



Karen Keene - Paul A. Smith - Jolena Voorhis

2015 MEDICAL MARIJUANA UPDATE

WEBINAR



Core County Policy Principles on Medical Marijuana

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

2015 Medical Marijuana Legislative Package

AMENDED IN ASSEMBLY SEPTEMBER 11, 2015
 AMENDED IN ASSEMBLY SEPTEMBER 4, 2015
 AMENDED IN ASSEMBLY SEPTEMBER 1, 2015
 AMENDED IN ASSEMBLY AUGUST 18, 2015
 AMENDED IN ASSEMBLY AUGUST 17, 2015
 AMENDED IN SENATE JUNE 3, 2015
 AMENDED IN SENATE MAY 6, 2015
 AMENDED IN SENATE APRIL 6, 2015

SENATE BILL No. 643

Introduced by Senator McGuire

February 27, 2015

An act to amend Section 2200.05 of Sections 144, 2200.05, 2241.5, 2242.1 of, to add Sections 19302.1, 19319, 19320, 19322, 19323, 19325 to, to add Article 25 (commencing with Section 27 and Chapter 5 of Division 2 of, and to add Article 6 (commencing with Section 19331), Article 7.5 (commencing with Section 19335 and Chapter 3.5 of Division 8 of, and to add Article 11 (commencing with Section 19337), and Article 11 (commencing with Section 19345) to Chapter 3.5 of Division 8 of, the Business and Professions Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

SB 643, as amended, McGuire, Medical marijuana—Existing
 (1) Existing law, the Compassionate Use Act of 1993, provides that the Legislature shall enact a measure relating to medical marijuana by the approval of Proposition 2.

AMENDED IN SENATE SEPTEMBER 11, 2015
 AMENDED IN SENATE SEPTEMBER 4, 2015
 AMENDED IN SENATE SEPTEMBER 1, 2015
 AMENDED IN SENATE AUGUST 17, 2015
 AMENDED IN SENATE JULY 2, 2015
 AMENDED IN ASSEMBLY JUNE 1, 2015
 AMENDED IN ASSEMBLY APRIL 22, 2015
 AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015-16 REGULAR SESSION

ASSEMBLY BILL No. 243

Introduced by Assembly Member Wood
 (Coauthors: Assembly Members Rendon and Williams)
 (Principal coauthor: Assembly Member Rendon)
 (Coauthor: Assembly Member Williams)

February 5, 2015

An act to amend Section 2200.05 of the Business and Professions Code, to add Article 6 (commencing with Section 19331), Article 13 (commencing with Section 19350), and Article 17 (commencing with Section 19360) to Chapter 3.5 of Division 8 of the Business and Professions Code, to add Section 12029 to the Fish and Game Code, to add Sections 11362.769 and 11362.777 to the Health and Safety Code, and to add Section 13276 to the Water Code, relating to medical marijuana, and declaring the urgency thereof, to take effect immediately, marijuana, and making an appropriation therefor.

AMENDED IN SENATE SEPTEMBER 11, 2015
 AMENDED IN SENATE SEPTEMBER 4, 2015
 AMENDED IN SENATE SEPTEMBER 1, 2015
 AMENDED IN SENATE AUGUST 17, 2015
 AMENDED IN SENATE JULY 13, 2015
 AMENDED IN SENATE JUNE 30, 2015
 AMENDED IN ASSEMBLY JUNE 2, 2015
 AMENDED IN ASSEMBLY MAY 11, 2015
 AMENDED IN ASSEMBLY MAY 5, 2015
 AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015-16 REGULAR SESSION

ASSEMBLY BILL No. 266

Introduced by Assembly Members Bonta, Cooley, Jones-Sawyer, and Lackey, and Wood
 (Coauthor: Assembly Member Chiu)

February 10, 2015

An act to amend Section 2200.05 of the Business and Professions Code, relating to medical marijuana. An act to amend Sections 27 and 205.1 of, to add Section 205.1 to, and to add Chapter 3.5 (commencing with Section 19300) to Division 8 of, the Business and Professions Code, to amend Section 9147.7 of the Government Code, to amend Section 147.5 of the Health and Safety Code, to amend Section 147.5 of the Labor Code, and to add Section 31020 to the Revenue and Code, relating to medical marijuana.



Long Twisty Road to Get to a Legislative Package

- 3-bill package unveiled about 10 hours before the Legislature's adjournment
- Most of language had existed in some form or another throughout the year in a number of different bills
- Interlocking package – Need to review carefully all three bills simultaneously

Key Aspects of Package

Local Control– Key Clauses

- Business & Professions Code 19315 (a)
- Business & Professions Code 19316 (a)
- Business & Professions Code 19316 (c)
- Health & Safety Code 11362.777 (b) (3)

Key Aspects of Package

Local Control Provisions:

- “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.”

Business & Professions Code 19315 (a)

AB 266

Key Aspects of Package

Local Control Provisions:

- “Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, security, and worker protections established by the state shall be the minimum standards for all licensees statewide.”

Business & Professions Code 19316 (a)

AB 266

Key Aspects of Package

Local Control Provisions:

- “Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.”

Business & Professions Code 19316 (c)

AB 266

Key Aspects of Package

Local Control Provisions:

- “A person or entity shall not submit an application for a state license issued by the department pursuant to this section if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.”

Health & Safety Code 11362.777 (b) (3)

AB 243

Key Aspects of Package

- Explicit and broad county taxing authority
 - Referenced in Business & Professions Code 19348
- County authority to tax deliveries
 - Referenced in Business & Professions Code 19340 (c)
- Local fee and tax authority
 - Referenced in Business & Professions Code 19320 (d)

SB 643

Key Aspects of Package

Ending the Collective Model – Strict Licensing Scheme

- Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.



Key Aspects of Package

Environmental Enforcement

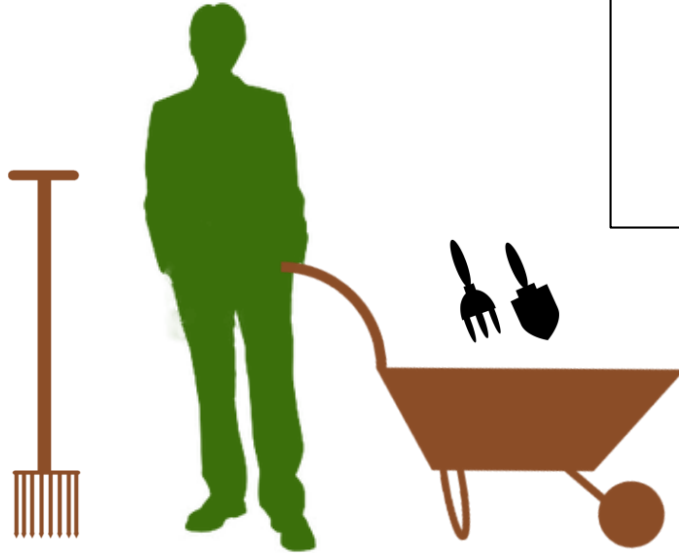
- Establishment of the Medical Cannabis Fines & Penalties Account
- Fine & penalty monies dedicated to state and local environmental enforcement efforts
- Bureau of Marijuana Regulation shall establish a grant program to locals for regulation/enforcement assistance
- Water diversion protections
- Cultivation standards

SB 643 & AB 243

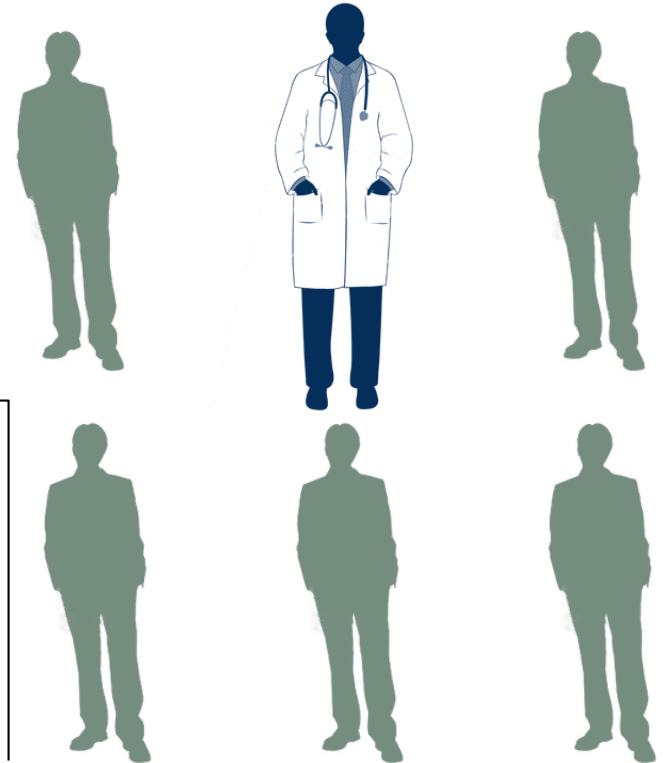
Key Aspects of Package

Licensure Exemptions

Personal Grows Exemption



Patient Caregivers Exemption



Business & Professions Code 19319 (a) & (b) in SB 643

Health & Safety Code 11362.777 (g) in AB 243

Local Control Applies To Those Exempt

- “...Exemption from the requirements of this section does not limit or prevent a city, county, or city and 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.”

Health & Safety Code 11362.777 (g)

AB 243

Personal Grows/Patient Caregivers State Cultivation Restrictions

- Even though exempt from state licensure
 - Personal grows exceeding 100 square feet must have state authorization
 - Patient caregiver grows exceeding 500 square feet must have state authorization

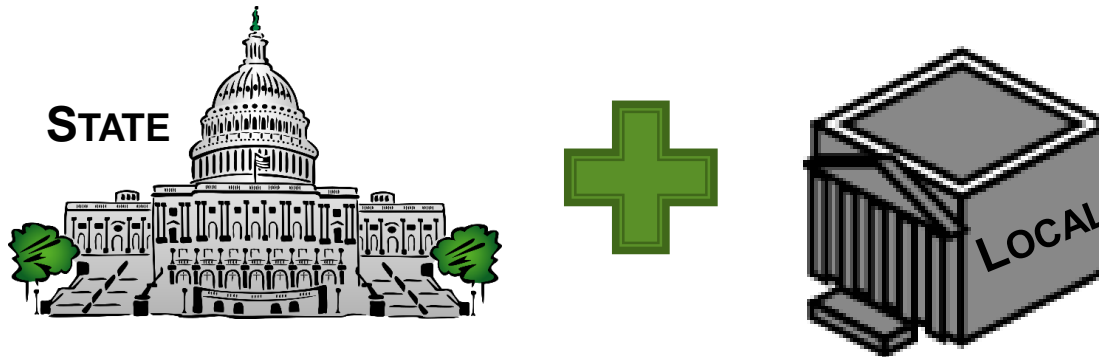


California Department of Food and Agriculture would provide authorization



Dual Licensing

Must have both a state license & local approval to operate



Business & Professions Code 19320 (a)

AB 243, AB 266, SB 643

Locals Go First for Cultivation

- Cultivation applicants must first obtain local license/permit before commencing an application for a state cultivation license

Health & Safety Code 11362.777 (b) (1)

AB 243

The Status of “(c) (4)”

- “If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county.”

Health & Safety Code 11362.777 (c) (4)

AB 243

Mobile Deliveries

- The default is that mobile deliveries are allowed
- Can only be prohibited by enactment of local ordinance
- Mobile delivery must originate from a licensed dispensary

Business & Professions Code 19340

AB 266

Cities Have the Option to Enforce State Standards

- “For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this chapter and the regulations promulgated by the bureau or any licensing authority, if delegated by the state.”
- Counties do not have explicit authority

Local Role in Enforcement

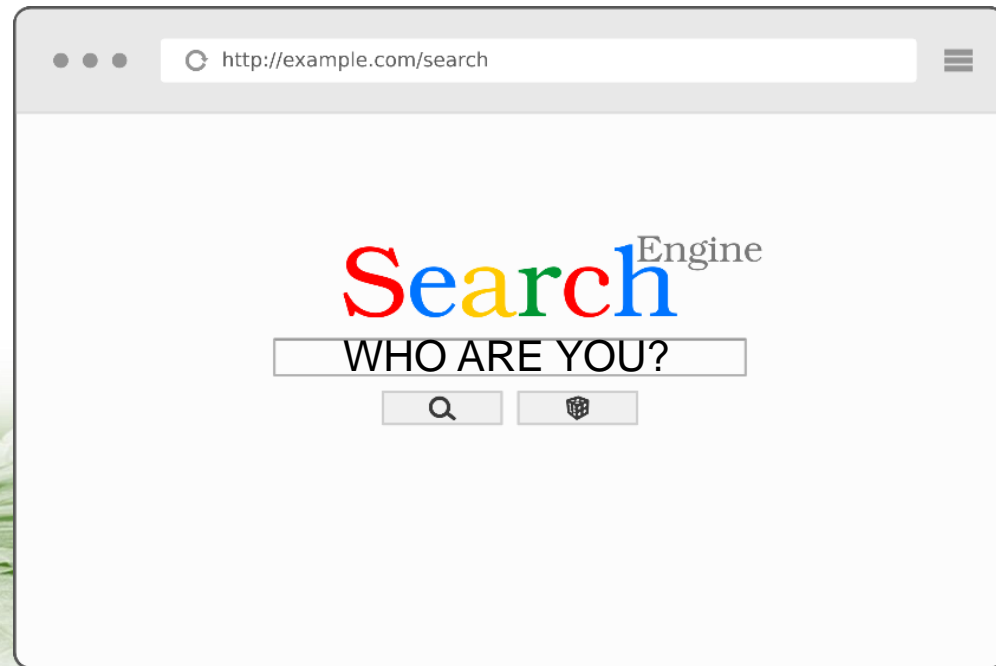
Examine books



Coordinated enforcement

Background Checks/License Restrictions (Criminal Record)

- Prospective licensees must submit to State Department of Justice background checks



Background Checks/License Restrictions (Criminal Record)

- Previous criminal violation that could trigger failure to obtain state license:
 - Felony illegal involvement in controlled substance offenses
 - Fraud, deceit & embezzlement
 - Illegal patient recommendations
 - Illegal cultivation activities
 - Record of violations in last 3 years
 - Specified serious felonies
 - Specified violent felonies
 - Failure to have tax registration



Business & Professions Code 19323 (b) (5)

SB 643

Employer Restrictions of Medical Marijuana Use

- “This chapter and Article 2 (commencing with Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code shall not interfere with an employer’s rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.”

Transportation Standards

- Transporters must be licensed, bonded and insured
- Transporters must have a manifest at all times and available for inspection
- Detailed transportation standards will be developed at a later date
- Local governments cannot impede the movement of medical marijuana by licensed transporters as long as they remain on the public roads

Other Aspects of the Legislative Package

- Appellation/Organic Standards/“Agricultural Product”
- Pesticide Standards
- Cross-Ownership Restrictions
- Mandatory Distribution

Regulatory Efforts



NCRWQCB



CVRWQCB



Regional Regulatory Orders

- Central Valley Waiver of Waste Discharge Requirement
 - Proposed August, 2015
 - Heard on October 2, 2015
- North Coast Waiver of Waste Discharge Requirement
 - Adopted August, 2015

Key Elements

- Defer to county ordinances
- Impose monitoring & reporting requirements
- Establish regulatory fee schedules
- Fine & penalty scheme for non-compliance
- No county obligations
- Effective immediately upon adoption by each Board

The Saga Continues...

CALIFORNIA LEGISLATURE—2015-16 REGULAR SESSION

No. 1548

ASSEMBLY BILL

Introduced by Assembly Member Wood
(Coauthor: Senator Runner)

September 11, 2015

An act to add Part 13.5 (commencing with Section 31001) to Division 2 of the Revenue and Taxation Code, relating to medical marijuana, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1548, as introduced, Wood, Medical marijuana: taxation: marijuana production and environment mitigation. Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use and cultivation of marijuana for medical purposes. Existing law makes it a crime to plant, cultivate, harvest, dry, or process marijuana, except as otherwise authorized by law. Under existing law, qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate in order collectively and cooperatively to cultivate marijuana for medical purposes, are not subject to criminal sanctions solely on the basis of that fact.

The Fee Collection Procedures Law, among other things, provides for the administration of fee programs by the State Board of Equalization, establishes procedures for collection, reporting, return, refund, and appeals, and authorizes the board to adopt regulations relating to administration and enforcement of the law. The Fee Collection Procedures Law establishes criminal penalties for specified

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CALIFORNIA LEGISLATURE—2015-16 REGULAR SESSION

No. 1549

ASSEMBLY BILL

Introduced by Assembly Member Wood

September 11, 2015

An act to add Division 5.1 (commencing with Section 16910) to the Financial Code, relating to the California Cannabis Credit Union.

LEGISLATIVE COUNSEL'S DIGEST

AB 1549, as introduced, Wood, California Cannabis Credit Union. Existing federal and state law regulates the activities of credit unions. The State Board of Equalization administers various taxes and fees, including the Sales and Use Tax Law. Existing law establishes the California Infrastructure and Economic Development Bank in the Governor's Office of Business and Economic Development and, among other things, authorizes it to issue revenue bonds, as specified.

This bill would establish the California Cannabis Credit Union within the State Board of Equalization and require the board to promulgate regulations necessary for its implementation. The bill would require these regulations to establish standards allowing businesses and individuals engaged in licensed cannabis activities to have banking services through the California Cannabis Credit Union like those provided by other credit unions. The bill would authorize the California Cannabis Credit Union to provide checking accounts, saving accounts, and other related accounts and services to businesses and individuals engaged in licensed cannabis activities and to provide personal, auto, and home loans to these businesses and individuals.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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AB 1548 & AB 1549



Assembly Bill 1548 (Wood) – Cultivation Tax

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- \$9.25 per ounce on marijuana flowers
- \$2.75 per ounce on marijuana leaves
- \$1.25 per ounce on immature marijuana plants
- Tax collected at distributor level
- Board of Equalization administers and collects tax quarterly
- Proceeds would be used for environmental impacts

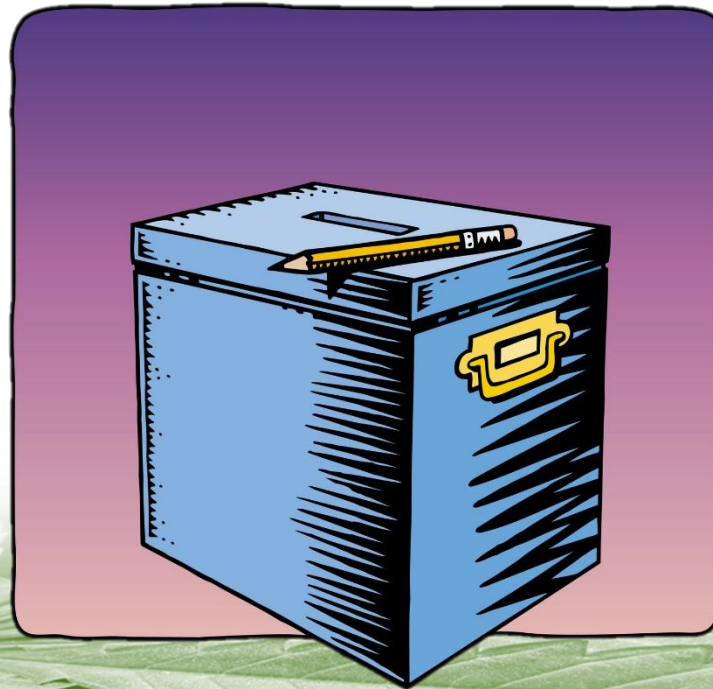


Assembly Bill 1549 – State Banking

- Currently a “spot bill” -- language will be added at a later date
- Goal is to create a state financial institution for the medical marijuana industry so basic banking services can be available
- Try to work through federal banking laws

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Ballot Measures



Key Takeaways

- If a county has adopted an ordinance on medical marijuana (including a ban), this will still be protected under the legislation.
- If a county has not prohibited mobile deliveries, you may want to consider updating your ordinance.
- With the establishment of state licensing and local approval, counties that do not ban will need to commence the establishment of a local approval framework.
- If “(c) (4)” of AB 243 is not fixed quickly, a county may need to pass an ordinance on cultivation or the local approval authority for cultivation could be given to the State.

Karen Keene - Paul A. Smith - Jolena Voorhis

Questions?

