 of age or older.

Adult Use of Marijuana – 12/7 Version

- ▶ Adds county taxing authority provisions to the initiative.
- ▶ Removes the provisions that would have required a vote of the people for any local government ban.
- ▶ Keeps provisions that require county public health department to issue medical identification. The initiative provides that reimbursement for this new mandate would be provided by the Legislature upon request of the counties.

Adult Use of Marijuana

- ▶ Dual licensing restored as requested by the League of California Cities.
- ▶ Cross Ownership of Licenses – Defers to state regulatory agencies.
- ▶ Has medical provisions and non-medical provisions.
- ▶ Recreational provisions would allow for the possession, transport, purchase to persons 21 years or older of not more than 28.5 grams of marijuana.

Questions?

Jolena L. Voorhis, Executive Director

Phone: 916-327-7531

Jolena@urbancounties.com