



March 29, 2022

The Honorable Richard D. Roth
Chair, Senate Business, Professions and
Economic Development Committee
1021 O Street, Room 3320
Sacramento, CA 95814

**Re: Senate Bill 1186 (Wiener) – OPPOSE
As Amended March 10, 2022**

Dear Senator Roth:

On behalf of the Rural County Representatives of California (RCRC), the California State Association of Counties (CSAC), and the League of California Cities (Cal Cities) write to inform you of our oppose position to Senate Bill 1186, which would severely undermine local decision-making under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

With the enactment of MAUCRSA, there are a large number of licensed industry actors participating in the regulated commercial cannabis market. The ability of local jurisdictions to regulate business entities participating in their local area was central to the passage of both the original Medical Cannabis Regulation and Safety Act (MCRSA) and Proposition 64, and is consequently integral to the combined MAUCRSA.

We believe that local control must be sustained to ensure counties and cities can set regulatory standards associated with local land-use authority. This includes the ability to restrict or prohibit commercial cannabis activities or impose stricter local standards than those afforded in State regulations. SB 1186 undermines the intent of MAUCRSA by (1) eliminating a local jurisdiction's ability to prohibit medical cannabis retail activities, regardless of the needs or conditions in the jurisdiction, and (2) restricting the ability for the large number of jurisdictions that permit and regulate cannabis retailers to set appropriate local regulations which are developed in a public process.

The Legislature worked closely with stakeholders to create a regulatory framework for medical cannabis over a year before Proposition 64 was enacted. That legislatively-enacted framework serves as the basis of regulatory structure provided for in the adult-

use scheme. In the construction of both frameworks, the crafters recognized the critical need for local control, primarily as part of cities' and counties' land-use authority. California's program for cannabis regulation was never intended to compel the siting of cannabis businesses where local conditions made them a poor fit, nor for local regulation to be a disfavored afterthought where such activities are permitted. Rather, local jurisdictions were – and remain – a critical partner in cannabis regulation, without whose willing participation this program cannot succeed. SB 1186 would disregard both this intent, and the reality that local jurisdictions in California have vastly different needs.

Counties and cities have done their part in the implementation of commercial cannabis regulations. SB 1186 proceeds entirely from the premise that there are serious “barriers” to medical cannabis access in California. That is simply untrue. Our state produces three times the amount of cannabis that the California market can consume, and there are well over 200 jurisdictions permitting some form of medical and adult-use retail, with additional jurisdictions coming online in 2022. Thirty-three counties allow for both medical and adult-use cannabis retail, which accounts for a total population of 26,610,551 or 67.4% of Californians. Twenty counties that do not authorize cannabis retail have at least one incorporated city that does allow retail and, in many cases, multiple cities. This means **99% of Californians live in a county where retail is allowed** either within the county, or within a city, and in most cases both. In addition, approximately 179 cities allow for retail, with many jurisdictions currently developing local cannabis regulations for both medical and adult use. Considering 57.14% of voters approved proposition 64, and 67.4% of the state's population resides in counties with medical and adult-use retail, we have demonstrated commitment to expanding access without undermining local control promised to cities and counties in MAUCRSA.

Moreover, the overwhelming number of counties and cities that have not yet moved toward permitting commercial cannabis activities have hesitated not for ideological reasons, but rather in order to determine what is appropriate in their respective jurisdiction, analyze the environmental impacts of moving forward with a cannabis regulatory scheme, and how the state is handling the backlog of provisional licenses. Permitting any new industry – particularly one with well-documented state regulatory challenges – is a complex matter. While any industry would prefer the simple expedient of overriding local concerns and regulations, such an approach is manifestly bad for communities and for California – and this is no different for the cannabis industry.

Further, in smaller jurisdictions, a single retailer or delivery service (which is likely the capacity a small jurisdiction market can support) cannot finance a county or city's regulatory structure (general business licenses, inspection fees, environmental review, etc.). Cost recovery through permit fees, etc., would be wholly unaffordable for any cannabis business. In other words, a small county or city cannot recover its regulatory costs with just one or two storefront facilities or delivery operations. AB 1186 nonetheless requires every jurisdiction to assume there will be retail applicants and prepare regulatory ordinances accordingly, but the initial costs that many of these jurisdictions incur will

never be fully recouped. For example, even the most enthusiastic cannabis-permitting counties found on the North Coast, or cities in southern California, have experienced a significant loss of their General Fund monies in their efforts to meet both local and state-imposed regulatory costs.

SB 1186 further impairs local control in jurisdictions that permit cannabis medical retail, now or in the future, by severely limiting counties' and cities' ability to regulate cannabis business. The bill would prohibit counties and cities from adopting regulations deemed to "unreasonably restrict" access. The broad and entirely open-ended definition of "unreasonable" in the bill is little more than a recipe for unending litigation for many years to come. Litigators will profit – cannabis businesses and communities will not. As noted, California's cannabis regulation scheme *assumes* that local jurisdictions will play a significant regulatory role and does not depend on the state to be the sole author and enforcer of meaningful rules. This portion of the bill would penalize those jurisdictions that have stepped up and crafted regulatory schemes to ensure the successful integration of cannabis businesses into their community, by subjecting them to ceaseless legal attacks. Further, amending existing local ordinances that were developed and approved in an open public process will pose a significant fiscal impact on jurisdictions, and cannot be recouped through fees. All of this undermines the spirit of MAUCRSA.

We understand that amendments are being considered that would remove the explicit authorization for local jurisdictions to "[l]imit the sale of medicinal cannabis to storefront retail sale" - with the apparent intent of compelling jurisdictions to permit delivery services. While delivery services are often a key component of local access efforts, delivery activities - which are dispersed through the community - can be harder to regulate than storefront locations, and consequently are not appropriate for all jurisdictions. Legal action in the Fresno County Superior Court has clarified that local jurisdictions currently have the ability to restrict or prohibit cannabis delivery transactions under MAUCRSA, and this bill's attempt to remove that tool from communities' regulatory toolbox should be rejected.

Changing the local authorization rules while the state is still in the implementation phase of the regulatory framework will break the partnership and trust that either currently exists or awaits. This will impede the gradual, but consistent, progress that local jurisdictions have made toward expanding cannabis retail permitting throughout the state. The trends, as demonstrated by actual data noted above, are clear and positive. SB 1186 would obstruct this momentum and set the state's cannabis industry back a decade to the era of haphazard regulation, distrust, and litigation. We see that as counter-productive to the overall goals put forth by those who wish to promote further access.

For these reasons, we oppose SB 1186 and respectfully request your "No" vote when this bill is heard before your committee. If you have any questions, please contact Sarah Dukett (RCRC) at sdukett@rcrcnet.org, Ada Waelder (CSAC) at awaelder@counties.org, or Elisa Arcidiacono (Cal Cities) at earcidiacono@calcities.org.

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Sincerely,



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cc: Members of the Senate Business, Professions and
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