

**August 1, 2017**

**Regular Meeting**

**Item #8c**

**Letters regarding  
National Monuments**

Hello Mono County Board of Supervisors,

When I saw the item on next week's BOS agenda about national monument letters that have been received by the BoS, I remembered that I had intended to write you and urge you do all in your power to ensure that the current California National Monuments under review remain as they are without modification.

As you undoubtedly know, Rep. Cook has released a letter specifying a number of California National monuments for which he supports either their elimination or shrinkage. Hopefully you have in the past and will continue to express to Rep. Cook the Mono BOS's support for the California National monuments under review. The same goes for the National Marine Sanctuaries (four of which lie off the California coast) and the Marine National monuments under review. (The deadline for comment on the National Marine Sanctuaries and Marine National Monuments has been extended to August 17).

I have attached three comments letters I submitted directly to the government portal ([www.regulations.gov](http://www.regulations.gov)) supporting the Mojave Trails National Monument, the Giant Sequoia National Monument, and the California Marine Sanctuaries.

Thank you,



Malcolm Clark  
637 John Muir Road  
PO Box 3328  
Mammoth Lakes, CA 93546-3328  
760-924-5639  
[Wmalcolm.clark@gmail.com](mailto:Wmalcolm.clark@gmail.com)

**WARREN MALCOLM CLARK  
637 John Muir Road  
PO BOX 3328 (required for U.S. mail)  
MAMMOTH LAKES, CA 93546-3328  
(760)-924-5639 wmalcolm.clark@gmail.com**

July 28, 2017

Ryan Zinke  
U.S. Secretary of the Interior  
Re: DOI-2017-0002-- National Monument Review: Giant Sequoia NM

Dear Secretary Zinke,

I urge you to leave intact the present boundaries and management plans of the Giant Sequoia National Monument (NM).

The Giant Sequoia is one of the world's oldest living species and one of the world's largest trees. The Boole Tree, for example, is almost 269 feet high and 113 feet in circumference. The Giant Sequoia is found only in California and *only* grows on the western slopes of the Sierras. President Bush recognized its value to the world when he required protection of all Sequoia trees in 1992. His Proclamation 6457 did *not* specify an amount of acreage to be protected, but required the protection of all existing Sequoia trees. To ensure the protection of the majority of Sequoias that were clustered in the southern Sierra, President Clinton designated this area a national monument. While the enabling legislation that gives presidents the authority to establish national monuments says "[t]he limits of the parcels shall be confined to the smallest area compatible with the proper care and management of the objects to be protected", courts have ruled that it is entirely within the discretion of a president establishing a national monument to determine what that minimum area is.

Giant Sequoia NM protects 33 Giant Sequoia groves, but includes the surrounding ecosystem of which specific giant sequoia groves constitute only a part. This monument covers half of the Sequoia groves including the ten tallest. Proper management required a natural fire regime on a landscape scale, in contrast to the fire suppression regime once practice. Precious gross hawks, martens, fishers, and spotted owls are part of the Sequoia ecosystem.

Timber interests opposed the establishment of the Giant Sequoia NM and continue to advocate elimination or reduction of size in the interests of increased timber production. Reducing the national monument in order to allow logging puts the Giant Sequoia tree at risk of becoming an endangered species. Logging these trees would be one of the most morally bereft actions of the U.S. Government in history. It would destroy an intact ecosystem, cause severe erosion, and destroy the fishing industry when sediment flows into the local rivers. Further allowing logging

by reducing the size of the monument will not restore the local timber industry whose decline (as shown by timber production from the Sequoia National Forest) had begun well before the establishment of the Giant Sequoia NM.

I live within 10 miles of a national monument – Devils Postpile (not one of the NM's under current review). I know how important national monuments are to local and regional economies. Giant Sequoia NM brings enormous benefits to our state by providing opportunities for recreation and our thriving outdoor recreation economy. National monuments attract visitors from around the world. According to the 2017 Headwaters Economics study, the counties neighboring the Giant Sequoia NM have experienced population growth of 21%, job growth of 20%, real personal income growth of 50% and per capita income growth of 24%.

The benefits of preserving our natural world far out weight the benefits of cutting it down. While one of three surrounding counties has supported a significant reduction in the size of Giant Sequoia NM, the governments of the other two surrounding counties declined to support a reduction in size and the town council of Porterville has explicitly supported the current status of the NM. Statewide support is shown not only by the comments and testimony submitted as part of the process that led to the proclamation establishing the NM designation, but also by a letter of support for Giant Sequoia Monument and five other NMs in California that are under review sent in June by California Senators Feinstein and Harris and the joint resolution of support for all six NMs under review in California which was passed in June by the California State Assembly and Senate.

Please do not recommend elimination or reduction in the size of the Giant Sequoia National Monument.

Sincerely,



Malcolm Clark  
Wmalcolm.clark@gmail.com 760-924-5639  
637 John Muir Road, Mammoth Lakes, CA 93546-3328

**WARREN MALCOLM CLARK  
637 John Muir Road  
PO BOX 3328 (required for U.S. mail)  
MAMMOTH LAKES, CA 93546-3328  
(760)-924-5639 wmalcolm.clark@gmail.com**

July 28, 2017

Ryan Zinke  
U.S. Secretary of the Interior  
Re: DOI-2017-0002-- National Monument Review: Mojave Trails NM

Dear Secretary Zinke,

**I urge you to preserve intact the Mojave Trails National Monument (NM).** This NM bridges the area between Joshua Tree NP, the Mojave National Preserve, and Death Valley. Precisely because this monument is large and is adjacent to other large, protected areas is it possible for future generations to know a natural desert terrain; what it was like to cross it or live in it. Together, these protected landscapes capture the incredible vastness of the desert.

The monument includes the largest private land donation to the federal government. I and my wife have personally supported a land trust that acquires inholdings in federal lands and then donates them to the particular federal park or forest. Such acquiring of lands for national parks, forests, monuments, etc., should be encouraged. To subsequently roll back the declaration sends the wrong message to private individuals who wish to support such activities.

Mojave Trails NM provides an essential corridor for Desert Bighorn Sheep and other species to migrate across the desert. It protects a unique desert terrain, the endangered desert tortoise, bighorn sheep, Cadiz Dunes, lava flows—Amboy (America's youngest volcano) and Pisgah Craters, Cambrian and Miocene fossils, archeological sites and ancient trading routes of the Native Americans, early wagon trains, and part of the famous Route 66. Wagon wheel ruts from the 1800s are still visible today. Desert environments are fragile and it takes hundreds of years for them to recover from human impacts. Mineral extraction scars the landscape.

Mojave Trails NM will bring enormous benefits to our state by providing opportunities for our thriving the outdoor recreation economy. National monuments attract visitors from around the world. 2017 results of Headwaters Economics studies show that the areas around all national monuments studied had increased economic growth following the designation, most of them higher rates of growth than comparable areas with no national monuments. With a monument designation, we save an area of desert for future generations.

**Please leave the Mojave Trails National Monument as it is; do not reduce it or eliminate it.**

Sincerely,

*Malcolm Clark*

Malcolm Clark  
[Wmalcolm.clark@gmail.com](mailto:Wmalcolm.clark@gmail.com) 760-924-5639  
637 John Muir Road, Mammoth Lakes, CA 93546-3328

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637 John Muir Road  
PO BOX 3328 (required for U.S. mail)  
MAMMOTH LAKES, CA 93546-3328  
(760)-924-5639 wmalcolm.clark@gmail.com**

July 23, 2017  
Wilbur Ross  
Secretary of Commerce  
Department of Commerce

Re: NOAA-NOS-2017-0066 EO 13795

Dear Secretary Ross,

As a California resident, I am alarmed by the review of Marine Sanctuaries off the coast of California, as well as the review of other Marine Sanctuaries and National Marine Monuments. These sanctuaries are crucial to the California economy. Recreation and tourism are the number one economic force for the California ocean-coastal area. People would not come to swim, kayak, boat and otherwise enjoy California's coastal monuments and areas if they were punctuated by drilling rigs and other oil and gas extraction and production equipment.

Further, oil and gas production in coastal waters produces countless spills and leaks, most dramatically demonstrated in 2015 in the spill of over 140,000 gallons of crude oil at Refugio beach in Santa Barbara by drilling and pipeline from the floating oil dock to the shore. Thankfully, that particular pollution source is now inoperative.

America's marine sanctuaries and monuments are crucial for preservation of biological (flora and fauna) resources. As in the case of land preserves and wilderness, they provide an area of preservation of biological resources which serve as a source for replenishment of depleted fish and other resources. Fisheries in many parts of the world have crashed due to overfishing, pollution, and depletion of the food resources on which the fish depend. At the same time, fish are an increasingly important component of USA and world food supplies which need to be protected to flourish and not sacrificed for short-term economic gain as Australia has recently done in announcing it is opening its marine preserves to greatly increased (over-) fishing.

Marine sanctuaries and monuments are also home to many endangered, threatened and rare species. For example, The Greater Farallones sanctuary is one of the most diverse and bountiful marine environments in the world. It provides breeding and feeding grounds for at least 25 endangered or threatened species; 36 marine mammal species, including blue, gray, and humpback whales, harbor seals, elephant seals, Pacific white-sided dolphins, and one of the southernmost U.S. populations of threatened Steller sea lions; over a quarter-million

breeding seabirds; and one of the most significant white shark populations on the planet. Monterey Bay sanctuary is known as the "Serengeti of the Sea" due to its abundance of sea life. It contains extensive kelp forests and one of North America's largest underwater canyons and is home to diverse marine life, including 34 species of marine mammals, more than 180 species of seabirds and shorebirds, and at least 525 species of fishes; it also includes 718 prehistoric sites and hundreds of historic shipwrecks. Similar observations, differing only in the details of the species named, can be made about the other marine sanctuaries and monuments under review.

These sanctuaries, and their expansion in relevant cases, have all been supported by the local populations. In many cases, it was local initiative and action that led to the establishment or/and enlargement of a sanctuary.

The announced intention of the marine monument and sanctuary review – to consider increased oil and gas production from these areas – introduces and even prioritizes a consideration which is not even mentioned in the legislation that enabled such sanctuaries and thus is not a legitimate legal factor in determination of existence and scope of these sanctuaries and monuments. Further the rapid expansion of the production of renewable energy in California (I live five miles away from a geothermal energy facility) and even in other oil and gas producing states negates the need for increased production of fossil fuels.

My wife and I have enjoyed a multi-day vacation in the Channel Islands – the Galapagos of North America – one of the sanctuaries under reviews.

We know much less about ocean resources than we do about land-based resources. It is imperative that we protect our oceans for the well-being of future generations while at the same time support science based research to expand our understanding of our oceans.

I urge you to keep the marine national sanctuaries under review in Executive Order 13795 intact and to fund them properly, especially the four California marine sanctuaries: the Cordell Bank Marine National Sanctuary, the Greater Farallones Marine National Sanctuary, the Monterey Bay Marine National Sanctuary, and the Channel Islands Marine National Sanctuary. I also urge similar support of the five Marine National Monuments which are under review.

Sincerely,



Malcolm Clark  
637 John Muir Road  
PO Box 3328  
Mammoth Lakes, CA 93546-3328  
760-924-5639

Wmalcolm.clark@gmail.com

**August 1, 2017**

**Regular Meeting**

**Item #8f**

**Letters regarding**

**Cannabis**

July 31, 2017

Honorable Mono County Board of Supervisors,

Re: Cannabis

From this day forward, cannabis is an issue that will affect the lives of every person in this county... and our visitors. We cannot support medicinal use, "recreational" use, or growth of the cannabis plant in Mono County. We can support a no action alternative.

There are numerous facts to support the dangers and use. Not to mention the lives affected from spinoff problems such as domestic violence, expulsion from schools, etc.

The facts were ignored. Prop 64 passed and sadly, was favored by mono county voters. Local newspapers stated that the Town of Mammoth Lakes refused to support a joint county/town Narcotics Program although almost 80% of the cases are in Mammoth. As such we are wide open to not only cannabis issues, but other drugs as well.

The days of fishing, hiking and enjoying the outdoors are gone for Mammoth. It will be a new market of visitors that float into town and if lucky, float out. SAR and Sheriff's Departments will be hit hard. Tourists whose motto remains "Just Say No" are already vacationing in places like Brian Head in lieu of Mammoth/Mono County.

As the owner of a recreational business we cannot compare "recreational snowmobiling" to "recreational marijuana." Recreation means "fun". How will the local tourism agencies promote this kind of "fun"?

Please do not allow the use of the word "recreational" when referring to a drug that causes impairment when used in any form. There is no means of measuring accurately how much is too much to cause impairment. At what point can a citation be issued?

We rent recreation equipment that requires a valid driver's license to drive. How do we determine if that person is driving under the influence of cannabis?

Not a single state can answer that question with conviction. Is it five nanograms or is it really one nanogram? It's less than one, but five sounded good so Colorado went with five. Other states are following suit.

Given that you are a responsible Mono County Supervisor, you are more aware of the pros and cons of these issues. Also the danger and the benefits if any. Are you going to join the frenzy that is moving across this nation... or take a stand and protect our lands and those you serve? At the very least take a moment and look again at the facts.....

- Cannabis causes impairment. (Source: FDA)

- FDA - No documentation that cannabis has proven to have medicinal qualities to alleviate pain.

- Recreational - Definition means fun. Is this what we want to advertise 1,000 feet from schools?
- How will the marketing agencies inform tourists of this new form of "recreation"?
- County costs. There has been significant county costs to date to enforce one (1) infraction.
- No joint city/county narcotics efforts to alleviate the 80% of users found in the town of Mammoth for years. Years. This is not a new program that failed. It is an old program that the Town of Mammoth Lakes chose not to support.
- Enforcement. The states are all looking to Colorado. It's been 4 years since the state legalized the growth of cannabis. There is no proven method of enforcement for driving under the influence of cannabis. Other counties in northern California? Many failed attempts by law enforcement to encourage illegal growth to adhere to regulations. (Ref. documentary). How can Mono County pass laws if those laws cannot be enforced?
- Our kids? Depending on which Colorado article you read, marijuana use has increased/decreased/same..... in schools. Careful here. In high schools no change. In grade schools and middle schools there was a significant increase after the 2nd year of cannabis legalization.
- What happens if we have a wild fire engulf a cannabis farm? Do we fight the fire?...or let it burn with the smoke entering nearby communities. Would that be an air quality issue, health issue, or....who cares after 5 minutes of breathing the smoke?
- If there were any land for affordable housing, Mono County will lose it to cannabis.
- Property values will increase significantly for any agricultural land or acreage. Another hit for affordable housing.

Please consider a no action alternative on cannabis in Mono County. Get out the facts and place the issue on a ballot in 2018.

Respectfully submitted,

Don and Jewel Little, Residents of Crowley Lake, CA

Owners 36 years: DJ's Snowmobile Adventures, Inc.

Dear Supervisor John Peters,

We are writing to you to express our desire that our county, and especially the Antelope Valley area, where we live, is allowed the opportunity to commercially cultivate cannabis. Viable economic activities in our county are few and far between. We don't want this chance for our residents to slip away.

We also feel that it is important that the land use policies you enact regarding this matter permit Rural Residential (RR) commercial cannabis cultivation. Antelope Valley residential land owners should not be economically harmed by being excluded.

With the security and other regulations in the California marijuana law, we feel our area will benefit from this opportunity.

Also as a reminder, Mono County as well as the Antelope Valley majority voted for Prop 64. I have spoken with many future growers who have the same environmental concerns as the nay sayers. I believe both sides agree we want to preserve our valley and not damage it.

The people against have some valid concerns as well as misinformation about cannabis. But overall I believe both sides have a genuine concern for our area and being that it was voted in we should be moving forward with HOW we are going to grow not IF we are going to grow.

I for one would be willing to pay an extra 10% tax IF that extra tax came to Antelope Valley only.

Thank you.

Sincerely,

Charles Brown USN Ret.

**August 1, 2017**

**Regular Meeting**

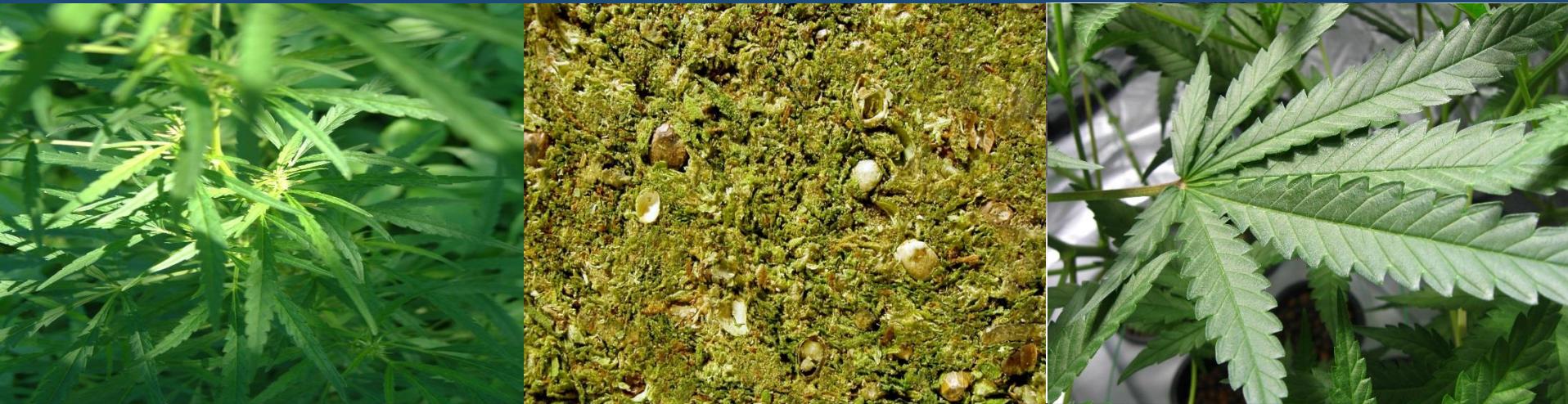
**Item #9e**

**CAO, CC, Comm Dev**

**Cannabis Workshop**

**- Presentation from**

**RCRC**



Paul A. Smith & Arthur J. Wylene

# 2017 CANNABIS LICENSING & REGULATORY UPDATE

MONO COUNTY  
AUGUST 1, 2017



# The Ogden Memo

Issued by the U.S Department of Justice, Obama Administration, October 19, 2009

- “As a general matter, pursuit of these priorities [prosecuting illegal drug traffickers] should not focus federal resources in your States on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana.”

# The Cole Memo

Issued by the U.S Department of Justice, Obama Administration,  
August 29, 2013

Prompted by passage of Amendment 64 in Colorado and Initiative 205 in Washington

U.S. Department of Justice goals in order to receive low-priority status in federal marijuana enforcement:

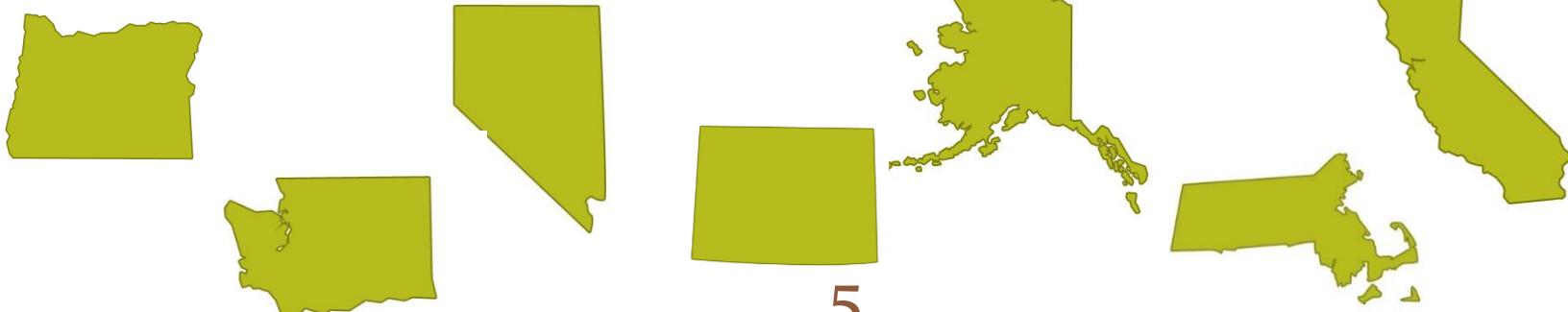
- 1) Preventing the distribution of marijuana to minors;
- 2) Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- 3) Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- 4) Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

# The Cole Memo

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and,
- Preventing marijuana possession or use on federal property.

# There is a New Sheriff in Town

- President Trump's position?
- Attorney General Jeff Session's position?
  - Indications are that the Trump Administration will continue current federal policy with respect to "medical" cannabis.
  - Unclear on how federal enforcement would/could occur in states that have sanctioned "adult-use" cannabis
  - Rohrabacher Amendment (federal budget rider) prohibits the Department of Justice from spending federal dollars to prosecute individuals acting in compliance with state medical marijuana laws. (U.S v. McIntosh (9th Cir. 2016) 833 F.3d 1163.) Currently in force through September 2017. Mr. Sessions has requested that this provision not be included in future budget bills.



# 2015 Medical Cannabis Legislative Package

## Medical Cannabis Regulation and Safety Act

AMENDED IN ASSEMBLY SEPTEMBER 11, 2015  
AMENDED IN ASSEMBLY SEPTEMBER 4, 2015  
AMENDED IN ASSEMBLY SEPTEMBER 1, 2015  
AMENDED IN ASSEMBLY AUGUST 18, 2015  
AMENDED IN ASSEMBLY AUGUST 17, 2015  
AMENDED IN SENATE JUNE 3, 2015  
AMENDED IN SENATE MAY 6, 2015  
AMENDED IN SENATE APRIL 6, 2015

### SENATE BILL

Introduced by Senator McGuire  
February 27, 2015

An act amend Section 2220.05 of Sections 144, 2220.05, 2241, 2242.1 of, to add Section 19302.1, 19319, 19320, 19322, 19323 and 19325 to, to add Article 25 (commencing with Section Chapter 3 of Division 2 of, and to add Article 6 (commencing with Section 19331), Article 7.5 (commencing with Section 19337), and Article 11 (commencing with Section 19348) to Chapter 3.5 of Division 8 of, the Professions Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST  
SB 643, as amended, McGuire. Medical marijuana  
existing law, the Compassionate Use Act  
(1) Existing law, the Compassionate Use Act  
measure enacted by the approval of Proposition

No. 643

AMENDED IN SENATE SEPTEMBER 11, 2015  
AMENDED IN SENATE SEPTEMBER 4, 2015  
AMENDED IN SENATE SEPTEMBER 1, 2015  
AMENDED IN SENATE AUGUST 17, 2015  
AMENDED IN SENATE JULY 2, 2015  
AMENDED IN ASSEMBLY JUNE 1, 2015  
AMENDED IN ASSEMBLY APRIL 22, 2015  
AMENDED IN ASSEMBLY APRIL 8, 2015

### ASSEMBLY BILL

No. 243

Introduced by Assembly Member Wood  
(Coauthors: Assembly Members Rendon and Williams)  
(Principal coauthor: Assembly Member Rendon)  
(Coauthor: Assembly Member Williams)

February 5, 2015

An act to amend Section 2220.05 of add Article 6 (commencing with Section 19331), Article 13 (commencing with Section 19350), and Article 17 (commencing with Section 19360) to Chapter 3.5 of Division 8 of the Business and Professions Code, to add Section 12029 to the Fish and Game Code, to add Sections 11362.709 and 11362.777 to the Health and Safety Code, and to add Section 13276 to the Water Code, relating to medical marijuana, and declaring the urgency thereof, to take effect immediately, marijuana, and making an appropriation therefor.

AMENDED IN SENATE SEPTEMBER 11, 2015  
AMENDED IN SENATE SEPTEMBER 4, 2015  
AMENDED IN SENATE SEPTEMBER 1, 2015  
AMENDED IN SENATE AUGUST 17, 2015  
AMENDED IN SENATE JULY 13, 2015  
AMENDED IN SENATE JUNE 30, 2015  
AMENDED IN ASSEMBLY JUNE 2, 2015  
AMENDED IN ASSEMBLY MAY 11, 2015  
AMENDED IN ASSEMBLY MAY 5, 2015  
AMENDED IN ASSEMBLY APRIL 14, 2015  
AMENDED IN ASSEMBLY APRIL 8, 2015

### ASSEMBLY BILL

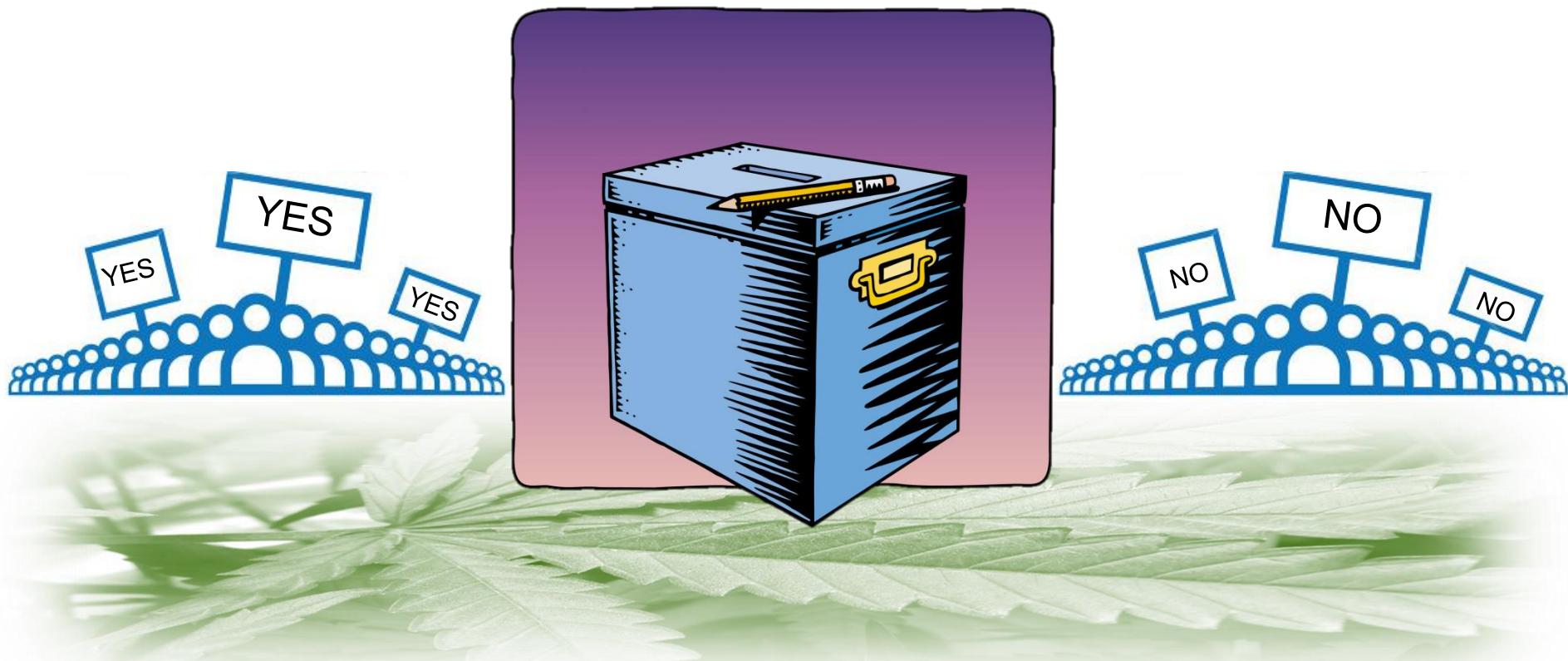
No. 266

Introduced by Assembly Members Bonta, Cooley, Jones-Sawyer, and Lackey, and Wood  
(Coauthors: Assembly Member Chiu)

February 10, 2015

An act to amend Section 2220.05 of the Business and Professions Code, relating to medical marijuana. An act to amend Sections 27 and 47, to add Section 205.1 to, and to add Chapter 3.5 (commencing with Section 19300) to Division 8 of, the Business and Professions Code, to amend Section 9147.7 of the Government Code, to amend Section 11362.775 of the Health and Safety Code, to add Section 147.5 to the Labor Code, and to add Section 31020 to the Revenue and Taxation Code, relating to medical marijuana.

# Proposition 64 (Adult Use of Marijuana Act)



# Proposition 64 (Adult Use of Marijuana Act)

- In November, the voters enacted Proposition 64 which:
  - Allows persons age 21 or older to possess, process, share or transport no more than one ounce of marijuana for personal consumption and not for sale
  - Allows persons to cultivate, on private property no more than 6 marijuana plants for personal consumption
  - Provides local governments the option and ability to regulate, control, permit, license, and tax activities surrounding the use, cultivation and sale of marijuana
  - Authorizes resentencing and destruction of records for prior cannabis convictions
  - Establishes packaging, labeling, advertising, and marketing standards and restrictions for cannabis products
  - Permits use in a private home or at a business licensed for on-site cannabis consumption
- **Proposition 64's proposed regulatory scheme is, for the most part, congruent with the Medical Cannabis Regulation and Safety Act enacted in 2015 by the Legislature**

# Proposition 64 (Adult Use of Marijuana Act)

- Personal Cultivation and Local Control
  - Permits an individual to grow up to 6 plants within a single private residence, or accessory structure to a private residence
  - Prohibits local governments from banning individuals from engaging in personal cultivation
- Defines “private residence” as a house, an apartment unit, a mobile home, and other similar dwelling



# Proposition 64 (Adult Use of Marijuana Act)

- However...
  - Proposition 64 authorizes local governments to ban outdoor personal cultivation and/or establish “**reasonable regulations**” for indoor personal cultivation
  - Scope of “reasonable” regulation (for six plant indoor cultivation) already subject to litigation. (*Harris v. City of Fontana*, San Bernardino County Superior Court Case No. CIVDS1710589, filed Jun. 5, 2017.) Challenged provisions include:
    - Permit requirement (and \$400+ fee)
    - Notarized landlord consent
    - Home inspection
    - Criminal background check
    - Persons with certain felony convictions prohibited from cultivating



Health & Safety Code 11362.2

# Proposition 64/Medical Cannabis Personal Use

- Restrictions on Personal Use
  - Where smoking tobacco is prohibited
  - Within 1,000 feet of a school, youth center, etc. (unless within a residence)
  - While driving or riding in a vehicle
  - In a public place (except where authorized locally) – Recreational Only
- Local governments may prohibit cannabis use and possession in buildings owned, leased, or occupied by a city or county
- Employers (including counties) may maintain drug-free workplaces



# Governor's Cannabis Budget Trailer Bill



Governor's Trailer Bill

# 2017 Cannabis Budget Trailer Bill

## Senate Bill No. 94

### CHAPTER 27

An act to amend Sections 26000, 26001, 26011, 26012, 26013, 26014, 26030, 26031, 26038, 26040, 26043, 26044, 26050, 26052, 26053, 26054, 26054.2, 26055, 26057, 26058, 26060, 26061, 26063, 26065, 26066, 26070, 26070.5, 26080, 26090, 26104, 26106, 26120, 26130, 26140, 26150, 26151, 26152, 26153, 26154, 26155, 26160, 26161, 26180, 26181, 26190, 26191, 26200, 26202, 26210, and 26211 of, to amend the heading of Chapter 10 (commencing with Section 26100) and the heading of Chapter 13 (commencing with Section 26130) of Division 10 of, to amend the heading of Division 10 (commencing with Section 26000) of, to amend and renumber Section 26101 of, to add Sections 26010.5, 26011.5, 26013.5, 26046, 26047, 26051.5, 26060.1, 26062.5, 26070.1, 26121, 26131, 26132, 26133, 26134, 26135, 26156, 26162, 26162.5, 26180.5, 26190.5, and 26210.5, to, to add Chapter 6.5 (commencing with Section 26067) and Chapter 22 (commencing with Section 26220) to Division 10 of, to add and repeal Section 26050.1 of, to repeal Sections 26054.1, 26056, 26056.5, 26064, 26067, 26100, and 26103 of, to repeal Chapter 3.5 (commencing with Section 19300) of Division 8 of, to repeal Chapter 17 (commencing with Section 26170) of Division 10 of, and to repeal and add Sections 26010, 26032, 26033, 26034, 26045, 26051, 26062, 26102, and 26110 of, the Business and Professions Code, to amend Sections 1602 and 1617 of the Fish and Game Code, to amend Sections 37104, 54036, and 81010 of the Food and Agricultural Code, to amend Sections 11006.5, 11014.5, 11018, 11018.1, 11018.2, 11018.5, 11032, 11054, 11357, 11358, 11359, 11360, 11361, 11361.1, 11361.5, 11362.1, 11362.2, 11362.3, 11362.4, 11362.45, 11362.7, 11362.71, 11362.715, 11362.765, 11362.768, 11362.77, 11362.775, 11362.78, 11362.785, 11362.79, 11362.795, 11362.8, 11362.81, 11362.83, 11362.85, 11362.9, 11364.5, 11470, 11478, 11479, 11479.2, 11480, 11485, 11532, 11553, and 109925 of, to amend the heading of Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of, and to repeal Section 11362.777 of, the Health and Safety Code, to amend Sections 34010, 34011, 34012, 34013, 34014, 34015, 34016, 34018, 34019, and 34021.5 of, to amend the heading of Part 14.5 (commencing with Section 34010) of Division 2 of, and to add Section 34012.5 to, the Revenue and Taxation Code, to amend Section 23222 of, and to add Section 2429.7 to, the Vehicle Code, and to amend Sections 1831, 1847, and 13276 of the Water Code, relating to cannabis, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2017. Filed with  
Secretary of State June 27, 2017.]

- Senate Bill 94 (Senate Budget Committee)
  - Adopted and took effect upon Governor Brown's signature on June 27<sup>th</sup>
- Unifies both the medical scheme and the adult-use scheme to achieve a single regulatory structure
- Largely relies on Proposition 64 (adult-use) structure; most of MCRSA is repealed

# Key Local Control Provisions in Cannabis Budget Trailer Bill

26055 (d) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.



Business & Professions Code 26055 (d)

# Key Local Control Provisions in Cannabis Budget Trailer Bill

26200. (a)(1) This division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) This division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

\*\*\*

(e) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that the activities, at a minimum, comply with the requirements of paragraphs (1) to (3), inclusive, of subdivision (g), that all participants are licensed under this division, and that the activities are otherwise consistent with regulations promulgated and adopted by the bureau governing state temporary event licenses. These temporary event licenses shall only be issued in local jurisdictions that authorize such events.

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

# Cannabis Budget Trailer Bill – State Verification of Local Approval

- Like AUMA, the Cannabis Budget Trailer Bill does not require that applicants for state licenses must first obtain a local permit.

However . . .

- The Cannabis Budget Trailer Bill includes a communication process between State licensing agencies and local jurisdictions to ensure that only locally-approved facilities receive State licenses:
  - 1) Each jurisdiction must send a copy of their commercial cannabis ordinance (if any) to the Bureau of Cannabis Control. State license applications in jurisdictions whose ordinances ban that type of cannabis activity must be denied.
  - 2) In all other cases, the state licensing agency would send notification to the local jurisdiction. The local jurisdiction would have 60 business days to respond (positively or negatively). If the local jurisdiction responds that the applicant is not in compliance with local ordinances, the state license will be denied.
  - 3) If the local jurisdiction does not respond within 60 business days, the State may presume that the applicant complies with local ordinances and can proceed with the licensing process. This will not preclude the local jurisdiction from subsequently taking enforcement action if the applicant/licensee does not, in fact, comply.

# Key Aspects of the Cannabis Budget Trailer Bill

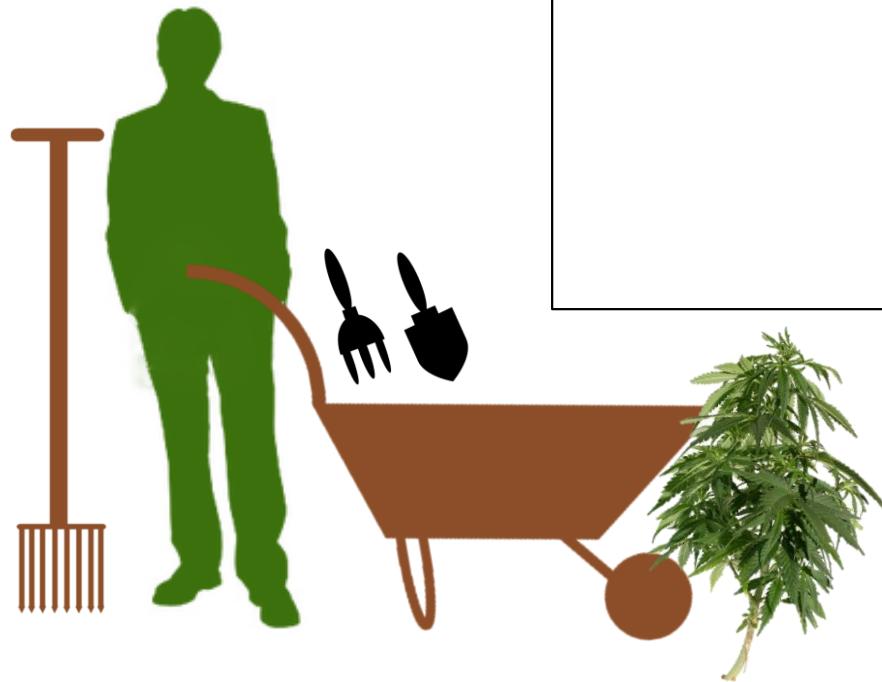
## Ending the Collective Model – Strict Licensing Scheme

- “All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this division.”
- Health and Safety Code 11362.775 (providing for marijuana collectives and cooperatives) is repealed, effective one year after state licensing authorities begin issuing commercial cannabis licenses.

Business & Professions Code 26053/Health & Safety Code 11362.775(e)

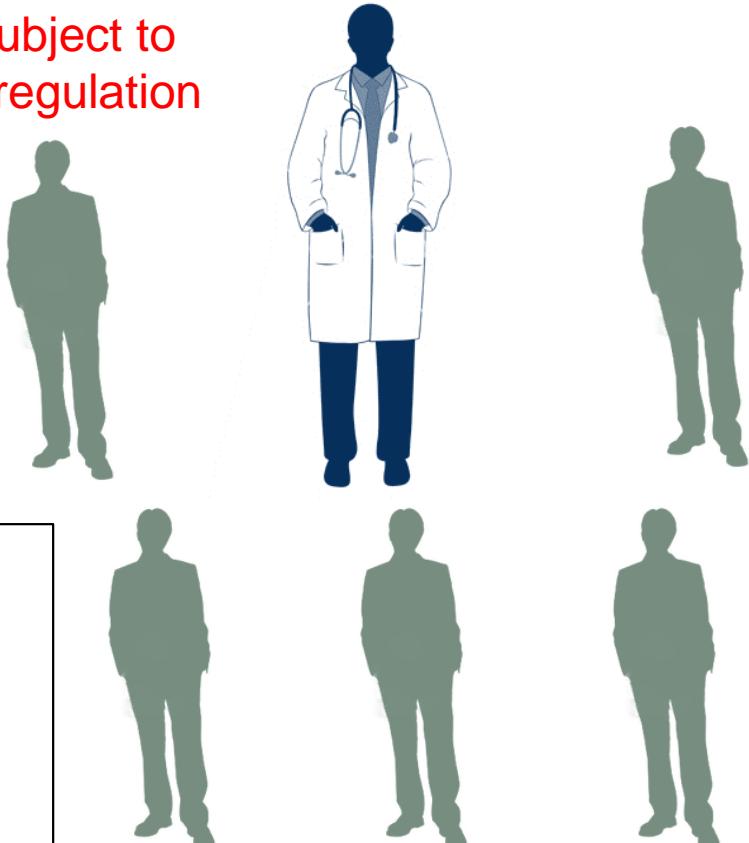
# Key Aspects of the Cannabis Budget Trailer Bill

## Licensure Exemptions



Personal Grows Exemption

Still subject to  
local regulation



Patient Caregivers Exemption

# Key Aspects of the Cannabis Budget Trailer Bill

## Temporary CEQA Exemption

- The trailer bill enacts a temporary CEQA exemption (through July 1, 2019) for the adoption of local ordinances that regulate commercial cannabis facilities through discretionary permits.



Business & Professions Code 26055(h)

# County Taxing Authority Over Cannabis

- Explicit and broad county taxing authority
  - Referenced in Revenue & Taxation Code  
34021.5



# Commercial Cannabis State License Categories

Adult	Medical	Type	Classification
		Type 1	Cultivation; Specialty outdoor; Max 5,000 sq ft per premise/ 50 mature plants
		Type 1A	Cultivation; Specialty indoor; Max 5,000 sq ft per premise
		Type 1B	Cultivation; Specialty mixed-light; Max 5,000 sq ft per premise
		Type 1C	Cultivation; "Specialty cottage"
		Type 2	Cultivation; Outdoor; 5,001 – 10,000 sq ft per premise
		Type 2A	Cultivation; Indoor; 5,001 – 10,000 sq ft per premise
		Type 2B	Cultivation; Mixed-light; 5,001 – 10,000 sq ft per premise
		Type 3	Cultivation; Outdoor; 10,001 – 1 acre sq ft per premise*
		Type 3A	Cultivation; Indoor; 10,001 – 22,000 sq ft per premise*
		Type 3B	Cultivation; Mixed-light; 10,001 – 22,000 sq ft per premise*
		Type 4	Nursery; Can transport live plants
		Type 5^	Cultivation; Outdoor large; greater than 1 acre
		Type 5a^	Cultivation; Indoor large; greater than 22,000 sq ft
		Type 5b^	Cultivation; Mixed light large; greater than 22,000 sq ft
		Type 6	Manufacturer 1; Products using nonvolatile solvents
		Type 7	Manufacturer 2; Products using volatile solvents
		Type 8	Testing Laboratory
		Type 10	Retailer
		Type 11	Distributor
		Type 12	Microbusiness

\*CDFA shall have a limit on the number of licenses in this type.

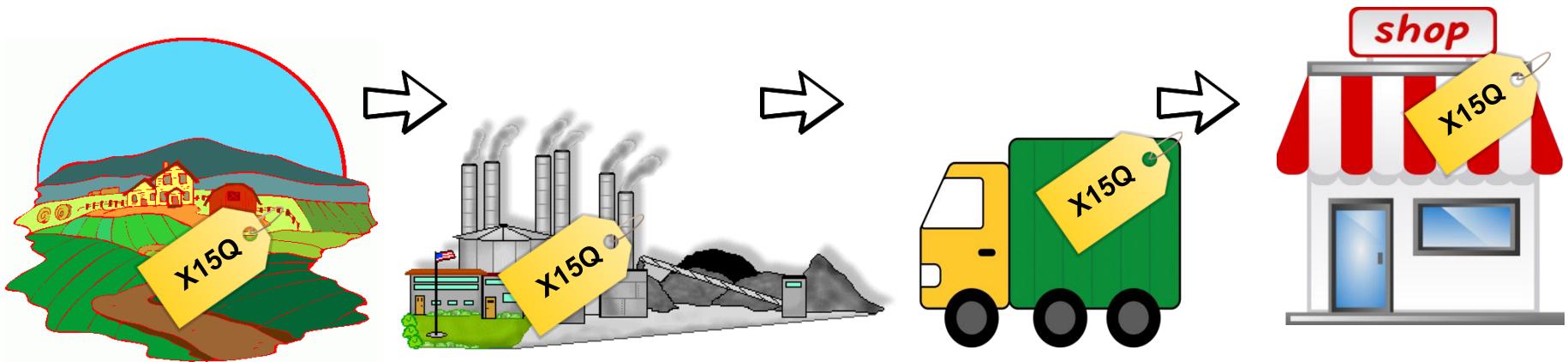
<sup>^</sup>Delayed issuance until January 1, 2023

# Timelines and Priorities

- No requirement that local jurisdictions have permitting program in place by 2018.
- State agencies may begin issuing state licenses January 1, 2018
- Likely to begin accepting licensing applications immediately after the date, with first licenses issued 6-12 months later
- State agencies shall give priority in issuing state licenses for applicants operating in compliance with the Compassionate Use Act before September 1, 2016
- Temporary state licenses may be issued for locally-permitted applicants through January 1, 2019



# Track & Trace Requirement



- All plants must be tagged with unique identifier
- Data subject to inspection at all times
- Minimize inversion and diversion
- Helpful tool for tax and fee collection

Business & Professions Code 26067-26069.9

# Mobile Deliveries

- Mobile deliveries must originate from a licensed retailer or microbusiness.
- Deliveries must be “in compliance with . . . local law as adopted under Section 26200.”

But . . .

- Local governments cannot “prevent delivery of cannabis . . . on public roads.”



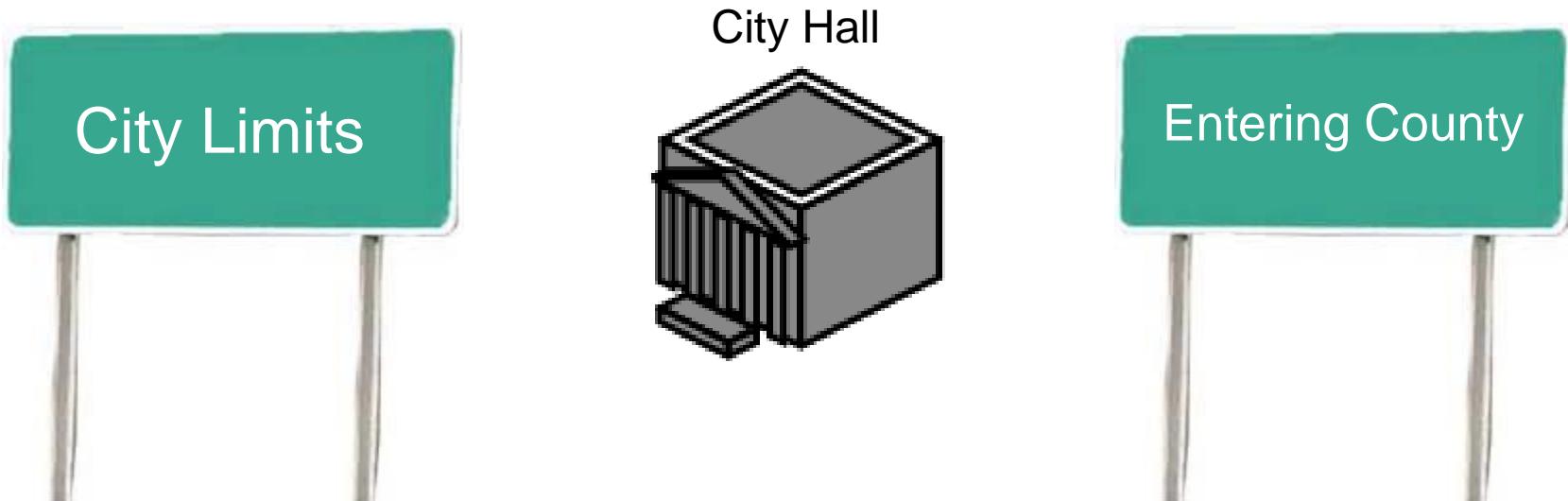
Business & Professions Code 26090

# Mobile Deliveries

- Licensed deliveries must be made in response to a specific "delivery request" (i.e., no roaming mobile vending)
- Growing consensus among commentators (ranging from the League of California Cities to NORML) that local jurisdictions can ban deliveries occurring within their boundaries
- Local governments cannot prohibit licensed delivery personnel from traveling through their jurisdiction on public roads
- Does Proposition 64/Trailer Bill Language allow deliveries to physically occur “on public roads” (i.e., on the roadside) regardless of local bans? Probably not, but the language is poorly written

# Local Enforcement – Broad Authority

*This division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.*



Business & Professions Code 26200(a)(2)

# Local Role in Enforcement - License Revocation

- Specifies grounds for disciplinary action and license revocation
  - *A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 60 days of being so informed by the bureau, the relevant licensing authorities shall begin the process to determine whether a license issued to the licensee should be suspended or revoked . . . (Business & Professions Code 26200(c))*
  - *A licensing authority may suspend or revoke a license when a local agency has notified the licensing authority that a licensee within its jurisdiction is in violation of state rules and regulations relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for suspension or revocation of the license.. (Business & Professions Code 26031(b))*



# State/Local Enforcement - Cultivation

- Requires indoor and outdoor cultivation of cannabis to be conducted in accordance with state and local laws. (Business & Professions Code 26060)
- Designates state agencies as the primary enforcement agencies when addressing environmental impacts, but requires those agencies to coordinate, when appropriate, with local agencies and local law enforcement in enforcement efforts. (Business & Professions Code 26066)
- Authorizes the California Department of Food & Agriculture to enter into cooperative agreements with county agricultural commissioners to administer, investigate, inspect, and license medical cannabis cultivation. (Business & Professions Code 26069.1)



# Cities Could Have Regulatory Function

For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

Business & Professions Code 26200(d)

# Background Checks/License Restrictions/Criminal Record

- Prospective licensees must submit to State Department of Justice background checks
- Persons convicted of certain crimes may be ineligible to receive state licenses



Business & Professions Code 26051.5 and 26057

# Retailer Requirements

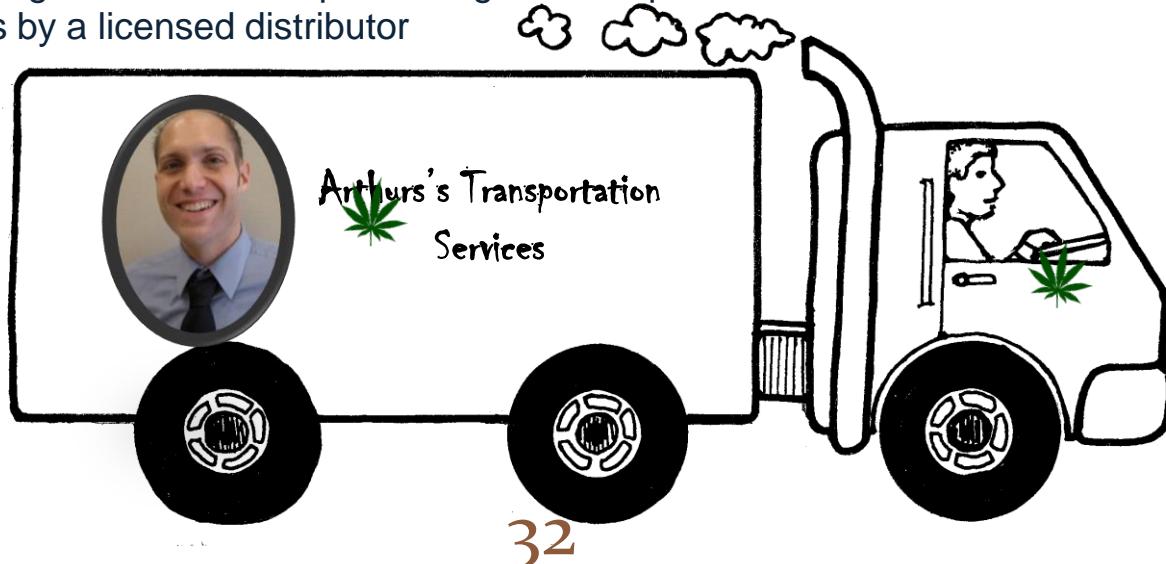
- Requires a retailer to implement security measures to deter and prevent diversion of cannabis and cannabis-related products. Examples include:
  - Establishing limited access areas accessible only to authorized retailer personnel
  - Storing all finished cannabis and cannabis-related products in a secured and locked room, safe, or vault
- Requires a retailer to notify the licensing authority and the appropriate law enforcement authorities within 24 hours after theft or diversion of cannabis and cannabis-related products



Business & Professions Code 26070

# Transport Requirements

- Authorizes limited marijuana transport between licensees
- Only licensed distributors may transport between licensed cannabis facilities
- Provides that licensed distributors be bonded and insured
- Requires that Bureau to establish minimum security requirements for the commercial transportation, storage, and delivery of cannabis and cannabis-related products
- Requires licensed distributors to complete and maintain electronic shipping manifest as prescribed by the Bureau
- Prohibits a local government from preventing the transportation of cannabis and related products on public roads by a licensed distributor



# State Licensing Agencies

Unified regulatory scheme confers much regulatory authority to licensing agencies:

Bureau of Cannabis Control	Department of Public Health Licenses	Department of Food and Agriculture Licenses
Retailers	Manufacturers	Cultivators
Microbusinesses		Nurseries
Distributors		
Testing Laboratories		

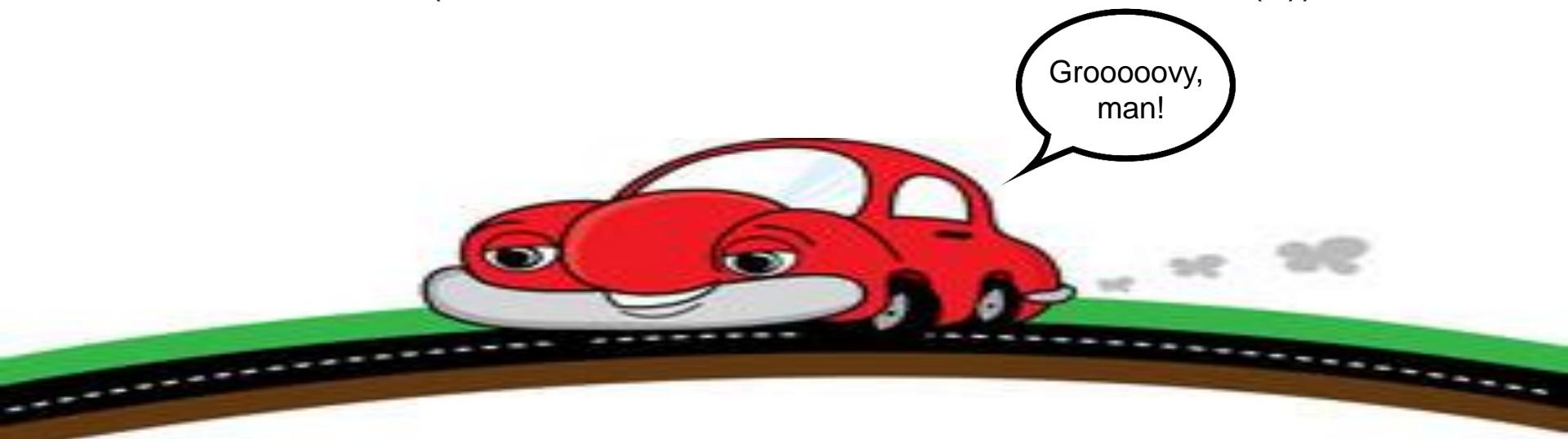
# Proposed Cannabis Regulatory Package

- Draft regulations for medical cannabis from all three licensing agencies were released on April 28, 2017.
- Proposed medical regulations will be withdrawn once the Governor's Cannabis Budget Trailer Bill is signed into law
- New emergency regulations (for both medical and adult use) will be put forth in the Summer
- CDFA released a Draft EIR for the state licensing program for both medical and adult-use cannabis cultivation on June 15, 2017. The comment period for the EIR ends July 31<sup>st</sup>.



# Drugged Driving

- Requires the Bureau to contract with the California Cannabis Research Program, known as the Center for Medicinal Cannabis Research to develop a study that identifies the impact that cannabis has on motor skills
- DUI Cannabis Impairment - Makes no changes to driving under the influence laws (Health & Human Services Code 11362.45(a))



# State Tax Aspects of Proposition 64

- Imposes a State 15% excise tax @ retail - Referenced in Revenue & Taxation Code 34011 (a)
- No sales & use tax on medical cannabis; to qualify, patient must present county-issued medical identification card - Referenced in Revenue & Taxation Code 34011 (g)
- State cultivation tax: Flowers: \$9.25 per ounce/Leaves: \$2.75 per ounce - Referenced in Revenue & Taxation Code 34012
- Taxes will be collected by distributors from cultivation, retailer, and manufacturer licensees, and remitted to Board of Equalization
- Board of Equalization:
  - Receives & administers
  - Can make adjustment
  - Use tax stamps
  - Link to track & trace
  - Personal cultivation and caregiver exemption
  - Paid quarterly
  - Effective January 1, 2018
  - May require licensees to have security requirements for tax liabilities



# State Tax Aspects of Proposition 64

- Proceeds from taxes placed in Marijuana Tax Fund
  - Administration, then:
  - 60% = Youth-related use
  - 20% = Environment-related
  - 20% = Local government & California Highway Patrol (local grants in this category are limited to jurisdictions that do not ban outdoor cultivation or retail sale)
- Legislature can change tax distribution formula after July 1, 2028



# What Other Rural Counties Are Currently Doing

Restricted to personal grows

County	Method
Madera	Maximum 120 square feet indoors in a residence or detached outdoor structure that is enclosed and covered; other restrictions apply.
Mariposa	Medical Marijuana: Maximum 12 plants, indoors or outdoors, if one qualified individual resides on premises; max. 24 plants for 2 or more qualified individuals on the same premises; other restrictions apply.
San Benito	Urgency ordinance: 6 plants max., indoors or outdoors; other restrictions apply; permanent regulations for both personal and commercial cultivation under consideration by Planning Commission and Board of Supervisors.
Glenn	Urgency ordinance: 6 plants max., indoors or outdoors; other restrictions apply.

# Glenn County's Ordinance

- Latest RCRC-member county ordinance
- Approved on June 27, 2017
- Repeals pre-existing ordinance on medical cannabis
- Complete ban on cultivation with exception of Proposition 64's six plant indoor personal use limitation
- Urgency ordinance
  - Board revisiting within 45 Days



# Enforcement Options and Concerns

- Many rural counties face difficulty enforcing cultivation ordinances – too many non-compliant grows, not enough resources.
- Criminal (misdemeanor) enforcement of cultivation ordinances potentially problematic after *Kirby v. County of Fresno* (2015) 242 Cal.App.4th 940.
- Administrative abatement is often the most effective tool. Successful ordinances can include an efficient hearing process that allows rapid action to remove violations, while still providing due process of law.
- Many jurisdictions also impose administrative penalties for cannabis ordinance violations.
- Jurisdictions with an active and unified growers' organization have sometimes found success in developing self-policing efforts.

# Some Rural Counties Are Sanctioning Commercial Grows

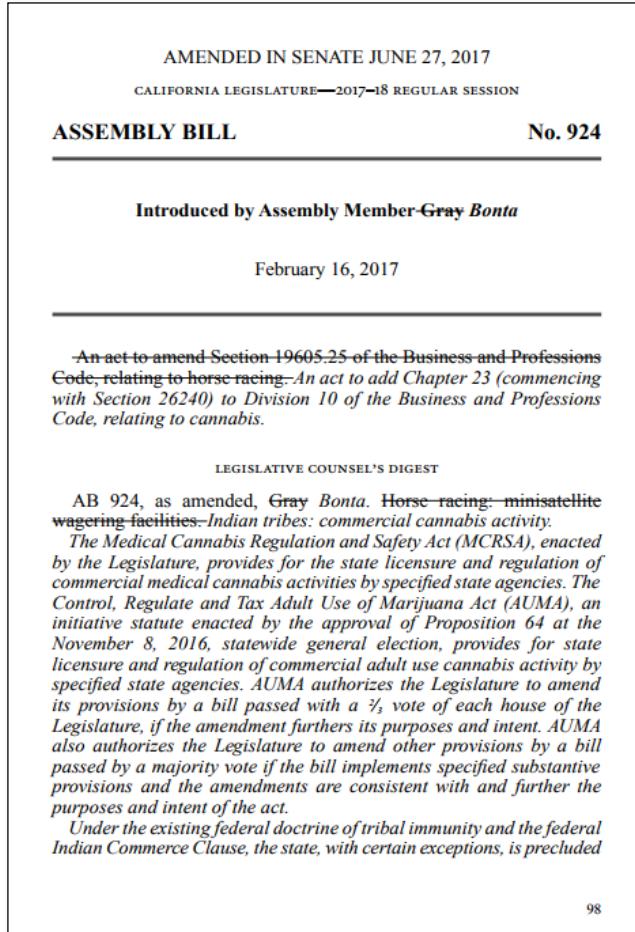
- Humboldt
- Inyo
- Mendocino
- Santa Cruz
- Sonoma
- Trinity
- Yolo (Medical Only)

# Industrial Hemp



- Proposition 64 also decriminalizes and regulates cultivation of industrial hemp under state law.
- “Industrial hemp” consists of “the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) . . .”
- State regulatory program for industrial hemp is completely separate from other commercial cannabis laws and regulations.
- Industrial hemp cultivators will be required to register with the County Agricultural Commissioner. Other details of the state regulatory program remain under development by the California Department of Food & Agriculture Advisory Board.
- State law does not appear to pre-empt additional local regulations (or bans) of industrial hemp cultivation.
- Cultivation of industrial hemp remains largely illegal under federal law. (2014 federal Farm Bill - 7 U.S.C. § 5940 - legalized cultivation of industrial hemp for research purposes by qualifying institutions, but commercial cultivation by private parties remains prohibited by the Controlled Substances Act.)

# Cannabis Activities – Native American Tribes



- Wilkinson Memo (October, 2014)
- Assembly Bill 924 (Bonta) – “Gut & Amend” on June 27, 2017
- Assembly G.O. Committee Oversight Hearing in June 2017
- What is the role of state and locals?
- Moving cannabis products off tribal lands?
- Tribal-issued licenses?
- Tribal MOU’s with locals?

# Questions?