

BOARD of SUPERVISORS



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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448
FROM: John Carroll, Assistant Clerk, Public Safety and Neighborhood Services Committee, Board of Supervisors
DATE: October 6, 2021
SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Public Safety and Neighborhood Services Committee

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 211030

Ordinance amending the Police Code to clarify that the Office of Economic and Workforce Development ("OEWD") may establish standards governing the certification of cannabis-related pre-apprenticeship programs that relate to social equity training, license incubation processes, underserved community outreach programs, and business plan development training; and amending the Health Code to extend from 120 days to between 150 and 180 days the period for which the Director of the Office of Cannabis ("OOC") may grant temporary authorization to medical cannabis dispensaries ("MCDs") to continue operating while they wait for the OOC to process their applications for cannabis business permits ("Temporary MCD Authorization"), and to add as prerequisites to Temporary MCD Authorization: that the MCD has established to the satisfaction of the OOC Director that there have been no complaints submitted to a City agency in the past 150 days that raise a significant health or safety concern regarding the MCD's operations; that OEWD has not made a determination, or has determined that the MCD ensures that 35% of its new hires shall be registered apprentices enrolled in an approved apprenticeship program if feasible; and for any MCD with ten or more employees, that OEWD has not made a determination, or has determined that the MCD has entered into or made good faith efforts to enter into a Labor Peace Agreement or a collective bargaining agreement with a Bona Fide Labor Organization.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

___ No Comment

___ Recommendation Attached

Chairperson, Small Business Commission

c: Offices of Chair Mar and Supervisor Safai
Kerry Birnbach, Office of Small Business

1 [Police, Health Codes - Regulation of Cannabis Businesses]

2

3 **Ordinance amending the Police Code to clarify that the Office of Economic and**

4 **Workforce Development (“OEWD”) may establish standards governing the certification**

5 **of cannabis-related pre-apprenticeship programs that relate to social equity training,**

6 **license incubation processes, underserved community outreach programs, and**

7 **business plan development training; and amending the Health Code to extend from 120**

8 **days to between 150 and 180 days the period for which the Director of the Office of**

9 **Cannabis (“OOC”) may grant temporary authorization to medical cannabis**

10 **dispensaries (“MCDs”) to continue operating while they wait for the OOC to process**

11 **their applications for cannabis business permits (“Temporary MCD Authorization”),**

12 **and to add as prerequisites to Temporary MCD Authorization: that the MCD has**

13 **established to the satisfaction of the OOC Director that there have been no complaints**

14 **submitted to a City agency in the past 150 days that raise a significant health or safety**

15 **concern regarding the MCD’s operations; that OEWD has not made a determination, or**

16 **has determined that the MCD ensures that 35% of its new hires shall be registered**

17 **apprentices enrolled in an approved apprenticeship program if feasible; and for any**

18 **MCD with ten or more employees, that OEWD has not made a determination, or has**

19 **determined that the MCD has entered into or made good faith efforts to enter into a**

20 **Labor Peace Agreement or a collective bargaining agreement with a Bona Fide Labor**

21 **Organization.**

22 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.

23 **Additions to Codes** are in *single-underline italics Times New Roman font*.

24 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.

25 **Board amendment additions** are in double-underlined Arial font.

Board amendment deletions are in ~~strikethrough Arial font~~.

Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

1 Be it ordained by the People of the City and County of San Francisco:

2
3 Section 1. Article 16 of the Police Code is hereby amended by revising Section 1618
4 to read as follows:

5
6 **SEC. 1618. ELIGIBILITY AND OPERATING STANDARDS APPLICABLE TO ALL**
7 **CANNABIS BUSINESSES.**

8 * * * *

9 (gg) To encourage the existence of a stable, well-trained workforce in the cannabis
10 industry, each Cannabis Business shall comply with the following hiring requirement:

11 * * * *

12 (5) For purposes of this subsection (gg), OEWD shall establish standards
13 governing certification of pre-apprenticeship programs, and shall be responsible for certifying,
14 on behalf of the City, pre-apprenticeship programs that meet those standards. The standards
15 established by OEWD shall ensure that any pre-apprenticeship program certified by the City
16 under this subsection operates in partnership with one or more community-based
17 organizations. These standards may include provisions that relate to social equity training, license
18 incubation processes, underserved community outreach programs, and business plan development
19 training.

20 * * * *

21
22 Section 2. Article 33 of the Health Code is hereby amended by revising Section 3322
23 to read as follows:

24
25 **SEC. 3322. TRANSITION PROVISION.**

1 (a) Terms not defined in this Section 3322 shall have the meaning attributed to them
2 in Section 1602 of the Police Code.

3 * * * *

4 (f) The Director may extend the authorization to Sell Adult Use Cannabis for additional
5 ~~120-day~~ periods of between 150 and 180 days, inclusive, beyond the 120-day period set forth in
6 subsection (d) of this Section 3322 upon a finding that all five of the following criteria are met:

7 (1) The Office of Cannabis has not had sufficient time to review and process
8 applications for Cannabis Business Permits under Article 16 of the Police Code, ~~and~~

9 (2) The medical cannabis dispensary has demonstrated good faith compliance
10 with its Equity Plan to the satisfaction of the Director ~~of the Office of Cannabis.~~

11 (3) The Director is aware of no public health or safety complaints submitted in the prior
12 150 days to any City agency relating to the operation of the medical cannabis dispensary, or the
13 medical cannabis dispensary has demonstrated to the satisfaction of the Director that any such public
14 health or safety complaints are unfounded and/or fail to raise significant health or safety concerns
15 regarding the operation of the medical cannabis dispensary.

16 (4) The Director of the Office of Economic and Workforce Development (“OEWD”),
17 or the Director’s designee, has not made a determination regarding this subsection (f)(4), or has
18 determined that the medical cannabis dispensary complies with the following hiring requirements:

19 (A) Ensures that 35% of its new hires shall be registered apprentices enrolled in
20 a relevant apprenticeship program approved by the State that has a memorandum of understanding
21 with one or more pre-apprenticeship programs certified by the City, if:

22 (i) There exists a State-approved apprenticeship program that is relevant
23 to the medical cannabis dispensary;

1 (ii) The State-approved apprenticeship program described in subsection
2 (f)(4)(A)(i) has a memorandum of understanding with one or more City-certified pre-apprenticeship
3 programs; and

4 (iii) Sufficient numbers of registered apprentices enrolled in a State-
5 approved apprenticeship program described in subsections (f)(4)(A)(i-ii) are available to satisfy 35%
6 of the medical cannabis dispensary's new hiring needs.

7 (B) If registered apprentices enrolled in a State-approved apprenticeship
8 program described in subsections (f)(4)(A)(i-ii) are not available in sufficient numbers to satisfy 35%
9 of the medical cannabis dispensary's new hiring needs, the medical cannabis dispensary shall hire such
10 registered apprentices to the extent feasible.

11 (C) If no State-approved apprenticeship program is relevant to the medical
12 cannabis dispensary, or if no relevant State-approved apprenticeship program has a memorandum of
13 understanding with any City-certified pre-apprenticeship program, that medical cannabis dispensary
14 shall not be subject to any hiring requirement under this subsection (f)(4).

15 (5) For medical cannabis dispensaries that have 10 or more employees, the Director of
16 OEWD, or the Director's designee, has not made a determination regarding this subsection (f)(5), or
17 has determined that the medical cannabis dispensary has entered into, or has made and continues to
18 make good faith efforts to enter into:

19 (A) A Labor Peace Agreement; or

20 (B) A collective bargaining agreement with a Bona Fide Labor Organization.

21 The Director's authority under this subsection (e) to extend 120-day periods for authorization
22 to sell Adult Use Cannabis may be exercised only at intervals of approximately 120 days, as to each
23 distinct 120-day period. Thus, for example, the Director may not simultaneously authorize two
24 consecutive 120-day extensions for the same medical cannabis dispensary.

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Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

Section 5. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or

1 unconstitutional without regard to whether any other portion of this ordinance or application
2 thereof would be subsequently declared invalid or unconstitutional.

3

4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: /s/ Sarah Crowley
7 SARAH CROWLEY
8 Deputy City Attorney

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LEGISLATIVE DIGEST

[Police, Health Codes - Regulation of Cannabis Businesses]

Ordinance amending the Police Code to clarify that the Office of Economic and Workforce Development (“OEWD”) may establish standards governing the certification of cannabis-related pre-apprenticeship programs that relate to social equity training, license incubation processes, underserved community outreach programs, and business plan development training; and amending the Health Code to extend from 120 days to between 150 and 180 days the period for which the Director of the Office of Cannabis (“OOC”) may grant temporary authorization to medical cannabis dispensaries (“MCDs”) to continue operating while they wait for the OOC to process their applications for cannabis business permits (“Temporary MCD Authorization”), and to add as prerequisites to Temporary MCD Authorization: that the MCD has established to the satisfaction of the OOC Director that there have been no complaints submitted to a City agency in the past 150 days that raise a significant health or safety concern regarding the MCD’s operations; that OEWD has not made a determination, or has determined that the MCD ensures that 35% of its new hires shall be registered apprentices enrolled in an approved apprenticeship program if feasible; and for any MCD with ten or more employees, that OEWD has not made a determination, or has determined that the MCD has entered into or made good faith efforts to enter into a Labor Peace Agreement or a collective bargaining agreement with a Bona Fide Labor Organization.

Existing Law

Existing law authorizes OEWD to establish standards governing certification of pre-apprenticeship programs, but does not specify the types of standards OEWD may establish.

Existing law allows the OOC Director to temporarily authorize MCDs that have not yet received their Cannabis Business Permit under Article 16 of the Police Code to sell Adult Use Cannabis (“Temporary MCD Authorization”) for a period of 120 days, if the OOC Director finds both that OOC has not yet had time to process MCD Article 16 applications and that the MCD has demonstrated good faith compliance with its equity plan.

Existing law requires as a condition of receiving a Cannabis Business Permit under Article 16 of the Police Code that all cannabis businesses, including MCDs, ensure that 35% of new hires are from certified apprenticeship programs, to the extent feasible, and if the business has 10 or more employees, that it enters into either a Labor Peace Agreement or collective bargaining agreement with a Bona Fide Labor Organization.

Existing law does not specify that, in determining whether to grant Temporary MCD Authorization, the OOC Director should require apprenticeship hiring or labor harmony actions

by an MCD, or should consider public health and safety complaints regarding an MCD's operations.

Amendments to Current Law

This ordinance would clarify that the standards OEWD is authorized to impose on pre-apprenticeship programs include requirements related to social equity training, license incubation processes, underserved community outreach programs, and business plan development training.

This ordinance would extend the period for which the OOC Director may grant Temporary MCD Authorization from 120 days to a range of 150 to 180 days.

This ordinance would add as a requirement for Temporary MCD Authorization that the MCD ensure that 35% of new hires are from certified apprenticeship programs, to the extent feasible, and that, if the MCD has 10 or more employees, the MCD enter into either a Labor Peace Agreement or collective bargaining agreement with a Bona Fide Labor Organization. These same requirements currently apply to MCDs once they receive Cannabis Business Permits under Article 16 of the Police Code, and this ordinance would extend those requirements during the period of Temporary MCD Authorization prior to issuance of Cannabis Business Permits.

This ordinance would prohibit Temporary MCD Authorization if the OOC Director is aware of public health or safety complaints received by any City agency in the prior 150 days, unless the MCD demonstrates to the satisfaction of the OOC Director that the complaints are unfounded and/or fail to raise significant health or safety concerns regarding the operation of the MCD.

Background Information

OOC's processing of Cannabis Business Permits has progressed more slowly than originally anticipated. As a result, MCDs are operating for significant periods of time under Temporary MCD Authorization.

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Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Supervisor Ahsha Safai

Subject:

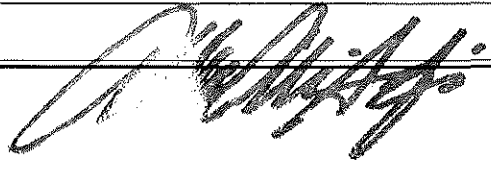
[Police, Health Codes - Regulation of Cannabis Businesses]

The text is listed:

Ordinance amending the Police Code to clarify that the Office of Economic and Workforce Development ("OEWD") may establish standards governing the certification of cannabis-related pre-apprenticeship programs that relate to social equity training, license incubation processes, underserved community outreach programs, and business plan development training; and amending the Health Code to extend from 120 days to between 150 and 180 days the period for which the Director of the Office of Cannabis ("OOC") may grant temporary authorization to medical cannabis dispensaries ("MCDs") to continue operating while they wait for the OOC to process their applications for cannabis business permits ("Temporary MCD Authorization"), and to add as prerequisites to Temporary MCD Authorization: that the MCD has established to the satisfaction of the OOC Director that there have been no complaints submitted to a City agency in the past 150 days that raise a significant health or safety concern regarding the MCD's operations; that OEWD has not made a determination, or has determined that the MCD ensures that 35% of its new hires shall be registered apprentices enrolled in an approved apprenticeship program if feasible; and for any MCD with ten or more employees, that OEWD has not made a determination, or has determined that the MCD

has entered into or made good faith efforts to enter into a Labor Peace Agreement or a collective bargaining agreement with a Bona Fide Labor Organization.

Signature of Sponsoring Supervisor:

A handwritten signature in black ink, appearing to be "D. M. [unclear]", written over a horizontal line.

For Clerk's Use Only