


**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: April 15, 2019

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

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 19-0002-S52
Assignment No: 19-04-0316

SUBJECT: Resolution (Wesson – Harris-Dawson) to SUPPORT SB 658 (Bradford) which would expand access to the Track and Trace Program’s database to local jurisdictions and establish a statewide retail cannabis emblem program to identify safe and legal cannabis businesses.

CLA RECOMMENDATION: Adopt Resolution (Wesson – Harris-Dawson) to include in the City’s 2019-20 State Legislative Program SUPPORT for SB 658 (Bradford) which would expand access to the Track and Trace Program’s database to local jurisdictions and establish a statewide retail cannabis emblem program to identify safe and legal cannabis businesses.

SUMMARY: On March 29, 2019, Resolution (Wesson – Harris-Dawson) was introduced in support of SB 658 (Bradford), which would expand access to the Track and Trace Program’s database to local jurisdictions and establish a statewide retail cannabis emblem program. The Resolution states that the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) requires establishment of a Track and Trace Program for reporting the movement of cannabis and cannabis products through the distribution chain. Currently, the Track and Trace Program’s database is only accessible to law enforcement agencies to assist law enforcement in their duties and responsibilities pursuant to MAUCRSA.

Additionally, SB 658 would also require the BCC to establish a cannabis retail business emblem program to identify to the general public that a cannabis retail business is a safe and legally licensed business.

Therefore, the Resolution seeks an official position of the City of Los Angeles to support SB 658 (Bradford), which would expand access to the Track and Trace Program’s database to local jurisdictions and establish a statewide retail cannabis emblem program to identify safe and legal cannabis businesses.

BACKGROUND: The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. Per the MAUCRSA, responsibility of cannabis licensure and regulation is divided among the California Department of Food and Agriculture, (CDFA) the State Department of Public Health, and the Bureau of Cannabis Control (BCC). As a part of MAUCRSA, the CDFA, with the assistance of the BCC, is required to establish a Track and Trace Program for reporting the movement of cannabis and cannabis products from cultivation to retail. To facilitate this information, a database using unique identifier bar codes was established to keep an inventory of these products through the distribution chain.

Upon request, this database is accessible to state or local law enforcement agencies to assist in their duties and responsibilities as it relates to cannabis enforcement and regulation. This bill would expand access of the Track and Trace Program database to local jurisdictions, allowing jurisdictions to receive and input information into the database.

Currently, only companies with annual licenses are required to use the Track and Trace Program system, while commercial cannabis businesses with temporary licenses are not required to participate in the program.

Several jurisdictions throughout the State have experienced a proliferation of illicit and unlicensed cannabis businesses, creating a market that undermines legally licensed businesses. The proliferation of unlicensed cannabis businesses also poses a threat to public health and safety, as consumers cannot easily identify whether a business is licensed and unlicensed when purchasing cannabis products. This bill would establish a uniform, statewide retail cannabis business emblem program for licensed retail cannabis business to allow the public to identify safe and legal cannabis businesses.

In addition to the above provisions, this bill would remove provisions requiring the bureau consider whether an excessive concentration of licensees exists when granting, denying, or renewing specified licenses.

Support for SB 658 (Bradford) would be consistent with past and current City support for State legislation that further enhances the State's Track and Trace Program.

DEPARTMENTS NOTIFIED

Department of Cannabis Regulation

BILL STATUS

2/22/19	Introduced.
2/25/19	Read first time.
3/14/19	Referred to Com. on RLS.
3/28/19	From committee with author's amendments; read second time and amended; re-referred to Com. on RLS.
4/10/19	Re-referred to Com. on B., P. & E.D.



Steve Luu
Analyst

SMT:sl

Attachments: 1. Resolution (Wesson – Harris-Dawson)
2. SB 658 (Bradford)

RESOLUTION

RULES, ELECTIONS, INTERGOVERNMENTAL RELATIONS

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, the Adult Use of Marijuana Act of 2016 (AUMA) and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) authorizes a person who obtains a state license to engage in commercial medicinal and adult-use cannabis activities pursuant to the state license and applicable local ordinances; and

WHEREAS, despite the legalization of adult-use cannabis, unlicensed cannabis businesses continue to proliferate, posing a threat to public health and safety; and

WHEREAS, the MAUCRSA requires the State Department of Food and Agriculture, in consultation with the Bureau of Cannabis Control (BCC), to establish a Track and Trace Program for reporting the movement of cannabis and cannabis products through the distribution chain; and

WHEREAS, currently pending before the State Legislature, SB 658 (Bradford) would require cannabis-related licensing authorities to expand access of the Track and Trace Program's database to local jurisdictions; and

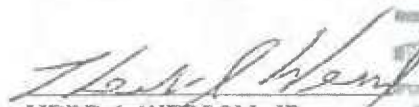
WHEREAS, SB 658 would also require the BCC to establish a statewide retail cannabis business emblem program for licensed retail cannabis businesses in order to communicate to the public that the business is legal and offers safe, laboratory tested cannabis goods for sale; and

WHEREAS, SB 658 would require that the emblem be posted in a specified location that is visible to the general public and to patrons entering the facility; and

WHEREAS, data informed enforcement through comprehensive data collection allows for efficient enforcement and regulation of cannabis-related businesses;

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 2019-2020 State Legislative Program SUPPORT for SB 658 (Bradford) which would expand the access of the Track and Trace Program's database to local jurisdictions and establish a statewide retail cannabis emblem program to identify safe and legal cannabis businesses.

PRESENTED BY:


HERB J. WESSON, JR.
Councilmember, 10th District

SECONDED BY:





MAR 9 2019

ORIGINAL

AMENDED IN SENATE MARCH 28, 2019

SENATE BILL

No. 658

Introduced by Senator Bradford

February 22, 2019

~~An act relating to cannabis.~~ *An act to amend Sections 26051, 26067, and 26090 of, and to add Section 26056.5 to, the Business and Professions Code, relating to cannabis, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 658, as amended, Bradford. ~~The California Cannabis Equity Act.~~ *Cannabis: licensing: cannabis retail business emblem: track and trace.*

~~Existing~~

(1) Existing law, 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 generally divides responsibility for the state licensure and regulation of commercial cannabis activity among the Department of Food and Agriculture, the State Department of Public Health, and the Bureau of Cannabis Control, which MAUCRSA establishes within the Department of Consumer Affairs.

This bill would, by December 31, 2019, require the bureau to establish a cannabis retail business emblem and would require, beginning on

January 1, 2020, the bureau to issue an emblem to each retail licensee, microbusiness licensee, and nonprofit licensee, including provisional licensees, as provided, upon issuance of the license. The bill would, among other things, require a licensee issued an emblem to post the emblem in a specified location that is clearly visible to the general public and to patrons entering the facility and would require specified employees to carry the emblem when delivering cannabis or cannabis products. The bill would make specified violations of these provisions punishable under MAUCRSA.

(2) MAUCRSA requires the Bureau of Cannabis Control, in determining whether to grant, deny, or renew a retail, microbusiness, or nonprofit license, to consider if an excessive concentration of licensees exists in the area where the licensee will operate.

This bill would remove the provisions requiring the bureau to consider whether an excessive concentration of licensees exists when granting, denying, or renewing specified licenses.

(3) MAUCRSA requires the Department of Food and Agriculture, in consultation with the Bureau of Cannabis Control, to establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain. Existing law requires the track and trace program to capture, at a minimum, information on the licensee receiving the product, the transaction date, and the cultivator from which the product originates. To facilitate the administration of the track and trace program, existing law requires the department to create an electronic database containing that information and requires licensing authorities, upon the request of a state or local law enforcement agency, to allow access to or provide information contained within this database to assist law enforcement in their duties and responsibilities pursuant to MAUCRSA.

This bill would require a licensing authority to also allow a local jurisdiction access to, or provide information contained within, the electronic database.

(4) The Control, Regulate and Tax Adult Use of Marijuana Act, an initiative measure, authorizes the Legislature to amend the act to further the purposes and intent of the act with a $\frac{2}{3}$ vote of the membership of both houses of the Legislature, except as provided.

This bill would declare that its provisions further the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Existing law, the California Cannabis Equity Act of 2018, authorizes the bureau, upon request by a local jurisdiction, to provide technical assistance to a specified local equity program, which the act defines as a program adopted or operated by a local jurisdiction that focuses on inclusion and support of individuals and communities in California’s cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization. The act requires the bureau to administer a grant program for local jurisdictions that have adopted or operate a local equity program, as specified.

This bill would state the intent of the Legislature to enact legislation providing support and funding to local jurisdictions with established cannabis equity programs.

Vote: majority^{2/3}. Appropriation: no. Fiscal committee: ~~no~~yes. State-mandated local program: no.

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

1 SECTION 1. Section 26051 of the Business and Professions
2 Code is amended to read:

3 26051. (a) The Cartwright Act, the Unfair Practices Act, the
4 Unfair Competition Law, and the other provisions of Part 2
5 (commencing with Section 16600) of Division 7 apply to all
6 licensees regulated under this division.

7 (b) It shall be unlawful for any person to monopolize, attempt
8 to monopolize, or combine or conspire with any person or persons
9 to monopolize, any part of the trade or commerce related to
10 cannabis. The Attorney General shall have the sole authority to
11 enforce the provisions of this subdivision.

12 (c) ~~In determining whether to grant, deny, or renew a retail~~
13 ~~license, microbusiness license, or a license issued under Section~~
14 ~~26070.5, the bureau shall consider if an excessive concentration~~
15 ~~exists in the area where the licensee will operate. For purposes of~~
16 ~~this section “excessive concentration” applies when either of the~~
17 ~~following conditions exist:~~

18 (1) ~~The ratio of licensees to population in the census tract or~~
19 ~~census division in which the applicant premises is located exceeds~~
20 ~~the ratio of licensees to population in the county in which the~~
21 ~~applicant premises is located, unless denial of the application would~~

1 unduly limit the development of the legal market so as to perpetuate
2 the illegal market for cannabis or cannabis products.

3 ~~(2) The ratio of retail licenses, microbusiness licenses, or~~
4 ~~licenses under Section 26070.5 to the population in the census~~
5 ~~tract, census division, or jurisdiction exceeds that allowable by~~
6 ~~local ordinance adopted under Section 26200.~~

7 *SEC. 2. Section 26056.5 is added to the Business and*
8 *Professions Code, to read:*

9 *26056.5. (a) No later than December 31, 2019, the bureau*
10 *shall establish a cannabis retail business emblem to indicate the*
11 *valid status of a state cannabis retail, microbusiness, or nonprofit*
12 *license.*

13 *(b) Beginning on January 1, 2020, the bureau shall issue a*
14 *cannabis retail business emblem to each retail licensee,*
15 *microbusiness licensee, and nonprofit licensee, including*
16 *provisional licensees for those licenses, upon issuance of a license.*

17 *(c) A licensee issued a cannabis retail business emblem pursuant*
18 *to subdivision (b) shall post the emblem in the front window of the*
19 *facility within five feet of the front door or in a display case*
20 *mounted on the outside front wall of the facility within five feet of*
21 *the front door and shall ensure the emblem is clearly visible to the*
22 *general public and to patrons entering the facility.*

23 *(d) If a licensee is operating in the same building or space as*
24 *a separate licensee, or if a licensee shares a common patron*
25 *entrance with a separate licensee, or both, each licensee shall post*
26 *the cannabis retail business emblem pursuant to subdivision (c).*

27 *(e) A cannabis retail business emblem shall expire upon*
28 *expiration of the license for which it was issued and the bureau*
29 *shall renew the emblem when the license for which it was issued*
30 *is renewed.*

31 *(f) The bureau shall maintain the licensing information upon*
32 *which the cannabis retail business emblem is based and shall make*
33 *that information available to the general public and to patrons for*
34 *review upon request.*

35 *(g) (1) The cannabis retail business emblem shall not be*
36 *defaced, marred, reproduced, copied, camouflaged, hidden, or*
37 *removed.*

38 *(2) It shall be unlawful to operate a cannabis business if the*
39 *cannabis retail business emblem is posted in a location in violation*
40 *of this section.*

1 (3) Removal of the cannabis retail business emblem is a violation
2 of this chapter and may result in the suspension or revocation of
3 the license and shall be punishable as specified in Chapter 3 of
4 this division.

5 (h) The bureau shall adopt regulations to implement this section.
6 The adoption, amendment, repeal, or readoption of a regulation
7 authorized by this section is deemed to address an emergency, for
8 purposes of Sections 11346.1 and 11349.6 of the Government
9 Code, and the bureau is hereby exempted for this purpose from
10 the requirements of subdivision (b) of Section 11346.1 of the
11 Government Code.

12 SEC. 3. Section 26067 of the Business and Professions Code
13 is amended to read:

14 26067. (a) The department, in consultation with the bureau,
15 shall establish a track and trace program for reporting the
16 movement of cannabis and cannabis products throughout the
17 distribution chain that utilizes a unique identifier pursuant to
18 Section 26069, secure packaging, and is capable of providing
19 information that captures, at a minimum, all of the following:

20 (1) The licensee receiving the product.

21 (2) The transaction date.

22 (3) The cultivator from which the product originates, including
23 the associated unique identifier pursuant to Section 26069.

24 (b) (1) The department, in consultation with the California
25 Department of Tax and Fee Administration, shall create an
26 electronic database containing the electronic shipping manifests
27 to facilitate the administration of the track and trace program,
28 which shall include, but not be limited to, the following
29 information:

30 (A) The variety and quantity or weight of products shipped.

31 (B) The estimated times of departure and arrival.

32 (C) The variety and quantity or weight of products received.

33 (D) The actual time of departure and arrival.

34 (E) A categorization of the product.

35 (F) The license number and the unique identifier pursuant to
36 Section 26069 issued by the licensing authority for all licensees
37 involved in the shipping process, including, but not limited to,
38 cultivators, manufacturers, distributors, and dispensaries.

39 (2) (A) The database shall be designed to flag irregularities for
40 all licensing authorities in this division to investigate. All licensing

1 authorities pursuant to this division may access the database and
2 share information related to licensees under this chapter, including
3 social security and individual taxpayer identifications
4 notwithstanding Section 30.

5 (B) The department shall immediately inform the bureau upon
6 the finding of an irregularity or suspicious finding related to a
7 licensee, applicant, or commercial cannabis activity for
8 investigatory purposes.

9 (3) Licensing authorities and state and local agencies may, at
10 any time, inspect shipments and request documentation for current
11 inventory.

12 (4) The bureau shall have 24-hour access to the electronic
13 database administered by the department. The California
14 Department of Tax and Fee Administration shall have read access
15 to the electronic database for the purpose of taxation and regulation
16 of cannabis and cannabis products.

17 (5) The department shall be authorized to enter into memoranda
18 of understandings with licensing authorities for data sharing
19 purposes, as deemed necessary by the department.

20 (6) Information received and contained in records kept by the
21 department or licensing authorities for the purposes of
22 administering this chapter are confidential and shall not be
23 disclosed pursuant to the California Public Records Act (Chapter
24 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
25 the Government Code), except as necessary for authorized
26 employees of the State of California or any city, county, or city
27 and county to perform official duties pursuant to this division or
28 a local ordinance.

29 (7) Upon the request of a state or local law enforcement agency,
30 *or a local jurisdiction*, licensing authorities shall allow access to
31 or provide information contained within the database to assist law
32 enforcement *or a local jurisdiction* in their duties and
33 responsibilities pursuant to this division.

34 *SEC. 4. Section 26090 of the Business and Professions Code*
35 *is amended to read:*

36 26090. (a) Deliveries, as defined in this division, may only be
37 made by a licensed retailer or microbusiness, or a licensed
38 nonprofit under Section 26070.5.

39 (b) All employees of a retailer, microbusiness, or nonprofit
40 delivering cannabis or cannabis products shall carry a copy of the

1 licensee's current license and a government-issued identification
2 with a photo of the employee, such as a driver's license. The
3 employee shall present that license and identification upon request
4 to state and local law enforcement, employees of regulatory
5 authorities, and other state and local agencies enforcing this
6 division.

7 (c) During delivery, the licensee shall maintain a copy of the
8 delivery request and shall make it available upon request of the
9 licensing authority and law enforcement officers. The delivery
10 request documentation shall comply with state and federal law
11 regarding the protection of confidential medical information.

12 (d) A customer requesting delivery shall maintain a physical or
13 electronic copy of the delivery request and shall make it available
14 upon request by the licensing authority and law enforcement
15 officers.

16 (e) A local jurisdiction shall not prevent delivery of cannabis
17 or cannabis products on public roads by a licensee acting in
18 compliance with this division and local law as adopted under
19 Section 26200.

20 (f) *Beginning on January 1, 2020, all employees of a retailer,
21 microbusiness, or nonprofit delivering cannabis or cannabis
22 products shall carry the licensee's current cannabis retail business
23 emblem. The employee shall present that cannabis retail business
24 emblem upon request to state and local law enforcement, employees
25 of regulatory authorities, other state and local jurisdictions
26 enforcing this division, and the customer requesting cannabis
27 delivery.*

28 *SEC. 5. The Legislature finds and declares that this act furthers
29 the purposes and intent of the Control, Regulate and Tax Adult
30 Use of Marijuana Act.*

31 *SEC. 6. This act is an urgency statute necessary for the
32 immediate preservation of the public peace, health, or safety within
33 the meaning of Article IV of the California Constitution and shall
34 go into immediate effect. The facts constituting the necessity are:*

35 *Because there is an immediate need for a uniform way to inform
36 the public as to whether a dispensary has a valid and current
37 commercial cannabis license to ensure the safety of consumers
38 and to ensure adequate enforcement of those violating the
39 Medicinal and Adult-Use Cannabis Regulation and Safety Act, it
40 is necessary that this act take effect immediately.*

1 ~~SECTION 1. It is the intent of the Legislature to enact~~
2 ~~legislation providing support and funding to local jurisdictions~~
3 ~~with established cannabis equity programs.~~

O