


**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: May 6, 2016

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations, and
Neighborhoods Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 15-0002-S160
Assignment No: 16-04-0367

SUBJECT: Resolution (Koretz-Wesson) to SUPPORT AB 2385, as amended (Jones-Sawyer),
which would exempt the City from the local licensing requirement related to medical
marijuana.

CLA RECOMMENDATION: Adopt Resolution (Koretz-Wesson) to include in the City's 2015-
2016 State Legislative Program, SUPPORT for AB 2385, as amended (Jones-Sawyer), which would
exempt the City from the local licensing requirement of the Medical Marijuana Regulation and
Safety (MMRS) Act and allow the issuance of a State license if the licensing authorities determine
that the applicant meets all of the specified criteria relating to Measure D in addition to the
requirements of the MMRS Act.

SUMMARY

Resolution (Koretz-Wesson), introduced April 25, 2016, states that although the Medical Marijuana
Regulation and Safety (MMRS) Act provides for the licensure of medical marijuana dispensaries for
the first time in California, the Act prohibits a person from engaging in commercial cannabis activity
without possessing both a State license and a local permit, license, or other authorization. The
Resolution reports that the City does not issue permits to medical marijuana dispensaries in the City,
per Measure D passed by City voters in 2013, thus these businesses are ineligible for State licenses
under the MMRS Act. According to the Resolution, under existing law, all medical marijuana
dispensaries in the City will be illegal in 2018, thereby disrupting a major marketplace for marijuana
and contradicting the intent of State voters in passing Proposition 215, which provides certain legal
protections for qualified patients and caregivers that possess or cultivate medical marijuana, and the
intent of City voters in Measure D, which grants immunity to medical marijuana businesses that met
its specified criteria. The Resolution therefore requests that the City support AB 2385, as amended
(Jones-Sawyer), which would exempt the City from the local licensing requirement of the Medical
Marijuana Regulation and Safety Act and allow the issuance of a State license if the licensing
authorities determine that the applicant meets all of the specified criteria relating to Measure D in
addition to the requirements of the MMRS Act.

BACKGROUND

Under the Medical Marijuana Regulation and Safety (MMRS) Act, the State will start issuing
licenses to medical marijuana businesses after January 1, 2018. To receive a State license, the
applicant is required to have a license, permit or other authorization from a local jurisdiction.
However, the City does not issue licenses or permits to its medical marijuana dispensaries, per

Measure D passed by City voters on the May 21, 2013 general election, which banned all but 135 medical marijuana dispensaries that met its specified requirements. Instead of issuing permits or licenses to these 135 dispensaries, Measure D gave these specific dispensaries immunity from its ban on all medical marijuana businesses in the City. AB 2385, as amended (Jones-Sawyer), will exempt the City from the local licensing requirement of the MMRS Act and require State agencies to issue State licenses to Measure D compliant dispensaries in the City, thereby ensuring that ten percent of the State's population and a significant share of the cannabis marketplace is included in the comprehensive regulation of marijuana under the MMRS Act. This bill is cosponsored by UCBA Trade Association and United Food and Commercial Workers, Western States Council.

The exemption from the local licensing requirement in AB 2385, as amended (Jones-Sawyer), will align the MMRS Act with existing laws regarding medical marijuana. In 1996, California voters passed Proposition 215, the Compassionate Use Act, which prohibits prosecution of qualified patients and their primary caregivers for cultivating or possessing medical marijuana. In addition, in 2003, the State Legislature passed SB 420 (Vasconcellos), the Medical Marijuana Program Act, which expands legal protections to those that collectively or cooperatively cultivate marijuana for medical purposes. By asserting the right of qualified patients and their primary caregivers to use and cultivate medical marijuana, these two laws have triggered the growth of medical marijuana dispensaries in many localities. Nevertheless, under the Federal Controlled Substances Act, it is unlawful for any person to manufacture, distribute, dispense, or possess a controlled substance, regardless of whether it is used for a medical purpose, including marijuana, which is listed as a hallucinogenic substance.

After the enactment of Proposition 215 and before the passage of MMRS Act, many local jurisdictions established their own medical marijuana ordinances in response to the rapid growth of medical marijuana businesses. The California Supreme Court, in 2013, held that the State's medical marijuana statutes do not preempt a local ban on medical marijuana dispensaries. This has allowed many local jurisdictions, including Los Angeles, to ban the cultivation and sale of medical marijuana altogether. City voters approved Measure D on May 21, 2013, which enacted a prohibition on operating or establishing medical marijuana businesses, while providing limited immunity for medical marijuana businesses that met the following requirements: (1) applicant operated in the City as a medical marijuana business by September 14, 2007, as evidenced by a business tax registration certificate issued by the City on or before November 13, 2007; (2) registered with the City Clerk by November 13, 2007, in accordance with all the requirements of the City's Interim Control Ordinance; (3) obtained a City business tax registration for taxation as a medical marijuana collective; and (4) complied with other operating and location restrictions specified in Measure D. AB 2385, as amended (Jones-Sawyer), would require State agencies to issue licenses only to the 135 medical marijuana dispensaries in the City that comply with these Measure D requirements.

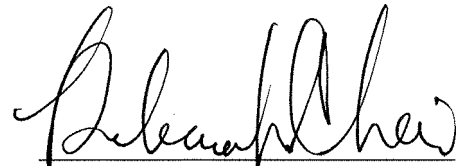
AB 2385, as amended (Jones-Sawyer), also includes a provision that would supersede its exemption to the local licensing requirement for the City with a subsequent initiative authorizing the City to issue local licenses to medical marijuana businesses, if City voters approve the initiative after January 1, 2016, but prior to the time the State begins issuing licenses. Currently, a coalition has collected 600,000 signatures, which is more than enough to qualify the initiative, for a November 8 ballot that would establish a new local permitting system in the City. This ballot would require the City to issue licenses not only for dispensaries, but also for growers, manufacturers and delivery

services, all of which are illegal or questionably legal under Measure D. Furthermore, the ballot measure would allow adults ages 21 and older to possess, transport and use up to an ounce of marijuana for recreational purposes and place a fifteen percent tax on retail sales of marijuana.

BILL STATUS

▶ HR 4230

2/18/16	Introduced
3/17/16	Referred to Committee on Business and Professions and Committee on Local Government
4/21/16	Re-referred to Committee on Appropriations



Deborah Choi
Analyst

Attachment: 1. Resolution (Koretz-Wesson)

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, in 2015, the State Legislature passed AB 243 (Wood), AB 266 (Bonta), and SB 643 (McGuire), collectively known as the Medical Marijuana Regulation and Safety (MMRS) Act, thereupon providing licensure of medical marijuana dispensaries for the first time in California; and

WHEREAS, further, the MMRS Act prohibits a person from engaging in commercial cannabis activity without possessing both a State license and a local permit, license, or other authorization; and

WHEREAS, under existing law, medical marijuana dispensaries in the City are ineligible for State licenses due to the fact that the City does not issue permits to these entities, per Measure D approved by City voters on the May 21, 2013 general election; and

WHEREAS, currently pending before the State Assembly is a bill, AB 2385, as amended (Jones-Sawyer), which in regards to commercial cannabis activity in the City of Los Angeles, would prohibit licensing authorities from requiring a local license, permit, or other authorization, and allow the issuance of a State license if the authorities determine that the applicant meets all of the specified criteria relating to Measure D in addition to the requirements of the MMRS Act; and

WHEREAS, AB 2385, as amended (Jones-Sawyer), would also require the exemption to the local licensing requirement for commercial cannabis activity in the City to be superseded by a subsequent initiative authorizing the City to issue local licenses to medical marijuana businesses, if City voters approve the initiative prior to the time the State begins issuing licenses; and

WHEREAS, under the MMRS Act, all medical marijuana dispensaries in the City will be illegal in 2018, thereby disrupting a major marketplace for marijuana and contradicting the intent of State voters in passing Proposition 215, which provides certain legal protections for qualified patients and caregivers that possess or cultivate medical marijuana, and the intent of City voters in Measure D, which grants immunity to medical marijuana businesses that met its specified criteria;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-2016 State Legislative Program SUPPORT for AB 2385, as amended (Jones-Sawyer), which would exempt the City of Los Angeles from the local licensing requirement of the Medical Marijuana Regulation and Safety Act and allow the issuance of a State license if the licensing authorities determine that the applicant meets all of the specified criteria relating to Measure D in addition to the requirements of the MMRS Act.

PRESENTED BY: Paul Koretz
PAUL KORETZ
Councilmember, 5th District

APR 15 2016

SECONDED BY: Henry Wern