



Legislation Text

File #: 18-1263, **Version:** 1

Chief Administrative Office recommending the Board approve and authorize the Chair to sign a letter of opposition to proposed State of California cannabis regulation changes that would allow for cannabis delivery services without the approval of local jurisdictions.

DEPARTMENT RECOMMENDATION:

Chief Administrative Office recommending the Board approve and authorize the Chair to sign a letter of opposition to proposed State of California cannabis regulation changes that would allow for cannabis delivery services without the approval of local jurisdictions.

DISCUSSION / BACKGROUND:

After operating under temporary regulations for almost a year, California's three cannabis regulatory agencies have now issued drafts of their permanent regulations. El Dorado County and other local jurisdictions have reason to engage, since the proposed regulations for the State Bureau of Cannabis Control contain an important item that has been a point of contention since before Proposition 64 took effect: the proposed California Code of Regulations Section 5416(d) states in plain language that deliveries can occur in "any jurisdiction within the State of California." If left unchallenged, this proposed regulation will likely be interpreted to invalidate any local ban on deliveries currently in force and preempt any such future bans. The 45-day comment period for these regulations expires on Monday, August 27th. Local jurisdictions have been encouraged to weigh in on this issue.

The language of the latest State Bureau of Cannabis Control regulations will effectively preempt any existing local ban on cannabis deliveries that has been enacted by cities or counties. This change would represent a precedentsetting encroachment upon local land use and police power that violates the terms of Proposition 64, which expressly protects local control by making it clear that it honors local land use and police power. Specifically, it clarifies in Business and Professions Code Section 26055(e) that no state license for a cannabis business could be issued if that license is in violation of local ordinances. The meaning of this provision is that if the specific business activity for which a state license is sought (cannabis cultivation for example) would be in violation of local ordinances, then the state is precluded from issuing a license.

Proposition 64 also makes clear in Business and Professions Code Section 26200 that local jurisdictions retain the authority to adopt ordinances regulating or completely banning cannabis businesses.

ALTERNATIVES:

The Board could decide not to oppose any regulation changes that might allow for the delivery of cannabis without local jurisdiction approval.

OTHER DEPARTMENT / AGENCY INVOLVEMENT:

County Counsel

CAO RECOMMENDATION:

It is recommended that the Board approve this item.

FINANCIAL IMPACT:

N/A

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) Clerk of the Board to obtain signature of Chair on one (1) original of the letter of support and mail to addressees.
- 2) Clerk of the Board to return one (1) copy of signed letter to Creighton Avila in the Chief Administrative Office.

STRATEGIC PLAN COMPONENT:

Healthy Communities and Public Safety

CONTACT

Creighton Avila, Deputy Chief Administrative Officer