

## FAQ: The Medicinal Cannabis Patients' Right of Access Act

In 2022, the Legislature passed and Gov. Gavin Newsom signed into law [SB 1186 \(Wiener\)](#), the Medicinal Cannabis Patients' Right of Access Act (Act).<sup>1</sup> Beginning Jan. 1, 2024, the Act bars a city<sup>2</sup> from adopting or enforcing any regulation that directly or indirectly prohibits retail delivery of medicinal cannabis<sup>3</sup> to patients or caregivers in the city.<sup>4</sup>

### What limits does the Act impose on local authority?

Under the Act, a city cannot adopt or enforce regulations that prohibit the "retail sale by delivery" of medicinal cannabis. This includes any regulation that has the effect of prohibiting patients within the city or their caregivers from purchasing, by delivery, sufficient medicinal cannabis to meet their demands in a timely and readily accessible manner. Examples of prohibited regulations include those that:

1. Limit the number of businesses authorized to deliver medicinal cannabis in the city.
2. Limit the operating hours<sup>5</sup> of medicinal cannabis businesses.
3. Limit the number or frequency of medicinal cannabis sales by delivery.
4. Limit the types or quantities of medicinal cannabis.
5. Require the establishment of physical premises within the city.<sup>6</sup>

The Act does not prevent a city from adopting or enforcing reasonable regulations on retail delivery of medicinal cannabis related to:

1. Zoning requirements.
2. Security or public health and safety requirements.
3. Licensing requirements.
4. Imposing or collecting applicable state or local taxes on retail sales of medicinal cannabis occurring within the city.
5. Regulations consistent with requirements or restrictions imposed on cannabis businesses by state law or regulations issued by the California Department of Cannabis Control (DCC).<sup>7</sup>

### What principles should cities keep in mind as they draft new ordinances?

Cities that prohibit the delivery of cannabis **must** repeal or stop enforcing any prohibition on retail delivery of medicinal cannabis to patients or caregivers in the city.

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1. Cal. Bus. & Prof. Code §§ 26320-26325. In enacting the Act, the Legislature determined that access to medicinal cannabis is an integral aspect of access to health care and sought to ensure that Californians throughout the state have timely and convenient access to safe, effective, and affordable medicinal cannabis. (Cal. Bus. & Prof. Code § 26320.)
  2. Note: With respect to charter city authority, the Act states: "This chapter addresses a matter of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution." (Cal. Bus. & Prof. Code § 26325.)
  3. Full local control is maintained for commercial adult-use cannabis deliveries. (Cal. Bus. & Prof. Code § 26324.)
  4. Cal. Bus. & Prof. Code § 26322.
  5. Note: Under state law, licensed retailers may only engage in sales and deliveries of cannabis between the hours of 6:00 a.m. and 10:00 p.m. (Cal. Code Regs. § 15403.)
  6. Cal. Bus. & Prof. Code § 26322(a)(1)-(5).
  7. Cal. Bus. & Prof. Code § 26322(b)(1)-(5).

Cities adopting or amending cannabis ordinances should consider whether to:

1. Regulate medicinal cannabis delivery or simply not prohibit it. [The DCC regulates the delivery of medicinal cannabis](#).<sup>8</sup> A city will want to consider whether to leave regulation to the DCC or adopt its own reasonable regulations, as outlined above.<sup>9</sup>
2. Require a business license (and payment of business license tax) to deliver medicinal cannabis within the city. A business license tax may be imposed at either a flat rate or proportionate to sales within the city.
3. Limit the number of non-storefront retailers with physical premises in the city.<sup>10</sup>
4. Place an explicit prohibition on the delivery of “cannabis accessories,”<sup>11</sup> branded merchandise of the licensee, or “promotional materials.”<sup>12</sup> The Act only requires the delivery of “cannabis”<sup>13</sup> and “cannabis products.”<sup>14</sup>
5. Include a statement that the ordinance shall not be interpreted as prohibiting patients within the city or their caregivers from purchasing by delivery sufficient medicinal cannabis to meet their demands in a timely and readily accessible manner.

For a complete discussion of regulating cannabis, see Part 3 of [Seed to Sale: A Guide to Regulating Cannabis in California Cities \(2021\)](#).<sup>15</sup> For examples of city ordinances and regulations that allowed for the delivery of cannabis before the adoption of SB 1186, see:

- [City of Burlingame](#)
- [City of Coachella](#)
- [City of Palm Springs](#)
- [City of San Luis Obispo](#)
- [Town of Truckee](#)
- [City of West Hollywood](#)
- [City of Wildomar](#)
- [Town of Yountville](#)

### **Are there any resources available for cities that need to comply with the Act?**

Yes. The 2022-23 State Budget included \$20.5 million for the Retail Access Grant, which helps local governments develop and implement cannabis retailer licensing programs. More information about the Retail Access Grant can be found on the DCC's [website](#) and in the DCC's [Grant Guidelines \(Feb. 2023\)](#).

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8. Cal. Code Regs., tit. 4, §§ 15414-15421.

9. Cal. Bus. & Prof. Code § 26322(b)(5).

10. But remember, the ordinance cannot require the physical presence of a non-storefront retailer. Any limit on the number of non-storefront retailers with a physical premises in the city may not have the effect of prohibiting delivery of sufficient amount to respond to need.

11. Cal. Code of Regs., tit. 4, § 15000, subd. (g).

12. Cal. Code Regs., tit. 4, § 15000, subd. (ggg).

13. Cal. Health & Saf. Code § 11018.

14. Cal. Code Regs., tit. 4, § 15000, subd. (j).

15. Note: the Guide was published before the adoption of SB 1186.