

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 243

Introduced by Assembly Member Wood

February 5, 2015

An act to add ~~Section~~ *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.

LEGISLATIVE COUNSEL'S DIGEST

AB 243, as amended, Wood. Medical marijuana cultivation.

Existing

(1) *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, ~~such as the medical marijuana program.~~ *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.*

This bill would require all persons who cultivate marijuana for medical purposes to obtain a permit to cultivate marijuana from the county or from a state agency to be designated by the Governor if the board of supervisors of the county chooses not to be the responsible entity for these purposes. The bill would allow the county or state agency to charge a fee in an amount sufficient to cover the reasonable cost of

issuing the permits and carrying out the program. The bill would prohibit marijuana from being cultivated within 100 feet of an occupied legal residential home or school if grown outdoors, or within 100 feet of a school if grown at a residence. The bill would require the county or designated state agency to issue zip ties for the identification of marijuana plants and would allow the county or state agency to charge a fee to cover the reasonable costs of issuing the zip ties, monitoring, tracking, and inspecting the plants, and for enforcing specified requirements. The bill would require a copy of a current and valid state-issued medical marijuana ID card or physician recommendation to be displayed at all cultivation sites. The bill would allow a county to revoke or suspend a permit, deny the reissuance of a permit, or impose fines, for a violation of these requirements, or abate a violation as a nuisance.

This

The bill would also require indoor and outdoor medical marijuana cultivation to be conducted in accordance with state and local laws and best practices related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. This bill would require state agencies to address environmental impacts of medical marijuana cultivation and coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

Under

(2) Under existing law, the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with responsibility for the coordination and control of water quality in the state.

This bill would require each regional board, and would allow the state board, to address discharges of waste resulting from medical marijuana cultivation and associated activities.

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

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

- 1 SECTION 1. Section 11362.769 is added to the Health and
- 2 Safety Code, to read:

1 11362.769. Indoor and outdoor medical marijuana cultivation
2 shall be conducted in accordance with state and local laws and
3 best practices related to land conversion, grading, electricity usage,
4 water usage, *water quality, woodland and riparian habitat*
5 *protection*, agricultural discharges, and similar matters. State
6 agencies, including, but not limited to, the State Board of Forestry
7 and Fire Protection, the Department of Fish and Wildlife, the State
8 Water Resources Control Board, the California regional water
9 quality control boards, and traditional state law enforcement
10 agencies shall address environmental impacts of medical marijuana
11 cultivation and shall coordinate, *when appropriate*, with cities and
12 counties and their law enforcement agencies in enforcement efforts.

13 *SEC. 2. Section 11362.777 is added to the Health and Safety*
14 *Code, to read:*

15 *11362.777. (a) A board of supervisors may choose not to be*
16 *the responsible entity for purposes of implementing this section.*
17 *No later than July 1, 2016, a county shall adopt an ordinance to*
18 *implement this section, or shall, by resolution, opt out of the*
19 *requirements of this section. The Governor shall designate an*
20 *appropriate state agency to implement this section in each county*
21 *that adopts a resolution to opt out of the requirements of this*
22 *section. For purposes of this section, "designated state agency"*
23 *means the state agency designated by the Governor to implement*
24 *this program in counties in which the board of supervisors has*
25 *chosen not to be responsible for implementing the requirements*
26 *of this section.*

27 *(b) All qualified patients and designated primary care givers*
28 *cultivating marijuana pursuant to Section 11362.5, and all*
29 *qualified patients, persons with valid identification cards, and the*
30 *designated primary caregivers of qualified patients and persons*
31 *with identification cards, who associate within the State of*
32 *California in order collectively or cooperatively to cultivate*
33 *marijuana for medical purposes, are subject to all of the following:*

34 *(1) Each patient, primary caregiver, collective, or cooperative*
35 *that cultivates marijuana shall obtain a permit to cultivate*
36 *marijuana from the sheriff or other entity designated by the board*
37 *of supervisors of the county, or from the designated state agency.*
38 *Each permit shall specify the location being permitted and the*
39 *number of plants that may be grown at that location. The board*
40 *of supervisors or the designated state agency may charge a fee in*

1 *an amount sufficient to cover the reasonable cost of issuing the*
2 *permit and carrying out the requirements of this section. The*
3 *permits authorized by this section shall be renewed annually.*

4 (2) *Each county shall establish the number of plants that may*
5 *be cultivated on an outdoor parcel or at an indoor facility. Except*
6 *for cultivation at a residential home pursuant to paragraph (5),*
7 *cultivation shall only be permitted in areas that are zoned*
8 *specifically for the cultivation of marijuana. In counties where the*
9 *requirements of this section are being implemented by the*
10 *designated state agency, the maximum number of plants that may*
11 *be cultivated at any given site shall not exceed 99 plants. The board*
12 *of supervisors or designated state entity may set a maximum limit*
13 *on the square footage that may be cultivated at a single location.*

14 (3) *Marijuana cultivated outdoors shall not be cultivated within*
15 *100 feet of any occupied legal residential home or within 100 feet*
16 *of a school offering kindergarten and grades 1 to 12, inclusive,*
17 *education. A county may increase this distance, not to exceed one*
18 *mile. All outdoor cultivation sites shall be within a secure fence*
19 *that is not less than six feet in height and that fully encloses the*
20 *cultivation area. All marijuana cultivated outdoors shall be out*
21 *of the public's view. Use of light assistance for outdoor cultivation*
22 *shall not exceed a maximum of 1,200 watts of lighting capacity*
23 *per 100 square feet of cultivated area.*

24 (4) *Indoor cultivation of marijuana shall not occur within 100*
25 *feet of a school offering kindergarten and grades 1 to 12, inclusive,*
26 *education.*

27 (5) *Marijuana cultivated at a residential home shall not exceed*
28 *the number of plants per home established by the county. In a*
29 *county where the requirements of this section are being*
30 *implemented by the designated state agency, the maximum number*
31 *of plants that may be cultivated at a residential home shall not*
32 *exceed six plants unless the county adopts an ordinance permitting*
33 *a higher number. Cultivation of marijuana that exceeds the six*
34 *plants or the number of plants per home established by the county*
35 *shall be conducted in areas specifically zoned for the cultivation*
36 *of marijuana. Cultivation of marijuana at a residential home shall*
37 *not occur within 100 feet of a school offering kindergarten and*
38 *grades 1 to 12, inclusive, education. A county may increase this*
39 *distance, not to exceed one mile.*

1 (6) All buildings where marijuana is cultivated or stored shall
2 be properly secured to prevent unauthorized entry.

3 (7) A county or the designated state agency shall issue zip ties
4 for the identification of medical marijuana plants. A county may
5 designate the sheriff to issue the zip ties. Zip ties shall be attached
6 at the base of each plant. The county or designated state agency
7 may charge a fee to cover the reasonable costs of issuing the zip
8 ties, monitoring, tracking, and inspecting the plants, and for
9 enforcing the requirements of Section 11362.769.

10 (8) A copy of a current and valid state-issued medical marijuana
11 ID card or physician recommendation shall be displayed at all
12 cultivation sites in a manner that allows law enforcement officers
13 to see the card or recommendation without entering a building or
14 fenced area.

15 (c) A county or the designated state agency may revoke or
16 suspend a permit, deny the reissuance of a permit, or impose fines
17 for a violation of this section. A county may also abate a violation
18 of this section through the abatement process established by
19 Section 25845 of the Government Code. The county may set
20 maximum noise levels specifically related to the cultivation of
21 marijuana.

22 ~~SEC. 2.~~

23 SEC. 3. Section 13276 is added to the Water Code, to read:

24 13276. Each regional board shall, *and the State Water*
25 *Resources Control Board may*, address discharges of waste
26 resulting from medical marijuana cultivation and associated
27 activities, including by *adopting a general permit, establishing*
28 *waste discharge requirements, or taking action pursuant to Section*
29 13269. In addressing these discharges, each regional board shall
30 include conditions to address items that include, but are not limited
31 to, all of the following:

32 (a) Site development and maintenance, erosion control, and
33 drainage features.

34 (b) Stream crossing installation and maintenance.

35 (c) Riparian and wetland protection and management.

36 (d) Soil disposal.

37 (e) Water storage and use.

38 (f) Irrigation runoff.

39 (g) Fertilizers and soil.

40 (h) Pesticides and herbicides.

- 1 (i) Petroleum products and other chemicals.
- 2 (j) Cultivation-related waste.
- 3 (k) Refuse and human waste.
- 4 (l) Cleanup, restoration, and mitigation.

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