This file contains the following articles, all of which are required readings;

- Whitcomb, “Marijuana legalization will be on California ballot” Reuters, March 25, 2010
- Unknown, “The Regulate, Control, and Tax Cannabis Act of 2010” – This is the language of the measure that is on the ballot in California this November!!
- Jewler, “Medical Marijuana Finally Heads for D.C.” Time, Jan. 27, 2010
- Hecht, “California will vote on legalization of marijuana in November” The Sacramento Bee, March 25, 2010
A California Marijuana Legalization Initiative (09-0024), an initiated state statute, is on the November 2, 2010 ballot in California.\(^1\) Richard Lee, who organized and helped fund the effort to put the question on the ballot, describes the goal of the initiative as "...a reverse tax revolt – no taxation without legalization."\(^2\)

Supporters of legalization are focusing on the benefits they say would flow to the state from taxing marijuana; when marijuana is illegal, it is not taxed. If it was legal, the government would be able to impose a tax on it. This would add money to California's coffers during a time that the budget is out-of-balance.\(^3\) The initiative prohibits a statewide tax on marijuana, but allows taxation at the local level.\(^4\)

The domestically grown marijuana crop in California is worth an estimated $14 billion a year, making it an attractive target for taxation in a state with an unstable economy and budget deficit in the tens of billions.\(^5\) According to the state's Board of Equalization study, the state might generate $1.3 billion in taxes if marijuana is legal and taxed.\(^6\) Because marijuana would still be illegal under federal law, others say that the tax benefits to California of passing the initiative would be minimal since "It can't raise the money unless people report the income, and if you do that you are serving yourself up to the feds, and you could go to jail for a long time."\(^7\)

In 2008, the state of California made about 78,500 arrests on felony and misdemeanor charges related to marijuana.\(^8\)

Three different groups submitted language to the California Attorney General for ballot titles for marijuana legalization ballot initiatives, but Richard Lee's initiative is the only measure that qualified for the ballot.\(^9\) Meanwhile, state legislator Tom Ammiano has introduced legislation in the 2010 session of the California State Legislature that would legalize, tax and regulate marijuana in California in much the way that the state controls and taxes alcohol.\(^10\)\(^11\)
Impact if successful

According to Marcus Wohlsen of the Associated Press, "...full legalization could turn medical marijuana dispensaries into all-purpose pot stores, and the open sale of joints could become commonplace on mom-and-pop liquor store counters in liberal locales like Oakland and Santa Cruz."[12]

Ballot label details


Ballot title: Changes California Law to Legalize Marijuana and Allow It to Be Regulated and Taxed.

Official summary: Allows people 21 years old or older to possess, cultivate, or transport marijuana for personal use. Permits local governments to regulate and tax commercial production and sale of marijuana to people 21 years old or older. Prohibits people from possessing marijuana on school grounds, using it in public, smoking it while minors are present, or providing it to anyone under 21 years old. Maintains current prohibitions against driving while impaired.

Estimated fiscal impact: Savings of up to several tens of millions of dollars annually to state and local governments on the costs of incarcerating and supervising certain marijuana offenders. Unknown but potentially major tax, fee, and benefit assessment revenues to state and local government related to the production and sale of marijuana products.

In April 2010, Steve Cooley, a Republican candidate for Attorney General of California, asked Jerry Brown's office to write a different title and summary for the November 2 ballot. Cooley said, "The marijuana initiative is terribly misleading, poorly drafted and not in the best interests of California residents. It will not regulate, not control nor effectively tax marijuana in California." Cooley's letter to Brown argues that Brown's pre-circulation title "impermissibly and unfairly misleads the public into believing that the Act accomplishes what its title denotes."[4]

Supporters

Tax Cannabis 2010 is the official advocacy group for the 09-0024 marijuana legalization initiative. Richard Lee, the executive director of Oaksterdam University helped start Tax Cannabis 2010. Oaksterdam University is "a major medical marijuana dispensary and advocacy group" based in Oakland.[3][14]

"Control Marijuana", sponsored by the Marijuana Policy Project, also supports legalizing and taxing marijuana. [15]

State Assemblyman Tom Ammiano introduced a bill, AB390 in the 2009 session of the California State Assembly to legalize, tax and regulate marijuana. AB390 passed the Assembly Public Safety Committee and was reintroduced as AB2254 in 2010.[16] The California Board of Equalization estimates that if the AB2254
Voting on Marijuana succeeds, the new tax could generate around $1.4 billion a year.\textsuperscript{[17]} California NORM estimates spin-off industries could amount to as much as $18 billion.\textsuperscript{[18]}

Retired Orange County Judge Jim Gray, a Libertarian, supports legalizing marijuana.\textsuperscript{[19]}

**Arguments in favor**

One of the major arguments proponents of the legalize-and-tax measure are making is that it would increase tax revenues in a state they believe needs new sources of revenue.

The California Legislative Analyst's Office analysis says state and local governments could realize additional revenues from sales taxes generated by commercial producers of marijuana. The state could also realize additional income tax revenues from the production and sale of marijuana. In addition, local governments could realize additional revenue from various types of taxes, benefit assessments, and fees on marijuana. The actual level of revenues generated would depend upon the rate of such levies and how the measure changed the consumption and sales price of marijuana.

**Opposition**

Groups who may mount a campaign against the Marijuana Legalization Initiative:

- The "law enforcement establishment."\textsuperscript{[20]}
- The health professions.
- The question has been asked, "And how would the beer, wine and liquor industries respond to the prospect of potential legal competition? Presumably, they would fight it, but how would they try to camouflage their involvement in an attempt to avoid a public debate about the relative social evils of alcohol vs. marijuana?"\textsuperscript{[20]}

**Opponents**

- Coalition for a Drug-Free California.\textsuperscript{[2]}
- California Narcotics Officers Association.\textsuperscript{[2]}
- Kamala Harris, a candidate for California Attorney General.\textsuperscript{[21]}
- Chris Kelly, a candidate for California Attorney General.\textsuperscript{[21]}
- John Eastman, a candidate for California Attorney General.\textsuperscript{[21]}
- The California Bus Association.\textsuperscript{[22]}
- Mothers Against Drunk Driving\textsuperscript{[22]}
- California Police Chiefs Association\textsuperscript{[22]}

**Arguments against**

- Joel Hay, a professor of pharmaceutical economics and policy at the University of Southern California, said in December 2009, "The carnage in this country due to alcohol and tobacco use is enormous. Why we would want to increase the use of another product that creates this kind of damage is hard to fathom."\textsuperscript{[23]}

- Marcos Breton of the Sacramento Bee says that when the California Supreme Court ruled in *People v. Kelly* in January 2010 that the legislature's 2003 restrictions on the amount of marijuana a medical user

can grow or possess are an invalid infringement on Proposition 215 from 1996, that gives a reason for voting against the 2010 ballot proposition to legalize marijuana, since it establishes that if there are any negative downstream consequences from legalizing pot through a ballot initiative, the state legislature will be unable to do anything to mitigate those negative consequences.[24]

- Skip Miller, a partner in the Los Angeles law firm Miller Barondess and chairman of D.A.R.E. America, a drug-abuse prevention program, says, "Two beliefs drive this push to make pot legal: that new tax revenue will stave off deeper budget cuts and that marijuana is a relatively benign drug. Neither is true. Legalization almost certainly would bring with it additional substance abuse in the state, and the long-term public costs associated with that would vastly exceed the relatively modest amount of new revenue legal weed might bring in."[25]

Pot activists disagree

Best timing of initiative

Dale Gieringer, director of the California chapter of the National Organization for the Reform of Marijuana Laws, did not support an initiative campaign in 2010. He said, "I do think it will take a few more years for us to develop a proposal that voters will be comfortable with."[26] Now that it's made the ballot, California NORML supports the initiative, with reservations.[27]

Richard Lee who along with pot-legalization activist Jeff Jones is collecting signatures for a 2010 measure, says that 2010 is the right time to go ahead. Referring to the state's budget crisis and need for more tax revenue, Lee says, "We're the answer for all of the things on the news."[26] Don Perata has endorsed Lee's efforts.

Aaron Smith, California policy director of the Marijuana Policy Project, also supports a 2012 strategy. He says that in 2012, "You have the younger, more progressive voters that get out in the presidential elections."[26]

Firing of Dennis Peron

Dennis Peron, the co-author of California Proposition 215 (1996), spoke out against the taxation of marijuana in August 2009. Peron, who has been described as the "father of the medical marijuana movement", was then fired by Oaksterdam University, a leading proponent of ballot initiatives to legalize-and-tax marijuana.[28] In response, Peron has begun a weekly picket at the Coffeeshop Blue Sky medical marijuana dispensary, owned by Richard Lee. The picket takes place on Friday evenings.[29]

Journalists who report on the marijuana industry refer to this and associated events as "War breaks out within the marijuana legalization movement."[30]

Jack Herer co-authored Proposition 215 with Peron. Herer also opposes the taxation of marijuana. He gave a speech at Oregon's HempStalk Festival on September 12th, 2009 during which he decried what he calls "cannabusiness", indicating his opposition to the taxation of marijuana:

"I don't want to f**king give the United States government one f**king dollar of taxes. I think that they should go to f**king jail for getting you and me and 20 million people getting arrested for pot. It is the safest thing you can do in the universe. And that is what we are going to do in California."

Some growers predict harm

When Proposition 215 passed, it gave rise to a cottage industry of small marijuana growers throughout the state, who grow marijuana to meet the need for medical marijuana. Some in this community oppose the marijuana legalization initiative, for three main reasons:

- They might be priced and regulated out of business.[31]
- Full legalization will lead people to consume marijuana without the advice or guidance of a medical professional, and that could be dangerous for a number of people. Kevin Reed, who owns the Bay Area Green Cross medical marijuana delivery service, says, "This ballot measure, which likens cannabis to alcohol or tobacco, instead of ibuprofen or aspirin, hurts patients."[31]
- Full legalization will change the culture of how marijuana is currently grown and sold in the state for the worse, moving it from mom-and-pop style small business to corporate big business: "To me, it's been about the patients, the little guys, the people at home growing Marijuana to stay out of the system. I see all those little patients struggling to exist anymore. They're being pushed out by big enormous growers. I see for a fact those patients are going to be priced out of the market the minute you have corporations growing warehouse style."[31]

Federal laws?

Marijuana is illegal under federal laws. If marijuana becomes legal in California under state law, it will still be federally illegal. The U.S. Supreme has previously ruled that federal agents can arrest medical marijuana users and growers even though Proposition 215 makes that behavior legal in California.

Legal scholars, considering what might happen if marijuana is fully legalized in California, have said:

- The federal government would not be able to require California law enforcement agencies to help them enforce the federal law.
- Federal law enforcement officers can continue to arrest and prosecute the use, sale or possession of marijuana in California.
- As a matter of practice, most marijuana arrests are made by state law enforcement officers. In 2008, there were 847,000 marijuana-related arrests throughout the country. About 6,300 of these arrests were performed by federal agents. That's less than 1% of all marijuana arrests.[12]
- On the other hand, "Any business that grew bigger than the already typical storefront shops, however, would probably be too tempting a target for federal prosecution."[12]

Polling information

- The Field Poll released survey results in April 2009 which indicated that 56% of Californians support legalizing marijuana.[32][33]
- A poll by EMC Research in January 2010 is said to show that so-called "soccer moms" support marijuana legalization, although exact polling information from this poll was not released to the public. EMC Research is working on behalf of legalization supporters. A newspaper report said that affluent suburban mothers support legalization because they believe their adult children can buy marijuana in greater safety if marijuana is legal.[34]
- A poll by SurveyUSA of 500 adults in April 2010 showed 56% were in favor of legalizing marijuana.[35]
A PPIC poll on marijuana legalization in mid-May showed a very close match-up in sentiment between support and opposition. There were demographic differences, however: 62% of Latinos oppose legalization, men favor legalization more than women, and support for legalization declines with age.\[36\]

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<th>Undecided</th>
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<tr>
<td>May 9-16, 2010</td>
<td>PPIC</td>
<td>49%</td>
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**Path to the ballot**

*See also: California signature requirements*

Supporters turned in over 700,000 qualifying signatures to election authorities on January 28, 2010, versus a requirement of 433,971 signatures.\[37\]

Supporters of the Tax Cannabis 2010 campaign launched their signature-collection campaign in September in San Francisco at the annual gathering of the National Organization for the Reform of Marijuana Laws.\[38\]

Masterson & Wright, a petition drive management company was paid $800,000 through December 2009 to collect signatures to qualify this proposition for the 2010 ballot.\[39\]

The California Secretary of State published an interim report on the random sampling status of signature validating on February 12.\[40\]

**Wal-Mart and petitioners**

On December 8, 2009 a Yuba County judge issued a temporary restraining order against two signature gatherers, Edward Jefferson and Cliff Hoffman. The order cites that Jefferson and Hoffman are prohibited from gathering voter registration forms or ballot signatures at California Wal-Mart stores. According to Wal-Mart, Jefferson and Hoffman were "harassing customers" in front of the store and did not abide by the store's solicitation rules. However, Hoffman and Jefferson argue otherwise. In years past both men had collected signatures for a variety of issues in front of Wal-Mart stores without issues. Now that they are gathering signatures on a marijuana related issue, both said that's when the "harrassment" started.\[41\]

**Three different initiatives**

Three different groups filed proposed initiatives with the California Secretary of State for 2010 ballot measures that would legalize marijuana, but the Richard Lee effort is the only one that qualified for the ballot.

- Richard Lee and Jeffrey Wayne Jones filed the language for 09-0024 on July 27, 2009. This measure is also known as the **Regulate, Control and Tax Cannabis Act of 2010**. Supporters of this measure will have collected close to 700,000 signatures by the end of 2009.\[8\]
- Joe Rogoway, Omar Figueroa and James J. Clark filed the language for 09-0022 on July 15, 2009. They refer to their measure as **The Tax, Regulate, and Control Cannabis Act of 2010**. This measure was withdrawn on 2/4/2010 and is listed as "failed" on the Secretary of State website.\[42\]
- John Donohue of "Californians for Common Sense" filed the language for 09-0025 on August 4, 2009. He refers to his measure as the **Common Sense Act of 2010**.\[43\] This initiative also failed to qualify.\[44\]

See also

- California Marijuana Legalization, Proposition 19 (1972)

External links

Basic information

- Letter to Attorney General requesting ballot title (http://ag.ca.gov/cms_attachments/initiatives/pdfs/i819_initiative_09-0022.pdf) for 09-0022
- Letter to Attorney General requesting ballot title (http://ag.ca.gov/cms_attachments/initiatives/pdfs/i822_initiative_09-0025.pdf) for 09-0025

Support

- Tax Cannabis 2010 (http://www.taxcannabis2010.org/) , official website of initiative proponents
- Control Marijuana (http://www.controlmarijuana.org)
- Jack Herer's website (http://www.jackherer.com/initiative.html)
- California Cannabis Initiative (http://www.californiacannabisinitiative.org)
- Grass Tax (http://www.grasstax.org)
- Credo Victory Fund - Yes We Cannabis (http://cal-access.ss.ca.gov/Campaign/Committees/Detail.aspx?id=1322303&session=2009&view=late1) , a campaign finance committee.

Opposition

- Public Safety First (http://www.publicsafetyfirst.net/)
- Nip It In the Bud (http://www.nipitinthebud2010.org)
- Community Alliances for Drug Free Youth (http://www.cadfy.org)
- Committee Against the Legalization of Marijuana (http://cal-access.ss.ca.gov/Campaign/Committees/Detail.aspx?id=1324583&session=2009) , a campaign finance committee.

Additional reading


References

2. ↑ 2.1 Sacramento Bee, "As medical marijuana dispensaries proliferate, some argue that the state should get a cut of the action", January 10, 2010 (http://www.sacbee.com/opinion/story/2449110.html)
13. ↑ Letter from Richard Seib Lee and Jeffrey Wayne Jones requesting a ballot title on 09-0024 Amdt. #1s (http://ag.ca.gov/cms_attachments/initiatives/pdfs/i824_amdt_09-0024_amdt_1-s.pdf)
Marijuana in 2010

- Arizona End Marijuana Prohibition Initiative (2010)
- Arizona Medical Marijuana Question, 2010
- Category:Certified, marijuana, 2010
- Colorado Medical Marijuana Regulation Initiative (2010)
- Florida Medical Marijuana Initiative (2010)
- Montana Medical Marijuana Act Repeal (2010)
- Nevada Hemp for Biomass (2010)
- Oregon Intoxicating Substances Act (2010)
- Oregon Marijuana Possession Amendment (2010)
- Oregon Marijuana Tolerance Initiative (2010)
- Oregon Regulated Medical Marijuana Supply System Act (2010)
- Washington Legalization of Marijuana, Initiative 1068 (2010)

Marijuana legalization will be on California ballot
Thu, Mar 25 2010

By Dan Whitcomb

LOS ANGELES (Reuters) - A California voter initiative that would legalize possession and sale of marijuana has qualified for the November ballot, state election officials said on Wednesday, in what supporters called a "watershed moment" for their cause.

Passage of the measure, by no means certain, would make California the first U.S. state to legalize marijuana. Backers believe the state could be at the vanguard of a national movement toward decriminalizing the drug.

"This is a watershed moment in the decades-long struggle to end marijuana prohibition in this country," said Stephen Gutwillig, California director of the Drug Policy Alliance, which has spearheaded the ballot initiative.

"Banning marijuana outright has been a disaster, fueling a massive, increasingly brutal underground economy, wasting billions in scarce law enforcement resources and making criminals out of countless law-abiding citizens," he said.

California Secretary of State Debra Bowen said in a written statement that her office had certified the measure for the November 2 general election ballot after backers submitted the required number of signatures on petitions.

Bowen said that proponents, who needed 433,971 valid signatures to qualify for the ballot, had submitted 694,248 that were verified through a random sampling.

POLLS SHOW MANY SUPPORT MEASURE

Legalizing marijuana appears to have broad support in the state, with some 56 percent of Californians surveyed in an April, 2009 Field Poll saying they favored making it legal for social use and taxing the sales proceeds.

In October, Gallup found 44 percent of Americans favored legalization.

Activists have suggested that taxing marijuana sales could help bail out the cash-strapped state, but plenty of Californians still oppose marijuana.

"With legalization of recreational marijuana use, impaired driving, fatalities, injuries and crashes will go up, and we don't want to see that," California Mothers Against Drunk Driving spokesman Silas Miers said.

The measure's qualification for the ballot was "the first step toward its defeat," said John Lovell, a lobbyist who represents a number of law enforcement groups.

Critics also say the social costs of a free-smoking state far outweigh the money it would bring in.

They say that the already enormous societal damage from alcohol and tobacco use would only increase if people were allowed to legally sell and smoke pot.

Under the initiative, simple possession of an ounce (28.5 grams) or less of marijuana, currently a misdemeanor offense punishable by a $100 fine, would be legal for anyone at least 21. It also would be lawful to grow limited amounts in one's own home for personal use.

While sales would not be legalized outright, cities and counties could pass laws permitting commercial distribution subject to local regulations and taxes. Retail sales would still be limited to an ounce for adults 21 and older.

(Additional reporting by Peter Henderson in San Francisco and Steve Gorman in San Diego, Editing by Stacey Joyce)
27 July 2009

The Honorable Jerry Brown
Attorney General of California
ATTN: Mr. Neil Amos
Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th floor
Sacramento, CA 95814
916/445-4752

By Overnight courier

Re: Initiative Measure 09-0024: “Regulate, Control, Tax Cannabis”

Dear Mr. Amos:

Please find enclosed an amendment package for this proposed initiative measure.

The amendments are technical and nonsubstantive. They do not change the chief purposes or points of the measure.

For your convenience, a redlined copy showing the amendments is attached as Exhibit A. They are limited to pages 2, 3 and 5.

In addition, the complete text of the initiative as amended is attached as Exhibit B to this letter.

Last, I attach original signatures of the proponents approving and explaining the precise amendments. as Exhibit C.

Sincerely,

James Wheaton

Enclosures: as noted
The Regulate, Control and Tax Cannabis Act of 2010

Section 1: Name
This Act shall be known as the “Regulate, Control and Tax Cannabis Act of 2010.”

Section 2: Findings, Intent and Purposes
This Act, adopted by the People of the State of California, makes the following Findings and Statement of Intent and Purpose:

A. Findings

1. California’s laws criminalizing cannabis (marijuana) have failed and need to be reformed. Despite spending decades arresting millions of non-violent cannabis consumers, we have failed to control cannabis or reduce its availability.

2. According to surveys, roughly 100 million Americans (around 1/3 of the country’s population) acknowledge that they have used cannabis, 15 million of those Americans having consumed cannabis in the last month. Cannabis consumption is simply a fact of life for a large percentage of Americans.

3. Despite having some of the strictest cannabis laws in the world, the United States has the largest number of cannabis consumers. The percentage of our citizens who consume cannabis is double that of the percentage of people who consume cannabis in the Netherlands, a country where the selling and adult possession of cannabis is allowed.

4. According to The National Research Council’s recent study of the 11 U.S. states where cannabis is currently decriminalized, there is little apparent relationship between severity of sanctions and the rate of consumption.

5. Cannabis has fewer harmful effects than either alcohol or cigarettes, which are both legal for adult consumption. Cannabis is not physically addictive, does not have long term toxic effects on the body, and does not cause its consumers to become violent.

6. There is an estimated $15 billion in illegal cannabis transactions in California each year. Taxing and regulating cannabis, like we do with alcohol and cigarettes, will generate
billions of dollars in annual revenues for California to fund what matters most to Californians: jobs, health care, schools and libraries, roads, and more.

7. California wastes millions of dollars a year targeting, arresting, trying, convicting, and imprisoning non-violent citizens for cannabis related offenses. This money would be better used to combat violent crimes and gangs.

8. The illegality of cannabis enables for the continuation of an out-of-control criminal market, which in turn spawns other illegal and often violent activities. Establishing legal, regulated sales outlets would put dangerous street dealers out of business.

B. Purposes

1. Reform California’s cannabis laws in a way that will benefit our state.

2. Regulate cannabis like we do alcohol: Allow adults to possess and consume small amounts of cannabis.

3. Implement a legal regulatory framework to give California more control over the cultivation, processing, transportation, distribution, and sales of cannabis.

4. Implement a legal regulatory framework to better police and prevent access to and consumption of cannabis by minors in California.

5. Put dangerous, underground street dealers out of business, so their influence in our communities will fade.

6. Provide easier, safer access for patients who need cannabis for medical purposes.

7. Ensure that if a city decides not to tax and regulate the sale of cannabis, that buying and selling cannabis within that city’s limits remain illegal, but that the city’s citizens still have the right to possess and consume small amounts, except as permitted under Health and Safety Sections 11362.5 and 11362.7 through 11362.9.

8. Ensure that if a city decides it does want to tax and regulate the buying and selling of cannabis (to and from adults only), that a strictly controlled legal system is implemented to oversee and regulate cultivation, distribution, and sales, and that the city will have control over how and how much cannabis can be bought and sold, except as permitted
9. Tax and regulate cannabis to generate billions of dollars for our state and local governments to fund what matters most: jobs, healthcare, schools and libraries, parks, roads, transportation, and more.

10. Stop arresting thousands of non-violent cannabis consumers, freeing up police resources and saving millions of dollars each year, which could be used for apprehending truly dangerous criminals and keeping them locked up, and for other essential state needs that lack funding.

11. Allow the Legislature to adopt a statewide regulatory system for a commercial cannabis industry.

12. Make cannabis available for scientific, medical, industrial, and research purposes.

13. Permit California to fulfill the state’s obligations under the United States Constitution to enact laws concerning health, morals, public welfare and safety within the State.

14. Permit the cultivation of small amounts of cannabis for personal consumption.

C. Intent

1. This Act is intended to limit the application and enforcement of state and local laws relating to possession, transportation, cultivation, consumption and sale of cannabis, including but not limited to the following, whether now existing or adopted in the future: Health and Safety Code sections 11014.5 and 11364.5 [relating to drug paraphernalia]; 11054 [relating to cannabis or tetrahydrocannabinols]; 11357 [relating to possession]; 11358 [relating to cultivation]; 11359 [possession for sale]; 11360 [relating to transportation and sales]; 11366 [relating to maintenance of places]; 11366.5 [relating to use of property]; 11370 [relating to punishment]; 11470 [relating to forfeiture]; 11479 [relating to seizure and destruction]; 11703 [relating to definitions regarding illegal substances]; 11705 [actions for use of illegal controlled substance]; Vehicle Code sections 23222 and 40000.15 [relating to possession].

2. This Act is not intended to affect the application or enforcement of the following state
laws relating to public health and safety or protection of children and others: Health and Safety Code sections 11357 [relating to possession on school grounds]; 11361 [relating to minors as amended herein]; 11379.6 [relating to chemical production]; 11532 [relating to loitering to commit a crime or acts not authorized by law]; Vehicle Code section 23152 [relating to driving while under the influence]; Penal Code section 272 [relating to contributing to the delinquency of a minor]; nor any law prohibiting use of controlled substances in the workplace or by specific persons whose jobs involve public safety.

Section 3: Lawful Activities

Article 5 of Chapter 5 of Division 10 of the Health and Safety Code, commencing with section 11300 is added to read:

Section 11300: Personal Regulation and Controls

(a) Notwithstanding any other provision of law, it is lawful and shall not be a public offense under California law for any person 21 years of age or older to:

(i) Personally possess, process, share, or transport not more than one ounce of cannabis, solely for that individual's personal consumption, and not for sale.

(ii) Cultivate, on private property by the owner, lawful occupant, or other lawful resident or guest of the private property owner or lawful occupant, cannabis plants for personal consumption only, in an area of not more than twenty-five square feet per private residence or, in the absence of any residence, the parcel. Cultivation on leased or rented property may be subject to approval from the owner of the property. Provided that, nothing in this section shall permit unlawful or unlicensed cultivation of cannabis on any public lands.

(iii) Possess on the premises where grown the living and harvested plants and results of any harvest and processing of plants lawfully cultivated pursuant to section 11300(a)(ii), for personal consumption.

(iv) Possess objects, items, tools, equipment, products and materials associated with
activities permitted under this subsection.

(b) "Personal consumption" shall include but is not limited to possession and consumption, in any form, of cannabis in a residence or other non-public place, and shall include licensed premises open to the public authorized to permit on-premises consumption of cannabis by a local government pursuant to section 11301.

(c) "Personal consumption" shall not include, and nothing in this Act shall permit cannabis:

(i) possession for sale regardless of amount, except by a person who is licensed or permitted to do so under the terms of an ordinance adopted pursuant to section 11301;

(ii) consumption in public or in a public place;

(iii) consumption by the operator of any vehicle, boat or aircraft while it is being operated, or that impairs the operator;

(iv) smoking cannabis in any space while minors are present.

Section 11301: Commercial Regulations and Controls

Notwithstanding any other provision of state or local law, a local government may adopt ordinances, regulations, or other acts having the force of law to control, license, regulate, permit or otherwise authorize, with conditions, the following:

(a) cultivation, processing, distribution, the safe and secure transportation, sale and possession for sale of cannabis, but only by persons and in amounts lawfully authorized;

(b) retail sale of not more than one ounce per transaction, in licensed premises, to persons 21 years or older, for personal consumption and not for resale;

(c) appropriate controls on cultivation, transportation, sales, and consumption of cannabis to strictly prohibit access to cannabis by persons under the age of 21;

(d) age limits and controls to ensure that all persons present in, employed by, or in any way involved in the operation of, any such licensed premises are 21 or older;

(e) consumption of cannabis within licensed premises;
(f) safe and secure transportation of cannabis from a licensed premises for cultivation or processing, to a licensed premises for sale or on-premises consumption of cannabis;

(g) prohibit and punish through civil fines or other remedies the possession, sale, possession for sale, cultivation, processing, or transportation of cannabis that was not obtained lawfully from a person pursuant to this section or section 11300;

(h) appropriate controls on licensed premises for sale, cultivation, processing, or sale and on-premises consumption, of cannabis, including limits on zoning and land use, locations, size, hours of operation, occupancy, protection of adjoining and nearby properties and persons from unwanted exposure, advertising, signs and displays, and other controls necessary for protection of the public health and welfare;

(i) appropriate environmental and public health controls to ensure that any licensed premises minimizes any harm to the environment, adjoining and nearby landowners, and persons passing by;

(j) appropriate controls to restrict public displays, or public consumption of cannabis;

(k) appropriate taxes or fees pursuant to section 11302;

(l) such larger amounts as the local authority deems appropriate and proper under local circumstances, than those established under section 11300(a) for personal possession and cultivation, or under this section for commercial cultivation, processing, transportation and sale by persons authorized to do so under this section;

(m) any other appropriate controls necessary for protection of the public health and welfare.

Section 11302: Imposition and Collection of Taxes and Fees

(a) Any ordinance, regulation or other act adopted pursuant to section 11301 may include imposition of appropriate general, special or excise, transfer or transaction taxes, benefit assessments, or fees, on any activity authorized pursuant to such enactment, in order to permit the local government to raise revenue, or to recoup any direct or indirect costs associated with the authorized activity, or the permitting or licensing scheme, including
without limitation: administration; applications and issuance of licenses or permits; inspection of licensed premises and other enforcement of ordinances adopted under section 11301, including enforcement against unauthorized activities.

(b) Any licensed premises shall be responsible for paying all federal, state and local taxes, fees, fines, penalties or other financial responsibility imposed on all or similarly situated businesses, facilities or premises, including without limitation income taxes, business taxes, license fees, and property taxes, without regard to or identification of the business or items or services sold.

Section 11303: Seizure

(a) Notwithstanding sections 11470 and 11479 of the Health and Safety Code or any other provision of law, no state or local law enforcement agency or official shall attempt to, threaten to, or in fact seize or destroy any cannabis plant, cannabis seeds or cannabis that is lawfully cultivated, processed, transported, possessed, possessed for sale, sold or used in compliance with this Act or any local government ordinance, law or regulation adopted pursuant to this Act.

Section 11304: Effect of Act and Definitions

(a) This Act shall not be construed to affect, limit or amend any statute that forbids impairment while engaging in dangerous activities such as driving, or that penalizes bringing cannabis to a school enrolling pupils in any grade from kindergarten through 12, inclusive.

(b) Nothing in this Act shall be construed or interpreted to permit interstate or international transportation of cannabis. This Act shall be construed to permit a person to transport cannabis in a safe and secure manner from a licensed premises in one city or county to a licensed premises in another city or county pursuant to any ordinances adopted in such cities or counties, notwithstanding any other state law or the lack of any such ordinance
in the intervening cities or counties.

(c) No person shall be punished, fined, discriminated against, or be denied any right or privilege for lawfully engaging in any conduct permitted by this Act or authorized pursuant to Section 11301 of this Act. Provided however, that the existing right of an employer to address consumption that actually impairs job performance by an employee shall not be affected.

(d) Definitions

For purposes of this Act:

(i) "Marijuana" and “cannabis” are interchangeable terms that mean all parts of the plant Genus Cannabis, whether growing or not; the resin extracted from any part of the plant; concentrated cannabis; edible products containing same; and every active compound, manufacture, derivative, or preparation of the plant, or resin.

(ii) “One ounce” means 28.5 grams.

(iii) For purposes of section 11300(a)(ii) “cannabis plant” means all parts of a living Cannabis plant.

(iv) In determining whether an amount of cannabis is or is not in excess of the amounts permitted by this Act, the following shall apply:

(a) only the active amount of the cannabis in an edible cannabis product shall be included;

(b) living and harvested cannabis plants shall be assessed by square footage, not by weight in determining the amounts set forth in section 11300(a);

(c) in a criminal proceeding a person accused of violating a limitation in this Act shall have the right to an affirmative defense that the cannabis was reasonably related to his or her personal consumption.

(v) “residence” means a dwelling or structure, whether permanent or temporary, on private or public property, intended for occupation by a person or persons for residential purposes, and includes that portion of any structure intended for both
commercial and residential purposes.

(vi) "local government" means a city, county, or city and county.

(vii) "licensed premises" is any commercial business, facility, building, land or area that has a license, permit or is otherwise authorized to cultivate, process, transport, sell, or permit on-premises consumption, of cannabis pursuant to any ordinance or regulation adopted by a local government pursuant to section 11301, or any subsequently enacted state statute or regulation.

Section 4: Prohibition on Furnishing Marijuana to Minors

Section 11361 of the Health and Safety Code is amended to read:

Prohibition on Furnishing Marijuana to Minors

(a) Every person 18 years of age or over who hires, employs, or uses a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling any marijuana, who unlawfully sells, or offers to sell, any marijuana to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any marijuana to a minor under 14 years of age, or who induces a minor to use marijuana in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

(b) Every person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any marijuana to a minor 14 years of age or older shall be punished by imprisonment in the state prison for a period of three, four, or five years.

(c) Every person 21 years of age or over who knowingly furnishes, administers, or gives, or offers to furnish, administer or give, any marijuana to a person aged 18 years or older, but younger than 21 years of age, shall be punished by imprisonment in the county jail for a period of up to six months and be fined up to $1,000 for each offense.

(d) In addition to the penalties above, any person who is licensed, permitted or authorized to perform any act pursuant to Section 11301, who while so licensed, permitted or authorized, negligently furnishes, administers, gives or sells, or offers to furnish, administer, give or sell, any
marijuana to any person younger than 21 years of age shall not be permitted to own, operate, be employed by, assist or enter any licensed premises authorized under Section 11301 for a period of one year.

Section 5: Amendment

Pursuant to Article 2, section 10(c) of the California Constitution, this Act may be amended either by a subsequent measure submitted to a vote of the People at a statewide election; or by statute validly passed by the Legislature and signed by the Governor, but only to further the purposes of the Act. Such permitted amendments include but are not limited to:

(a) Amendments to the limitations in section 11300, which limitations are minimum thresholds and the Legislature may adopt less restrictive limitations.

(b) Statutes and authorize regulations to further the purposes of the Act to establish a statewide regulatory system for a commercial cannabis industry that addresses some or all of the items referenced in Sections 11301 and 11302.

(c) Laws to authorize the production of hemp or non-active cannabis for horticultural and industrial purposes.

Section 6: Severability

If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.
Medical Marijuana Finally Heads for D.C.

By Sam Jewler

It has been years in the making, derailed by Congress three times in about as many years, but medicinal marijuana could soon be heading to the nation's capital.

In 1998, voters in Washington put themselves near the forefront of the budding medical-marijuana movement when they voted nearly 7 to 3 for doctor-prescribed dope — a greater majority than those in any of the other eight statewide ballot initiatives that have passed around the country. (Watch a video about medical-marijuana home delivery.)

But no celebratory smoke-outs have followed — not yet, at least. Instead, poll workers spent that election night obscuring the results of the vote, in deference to a last-minute congressional amendment pulling funds from D.C for the processing of any drug-legalization initiative. (Ballots had been printed prior to the ban, but the D.C. Board of Elections and Ethics decided that to follow the intent of the law it had to withhold the results after the votes had been cast.) "I know of no case where a federal entity has told another entity they cannot even announce the results," says WTOP analyst Mark Plotkin. "We're not even talking about the implementation of the law." (See pictures of the drug's unofficial national holiday.)

Twelve years later, the political landscape appears to be profoundly changed. The sponsor of the 1998 congressional ban, Bob Barr, has gone from a drug hawk to a libertarian, legalize-it presidential candidate — even lobbying against the law he once wrote. Fourteen states have legalized medical marijuana in the 14 years since California became the first to do so; several more are working on legislation now.

In December 2009, a Congress dominated by Democrats quietly lifted the Barr Amendment, giving the city an opportunity to enact its old dope law. (Watch a video about taxing marijuana in California.)

A few weeks later, city council member David Catania moved to do just that, introducing a bill that would implement Initiative 59, with the co-sponsorship of nine of the 13 council members. Don't ask him if there are more serious issues he should be working on. "Every time someone says that, I think my head should explode," he says. "As far as I'm concerned, this is an important issue. The evidence I've seen certainly suggests a powerful medicinal use for marijuana that can stimulate appetite and can reduce pain and suffering. So frankly that's my..."
decision, and I'm capable of doing more than one thing at a time, as are my colleagues and as is this
government." [See "The Year in Health 2009: From A to Z."]

Catania acknowledges that the policy details still have to be worked out — how many dispensaries to allow,
whether they'll be nonprofit or private, for which diseases prescription pot will be available, where the stuff will
be grown. He leans toward more restrictive implementation, knowing that any legal-weed law can be struck down
by future governments. "The voters approved the medical use of marijuana, not the recreational use of
marijuana," he says. "The more professional and controlled and evidence-based our system is, the greater
likelihood it will be sustained going forward."

Such a system, Catania says, might create five to 10 nonprofit dispensaries around the city, which would have to
be at least 1,000 feet away from places like schools, parks and other dispensaries. In contrast, for years Los
Angeles has had hundreds of dispensaries, privately owned, with a 500-foot rule. But its city council passed a
revised dope law just hours after D.C. outlined its own, adopting D.C.'s 1,000-foot rule and cutting the number of
dispensaries allowed to around 150. [See a brief history of medical marijuana.]

A spokesman for the D.C. city council says the bill is likely to get through the council by the end of the spring, and
may be approved in Congress by the end of summer.

Studies have found medical cannabis to be effective in mitigating nausea, stimulating needed appetite in AIDS
and cancer patients and acting as a general pain reliever, among other effects. The American Medical Association
"calls for further adequate and well-controlled studies of marijuana and related cannabinoids in patients" in a
policy statement that takes a cautious position on the issue.

Some of the leading activists for Initiative 59 are equally ambivalent, even as they reach what appears to be light
at the end of the tunnel. "It's a victory, but it's not something that I really feel like celebrating," says Wayne
Turner, whose partner Steve Michael originally sponsored Initiative 59 before dying in the months leading up to
its vote. "Democracy has been denied for over 10 years, and we've lost a lot of people along the way."

The voting bloc of recreational weed smokers is likely to be even less enthusiastic if Catania gets his way. "I do
not see this as the camel's nose under the tent to the broad legalization of marijuana, nor the recreational use,
nor do I ever envision supporting the use of marijuana for anxiety or hangnails," he says. "This is for people who
are profoundly sick."

[See pictures of cannabis culture.]

[See the top 10 medical breakthroughs of 2009.]

http://www.time.com/time/printout/0,8816,1956673,00.html
California's raucous argument over legalizing marijuana is headed to the ballot.

Secretary of State Debra Bowen confirmed Wednesday that voters will decide in November whether to legalize and tax marijuana use for Californians 21 and over.

As a result, Californians will weigh in on whether legalization is an appropriate next step to medical use of marijuana that voters approved in 1996.

In recent years, hundreds of medical marijuana dispensaries have sprouted in California communities. Their presence is a vast departure from the attitudes of voters who roundly rejected a 1972 initiative – Proposition 18 – that first set out to decriminalize pot use in the Golden State.

Proponents of the "Regulate, Control and Tax Cannabis Act of 2010" say the measure's passage could hinge on voters' acceptance of marijuana's potential to rescue California's beleaguered fiscal coffers.

California's annual pot crop is worth about $14 billion, according to the State Board of Equalization. It estimates that legalization and taxation could bring in up to $1.4 billion in revenue.

"The perspective of California has shifted since 1972," said Jeff Jones, co-sponsor of the 2010 initiative. "This (pot legalization) was stigmatized as a flower-power, counterculture issue. But we have people today who don't believe the hype and fear. A broad, diverse base sees this as a real budget issue for California."

But the measure could bring the state into conflict with federal authorities.

Marijuana has been prohibited under federal law since 1937. California's approval of medical use in 1996 led to a series of federal raids on pot dispensaries and patient-run growing collectives.

Recently, U.S. Attorney General Eric Holder announced he wouldn't target medical pot users or medicinal growers in states where medicinal use of the drug is legal.

John Lovell, a lobbyist for the California Peace Officers Association, which is organizing opposition to the measure, said Californians will draw the line against legalizing pot for widespread recreational use.

"I knew it was going to qualify. That's not surprising," Lovell said. "But qualifying is the first step toward losing. We intend to simply tell the truth about everything this product will do, and we will win."

Democratic gubernatorial candidate Jerry Brown on Wednesday came out against the measure, putting him on the same side of the issue as Meg Whitman, the leading GOP candidate.
Little consensus on initiative to legalize pot
Kevin Fagan, Chronicle Staff Writer
Monday, May 3, 2010

Talk about murky.

The economic impact, the potential social and legal landscape, even the split between the pro and con sides in the squabble over the initiative on the Nov. 2 ballot to legalize marijuana for recreational use in California - they’re all about as clear as smoke from a bong.

Most medicinal-marijuana advocates think it would be just fine if good-time tokers joined their legal crowd. Others worry it might ruin the purity of using pot as medicine.

Some associated with law enforcement think it’s time to treat weed like liquor and give up trying to tamp down the trade. More think this approach will just lead to a dangerous explosion of potheads on the roads and at work.

There are illegal-weed growers who are afraid they’ll lose their livelihood, and others who think business will boom. A few politicians, including Oakland mayoral candidate Don Perata and Assemblyman Tom Ammiano, D-San Francisco, who is floating his own legalization bill in the Legislature, are backing the measure. Many, including Gov. Arnold Schwarzenegger and the major candidates to replace him, oppose it.

And then there is the money issue - the biggest elephant in a smoky room of elephants.

Proponents of the Regulate, Control and Tax Cannabis Act of 2010 say taxing pot could inject $1.4 billion a year in taxes and fees into a state general fund that badly needs the money. The annual California pot output, according to the state Board of Equalization, is estimated to be worth $14 billion, making it the state’s biggest cash crop - and if marijuana is legalized, the figure could billow much higher, advocates say.

Opponents counter that the figure is a pipe dream, because even if the measure passes, pot use will still be illegal under U.S. law - so anyone reporting income will be vulnerable to federal prosecution.

About the only thing both sides can agree on is that if the measure passes, nobody knows exactly how it will play out.

It would be the most sweeping decriminalization of the use and sale of marijuana in America.
Attitudes changed

"It's hard to imagine how the discussion of legalizing marijuana would have even gotten off the ground if not for the state budget crisis," said Robert MacCoun, a UC Berkeley law professor who specializes in drug policy.

He noted that opposition to legalization in California polled at around 80 percent until voters authorized pot in 1996 for medical use. By the early 2000s, those in favor of legalization were polling above 40 percent. Last year, with the state deep in budgetary crisis, a Field Poll cracked the halfway mark and put support in California at 56 percent.

Clearly, the desire to aim a new fire hose of cash at the state's $20 billion deficit is making the taxation of pot more attractive than ever, MacCoun said. But just as significant, most of the momentum to legalize pot comes from younger people.

A KPIX-TV poll by Survey USA, released April 21, found that three-fourths of respondents 18 to 34 years old supported legalization. Part of that is probably attributable to a more relaxed attitude toward pot after its legalization for medical use, MacCoun said, but equally important is that the younger generation is more accustomed than even their Baby Boomer parents to being around people who use marijuana - and to using it themselves.

UC Davis law Professor Vikram Amar, another expert on marijuana policy, summed up the explanation for legalization being taken seriously in succinct, nonbudgetary terms:

"A lot of people like pot now," he said. "And a lot of other people don't care about pot."

Money issue

Amar believes that because cannabis will still be illegal under federal law, "the state can't possibly make as much money in taxes as some people estimate. It can't raise the money unless people report the income, and if you do that you are serving yourself up to the feds, and you could go to jail for a long time."

U.S. Attorney General Eric Holder said in October that the federal government would not pursue medical marijuana operations and users if they are following state law, but he has not said how his office would react to passage of the California initiative.

Skeptics of legal marijuana's economic benefits for California such as Amar have some unlikely allies - people involved in the illegal trade. Some of them say the crop is worth a fortune now, but if it is legalized, pot will be easier to get and prices might plummet, along with tax revenue.

Still, the more common sentiment among those in the cultivation trade, both legal and illegal - particularly growers in boutique-heavy Mendocino County - is that they are itching for legalization so they can turn their weed vistas into a dope-tourism draw akin to Napa Valley.
Medical pot backers weary

Most purveyors of medicinal herb have cautiously backed the initiative, but many are concerned that that health-conscious medical approach they've been emphasizing will be diffused.

"I do support the measure, but I am still afraid this could lead to an explosion of cannabis shops and different levels of regulation everywhere, with some counties being taken by surprise," said Steve DeAngelo, director of the Harborside Health Center in Oakland, the nation's biggest medical marijuana dispensary, with 46,000 clients. "I believe adults should be able to use something as safe as cannabis - but it should done responsibly."

Expansion in growth seen

The basics of the proposition are that it would legalize the possession of up to 1 ounce of marijuana for personal, recreational use by anybody 21 or older. Each person could also grow weed for personal use as long as it was confined to a 5-by-5-foot space.

But the application of the six-page law could lead to significant pot growth and sales from one end of the state to the other.

Local jurisdictions would be allowed to set their own regulations under the proposed law, and that could mean anything from cities or counties keeping the recreational ban in place to the spread of large farms and the sales of dope, packaged like cigarettes in sprightly boxes, in corner stores on every block.

"My personal favorite is selling in coffee shops," said initiative creator Richard Lee, 47, who founded Oaksterdam University, the pot-trade school in Oakland. "But if a city or county wants to put it in a liquor store or a grocery store, that's their choice.

"I'm a believer in the free market," he said. "If you have a good product, it will sell."

The groundwork for such sales has already been set in cities such as San Francisco and Oakland, where medical-marijuana dispensaries had rocky, sloppily run starts but have generally settled in as part of the landscape.

The picture is less rosy in Los Angeles, whose 500 dispensaries are the most numerous of any city in the country. Continual police raids and wrangling over nuisance ordinances and complaints suggest that a further proliferation of sellers might prove challenging.

Another fear among some growers and users at a recent forum on the initiative in Ukiah (Mendocino) was that big companies might come in and supplant the little growers with plantations. But noted cannabis-advocacy attorney Omar Figueroa of Sebastopol said that was unlikely because they would be vulnerable to federal prosecution.

Bill Phelps, spokesman for Philip Morris - the nation's No. 1 cigarette-maker - said the company was not taking a position on the initiative, but cautioned against anyone taking seriously rumors of big corporations going for the pot trade.

http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/05/03/MN731D621H.DTL&type=printable
Most police oppose measure

Most in law enforcement are predictably unimpressed with legalization.

John Lovell, lobbyist for the California Peace Officers' Association and several other law enforcement groups that oppose the initiative, said the measure could bring an escalation of addicts and be "a job killer."

"Under this initiative, you will be able to come to work high on marijuana, and in fact you might even be able to sell it at work if you have a local permit," Lovell said. "You will see many California businesses move out of state if they can, because they will face increased costs and insurance from this. It could be devastating, costing the state money instead of bringing money in."

Some in law enforcement, such as retired Orange County Judge James Gray and former San Jose police narcotics Detective Russ Jones, are pushing for the initiative, likening the current situation to Prohibition.

Gray said he is conservative and has never smoked pot. But he has written for years that marijuana could more effectively be controlled through regulation and treatment programs, rather than police and jails.

"It is really clear that what we're doing with marijuana in our state and country simply is not working," he said.

But backers like Gray are anomalies, Lovell maintained.

"I think most people know that if this law passes, this state will have gone to pot," he said. "They will vote accordingly."

Changed political climate

Poppycock with overblown fears, said Aaron Smith, California policy director of the Marijuana Policy Project.

Under the proposed law, driving and working regulations will be enforced the same way they are for drunkenness, he said. He downplays any notion of the state teeming with potheads, and said he doubts the weed trade will be dampened by fear of the feds, noting that the medical pot trade already generates $100 million annually in local and state tax revenue.

The last time an initiative to legalize pot outright was put before California voters, in 1972, it was trounced. But since then has come the 1996 initiative that legalized medicinal marijuana, and with it the rise of medical pot dispensaries and businesses all over the state.

With 13 other states having followed California's lead in legalizing medicinal marijuana, Smith said, this state is finally primed and positioned to lead the way in ending pot prohibition.

"It's clear to me we have the support," he said. "Victory is just a matter of getting those supporters out to vote in November."

"Some adjustments will have to be made after it passes, but it will all work out."

http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/05/03/MN731D621H.DTL&type=printable