

MARIJUANA REGULATIONS AND LEGISLATION:

LOOKING BACK, LOOKING FORWARD



August 2016

Marijuana in California

1996 - Voters approved Prop 215, a voter referendum, to legalize marijuana for medical use.

2003 - Gov. Davis signed SB 420 (the Medical Marijuana Protection Act) into law which created requirements for ID cards and established the marijuana “collective” growers system.

2010 - Gov. Schwarzenegger signed into law SB 1449, which made possession of less than an ounce an infraction and a fine.

Medical Marij. Regulation & Safety Act

In late 2015 Gov. Brown signed into law:

- SB 643 – Created licensing and other regulations for clinics that may have issued prescriptions to patients without valid health needs. Additional req. for dispensaries (must be 600 ft. from school, must submit detailed operational plan, etc.)
- AB 266 – Established a new agency – the Bureau of Medical Marijuana Regulation - to oversee licensing.
- AB 243 – Regulations for medical cultivators and gives the state water boards authority to regulate water, chemicals and sediment in cultivation.

Medical Marij. Regulation (cont.)

- Additional legislation as part of these bills include:
 - ▣ Medical marijuana “cooperatives” will be phased out and replaced with state-licensed businesses (through the Dept. of Food and Ag)
 - ▣ Businesses testing/processing marijuana will be licensed by the Dept. of Public Health
 - ▣ Businesses transporting, distributing and retailing will be licensed by the Marijuana Bureau

These regulations are set to take place in 2018

Medical Marij. Regulation (cont.)

2016 - Medical Marijuana Regulation modified:

- As part of the 16-17 Budget Bill (SB 837), changes were made to the bills passed in 2015.
- Directs the State Water Resources Control Board and Dept. of Fish and Wildlife to create task forces to assess the environmental damage of cultivation.
- Growers must obtain water permits, source where their water is coming from, may have to prove “riparian” water rights and growers are not automatically entitled to water diversions – even on their own property.

Current Status Under Federal Law

- Illegal under federal law - classified as a Schedule 1 drug (no accepted medical use, high likelihood of abuse)
- In 2005, US Supreme Court: federal authorities could prosecute CA medical marijuana patients for use and cultivation under federal law.
- 2015, Congress: directive prohibits DOJ from spending any funds to enforce laws that interfere with CA's medical marijuana users
 - Fed judge confirmed that DOJ is forbidden from prosecuting or otherwise interfering with cannabis operations that are in compliance with state law. (US v. MAMM)

Marijuana Cultivation Statistics

- Estimated 50,000 pot farms in California (SWRCB – but experts say this is a low estimate)
- Estimated that 60%-70% of marijuana consumed in the U.S. is grown in California (USDOJ)
- Primarily grown outdoors in California
- Many trespass grows on parks and other protected lands
- Grows often take place in sensitive areas near streams, other biodiverse areas
- Environmental impacts include: leveling of hilltops, clearing of forests and native vegetation, unregulated road construction, landslides, erosion, clogging of streams with dislodged soil, poisoning and poaching of wildlife, and drying up and polluting of streams and rivers.
- Many trespass cultivation sites are large repositories of trash, containing plastic hoses, fuels, pesticides, fertilizers, and food and human waste.

Environmental Impacts

In 2013, California authorities seized **329 outdoor grow sites** and hauled away:



1.2 million plants



119,000 pounds of trash



17,000 pounds of fertilizers



40 gallons of pesticides



244 propane tanks



61 car batteries



89 illegal dams



81 miles of Irrigation piping

Source: Mother Jones

Adult Use of Marijuana Act

Overview:

- Proposition 64 on November 2016 ballot
- Legalize possession, sale, cultivation in CA for individuals over 21
- Regulate commercial sales, establish taxes
- Has funding for environmental protection, enforcement, restoration related to cultivation

AUMA – Prop 64 (cont.)

- Taxes (effective 1/1/2018):
 - ▣ Excise tax: 15% on all sales (medical with ID is exempt)
 - ▣ Grower tax: \$9.25/oz. of flowers and \$2.75/oz. of leaves
 - ▣ These taxes and state/local sales tax expected to raise over \$1 billion annually
 - ▣ Excise and Growers taxes are put into a special CA Marijuana Tax Fund which distributes to education, law enforcement and environmental restoration.

AUMA – Prop 64 (cont.)

- Initial distributions from the tax fund:
 - Administrative costs
 - \$10 million/year for 10 years to public university to research and evaluate effects of AUMA
 - \$3 million/year to CHP for 5 years
 - \$10 million/year for 5 years then \$50 million a year after to Office of Econ Develop for grants for economic development/job placement in areas disparately affected by past fed and state drug policies.
 - \$2 million a year to UCSD Center for Medical Cannabis Research

AUMA – Prop 64 (cont.)

- After initial distributions the following will go to:
 - ▣ **60%** of remaining funds to Youth Ed, Prevention, Early Intervention and Treatment Account for education and substance abuse programs.
 - ▣ **20%** of remaining funds to State and Local Law Enforcement Account to administer new laws, training, grants for govt and orgs that provide education.
 - ▣ **20%** of remaining funds to the Environmental Restoration and Protection Account for environmental cleanup, restoration of public lands damages by cultivation and enforcement against illegal water diversion, illegal cultivation and use of marijuana on public lands.

AUMA – Prop 64 (cont.)

Environmental funding is allocated into 3 buckets:



AUMA – Prop 64 (cont.)

Environmental funding is allocated as follows:

1. Clean-up, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities, including damage from the past.
 - Funds can be granted to nonprofits for these purposes, including the support of local partnerships.
 - Funds go to State Parks and CDFW
 - Note use of “in watersheds”

AUMA – Prop 64 (cont.)

Environmental funding is allocated as follows:

2. Stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana on public lands.
 - Funds go to State Parks and CDFW

AUMA – Prop 64 (cont.)

Environmental funding is allocated as follows:

3. Watershed enforcement purposes of CDFW and a multi-agency task force – investigate, enforce and prosecute offenses to ensure reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats

AUMA – Prop 64 (cont.)

Additional elements regarding allocations:

- Funds are allocated to State Parks and CDFW by the Natural Resources Secretary.
- During first five years, funding priority is for restoration purposes.
- Funds cannot replace allocation of other funds for these purposes. Specifically, General Fund appropriations to Parks and CDFW cannot be reduced below the 2014-15 state budget funds.

AUMA – Estimated Revenues

- Legislative Analyst's Office estimates revenues could be in the high hundreds of millions to over \$1 billion annually.
- Also saving tens of millions to over \$100 million annually in state and local costs (related to criminal enforcement)

If annual revenue was \$1 billion, after allocations the Environmental Account would get about of \$187 million (although that is not accounting for multi-agency state administration costs, which would reduce that amount)

Discussion

- AUMA prospects
- Impact on conservation
- Why are medical marijuana laws not enough?



Questions?
Comments?

Thank you!

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