

MARIJUANA LAWS AND LOCAL CONTROL



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August 1, 2017

MARIJUANA LAWS AND LOCAL CONTROL



TOPICS COVERED

1. Brief History of Marijuana Laws
2. California's Marijuana Laws Today
3. Personal Marijuana Cultivation
4. Local Control of Marijuana
5. Carson Current Law
6. Regional Cities
7. Potential Revenue
8. Prohibition
9. Regulation



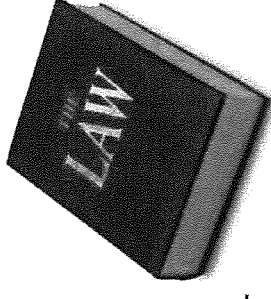
BRIEF HISTORY OF MARIJUANA LAWS



1. 1970 - Federal Controlled Substances Act (CSA)
2. 1996 - CA Compassionate Use Act (CUA) (Proposition 215)
3. 2003 - CA Medical Marijuana Program Act (MMPA)
4. 2013 - Federal Justice Dept. deprioritizes CSA enforcement against medical marijuana in states which regulate
5. 2014 - Congress defunds federal enforcement of CSA against medical marijuana in states which regulate
6. 2015 - *USA v. Marin All. For Med. Marijuana* N.D. Cal., 2015 No. C 98-00086 CRB
7. 2015 - California Medical Marijuana Regulation and Safety Act (MMRSA)

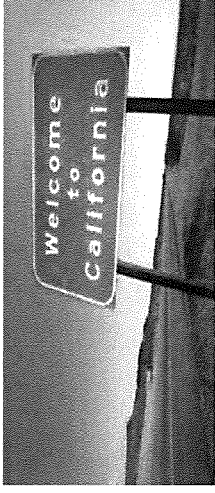
BRIEF HISTORY OF MARIJUANA LAWS

8. 2016 – *USA v. McIntosh* 833 F.3d 1163 (9th Cir. 2016)
9. 2016 - Gallup Poll shows 60% of Americans support legalization of marijuana
10. 2016 - California Adult Use of Marijuana Act (AUMA) (Proposition 64)
11. 2016 - New Presidential administration creates uncertainty
12. 2017 - SB 94 / Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)
13. 2017 - CSA remains valid law; 29 states (and DC) legalized medical marijuana; eight states (and DC) legalized recreational marijuana use
14. 2018 - AUMA (Proposition 64) and MMRSA provide for state licenses for commercial marijuana businesses



CALIFORNIA'S MARIJUANA LAWS TODAY

Today – Under Prop 64/AUMA (2016) personal marijuana possession, cultivation and use legal statewide; under Prop 215/CUA (1996) non-profit “cooperatives” that cultivate / dispense medical marijuana remain legal with local control.



2018 - Commercial for-profit marijuana businesses legal statewide but subject to local control and prohibition.

- Cultivation, retail shops, testing, manufacturing, and deliveries (recreational and medical)
- State regulation and licensing
- Statewide taxation



PERSONAL MARIJUANA CULTIVATION

California residents may cultivate up to six living marijuana plants within a single private residence

1. Outdoor Personal Cultivation

- Cities may ban outdoor personal cultivation at residence.
- However, unless outdoor personal cultivation is expressly prohibited, then individuals under State law have the right to cultivate at residence up to six plants outdoors.



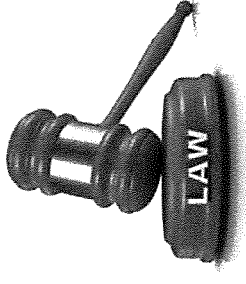
2. Indoor Personal Cultivation

- Cities preempted from prohibiting personal cultivation of up to six living marijuana plants inside a private residence.
- Cities may “enact and enforce reasonable regulations to reasonably regulate” indoor cultivation which do not act to effectively prohibit indoor cultivation.



PERSONAL MARIJUANA CULTIVATION

- Many cities (from Santa Ana to San Jose) ban outdoor cultivation.
- Some cities do not regulate indoor cultivation.
- Other cities are requiring permits to cultivate indoor marijuana.
- Local regulations must be “reasonable.” (Health & Safety Code § 11362.2.)
- On June 5, 2017 the ACLU sued Fontana over indoor marijuana cultivation regulations, alleging they are not “reasonable” and are a de facto ban.
- Fontana regulations include a \$400+ permit fee, no felony drug convictions, home inspections, no pending code enforcement actions, no payments due to City, and exclusive cultivation area.



LOCAL CONTROL OF MARIJUANA BUSINESS OPERATIONS



1. **Dual licensing** - all operations need a state license and cities can impose local license. State will not issue state license if issuance would violate local ordinance or regulation. However, cities must proactively inform state of local law. (B&P Code § 26055.)
2. **Local License or Ban** - cities can prohibit all operations, permit some operations, or permit all operations. (B&P § 26200.)
3. **Local Regulations** - cities can impose stricter standards, requirements and regulations than state. (B&P § 26201.)
4. **Local Taxes** - cities may tax operations.



CARSON CURRENT LAW



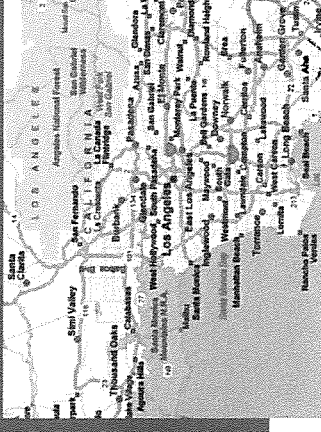
City of Carson

Local code purports to prohibits medical marijuana dispensaries, otherwise silent. (CMC § 9191.391.5.)

Local marijuana taxes approved by voters in 2016:

- 1. Cultivation. (CMC § 61310(A).)**
- 2. Operations (distribution, cultivation, manufacture, transportation and testing). (CMC § 61310(B).)**

REGIONAL CITIES

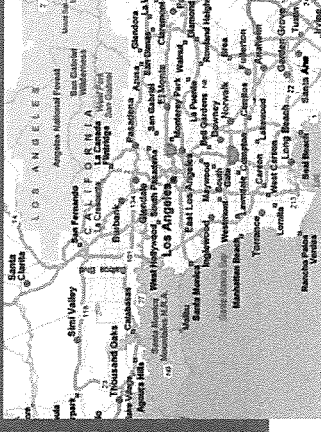


City of Los Angeles - 2013 voters passed Measure D to decriminalize medical marijuana dispensaries; today 135 “legal” dispensaries and reports of many more; March, 2017 voters passed Measure M for regulation of commercial marijuana operations (medical and recreational) and local taxation.

City of Lomita - February, 2016 Council passed ordinance to prohibit all commercial medical marijuana activities.

City of Torrance - January, 2016 Council passed ordinance to prohibit all commercial medical marijuana activities.

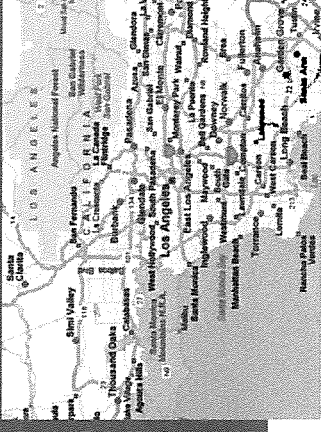
REGIONAL CITIES



City of Lynwood - December, 2016 Council passed ordinance to license up to five businesses for medical marijuana cultivation and manufacturing operations in industrial zones; *medical marijuana dispensaries remain banned.*

City of Compton - January, 2017 Council had first reading on ordinance to prohibit all commercial marijuana operations and deliveries; prohibition on medical marijuana dispensaries.

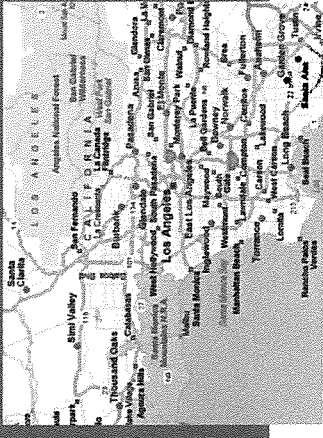
REGIONAL CITIES



City of Norwalk - December, 2016 Council renewed urgency ordinance prohibiting recreational marijuana operations through October, 2018.

City of Bellflower - October, 2016 Council passed ordinance allowing cultivation, manufacturing, distribution and sales of marijuana, specifically 12 marijuana related business activities on between 60-70 commercial and industrial zones sites; Local Measure B approved by Bellflower voters March, 2017 to tax marijuana businesses (\$15-25 per sq ft cultivation tax / 5-10% gross annual receipts tax on businesses); estimates of up to \$3.4 million in annual local tax revenue.

REGIONAL CITIES



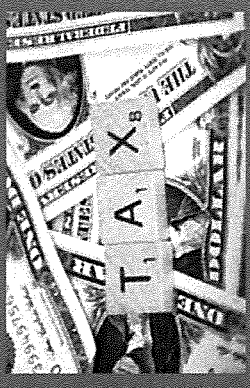
City of Long Beach - November, 2016 voters passed Measure MM to license and regulate medical marijuana operations in 2018; currently no regulations or licenses for recreational marijuana operations; local taxation.

City of Gardena - February, 2017 Council adopts moratorium on all commercial marijuana activities through December, 2017.

City of Huntington Park - March, 2016 Council passed ordinance to allow three medical marijuana dispensaries to open when state issues permits in 2018.



POTENTIAL REVENUE



1. Local Taxes - City voters approved marijuana tax ordinance. Estimates of \$500,000 to \$3.5 million in annual revenue.
2. Development Agreements - City may require certain cannabis business operations enter City development agreements with annual City revenues. (Govt. Code § 65865(a).) Mechanism to impose additional financial, service and regulatory conditions.
3. Proposition 64 Local Return Revenues - Local return revenues estimated from \$80-180 million from state cannabis taxes “to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act.” However, no “grants to local governments which have banned the cultivation, including personal cultivation... or retail sale of marijuana or marijuana products...” (Revenue & Taxation Code § 34019(f)(3)(c).)

PROHIBITION

- City may prohibit commercial marijuana business operations in the City through local ordinance. (B&P § 26200.)
- City cannot prohibit use of public streets by delivery services passing through City.
- *City cannot prohibit limited personal use, possession and cultivation of marijuana.*



POTENTIAL REGULATION

City authorized to adopt stricter regulations than state for commercial marijuana business operations.

1. Cites may “adopt and enforce local ordinances to regulate [commercial marijuana businesses], including, but not limited to, local zoning and land use requirements, business license requirements.” (B&P § 26200.)
2. “Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards... A local jurisdiction may establish additional standards, requirements, and regulations.” (B&P § 26201.)

POTENTIAL REGULATION: ISSUES



1. **Number of Operations** – Limit by lottery, discretion, “first come-first served”; or, no cap?
2. **Permissible Zones** – Often industrial and/or commercial zones, with a minimum distance from the edge of residential zones, schools and parks.
3. **Written Records** - Annual audits?
4. **Inspections** - Allow City inspections?
5. **Neighborhood Responsibility Plan** - (City of Sacramento model).
6. **Cultivation** - Only indoor? Safety issues. Size of cultivation.
7. **Security** - Guards(s) and video cameras?



QUESTIONS

