

Mendocino County Presented with Specifics of New Medical Marijuana Regulation and Safety Act

Ukiah Daily Journal
Adam Randall
October 27, 2017

Mendocino County, along with other California counties and cities, has a lot to consider when it comes to the new Medical Marijuana Regulation and Safety Act recently signed into law by Gov. Jerry Brown.

The Mendocino County Board of Supervisors heard a presentation from Rural County Representatives of California Senior Legislative Advocate Paul Smith Monday night, in which Smith laid out what the county needs to begin thinking about at a local level prior to the new medical marijuana regulations, set to go into effect Jan. 1, 2016.

North Coast legislators, Sen. Mike McGuire, D-Healdsburg, and Assemblyman Jim Wood, D-Healdsburg, promised sweeping regulations to clean up medical marijuana practices when their bills, SB 643 and AB 243, were separately introduced earlier this year, but were later combined together and included Assemblyman Rob Bonta's AB 266 as part of the overall package, all of which received approval by the governor just hours before the deadline earlier this month.

The supervisors took no action Monday, but said to expect an agenda item "sooner rather than later," which may happen by their second meeting in November, as each city and county has until March 1, 2016 to enact a local cultivation ordinance to regulate or ban medical marijuana practices before surrendering such rights to the state.

However, licenses for people to provide medical marijuana services, including growing or making products, dispensaries and delivery services, won't be required until Jan. 1, 2018.

Smith said the reason for the time gap is to give regulatory bodies the time to move forward with rule making.

Stakeholders involved in providing medical marijuana services will be required to go through a "dual licensing" process, meaning they won't be able to operate on the business side without first receiving state and local approval with probable restrictions on those with previous felony criminal violations, including illegal cultivation.

Local cultivators would have to come before the Board of Supervisors or city councils before commencing the application process at the state level, according to Smith, although he said the package includes two license exemption categories, meaning a personal medical grow or five-patient caregiver grow are exempt from needing a state license.

Smith said that when the package was in the Legislature, RCRC, a rural county advocacy agency, would not agree to support it until its four core policy principles were included, which were preserving local control, an explicit county taxing authority provision, ending the collective model and addressing environmental impacts.

“It is our cornerstone of any conversation,” Smith said of preserving local control. “We wanted to make sure local land use control was preserved.”

Local control provisions allow for the county to decide how, where and when cultivation will take place, along with local law enforcement activity, enforcement of local zoning requirements or ordinances, while also providing that no local control can be superceded, and giving control to counties for the ability to ban medical marijuana practices altogether.

A complete ban would be unlikely for Mendocino County as it already permits 25 plants per parcel grows for medical growing purposes, which local cultivation advocates and users have been pushing the Board of Supervisors to raise to 99 plants.

“I’m not immediately concerned with the plant count, but am concerned with the March 1 deadline,” 2nd District County Supervisor John McCowen said. “I do think Mendocino County does need to consider updating our local ordinance so the state doesn’t end up making more decisions for us.”

McCowen added the thought of the Mendocino County Board of Supervisors Marijuana Ad Hoc Committee, comprised of he and 3rd District Supervisor Tom Woodhouse, starting work on the local issues at hand in conjunction with the county’s Executive Office with the possibility of repurposing the ad hoc in the future.

Also under the local control provisions, counties will be able to levy their own taxes and fees, including facilities and deliveries, although state taxes on the product have yet to be specified.

Ending the collective model pertains to having a strict dual licensing system where individuals or businesses may not engage in commercial medical marijuana activities without the possession of both a state or local license or permit.

Fines and penalties for illegal operations will go into the Medical Cannabis Fines and Penalties Account for state and local agencies to enforce environmental regulations. The Bureau of Marijuana Regulation will provide a grant program at the local level to aid with such regulation and enforcement, along with water diversion protection and cultivation standards.

Smith said enforcement of the law will not just be an obligation of the state, but at the local level as well. For example, financial records of licensees may be examined at any time.

What's next

Two new bills by Assemblyman Wood, AB 1548 and AB 1549, are expected to address specific tax issues and cash revenue when the state Legislature reconvenes in January.

The new provisions weren't included in the new regulatory package as what Smith said could have caused a hang-up in the package's approval, so the issues were dropped as a result, and will now be reintroduced by Wood separately.

AB 1548, if approved, would impose state cultivation taxes, specifically \$9.25 per ounce on marijuana flowers, \$2.75 per ounce on marijuana leaves and \$1.25 per ounce on immature marijuana plants, and would be collected at the distributor level with the state's Board of Equalization responsible for administering and collecting the tax on a quarterly basis.

"The bill is in print and he (Wood) is ready to move it when the Legislature returns," Smith said.

The tax proceeds would be deposited into a Marijuana Production and Environmental Mitigation Fund, with 35 percent of distributions going toward the California Department of Food and Agriculture for local law enforcement efforts to curtail illegal cultivation.

Additionally, a 35 percent cut would go to the California Natural Resources Agency to provide a competitive grant program for environmental cleanup, while 30 percent of the collected funds would be dedicated to the Department of Fish and Wildlife and State Water Resources Control Board to handle the environmental impacts of medical marijuana cultivation, Smith said.

AB 1549 would help enact "state banking," for those involved in the medical marijuana industry who are typically denied banking services because of how the money is made, leaving those stakeholders forced to operate on a "cash only" model.

"We don't believe an all -cash business is appropriate at RCRC," Smith said. "Obviously, Mr. Wood shares that same concern."

<http://www.ukiahdailyjournal.com/general-news/20151027/mendocino-county-presented-with-specifics-of-new-medical-marijuana-regulation-and-safety-act>