

The Adult Use of Marijuana Act (Proposition 64): Frequently Asked Questions

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What is Proposition 64?

On November 8th, 2016, California voters passed Proposition 64, which authorizes the possession, transport, purchase, consumption and sharing of up to one ounce of marijuana and up to eight grams of marijuana concentrates for adults aged 21 and older. It also allows adults to grow up to six plants at their household, out of public view.

While the possession, transport, consumption and sharing of marijuana became legal immediately, retail sales of nonmedical marijuana will only begin once the state starts issuing licenses in 2018.

How does Prop. 64 address criminal penalties?

Prop. 64 eliminates or substantially reduces most criminal penalties for marijuana offenses.

People who have prior convictions for marijuana offenses that have been reduced or eliminated by Prop. 64 can petition a court to have their convictions reduced or dismissed. This applies to people that are in jail or prison, on probation or parole, or who have already completed their sentence.

For more information regarding record reclassification, please visit www.myprop64.org

What doesn't Prop. 64 change?

A number of marijuana-related activities remain illegal under Prop. 64. Law enforcement may continue to charge the most serious marijuana-related violations, such as providing marijuana to a minor (under 18), manufacturing marijuana with a volatile substance without a license, or attempting to smuggle marijuana across state lines, as felonies.

As with alcohol, driving while impaired by marijuana or with an open container of marijuana remains illegal.

Marijuana may not be consumed in public. However, Prop. 64 allows local jurisdictions to allow for onsite consumption at licensed marijuana businesses, once they are up and running.

How does Prop. 64 protect youth?

Prop. 64 prohibits the marketing and advertising of marijuana to minors, as well as near schools or youth centers. It also establishes strict packaging and labeling standards, including warning labels and child-resistant packaging, to keep marijuana products out of the hands of children.

All marijuana offenses will be treated as infractions for minors under the age of 18. They will be sentenced to free drug education, counseling and/or community service, not jail. Additionally, all records for marijuana offenses will be destroyed when a minor turns 18.

How will the adult use of marijuana be regulated?

In October 2015, Governor Jerry Brown signed into law a series of bills that together established the first statewide regulatory system for medical marijuana in California. The adult use of nonmedical marijuana will be regulated using the same framework and by the same state agencies provided for in those laws.

The Bureau of Cannabis Control will be the centralized office in the Department of Consumer Affairs. The Departments of Public Health (testing and manufacturing) and Food & Agriculture (cultivation) will also play significant roles in regulation. Supporting roles will be played by other agencies such as the Departments of Fish and Wildlife, Pesticide Regulation, Health Care Services and the Water Board.

In 2017, regulators, legislators and a wide range of stakeholders are working on developing regulations

and protocols for implementing the new law. This process will include reconciliation of California's Medical Cannabis Regulation and Safety Act with Prop. 64.

What types of licenses will be issued?

Prop. 64 provides for 19 different types of licenses—for the cultivation, manufacturing, testing, distribution and retail sale of marijuana—most of which mirror the licenses created by the 2015 medical marijuana laws.

Cultivation licenses will be issued for small, medium and large-scale growers. To protect smaller businesses, the largest cultivation licenses will not be issued for the first five years and will not allow for vertical integration.

Vertical integration—one business operating more than one license category—will be allowed as long as a business possesses a license for each activity.

A unique microbusiness license will allow a business to conduct all activities under one license if the business cultivates in an area less than 10,000 square feet.

When will California begin issuing licenses?

California's Bureau of Marijuana Control must begin issuing licenses by January 1, 2018.

Who will get licenses?

To receive a license, an applicant must have been a California resident since January 1, 2015. This restriction will expire in 2019. Licensing authorities will give priority to people who can demonstrate compliance with the Compassionate Use Act prior to September 1, 2016.

No one will be denied a license solely because they have a prior drug conviction (with the exception of a conviction for trafficking or selling an illegal substance to a minor). An agency *may*, but is not required to, deny an applicant who has been convicted of an offense that is substantially related to the functions of the business. Such offenses include felony convictions for fraud, embezzlement, deceit, drug trafficking, using a minor in a drug offense, and serious or violent crime.

How will cities and counties have local control?

Cities and counties have the ability to ban all marijuana businesses by passing a city or county ordinance. However, if they do, they will not be able to receive any of the tax revenue from Prop. 64's Local Government Fund. Cities and counties may choose to require businesses to operate with a local license or permit. Businesses must still comply with other local regulations and rules in order to receive a state license. Cities and counties may also choose to allow on-site consumption at marijuana businesses.

Cities and counties may ban adults from cultivating outdoors, but they cannot ban adults from cultivating up to six plants in an enclosed structure (such as a house, shed or greenhouse). Please check your local ordinance for more details.

How will marijuana be taxed?

Once the state begins issuing licenses in 2018, there will be a 15% retail tax on the purchase of medical and nonmedical marijuana, in addition to regular state and local sales taxes. Cultivators will also have to pay an excise tax on dried flowers (\$9.25 per ounce) and leaves (\$2.75 per ounce). Cities and counties may also establish a separate, additional tax.

Will Prop. 64 tax medical marijuana patients?

Medical marijuana patients with ID cards will be exempt from state sales tax, but they will still be required to pay the excise tax and any local taxes. Patients currently pay sales tax, and any local business tax.

How much tax revenue will Prop. 64 generate?

The state's independent Legislative Analyst's Office estimates that Prop. 64 will generate up to \$1 billion in revenue and up to \$100 million in savings annually, once the law is fully implemented.

Where will the tax revenue go?

The money generated by Prop. 64 will be deposited into the newly-created California Marijuana Tax Fund in the state treasury. The funds will be distributed annually in the following way:

- **Regulation:** The Bureau and other state bodies that are not covered by licensing fees or other specific revenue allocations of Prop. 64 will receive funds for their operating costs;

- **Research:** \$10 million will be distributed to a public university in California for research on legalization; \$3 million will be distributed to the California Highway Patrol for five years to establish DUI protocols; \$2 million will be distributed to the UCSD Center for Medicinal Cannabis Research for medical marijuana research;
- **Community Reinvestment:** \$10 million—increasing annually by \$10 million for 5 years until it peaks at \$50 million—will be distributed to community based organizations serving communities disproportionately harmed by the war on drugs;
- **Youth Drug Education/Prevention:** 60% of the remaining funds will go toward youth drug prevention, education and treatment;
- **Environmental Restoration:** 20% of the remaining funds will go toward environmental remediation, restoration and protection;
- **Local Government:** 20% will go toward state and local law enforcement, but cities and counties that ban businesses or outdoor home cultivation are not eligible for the funds.

How does Prop. 64 protect medical marijuana patients?

Prop. 64 builds on existing laws, such as Prop. 215, to strengthen medical marijuana protections by:

- adding new privacy protections for patients;
- preventing cities and counties from banning the home cultivation of marijuana inside an enclosed structure;
- exempting patients from state sales tax;
- prohibiting the lawful conduct or status of a patient from being the sole basis for restricting parental rights.

Where can Californians locate and access additional resources regarding Prop. 64 and governing entities?

- [Prop 64 text](#): The Adult Use of Marijuana Act.
- [Bureau of Cannabis Regulation](#): Information on statewide cannabis regulation.
- [Judicial Council of California \(JCC\)](#): Prop 64 information and sample forms.
- [Prop 64 – Clear Your Record](#): Free online service for printing necessary forms to clear your record.
- [Memorandum on Prop 64](#) : More information on Prop 64 resentencing from Judge J. Richard Couzens and Justice Tricia A. Bigelow.
- [Prop 64: Know Your Rights](#): Answers to frequently asked questions about the Adult Use of Marijuana Act.
- [Prop 64 data summary regarding reclassification](#): The data contained in these tables enumerates the self-reported petitions from each court filed for resentencing and/or reclassification under Proposition 64. Note that these data reflect filings/cases, not individual persons, and that data may vary due to revision/corrections in subsequent reports. The final disposition of these filings is not reported to the Judicial Council.
- [Governor's Office of Business and Economic Development \(GO-Biz\)](#): GO-Biz is California's single point of contact for economic development and job creation efforts.