

## ASSEMBLY THIRD READING

AB 1356 (Ting)

As Amended May 16, 2019

2/3 vote

**SUMMARY:**

Requires a local jurisdiction in which more than 50% of the electorate voted in favor of Proposition 64 to issue a minimum number of local licenses that authorize medicinal cannabis commercial activity equal to one license for every six on-sale general license types for alcoholic beverage sales that are currently active in that jurisdiction.

**Major Provisions**

- 1) Requires a local jurisdiction in which more than 50% of the electorate of that local jurisdiction, as determined using election data from the Secretary of State, voted in favor of Proposition 64 at the November 8, 2016, statewide general election to issue a minimum number of local licenses that authorize medicinal retail cannabis commercial activity.
- 2) Sets a minimum number of local licenses for retail cannabis commercial activity that a local jurisdiction is required to issue pursuant to the bill at one license for every six on-sale general license types for alcoholic beverage sales that are currently active in that jurisdiction.
- 3) States that if the number of local licenses for retail commercial cannabis would result in a ratio greater than one local license for retail cannabis commercial activity for every 15,000 residents of the local jurisdiction, the minimum number of local licenses that the local jurisdiction is required to issue shall be determined by dividing the number of residents in the local jurisdiction by 15,000 and rounding down to the nearest whole number.
- 4) Authorizes a local jurisdiction to establish a lower amount of local licenses for retail cannabis commercial activity if it does all of the following:
  - a) Creates a local ordinance or other local law that clearly specifies the level of participation in the retail commercial cannabis market the local jurisdiction will allow.
  - b) Submits that ordinance or other local law to the electorate of that local jurisdiction at the next regularly scheduled local election following the operative date of this section.
  - c) If the ordinance or other local law is approved by more than 50% of the electorate of that local jurisdiction voting on the issue, then the new ordinance or other local law shall become effective in that local jurisdiction.
- 5) Provides that if a local jurisdiction does not submit a local ordinance or other local law to the electorate, or that local ordinance or other local law fails to receive more than 50% of the approval of the electorate of that local jurisdiction voting on the issue, then the local jurisdiction shall have 120 days after the next regularly scheduled local election following the operative date to issue local licenses.
- 6) Exempt from the requirements of the bill any locality that has already submitted the question of whether to locally authorize cannabis commercial activity.

**COMMENTS:**

As of January 9, 2019, the collective and cooperative model for medical marijuana dispensaries, as authorized under Proposition 215, was formally sunset, and any dispensary that was in place under the Compassionate Use Act was required to convert to the new regulatory system under MAUCRSA. In the months following that transition date, many have reported that overall availability of storefront dispensaries offering cannabis intended for cannabis users has substantially dropped, and many have expressed concern that the state's new regulatory framework has insufficiently accommodated existing patients who use cannabis for medicinal purposes. Because the AUMA and MAUCRSA allow localities to completely ban retail within their jurisdictions, there is currently no clear way to expand statewide access to medicinal cannabis without first obtaining local authorization for jurisdictions without retail.

Supporters of this bill point to the general lack of authorized storefront retail across the state since the enactment of the AUMA. According to analysis by BDS Analytics and Arcview Market Research, the illicit market's share of cannabis sales in California increased from 74% in 2017 to 80% in 2018. Supporters point out that over 76% of cities ban medical storefronts, as do nearly 69% of counties.

The author of this bill contends that increasing the availability of cannabis commercial activity through retail licenses will help combat the black market by providing consistent alternatives to illicit actors across the state. The diminishment of availability and access for medicinal cannabis following the implementation of MAUCRSA is an arguably considerable purpose for overriding local governments' authority to ban retail cannabis sales, in support of promoting access to medicinal products by legitimate cannabis users. In its current form, the bill would require only medicinal cannabis licenses to be issued by local jurisdictions.

**According to the Author:**

"Californians voted for Prop. 64 to replace the illicit market with a legal system that would grant Californians safe access to cannabis products, while also creating good jobs and significant tax revenue. However, these goals can only be fully realized if enough licenses are granted to meet existing demand. This bill will ensure the legal market can succeed."

**Arguments in Support:**

UDW/AFSCME Local 3930 is sponsoring this bill. According to the UDW, "UDW providers and their clients benefit greatly from using cannabis as a medicinal alternative, given how wide the spectrum of ailments is for elderly individuals and those with physical and/or intellectual or developmental disabilities. An IHSS provider living in Placer county should not have to drive up to an hour to and from Sacramento in order to purchase medicine for their clients, as this poses a substantial burden to their day-to-day priorities. AB 1356 would promote accessibility for those who use cannabis as a medicinal alternative, allowing Californians to reap the benefits they voted for in Proposition 64."

**Arguments in Opposition:**

The League of California Cities (League) opposes the bill. The League states that "AB 1356 fundamentally erodes the local regulatory authority of cities and counties, which is explicitly provided for in Proposition 64. In seeking to remove, a local government's ability to either approve retail cannabis shops at a different concentration level or prohibit them within its jurisdiction, this bill completely subverts the intent of the voters who approved Proposition 64. In essence, attempting to require cities to establish a [1 to 6] ratio of local retail cannabis licenses

to liquor licenses removes the ability for locals to decide what is appropriate for their communities. By obligating such a ratio, AB 1356 proposes an arbitrary land use standard for individual cities and counties based on the results of a statewide ballot measure. Ultimately, it is questionable at best as to whether, under Proposition 64, the state even has the unilateral authority to impose such a requirement without voter approval."

**FISCAL COMMENTS:**

According to the Assembly Appropriations Committee, "unknown, significant costs, potentially in the millions of dollars annually to the Bureau of Cannabis Control within the Department of Consumer Affairs to license an unknown number of additional cannabis retailers."

**VOTES:****ASM BUSINESS AND PROFESSIONS: 12-7-1**

**YES:** Low, Bloom, Chiu, Eggman, Gipson, Gloria, Grayson, Holden, McCarty, Medina, Mullin, Ting

**NO:** Brough, Cunningham, Dahle, Fong, Irwin, Obernolte, Quirk-Silva

**ABS, ABST OR NV:** Chen

**ASM APPROPRIATIONS: 10-7-1**

**YES:** Gonzalez, Bloom, Bonta, Calderon, Carrillo, Eggman, Gabriel, Eduardo Garcia, Quirk, Robert Rivas

**NO:** Bigelow, Brough, Diep, Fong, Maienschein, Obernolte, Petrie-Norris

**ABS, ABST OR NV:** Chau

**UPDATED:**

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