

California Recreational Cannabis Laws

California

California Proposition 64, the California Marijuana Legalization Initiative, was on the November 8, 2016, ballot in California as an initiated state statute. Supporters referred to the initiative as the Adult Use of Marijuana Act. It was approved.

Status of marijuana in California

In California, the possession or use of marijuana for recreational purposes was illegal. The passage of Proposition 215 in 1996 legalized medical marijuana. Although the Department of Justice under President Obama does not prosecute most individuals and businesses following state and local marijuana laws, both medical and recreational marijuana are illegal under federal law.[8][9] Proposition 64 made recreational marijuana legal in California state law.

Changes to state law

Proposition 64 allowed adults aged 21 years or older to possess and use marijuana for recreational purposes. The measure created two new taxes, one levied on cultivation and the other on retail price. Revenue from the taxes will be spent on drug research, treatment, and enforcement,

health and safety grants addressing marijuana, youth programs, and preventing environmental damage resulting from illegal marijuana production.

State of ballot measure campaigns

The Yes on 64 campaign out-raised opponents eleven-to-one. As of November 7, 2016, supporters had raised \$22.5 million in contributions, while No on 64 had raised \$2.1 million. Sean Parker, founder of Napster and former Facebook president, had contributed \$8.6 million to Yes on 64. As of November 7, 2016, the California Secretary of State reported that Julie Schauer, based in Pennsylvania, contributed almost \$1.4 million in opposition to Proposition 64, which amounted to about 65 percent of opposition funds. California's two largest newspapers, the Los Angeles Times and the San Francisco Chronicle, endorsed the measure. The California Democratic Party also endorsed Proposition 64, and the California Republican Party came out in opposition. Support for the initiative ranged between 51 and 60 percent, and averaged around 56 percent, since the beginning of September 2016.

Initiative design

Who can use marijuana?

Proposition 64 legalized the recreational use of marijuana for adults aged 21 years or older. Smoking was permitted

in a private home or at a business licensed for on-site marijuana consumption. Smoking remains illegal while driving a vehicle, anywhere smoking tobacco is, and in all public places.

Up to 28.5 grams of marijuana and 8 grams of concentrated marijuana are legal to possess. However, possession on the grounds of a school, day care center, or youth center while children are present remains illegal. An individual is permitted to grow up to six plants within a private home, as long as the area is locked and not visible from a public place.

Who can sell marijuana?

To sell marijuana for recreational use, businesses need to acquire a state license. Local governments can also require them to obtain a local license. Businesses are not be authorized to sell within 600 feet of a school, day care center, or youth center. The initiative also prevents licenses for large-scale marijuana businesses for five years in order to prevent "unlawful monopoly power."

Who will regulate marijuana?

The Bureau of Medical Cannabis Regulation was renamed the Bureau of Marijuana Control. It is responsible for regulating and licensing marijuana businesses.

Counties and municipalities have been empowered to

restrict where marijuana businesses could be located. Local governments can also completely ban the sale of marijuana from their jurisdictions.

How will marijuana be taxed?

Proposition 64 created two new excise taxes on marijuana. One is be a cultivation tax of \$9.25 per ounce for flowers and \$2.75 per ounce for leaves, with exceptions for certain medical marijuana sales and cultivation. The second is a 15 percent tax on the retail price of marijuana. Taxes will be adjusted for inflation starting in 2020.

Local governments have been authorized to levy taxes on marijuana as well.

Where will revenue be spent?

Revenue from the two taxes will be deposited in a new California Marijuana Tax Fund. First, the revenue will be used to cover costs of administrating and enforcing the measure. Next, it will be distributed to drug research, treatment, and enforcement, including:

\$2 million per year to the UC San Diego Center for Medical Cannabis Research to study medical marijuana.

\$10 million per year for 11 years for public California universities to research and evaluate the implementation

and impact of Proposition 64. Researchers would make policy-change recommendations to the California Legislature and California Governor.

\$3 million annually for five years to the Department of the California Highway Patrol for developing protocols to determine whether a vehicle driver is impaired due to marijuana consumption.

\$10 million, increasing each year by \$10 million until settling at \$50 million in 2022, for grants to local health departments and community-based nonprofits supporting "job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies."

The remaining revenue will be distributed as follows:

60 percent to youth programs, including drug education, prevention, and treatment.

20 percent to prevent and alleviate environmental damage from illegal marijuana producers.

20 percent to programs designed to reduce driving under the influence of marijuana and a grant program designed to reduce negative impacts on health or safety resulting from the proposition.

What will penalties be?

Individuals under age 18 convicted of marijuana use or possession are required to attend drug education or a counseling program and complete community service. Selling marijuana without a license is punishable by up to six months in a county jail, a fine up to \$500, or both.

With Proposition 64's approval, individuals serving criminal sentences for activities made legal under the measure are eligible for re-sentencing.

The official ballot title was as follows:

Marijuana Legalization. Initiative Statute.

The long-form ballot summary was as follows:

Legalizes marijuana under state law, for use by adults 21 or older.

Designates state agencies to license and regulate marijuana industry.

Imposes state excise tax of 15% on retail sales of marijuana, and state cultivation taxes on marijuana of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves.

Exempts medical marijuana from some taxation.

Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products.

Prohibits marketing and advertising marijuana directly to minors.

Allows local regulation and taxation of marijuana.

Authorizes re-sentencing and destruction of records for prior marijuana convictions.

The shorter ballot label summary was as follows:

Legalizes marijuana under state law, for use by adults 21 or older. Imposes state taxes on sales and cultivation.

Provides for industry licensing and establishes standards for marijuana products. Allows local regulation and taxation.

Fiscal Impact: Additional tax revenues ranging from high hundreds of millions of dollars to over \$1 billion annually, mostly dedicated to specific purposes.

Reduced criminal justice costs of tens of millions of dollars annually.

Petition summary

The long-form, official ballot summary for Proposition 64 was changed from the initial summary provided to initiative proponents for the purpose of circulating the initiative for signature collection. The original summary provided for inclusion on signature petition sheets was:

Legalizes marijuana and hemp under state law. Designates state agencies to license and regulate marijuana industry. Imposes state excise tax on retail sales of marijuana equal to 15% of sales price, and state cultivation taxes on marijuana of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves. Exempts medical marijuana from some taxation. Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products. Allows local regulation and taxation of marijuana. Prohibits marketing and advertising marijuana to minors. Authorizes re-sentencing and destruction of records for prior marijuana convictions.

Fiscal impact

Note: The fiscal impact statement for a California ballot initiative authorized for circulation is jointly prepared by the state's legislative analyst and its director of finance. The statement was as follows:

The size of the measure's fiscal effects could vary significantly depending on:

- (1) how state and local governments choose to regulate and tax marijuana,
- (2) whether the federal government enforces federal laws prohibiting marijuana, and
- (3) how marijuana prices and consumption change under the measure.

Net additional state and local tax revenues that could eventually range from the high hundreds of millions of dollars to over \$1 billion annually. Most of these funds

would be required to be spent for specific purposes such as youth programs, environmental protection, and law enforcement.

Net reduced costs potentially in the tens of millions of dollars annually to state and local governments primarily related to a decline in the number of marijuana offenders held in state prisons and county jails.

California's paperwork for starting a business, or getting involved in the industry is handled at <https://www.cdph.ca.gov/programs/MMP/Pages/default.aspx>

Six years after Californians rejected a previous initiative that would have legalized the recreational use of marijuana, state voters this time decided to make weed legal and readily available to adults 21 and over, regardless of medical need.

Proposition 64 was the most-watched marijuana initiative on the Nov. 8 ballot as five states – also Arizona, Maine, Massachusetts and Nevada – contemplate legalizing pot for recreational use and four others have measures for medical use.

California voters approve Proposition 64 and the recreational use of marijuana

In 1996, California was the first to legalize marijuana as medicine with Proposition 215. Twenty-four other states

have followed in legalizing medical use, with four states – Washington, Colorado, Oregon and Alaska – along with Washington, D.C., approving recreational use. (now California, Maine, Massachusetts, and Nevada as well)

The outcome of Proposition 64 is expected to have a significant impact on marijuana politics nationally. But how will it change things in California, starting Day One? Here are some questions and answers.

Q: Now that Proposition 64 has passed, what can people do differently?

A: Adults 21 and over can legally consume marijuana without having a doctor's recommendation for medical use. They also can possess up to an ounce of marijuana buds or 8 grams of cannabis concentrates. For cannabis novices, that is a lot more than a single joint, or even a handful of them.

Q: What about growing marijuana?

A: The initiative immediately allows residents to grow as many as six pot plants at home, indoors or in enclosed structures. Local governments can ban outdoor cultivation outright as well as set standards for indoor cultivation. Sacramento County bans all outdoor cultivation, and the city of Sacramento bans open-air pot gardens (including nonpermanent greenhouses) in residential areas. And people who are renting may want to check with their

landlords, since owners can set rules for what they will allow or prohibit in rental properties.

Q: Can people consume marijuana in public?

A: No. Marijuana use is allowed only on private property, not in parks or on sidewalks or anywhere where smoking is banned. People using marijuana in a public place can be subject to a \$100 infraction. The fine increases to \$250 in no-smoking areas. Also, mere possession is banned in schools or youth centers.

But pot users can consume in private clubs or at events that are licensed for on-site marijuana consumption and are not visible by people under 21 or from any public place.

Q: When – and where – will people be able to buy recreational marijuana?

A: Stores selling non-medical marijuana can open on or before Jan. 1, 2018, as a state program for retail licenses is implemented. Marijuana dispensaries can begin applying for temporary state licenses for recreational marijuana next year, but over-the-counter pot sales aren't expected until next summer.

Marijuana products only can be sold at licensed dispensaries, not at supermarkets or liquor stores or other businesses. Most of Sacramento's 30 existing medical

marijuana dispensaries are expected to offer recreational marijuana, as are the majority of current cannabis shops statewide. The city also is expected to license home-delivery services for marijuana from the dispensaries. Sacramento County bans all marijuana businesses.

Q: How much will recreational marijuana be taxed and will the taxes also apply to medical marijuana?

A: Proposition 64 will impose a 15 percent excise tax on marijuana sales that will be charged on top of state and local sales taxes. Medical marijuana users also will have to pay the new excise tax on medicinal products. But they can be exempted from sales taxes if they obtain California state medical marijuana identification cards by applying at county offices in their county of residence.

Q: What are the rules for stoned drivers?

A: Proposition 64 maintains current state laws against driving under the influence of alcohol or drugs, including pot, meaning that marijuana driving convictions may hinge on evidence of consumption and erratic driving.

The initiative's passage imposes no specific legal exposure standard for driving while stoned, such as in Colorado or Washington, where recreational marijuana use was approved by voters in 2015. However, it directs tax revenues to researchers with the University of California system and to the California Highway Patrol to

study marijuana impairment and develop “protocols and best practices” for detecting people driving under the influence of alcohol and drugs, including marijuana.

Q: What criminal penalties does Proposition 64 maintain or change?

A: Adults possessing more than an ounce of marijuana will continue to face misdemeanor charges, including a \$500 fine and up to six months in jail. Punishment for possession of marijuana for sale are being dropped from mandatory felonies and up to two years in jail to the same misdemeanor penalty.

Adults 18 to 21 will continue to face a \$100 infraction for marijuana possession, while youths under 18 can get counseling or community service in lieu of a fine. Also, the initiative would allow people convicted of a marijuana offense that is no longer a crime to petition to have their records expunged.

Q: Marijuana is still illegal federally. How can it be legal in California?

A: While pot use and sales are still prohibited under federal law, the United States Justice Department in 2013 made landmark concessions, promising not to target lawful marijuana businesses or cannabis use in states that legalized pot and also enacted and enforced “robust” regulations governing state-permitted marijuana

industries. The Justice Department said it would still target criminal operations trafficking marijuana across state lines, into the black market or to children.