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Assemblyman Jim Woods February 21, 2019
Senator Mike McGuire
Ukiah Valley Conference Center
200 S. School Street
Suites D & K
Ukiah, CA 95437

Re: SB 67

Assemblyman Woods and Senator McGuire,
Thank you very much for your efforts to push through urgency legislation to extend temporary state commercial cannabis licenses for applicants who have already submitted annual license applications for the same commercial cannabis activity on the same premises by that applicant.

In response to a question as to whether this proposed legislation would provide licensing coverage for the categories of applicants who most need it, I identified a few issues of concern. The last item, may possibly be merely my misunderstanding or a clumsy wording and not necessarily in need of expansion depending on its interpretation.

1. There are MANY small cultivators that only now are finding out that they must either switch cultivation styles or diversify and engage in multiple styles. There are also many that are only now finding that they must either expand or contract. The changed circumstances are due to the change in the market, the extraordinary expenses for the entire process across all agencies, and the continued unknowns. The failure to accurately predict even three months ago, is no fault of these small businesses. Currently, CDFA considers a change in size or style to require a NEW annual application. That means, without the ability to have that new style or size authorized under their existing temp or a Provisional that is issued off of an annual previously submitted for a different style or size, the small cultivator has no way to conduct that activity until after the new annual application is processed. That new annual is sent to the back of the queue. It could be 6 months or more before they are processed. Effectively, that could wipe out many of these small operators. The proposed statute only limits the extension for the same type of commercial cannabis activity (i.e., cultivation to cultivation, manufacturing to manufacturing, etc.) on the same property by the same applicant. It does NOT limit it to the same size or style specifically. However, CDFA has maintained the interpretation --- using the same language that was in the Provisional licensing statute that was passed that refers to same type of commercial cannabis activity and not the size or style (small to specialty, outdoor to mixed light, etc.)---- that a change in size or style requires a new application. I fear that without statutory language specifically allowing annual applicants to change size or type (with appropriate change in application fee, and supporting documents if needed), many small operators will be wiped out. If Outdoor cultivators who have recently decided they must change size or switch to all or partial Mixed Light to stay in the game, they will be forced to wait until most of the way through the outdoor growing season before being allowed to conduct that activity if there is no specific mechanism for them to be able to indicate the switch now. Effectively, the best

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actors, who submitted their annual applications very early, are being penalized the worst. For example, I know of a cultivator that submitted her annual application last June. There was no way for her to know at the time that the bottom would drop out of the outdoor market or that her CDFW application, which was submitted 13 months ago would require 4 rounds of negotiations with CDFW's unreasonable requests for conditions, or that after years of trying to do things right, she finally is so close to running out of funds to continue that she is forced to take on partners who insist she switch to mixed light. We must have a pathway for these small operators to switch sizes and styles in already submitted applications. Again, I believe the language of the statute would allow it, but without a specific directive from the legislature, I believe that CDFA will continue to interpret the same language (as was in the provisional licensing statute) as requiring a brand new application that must go to the back of the line. Additionally, many applicants who did realize they needed to switch, were told by CDFA they must WITHDRAW their prior application (instead of letting it proceed and applying for a new type and withdrawing the first only after the second is about to issue). This folks were sent to the back of the line already and in some cases, their temps have already or are about to expire and now their annual is far behind where it had been! I'm not sure if there is anything we can do about that, but it demonstrates how early actors wind up getting the brunt of the impact of the confusion, which only serves to discourage folks from acting in the first rounds or in a timely manner since they want to wait to see how things will eventually settle down and make more sense or have fewer unintended consequences.

2. Finally, there is no avenue for those whose temps already expired or for the 200 or so applicants (according to CDFA) who submitted applications for temps before the publicized December 1st timeframe and whose applications slipped through the cracks (even though applications submitted long after that made it through).
3. Proposed Subsection (1) (one of the three possible basis that allows the temp to be extended if the applicant had applied for an annual license before the expiration of the temp) refers to the situation where the application is pending pursuant to 26055(g) (2), which refers to the process by which notification to local jurisdictions happen if the applicant has not voluntarily provided the proof needed to demonstrate compliance with local laws, the time frames for such procedure and the presumption made if no response is obtained. If the new proposed subsection (1) allows for extension of a temp (if the applicant has submitted an annual) only refers to the mandatory state request to local authorities with a specific response time, etc., and does not refer also to the wrong kind of authorization given (in our case, Mendocino County issues an embossed receipt of application which allows the applicant to continue to operate long before their annual permit is issued), then we could have folks eliminated. However, the subsection it is interpreted to encompass all types of local verification, then we are ok. There has been some back and forth with CDFA as to whether final annual permits are required or whether embossed receipts of applications will suffice.

Thank you again for looking at these issues carefully. Please let me know if there is anything else I can do to be helpful.

Hannah Nelson