

New Law Going into Effect January 1, 2024, Restricts Municipal Regulations on Delivery of Medicinal Cannabis

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Last year, Governor Gavin Newsom signed into law Senate Bill (SB) 1186, the Medicinal Cannabis Patients' Right of Access Act (Act). The Act goes into effect January 1, 2024, and prohibits municipal agencies from adopting or enforcing any regulations that directly or indirectly prevent the retail delivery of medicinal cannabis to patients.

Background

Californians have the right to obtain and use marijuana for medical purposes. Through the Medical Marijuana Program, the State Department of Public Health sets forth guidelines for the possession of medicinal cannabis by qualified medicinal cannabis patients.

In 2016, the Control, Regulate and Tax Adult-Use of Marijuana Act of 2016 (AUMA) established a comprehensive system to legalize, control, and regulate the cultivation and sale of nonmedical marijuana. The AUMA reserved to cities specified powers for the adoption and enforcement of local ordinances regulating commercial adult-use cannabis activity. Because these and other powers allowed for local municipal discretion and control over the sale of medicinal cannabis, certain cities imposed restrictions preventing medicinal cannabis businesses from delivering medicinal cannabis to qualified patients within their jurisdiction.

Changes to the Business and Professions Code

Beginning in 2024, cities and counties cannot adopt or enforce any regulation that prevents a licensed medicinal cannabis business from delivering medicinal cannabis to qualified patients or their primary caregivers. The Act defines regulation to include any local ordinance, regulation, policy, or practice.

The purpose of the Act is to ensure that medicinal cannabis patients have adequate access to healthcare. Section 26322 of the Business and Professions Code provides the following examples of regulations cities and counties are prohibited from enforcing:

- Limiting the number of medicinal cannabis businesses authorized to deliver in the jurisdiction.

- Limiting the operating hours of medicinal cannabis businesses.
- Limiting the number or frequency of delivery sales for medicinal cannabis.
- Restricting the types or quantities of medicinal cannabis authorized to be sold by delivery.
- Requiring a licensed medicinal cannabis business to maintain a physical location with the jurisdiction.

As a result of these changes, cities and counties will be unable to control the number of medicinal cannabis businesses operating within their jurisdiction. Local jurisdictions will still, however, be able to impose the following regulations on medicinal cannabis businesses:

- Zoning requirements.
- Security or public health and safety requirements.
- Licensing requirements.
- The imposition, collection, and remittance of any state or local taxes upon retail sales occurring within the jurisdiction.
- Regulations consistent with requirements or restrictions imposed on cannabis businesses by the California Department of Cannabis Control (DCC).

Takeaways

The language of SB 1186 invites questions about whether cities should adopt reasonable regulations regarding the delivery of medicinal cannabis or leave regulations to the DCC.

Also, municipal agencies should start planning now to ensure compliance with the requirements of SB 1168. Cities and counties should review their regulations and practices to determine whether they may directly or indirectly prohibit the delivery of medicinal cannabis. Such regulations that impose restrictions on the delivery medicinal cannabis should be repealed.

If you have any questions regarding SB 1186 and its implementation, or are interested in trainings on the new requirements or review of your agencies current regulations that are in effect, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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