

AMENDED IN ASSEMBLY APRIL 25, 2024

AMENDED IN ASSEMBLY APRIL 3, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1775

Introduced by Assembly Member Haney

January 3, 2024

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1775, as amended, Haney. Cannabis: retail preparation, sale, and consumption of noncannabis food and beverage products.

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. Existing law, 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 establishes the Department of Cannabis Control (department) within the Business, Consumer Services, and Housing Agency to administer the act, and requires the department to be under the supervision and control of a director. Existing law provides that a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if certain conditions are met. Existing administrative law specifies that a licensed retailer or licensed

microbusiness authorized for retail sales who operates a consumption area on the licensed premises in accordance with this provision may also sell prepackaged, noncannabis-infused, nonalcoholic food and beverages if the applicable local jurisdiction allows.

This bill would authorize a local jurisdiction, if specified conditions are met, to allow for the preparation or sale of noncannabis food or beverage products, as specified, by a licensed retailer or microbusiness in the area where the consumption of cannabis is allowed, and to allow, and to sell tickets for, live musical or other performances on the premises of a licensed retailer or microbusiness in the area where the consumption of cannabis is allowed. The bill would additionally specify that these provisions do not authorize a licensed retailer or microbusiness to prepare or sell industrial hemp or products containing industrial hemp, as provided.

Vote: majority. 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) Except as set forth in the Medicinal Cannabis
- 4 Patients’ Right of Access Act (Chapter 26 (commencing with
- 5 Section 26320)), this division shall not be interpreted to supersede
- 6 or limit the authority of a local jurisdiction to adopt and enforce
- 7 local ordinances to regulate businesses licensed under this division,
- 8 including, but not limited to, local zoning and land use
- 9 requirements, business license requirements, and requirements
- 10 related to reducing exposure to secondhand smoke, or to completely
- 11 prohibit the establishment or operation of one or more types of
- 12 businesses licensed under this division within the local jurisdiction.
- 13 (2) Except as set forth in the Medicinal Cannabis Patients’ Right
- 14 of Access Act (Chapter 26 (commencing with Section 26320)),
- 15 this division shall not be interpreted to supersede or limit existing
- 16 local authority for law enforcement activity, enforcement of local
- 17 zoning requirements or local ordinances, or enforcement of local
- 18 license, permit, or other authorization requirements.
- 19 (b) This division shall not be interpreted to require the
- 20 department to undertake local law enforcement responsibilities,

1 enforce local zoning requirements, or enforce local licensing,
2 permitting, or other authorization requirements.

3 (c) A local jurisdiction shall notify the department upon
4 revocation of any local license, permit, or authorization for a
5 licensee to engage in commercial cannabis activity within the local
6 jurisdiction. Within 60 days of being so informed, the department
7 shall begin the process to determine whether a license issued to
8 the licensee should be suspended or revoked pursuant to Chapter
9 3 (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 department, if delegated by the state. Notwithstanding
14 Sections 101375, 101400, and 101405 of the Health and Safety
15 Code or any contract entered into pursuant thereto, or any other
16 law, the city shall assume complete responsibility for any
17 regulatory function pursuant to this division within the city limits
18 that would otherwise be performed by the county or any county
19 officer or employee, including a county health officer, without
20 liability, cost, or expense to the county.

21 (e) (1) 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 event, district agricultural association event, or at
25 another venue expressly approved by a local jurisdiction for the
26 purpose of holding temporary events of this nature, provided that
27 the activities, at a minimum, comply with all the following:

28 (A) The requirements of subparagraphs (A) to (C), inclusive,
29 of paragraph (2) of subdivision (g).

30 (B) All participants who are engaged in the onsite retail sale of
31 cannabis or cannabis products at the event are licensed under this
32 division to engage in that activity.

33 (C) The activities are otherwise consistent with regulations
34 promulgated and adopted by the department governing state
35 temporary event licenses, except as otherwise provided in
36 paragraphs (6), (7), and (8).

37 (D) A state temporary event license shall only be issued in local
38 jurisdictions that authorize such events.

39 (E) A licensee who submits an application for a state temporary
40 event license shall, 60 days before the event, provide to the

1 department a list of all licensees that will be providing onsite sales
2 of cannabis or cannabis products at the event. If any changes occur
3 in that list, the licensee shall provide the department with a final
4 updated list to reflect those changes. A person shall not engage in
5 the onsite retail sale of cannabis or cannabis products, or in any
6 way participate in the event, who is not included in the list,
7 including any updates, provided to the department.

8 (2) The department may impose a civil penalty on any person
9 who violates this subdivision, or any regulations adopted by the
10 department governing state temporary event licenses, in an amount
11 up to three times the amount of the license fee for each violation,
12 consistent with Sections 26018 and 26038.

13 (3) The department may require the event and all participants
14 to cease operations without delay if in the opinion of the
15 department or local law enforcement it is necessary to protect the
16 immediate public health and safety of the people of the state. The
17 department may also require the event organizer to immediately
18 expel from the event any participant selling cannabis or cannabis
19 products without a license from the department that authorizes the
20 participant to sell cannabis or cannabis products. If the unlicensed
21 participant does not leave the event, the department may require
22 the event and all participants to cease operations immediately.

23 (4) The order by the department for the event to cease operations
24 pursuant to paragraph (3) does not entitle the event organizer or
25 any participant in the event to a hearing or an appeal of the
26 decision. Chapter 3 (commencing with Section 490) of Division
27 1.5 and Chapter 4 (commencing with Section 26040) of this
28 division shall not apply to the order by the department for the event
29 to cease operations pursuant to paragraph (3).

30 (5) The smoking of cannabis or cannabis products at temporary
31 events authorized pursuant to this subdivision is prohibited in
32 locations where smoking is prohibited. For purposes of this section,
33 “smoking” has the same meaning as defined in subdivision (c) of
34 Section 22950.5.

35 (6) (A) All licensees who are issued a state temporary event
36 license allowed pursuant to this subdivision may, upon completion
37 or cessation of the temporary event, reconcile unsold inventory of
38 cannabis or cannabis products and return it to the licensee’s retail
39 premises.

1 (B) All unsold inventory of cannabis or cannabis products from
2 the temporary event shall be noted in track and trace prior to
3 transport.

4 (C) All unsold inventory of cannabis or cannabis products from
5 the temporary event shall be in its original packaging in which it
6 was placed pursuant to Chapter 12 (commencing with Section
7 26120).

8 (7) The inventory of cannabis or cannabis products authorized
9 to be sold by a state temporary event license pursuant to this
10 subdivision shall only be transported to and from the temporary
11 event by a licensed distributor or licensed microbusiness.

12 (8) The department shall not deny an application for a state
13 temporary event license pursuant to this subdivision solely on the
14 basis that there is a license issued pursuant to the Alcoholic
15 Beverage Control Act (Division 9 (commencing with Section
16 23000)) for the proposed premises of the event. Furthermore, the
17 Department of Alcoholic Beverage Control shall not take any
18 disciplinary action against a person licensed pursuant to the
19 Alcoholic Beverage Control Act on the basis of a state temporary
20 event license issued by the department to a licensee pursuant to
21 this subdivision that utilizes the same premises as the person
22 licensed pursuant to the Alcoholic Beverage Control Act.

23 (A) All on- and off-sale privileges of alcoholic beverages at the
24 venue shall be suspended for the day of the event and shall not
25 resume until 6 a.m. on the day after the event has ended.

26 (B) Alcohol consumption on the venue premises shall be strictly
27 prohibited for the day of the event and shall not resume until 6
28 a.m. on the day after the event has ended.

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

34 (g) (1) Notwithstanding paragraph (1) of subdivision (a) of
35 Section 11362.3 of the Health and Safety Code, if all of the
36 conditions in paragraph (2) are met, a local jurisdiction may allow
37 for any of the following:

38 (A) Smoking, vaporizing, and ingesting of cannabis or cannabis
39 products on the premises of a retailer or microbusiness licensed

1 under this division that has been granted authority by a local
2 jurisdiction to engage in onsite cannabis consumption.

3 (B) (i) Preparation or sale of noncannabis food or beverage
4 products in compliance with all applicable provisions of the
5 California Retail Food Code (Chapter 1 (commencing with Section
6 113700) of Part 7 of Division 104 of the Health and Safety Code)
7 by a retailer or microbusiness licensed under this division in the
8 area where the consumption of cannabis is allowed.

9 (ii) For purposes of this subparagraph, “noncannabis food or
10 beverage products” shall not include industrial hemp products or
11 hemp products, as defined in Section 111920 of the Health and
12 Safety Code.

13 (C) Live musical or other performances on the premises of a
14 retailer or microbusiness licensed under this division in the area
15 where the consumption of cannabis is allowed, and the sale of
16 tickets for those performances.

17 (2) A local jurisdiction may allow any of the activities provided
18 in paragraph (1) if all of the following conditions are met:

19 (A) Access to the area where cannabis consumption is allowed
20 is restricted to persons 21 years of age or older.

21 (B) Cannabis consumption is not visible from any public place
22 or nonage-restricted area.

23 (C) Sale or consumption of alcohol or tobacco is not allowed
24 on the premises.

25 (D) *Noncannabis food or beverage products are not*
26 *contaminated by or commingled with any cannabis products sold*
27 *or served on the premises where the consumption of cannabis is*
28 *allowed.*

29 (E) (i) *Smoking or vaporizing of any cannabis product by an*
30 *employee or customer is not allowed in the food preparation, food*
31 *storage, or warewashing area of a food facility located on the*
32 *premises.*

33 (ii) *For purposes of this subparagraph, the following definitions*
34 *apply:*

35 (I) *“Food facility” has the same meaning as that term is defined*
36 *in Section 113789 of the Health and Safety Code.*

37 (II) *“Warewashing” has the same meaning as that term is*
38 *defined in Section 113940 of the Health and Safety Code.*

39 (h) This division shall not be interpreted to supersede Section
40 6404.5 of the Labor Code.

1 (i) This section does not alter or affect the prohibition on the
2 sale of alcoholic beverages by a licensee, as provided in Section
3 26054, on or at a venue premises licensed under this division.

4 (j) If a retailer or microbusiness license issued under this division
5 is suspended, the licensee shall not engage in activities authorized
6 under subdivision (g) for the duration of the license suspension.

7 (k) All noncannabis food and beverages present, pursuant to
8 this section, on the premises of a retailer or microbusiness licensed
9 under this division shall be stored and displayed separately and
10 distinctly from all cannabis and cannabis products present on the
11 premises.

12 (l) Subdivision (g) does not authorize a retailer or microbusiness
13 licensed under this division to prepare or sell industrial hemp, as
14 defined in Section 11018.5 of the Health and Safety Code, or any
15 products containing industrial hemp.

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