

Overview of California Marijuana Laws

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California Marijuana Laws

- Federal Law
 - Marijuana (Cannabis)
 - Controlled Substances Act (21 U.S.C. § 801 et seq.)
 - Schedule I drug
 - Illegal to use or possess
 - No current federally accepted medical use

California Marijuana Laws

- Federal policy of deference to the States
 - Deputy Attorney General James Cole Memo (August 29, 2013)
 - Federal focus would be on large operations, sales to minors
 - Reliance on state and local agency regulation
 - Not likely to pursue prosecutions for medical marijuana uses
 - Federal Budget Appropriations Bills
 - DOJ/DEA cannot spend funds to prevent implementation of state **medical** marijuana laws
 - Upheld in *United States v. McIntosh*, 833 F.3d 1163 (9th Cir. 2016) (DOJ prohibited from prosecuting individuals who **strictly** comply with state medical marijuana requirements)
 - “But Congress could appropriate funds for such prosecutions tomorrow.” (*McIntosh*, at 1179.)
 - New U.S. Attorney General, Jeff Sessions?

California Marijuana Law

State Law

- Prop. 215 Compassionate Use Act (1996)
 - Voter initiative
 - Recognizes marijuana for medical uses
 - No specific regulations or processes
- Senate Bill 420 (Medical Marijuana Program Act) (2013)
 - Implements the Compassionate Use Act
 - Medical marijuana decriminalized
 - Defense to criminal prosecution for possession or use with doctor recommendation
 - Creates a cardholder system
 - Medical marijuana dispensaries become more prevalent
 - Recreational use remained illegal (pre-Prop. 64)

California Marijuana Laws

Case law

- *City of Riverside v. Inland Empire Patients Health and Wellness Center*, 56 Cal.4th 729 (2013)
 - Cities/counties may regulated and/or prohibit medical marijuana dispensaries
- *Maral v. City of Live Oak*, 221 Cal.App.4th 975 (2013)
 - Cities/counties may prohibit medical marijuana cultivation

California Marijuana Laws

- Medical Marijuana (Cannabis) Regulation and Safety Act (2015)
 - Effective 1/1/16
 - Minor amendments (budget trailer bill), effective 1/1/17
 - State regulatory framework for commercial medical marijuana operations
 - Commercial medical cultivation, testing, manufacturing, labelling, dispensing, and delivering
 - Dual licensing scheme
 - Bureau of Medical Marijuana/Cannabis Regulation within the Department of Consumer Affairs
 - Department of Food and Agriculture regulates cultivation
 - Department of Public Health regulates production and labeling of edible medical cannabis products
 - State **and** local licenses required

California Marijuana Laws

- Medical Marijuana (Cannabis) Regulation and Safety Act (2015) (cont.)
 - Local Control
 - Cities/counties retain local authority to regulate and/or prohibit medical marijuana cultivation, dispensaries, and commercial deliveries
 - Cities/counties may prohibit commercial deliveries, but must do so “explicitly”
 - Non-commercial transportation remains permitted

California Marijuana Laws

- Prop. 64 – Adult Use of Marijuana Act (AUMA)
 - Passed by voters November 8, 2016
 - Legalizes recreational use of marijuana (21 and older)
 - Use prohibited in public places; where smoking tobacco is prohibited; and within 1,000 feet of schools, day care, or youth center
 - Use prohibited while driving or riding in a car
 - Employers may maintain a drug-free workplace

California Marijuana Laws

- Prop. 64 – Adult Use of Marijuana Act (AUMA)
(cont.)
 - Dual licensing scheme for state and cities/counties
 - Bureau of Medical Marijuana/Cannabis Regulation renamed Bureau of Marijuana Control within the Department of Consumer Affairs; regulates distribution and sales
 - Department of Food and Agriculture regulates cultivation
 - Department of Public Health regulates manufacturing and testing
 - State **and** local permits required
 - State permits will issue by January 1, 2018 (maybe sooner)
 - Cities/counties may prohibit commercial activities and outdoor cultivation

California Marijuana Laws

- Prop. 64 – Adult Use of Marijuana Act (AUMA)
(cont.)
 - AUMA allows indoor personal cultivation up to six plants per private residence
 - Cities/counties may reasonably regulate but not completely prohibit
 - Reconcile with city/county ability to completely prohibit medical marijuana cultivation?
 - Do recreational users now have greater rights than medical users?

California Marijuana Laws

- Prop. 64 – Adult Use of Marijuana Act (AUMA)
(cont.)
 - Taxation
 - State excise tax – 15% of gross receipts.
 - State cultivation tax – \$2.75/ounce (leaves); \$9.25/ounce (flowers)
 - Goes to state agencies, universities, Governor’s economic development, CHP, state youth education/prevention
 - Local agencies eligible for enforcement grants
 - No grants to agencies who have banned outdoor cultivation or retail sales
 - Local agencies retain local taxing powers

California Marijuana Laws

- Assembly Bill 729 (2017) – Amends AUMA
 - License suspension/revocation
 - Allowing persons under 21 to engage in nonmedical marijuana commercial activities (three violations/36 months)
 - Signage
 - Mandated: “No persons under 21”
 - Allowed for dispensary: “without identification authorizing the purchase of medical cannabis.”
 - No vending machines
 - Allows peace officer inspections (in addition to Bureau employees)
 - Expands 600 foot commercial operations prohibition
 - **From** schools, day care centers, youth facilities; **to** include playgrounds, hospitals, and churches
 - Transparent windows and doors for law enforcement view
 - Agencies may use persons under 21 for sting operations

California Marijuana Laws

Thank you!