

AMENDED IN SENATE FEBRUARY 25, 2019

AMENDED IN SENATE FEBRUARY 19, 2019

SENATE BILL

No. 67

Introduced by Senator McGuire
(Principal coauthor: Assembly Member Wood)

January 8, 2019

An act to *amend Section 26050.2 of, and to add and repeal Section 26050.3 of to, the Business and Professions Code, relating to cannabis, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 67, as amended, McGuire. Cannabis: temporary *and provisional* licenses.

The Control, Regulate and Tax Adult Use of Marijuana Act (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 requires an applicant for any type of license under the act to provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate. MAUCRSA establishes the Cannabis Control Appeals Panel and authorizes any person aggrieved by specified decisions of a licensing authority related to disciplining any license to appeal the licensing authority's written decision to the panel.*

MAUCRSA, until January 1, 2019, authorized a state licensing authority to issue a temporary license if an applicant submitted, among other things, a copy of a specified authorization issued by a local jurisdiction. MAUCRSA required the temporary license to be valid for a period of 120 days and authorized the temporary license to be extended for an additional 90-day period at the discretion of the licensing authority. *MAUCRSA did not entitle an applicant or licensee to a hearing or an appeal after the refusal by the licensing authority to issue or extend a temporary license.* Existing law repealed these provisions on January 1, 2019.

MAUCRSA, until January 1, 2020, authorizes a licensing authority to issue a provisional license to an applicant that holds, or held, a temporary license for the same premises and the same commercial cannabis activity, if specified conditions are met. Existing law required the provisional license to be valid for 12 months and prohibits the provisional license from being renewed. *MAUCRSA does not entitle an applicant or licensee to a hearing or an appeal after the refusal by the licensing authority to issue a provisional license or the revocation or suspension by the licensing authority of a provisional license.*

~~This bill would, until January 1, 2020, would require a temporary license to remain valid if the licensee submitted an application for an annual state license before the licensee's temporary license expired and the application is pending for a specified reason: expiration date, and would require the extended temporary license to expire on December 31, 2019, unless otherwise revoked.~~ The bill would revoke the temporary license's validity after the licensing authority issues an annual license or provisional license for the same premises and the same commercial cannabis activity for which the temporary license was issued, or 30 days after the licensing authority denies or disqualifies, or the licensee abandons, the licensee's application for an annual license. *The bill would not entitle the applicant or licensee to a hearing or an appeal of the licensing authority's refusal to extend a license or the revocation or suspension by the licensing authority of a temporary license. The bill would specify, among other things, that a temporary license does not obligate the licensing authority to issue that licensee an annual or provisional license.* The bill would require specified licensing authorities to submit a report related to delays in issuing licenses, as provided.

This bill would additionally authorize a licensing authority to issue a provisional license to an applicant that holds an extended temporary license for the same premises and the same commercial cannabis

activity. The bill would authorize a licensing authority to issue, after the licensing authority has granted, disqualified, or denied all annual license applications submitted by temporary licensees with an extended temporary license, provisional licenses to applicants without temporary licenses if specified conditions are met. By requiring additional applications to be signed under penalty of perjury, the bill would expand the scope of the crime perjury, and would thereby impose a state-mandated local program. The bill would extend the authorization of a licensing authority to issue a provisional license to July 1, 2020.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 26050.2 of the Business and Professions
2 Code is amended to read:

3 26050.2. (a) A licensing authority may, in its sole discretion,
4 issue a provisional license to an applicant if the following
5 conditions are met:

6 (1) The applicant holds or held a temporary license for the same
7 premises and the same commercial cannabis activity for which the
8 license may be issued pursuant to this section.

9 (2) The applicant has submitted a ~~completed~~ license application
10 to the licensing authority, including evidence that compliance with
11 the California Environmental Quality Act (Division 13

1 (commencing with Section 21000) of the Public Resources Code)
2 is underway.

3 *(b) Notwithstanding subdivision (a), a licensing authority may,*
4 *in its sole discretion, issue a provisional license for the same*
5 *premises and the same commercial cannabis activity to an*
6 *applicant who holds a temporary license extended pursuant to*
7 *Section 26050.3.*

8 *(c) After a licensing authority has granted, disqualified, or*
9 *denied all annual license applications submitted by temporary*
10 *licensees with extended temporary licenses pursuant to Section*
11 *26050.3, the licensing authority may, in its sole discretion and*
12 *notwithstanding subdivision (a), issue provisional licenses to*
13 *applicants without temporary licenses and who have submitted a*
14 *license application to the licensing authority, including evidence*
15 *that compliance with the California Environmental Quality Act*
16 *(Division 13 (commencing with Section 21000) of the Public*
17 *Resources Code) is underway.*

18 ~~(b)~~

19 *(d) A provisional license issued pursuant to this section shall*
20 *be valid for 12 months from the date issued and shall not be*
21 *renewed.* ~~Except~~

22 *(e) Except as specified in this section, the provisions of this*
23 *division shall apply to a provisional license in the same manner*
24 *as to an annual ~~license~~ license, including, but not limited to,*
25 *compliance with the track and trace program identified in Chapter*
26 *6.5 (commencing with Section 26067).*

27 ~~(e)~~

28 *(f) Without limiting any other statutory exemption or categorical*
29 *exemption, Division 13 (commencing with Section 21000) of the*
30 *Public Resources Code does not apply to the issuance of a license*
31 *pursuant to this section by the licensing authority.*

32 ~~(d)~~

33 *(g) Refusal by the licensing authority to issue a license pursuant*
34 *to this section or revocation or suspension by the licensing authority*
35 *of a license issued pursuant to this section shall not entitle the*
36 *applicant or licensee to a hearing or an appeal of the decision.*
37 *Chapter 2 (commencing with Section 480) of Division 1.5 and*
38 *Chapter 4 (commencing with Section 26040) of this division shall*
39 *not apply to licenses issued pursuant to this section.*

40 ~~(e)~~

1 (h) This section shall remain in effect only until ~~January~~ July
2 1, 2020, and as of that date is repealed.

3 ~~SECTION 1.~~

4 *SEC. 2.* Section 26050.3 is added to the Business and
5 Professions Code, to read:

6 26050.3. (a) A temporary license issued pursuant to section
7 26050.1, as enacted by Chapter 27 of the Statutes of 2017 (Senate
8 Bill 94), shall remain valid, regardless of its expiration date, if the
9 licensee submitted an application for an annual license, for the
10 same premises and the same commercial cannabis activity for
11 which the temporary license was issued, before the ~~licensee's~~
12 ~~temporary license expired and one of the following applies:~~
13 *temporary license's expiration date.*

14 ~~(1) The application is pending pursuant to paragraph (2) of~~
15 ~~subdivision (g) of Section 26055.~~

16 ~~(2) The application is pending pursuant to subdivision (b) of~~
17 ~~Section 26051.5.~~

18 ~~(3) The application is pending due to incompleteness pursuant~~
19 ~~to Section 8112 of Title 3, Section 5012 of Title 16, or Section~~
20 ~~40135 of Title 17 of the California Code of Regulations, as~~
21 ~~determined by the licensing authority.~~

22 (b) A temporary license that is valid pursuant to subdivision (a)
23 shall cease to be valid, and may not be renewed, after the licensing
24 authority issues an annual or provisional license for the same
25 premises and the same commercial cannabis activity for which the
26 temporary license was issued.

27 (c) A temporary license that is valid pursuant to subdivision (a)
28 shall cease to be valid, and may not be renewed, 30 days after any
29 of the following occur:

30 (1) The licensing authority denies the licensee's application for
31 an annual license for the same premises and the same commercial
32 cannabis activity for which the temporary license was issued.

33 (2) The licensing authority disqualifies the licensee's application
34 for an annual license for the same premises and the same
35 commercial cannabis activity for which the temporary license was
36 issued.

37 (3) The licensee abandons the application for an annual license
38 for the same premises and the same commercial cannabis activity
39 for which the temporary license was issued.

1 (d) Denial, disqualification, revocation, or suspension by the
 2 licensing authority of a temporary license extended pursuant to
 3 this section shall not entitle the applicant or licensee to a hearing
 4 or an appeal of the decision. Chapter 2 (commencing with Section
 5 480) of Division 1.5 and Chapter 4 (commencing with Section
 6 26040) of this division shall not apply to temporary licenses
 7 extended pursuant to this section. A temporary license shall not
 8 obligate the licensing authority to issue an annual or provisional
 9 license. A temporary license shall not create a vested right in the
 10 holder to either an extension of the temporary license or to the
 11 granting of a subsequent annual or provisional license.

12 ~~(d)~~

13 (e) On the first of each month, beginning 30 days after this
 14 section ~~become~~ becomes operative, any licensing authority, who
 15 under its regulatory authority has a licensee holding a valid
 16 temporary license pursuant to subdivision (a), shall provide to the
 17 appropriate policy and fiscal committees of the Legislature the
 18 following information, in the aggregate and by city and county,
 19 and in accordance with Section 9795 of the Government Code:

20 (1) The number of pending annual applications submitted by
 21 temporary and provisional licensees.

22 (2) The number of temporary licensees who have not submitted
 23 an annual license application.

24 ~~(3) The number of annual license applications pending pursuant~~
 25 ~~to paragraph (2) of subdivision (g) of Section 26055.~~

26 ~~(4) The number of annual license applications denied pursuant~~
 27 ~~to subdivision (b) of Section 26051.5.~~

28 ~~(5) The number of annual license applications pending due to~~
 29 ~~incompleteness pursuant to Section 8112 of Title 3, Section 5012~~
 30 ~~of Title 16, or Section 40135 of Title 17 of the California Code of~~
 31 ~~Regulations, as determined by the licensing authority.~~

32 ~~(6)~~

33 ~~(3) The number of temporary licenses that have expired, and~~
 34 ~~why each temporary license expired.~~

35 ~~(7)~~

36 (4) Any other information that may be relevant to delays in
 37 processing annual applications by the licensing authority.

38 ~~(e) This section shall remain in effect only until January 1, 2020,~~
 39 ~~and as of that date is repealed.~~

1 (f) A temporary license extended pursuant to this section shall
2 expire on December 31, 2019, unless the temporary license is
3 otherwise invalid pursuant to subdivisions (b) and (c).

4 SEC. 3. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

13 ~~SEC. 2.~~

14 SEC. 4. The Legislature finds and declares that Section 2 of
15 this act adding Section 26050.3 to the Business and Professions
16 Code furthers the purposes and intent of the Control, Regulate and
17 Tax Adult Use of Marijuana Act.

18 ~~SEC. 3.~~

19 SEC. 5. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety within
21 the meaning of Article IV of the California Constitution and shall
22 go into immediate effect. The facts constituting the necessity are:

23 The significant number of license applications pending with the
24 licensing authorities or with local authorities before temporary
25 licenses expire or before provisional licenses can be issued
26 threatens to create a major disruption in the commercial cannabis
27 marketplace.