

2010

# LEGALIZES MARIJUANA UNDER CALIFORNIA BUT NOT FEDERAL LAW

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# LEGALIZES MARIJUANA UNDER CALIFORNIA BUT NOT FEDERAL LAW. PERMITS LOCAL GOVERNMENTS TO REGULATE AND TAX COMMERCIAL PRODUCTION, DISTRIBUTION, AND SALE OF MARIJUANA. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

## LEGALIZES MARIJUANA UNDER CALIFORNIA BUT NOT FEDERAL LAW. PERMITS LOCAL GOVERNMENTS TO REGULATE AND TAX COMMERCIAL PRODUCTION, DISTRIBUTION, AND SALE OF MARIJUANA. INITIATIVE STATUTE.

- 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, distribution, and sale of marijuana to people 21 years old or older.
- Prohibits people from possessing marijuana on school grounds, using in public, or smoking it while minors are present.
- Maintains prohibitions against driving while impaired.
- Limits employers' ability to address marijuana use to situations where job performance is actually impaired.

### Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- The fiscal effects of this measure could vary substantially depending on: (1) the extent to which the federal government continues to enforce federal marijuana laws and (2) whether the state and local governments choose to authorize, regulate, and tax various marijuana-related activities.
- Savings of potentially several tens of millions of dollars annually to the state and local governments on the costs of incarcerating and supervising certain marijuana offenders.
- Increase in state and local government tax and fee revenues, potentially in the hundreds of millions of dollars annually.

## ANALYSIS BY THE LEGISLATIVE ANALYST

### BACKGROUND

**Federal Law.** Federal laws classify marijuana as an illegal substance and provide criminal penalties for various activities relating to its use. These laws are enforced by federal agencies that may act independently or in cooperation with state and local law enforcement agencies.

**State Law and Proposition 215.** Under current state law, the possession, cultivation, or distribution of marijuana generally is illegal in California. Penalties for marijuana-related activities vary depending on the offense. For example, possession of less than one ounce of marijuana is a misdemeanor punishable by a fine, while selling marijuana is a felony and may result in a prison sentence.

In November 1996, voters approved Proposition 215, which legalized the cultivation and possession of marijuana in California for medical purposes. The U.S. Supreme Court ruled in 2005, however,

that federal authorities could continue to prosecute California patients and providers engaged in the cultivation and use of marijuana for medical purposes. Despite having this authority, the U.S. Department of Justice announced in March 2009 that the current administration would not prosecute marijuana patients and providers whose actions are consistent with state medical marijuana laws.

### PROPOSAL

This measure changes state law to (1) legalize the possession and cultivation of limited amounts of marijuana for personal use by individuals age 21 or older, and (2) authorize various commercial marijuana-related activities under certain conditions. Despite these changes to state law, these marijuana-related activities would continue to be prohibited under federal law. These federal prohibitions could still be enforced by federal agencies. It is not known to what extent the

federal government would continue to enforce them. Currently, no other state permits commercial marijuana-related activities for non-medical purposes.

### **State Legalization of Marijuana Possession and Cultivation for Personal Use**

Under the measure, persons age 21 or older generally may (1) possess, process, share or transport up to one ounce of marijuana; (2) cultivate marijuana on private property in an area up to 25 square feet per private residence or parcel; (3) possess harvested and living marijuana plants cultivated in such an area; and (4) possess any items or equipment associated with the above activities. The possession and cultivation of marijuana must be solely for an individual's personal consumption and not for sale to others, and consumption of marijuana would only be permitted in a residence or other "non-public place." (One exception is that marijuana could be sold and consumed in licensed establishments, as discussed below.) The state and local governments could also authorize the possession and cultivation of larger amounts of marijuana.

State and local law enforcement agencies could not seize or destroy marijuana from persons in compliance with the measure. In addition, the measure states that no individual could be punished, fined, or discriminated against for engaging in any conduct permitted by the measure. However, it does specify that employers would retain existing rights to address consumption of marijuana that impairs an employee's job performance.

This measure sets forth some limits on marijuana possession and cultivation for personal use. For example, the smoking of marijuana in the presence of minors is not permitted. In addition, the measure would not change existing laws that prohibit driving under the influence of drugs or that prohibit possessing marijuana on the grounds of elementary, middle, and high schools. Moreover, a person age 21 or older who knowingly gave marijuana to a person age 18 through 20 could be sent to county jail for up to six months

and fined up to \$1,000 per offense. (The measure does not change existing criminal laws which impose penalties for adults who furnish marijuana to minors under the age of 18.)

### **Authorization of Commercial Marijuana Activities**

The measure allows local governments to authorize, regulate, and tax various commercial marijuana-related activities. As discussed below, the state also could authorize, regulate, and tax such activities.

**Regulation.** The measure allows local governments to adopt ordinances and regulations regarding commercial marijuana-related activities—including marijuana cultivation, processing, distribution, transportation, and retail sales. For example, local governments could license establishments that could sell marijuana to persons 21 and older. Local governments could regulate the location, size, hours of operation, and signs and displays of such establishments. Individuals could transport marijuana from a licensed marijuana establishment in one locality to a licensed establishment in another locality, regardless of whether any localities in between permitted the commercial production and sale of marijuana. However, the measure does not permit the transportation of marijuana between California and another state or country. An individual who was licensed to sell marijuana to others in a commercial establishment and who negligently provided marijuana to a person under 21 would be banned from owning, operating, being employed by, assisting, or entering a licensed marijuana establishment for one year. Local governments could also impose additional penalties or civil fines on certain marijuana-related activities, such as for violation of a local ordinance limiting the hours of operation of a licensed marijuana establishment.

Whether or not local governments engaged in this regulation, the state could, on a statewide basis, regulate the commercial production of marijuana. The state could also authorize the production of hemp, a type of marijuana plant

that can be used to make products such as fabric and paper.

**Taxation.** The measure requires that licensed marijuana establishments pay all applicable federal, state, and local taxes and fees currently imposed on other similar businesses. In addition, the measure permits local governments to impose new general, excise, or transfer taxes, as well as benefit assessments and fees, on authorized marijuana-related activities. The purpose of such charges would be to raise revenue for local governments and/or to offset any costs associated with marijuana regulation. In addition, the state could impose similar charges.

## FISCAL EFFECTS

Many of the provisions in this measure permit, but do not require, the state and local governments to take certain actions related to the regulation and taxation of marijuana. Thus, it is uncertain to what extent the state and local governments would in fact undertake such actions. For example, it is unknown how many local governments would choose to license establishments that would grow or sell marijuana or impose an excise tax on such sales.

In addition, although the federal government announced in March 2009 that it would no longer prosecute medical marijuana patients and providers whose actions are consistent with Proposition 215, it has continued to enforce its prohibitions on non-medical marijuana-related activities. This means that the federal government could prosecute individuals for activities that would be permitted under this measure. To the extent that the federal government continued to enforce its prohibitions on marijuana, it would have the effect of impeding the activities permitted by this measure under state law.

Thus, the revenue and expenditure impacts of this measure are subject to significant uncertainty.

### Impacts on State and Local Expenditures

**Reduction in State and Local Correctional Costs.** The measure could result in savings to the

state and local governments by reducing the number of marijuana offenders incarcerated in state prisons and county jails, as well as the number placed under county probation or state parole supervision. These savings could reach several tens of millions of dollars annually. The county jail savings would be offset to the extent that jail beds no longer needed for marijuana offenders were used for other criminals who are now being released early because of a lack of jail space.

**Reduction in Court and Law Enforcement Costs.** The measure would result in a reduction in state and local costs for enforcement of marijuana-related offenses and the handling of related criminal cases in the court system. However, it is likely that the state and local governments would redirect their resources to other law enforcement and court activities.

**Other Fiscal Effects on State and Local Programs.** The measure could also have fiscal effects on various other state and local programs. For example, the measure could result in an increase in the consumption of marijuana, potentially resulting in an unknown increase in the number of individuals seeking publicly funded substance abuse treatment and other medical services. This measure could also have fiscal effects on state- and locally funded drug treatment programs for criminal offenders, such as drug courts. Moreover, the measure could potentially reduce both the costs and offsetting revenues of the state's Medical Marijuana Program, a patient registry that identifies those individuals eligible under state law to legally purchase and consume marijuana for medical purposes.

### Impacts on State and Local Revenues

The state and local governments could receive additional revenues from taxes, assessments, and fees from marijuana-related activities allowed under this measure. If the commercial production and sale of marijuana occurred in California, the state and local governments could receive revenues from a variety of sources in the ways described below.

- **Existing Taxes.** Businesses producing and selling marijuana would be subject to the same taxes as other businesses. For instance, the state and local governments would receive sales tax revenues from the sale of marijuana. Similarly, marijuana-related businesses with net income would pay income taxes to the state. To the extent that this business activity pulled in spending from persons in other states, the measure would result in a net increase in taxable economic activity in the state.
- **New Taxes and Fees on Marijuana.** As described above, local governments are allowed to impose taxes, fees, and assessments on marijuana-related activities. Similarly, the state could impose taxes and fees on these types of activities. (A portion of any new revenues from these sources would

be offset by increased regulatory and enforcement costs related to the licensing and taxation of marijuana-related activities.)

As described earlier, both the enforcement decisions of the federal government and whether the state and local governments choose to regulate and tax marijuana would affect the impact of this measure. It is also unclear how the legalization of some marijuana-related activities would affect its overall level of usage and price, which in turn could affect the level of state or local revenues from these activities. Consequently, the magnitude of additional revenues is difficult to estimate. To the extent that a commercial marijuana industry developed in the state, however, we estimate that the state and local governments could eventually collect hundreds of millions of dollars annually in additional revenues.

★ ARGUMENT IN FAVOR OF PROPOSITION 19 ★

**PROPOSITION 19: COMMON SENSE CONTROL OF MARIJUANA**

Today, hundreds of millions of taxpayer dollars are spent enforcing the failed prohibition of marijuana (also known as “cannabis”).

Currently, marijuana is easier for kids to get than alcohol, because dealers don’t require ID.

Prohibition has created a violent criminal market run by international drug cartels.

Police waste millions of taxpayer dollars targeting non-violent marijuana consumers, while thousands of violent crimes go unsolved.

And there is \$14 billion in marijuana sales every year in California, but our debt-ridden state gets nothing from it.

Marijuana prohibition has failed.

**WE NEED A COMMON SENSE APPROACH TO CONTROL AND TAX MARIJUANA LIKE ALCOHOL.**

Proposition 19 was carefully written to get marijuana under control.

Under Proposition 19, *only* adults 21 and over can possess up to one ounce of marijuana, to be consumed at home or licensed establishments. Medical marijuana patients’ rights are preserved.

If we can control and tax alcohol, we can control and tax marijuana.

**PUT STRICT SAFETY CONTROLS ON MARIJUANA**

Proposition 19 maintains strict criminal penalties for driving under the influence, increases penalties for providing marijuana to minors, and bans smoking it in public, on school grounds, and around minors.

Proposition 19 keeps workplaces safe, by preserving the right of employers to maintain a drug-free workplace.

**PUT POLICE PRIORITIES WHERE THEY BELONG**

According to the FBI, in 2008 over 61,000 Californians were arrested for misdemeanor marijuana possession, while 60,000 violent crimes went unsolved. By ending arrests of non-violent marijuana consumers, police will save hundreds of millions of taxpayer dollars a year, and be able to focus on the real threat: violent crime.

Police, Sheriffs, and Judges support Proposition 19.

**HELP FIGHT THE DRUG CARTELS**

Marijuana prohibition has created vicious drug cartels across our border. In 2008 alone, cartels murdered 6,290 civilians in Mexico—more than all U.S. troops killed in Iraq and Afghanistan combined.

60 percent of drug cartel revenue comes from the illegal U.S. marijuana market.

By controlling marijuana, Proposition 19 will help cut off funding to the cartels.

**GENERATE BILLIONS IN REVENUE TO FUND WHAT MATTERS**

California faces historic deficits, which, if state government doesn’t balance the budget, could lead to higher taxes and fees for the public, and more cuts to vital services. Meanwhile, there is \$14 billion in marijuana transactions every year in California, but we see none of the revenue that would come from taxing it.

Proposition 19 enables state and local governments to tax marijuana, so we can preserve vital services.

The State’s tax collector, the Board of Equalization, says taxing marijuana would generate \$1.4 billion in annual revenue, which could fund jobs, healthcare, public safety, parks, roads, transportation, and more.

**LET’S REFORM CALIFORNIA’S MARIJUANA LAWS**

Outlawing marijuana hasn’t stopped 100 million Americans from trying it. But we *can* control it, make it harder for kids to get, weaken the cartels, focus police resources on violent crime, and generate billions in revenue and savings.

We need a common sense approach to control marijuana.

YES on 19.

[www.taxcannabis.org](http://www.taxcannabis.org)

**JOSEPH D. McNAMARA**, San Jose Police Chief (Ret.)

**JAMES P. GRAY**, Orange County Superior Court Judge (Ret.)

**STEPHEN DOWNING**, Deputy Chief (Ret.)

Los Angeles Police Department

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 19 ★

As California public safety leaders, we agree that Proposition 19 is flawed public policy and would compromise the safety of our roadways, workplaces, and communities. Before voting on this proposition, please take a few minutes to read it.

Proponents claim, “Proposition 19 maintains strict criminal penalties for driving under the influence.” That statement is false. In fact, Proposition 19 gives drivers the “right” to use marijuana right up to the point when they climb behind the wheel, but unlike as with drunk driving, Proposition 19 fails to provide the Highway Patrol with any tests or objective standards for determining what constitutes “driving under the influence.” That’s why Mothers Against Drunk Driving (MADD) strongly opposes Proposition 19.

Proponents claim Proposition 19 is “preserving the right of employers to maintain a drug-free workplace.” This is also false. According to the California Chamber of Commerce, the facts are that Proposition 19 creates special rights for employees to possess marijuana on the job, and that means no company in

California can meet federal drug-free workplace standards, or qualify for federal contracts. The California State Firefighters Association warns this one drafting mistake alone could cost thousands of Californians to lose their jobs.

Again, contrary to what proponents say, the statewide organizations representing police, sheriffs and drug court judges are all urging you to vote “No” on Proposition 19. Passage of Proposition 19 seriously compromises the safety of our communities, roadways, and workplaces.

**STEVE COOLEY**, District Attorney

Los Angeles County

**KAMALA HARRIS**, District Attorney

San Francisco County

**KEVIN NIDA**, President

California State Firefighters Association

★ **ARGUMENT AGAINST PROPOSITION 19** ★

Even if you support legalization of recreational marijuana, you should vote “No” on Proposition 19.

Why? Because the authors made several huge mistakes in writing this initiative which will have severe, unintended consequences.

For example, Mothers Against Drunk Driving (MADD) strongly opposes Proposition 19 because it will prevent bus and trucking companies from requiring their drivers to be drug-free. Companies won’t be able to take action against a “stoned” driver until after he or she has a wreck, not before.

School districts may currently require school bus drivers to be drug-free, but if Proposition 19 passes, their hands will be tied—until after tragedy strikes. A school bus driver would be forbidden to smoke marijuana on schools grounds or while actually behind the wheel, but could arrive for work with marijuana in his or her system.

Public school superintendent John Snavely, Ed.D. warns that Proposition 19 could cost our K–12 schools as much as \$9.4 billion in lost federal funding. Another error could potentially cost schools hundreds of millions of dollars in federal grants for our colleges and universities. Our schools have already experienced severe budget cuts due to the state budget crisis.

The California Chamber of Commerce found that “if passed, this initiative could result in employers losing public contracts and grants because they could no longer effectively enforce the drug-free workplace requirements outlined by the federal government.”

Employers who permit employees to sell cosmetics or school candy bars to co-workers in the office, may now also be required to allow any employee with a “license” to sell marijuana in the office.

Under current law, if a worker shows up smelling of alcohol or marijuana, an employer may remove the employee from a dangerous or sensitive job, such as running medical lab tests in a hospital, or operating heavy equipment. But if Proposition 19 passes, the worker with marijuana in his or her system may not be removed from the job until after an accident occurs.

The California Police Chiefs Association opposes Proposition 19 because proponents “forgot” to include a standard for what constitutes “driving under the influence.” Under Proposition 19, a driver may legally drive even if a blood test shows they have marijuana in their system.

Gubernatorial candidates Republican Meg Whitman and Democrat Jerry Brown have both studied Proposition 19 and are urging all Californians to vote “No,” as are Democratic and Republican candidates for Attorney General, Kamala Harris and Steve Cooley.

Don’t be fooled. The proponents are hoping you will think Proposition 19 is about “medical” marijuana. It is not. Proposition 19 makes no changes either way in the medical marijuana laws.

Proposition 19 is simply a jumbled legal nightmare that will make our highways, our workplaces and our communities less safe. We strongly urge you to vote “No” on Prop. 19.

**DIANNE FEINSTEIN**, United States Senator  
**LAURA DEAN-MOONEY**, National President  
Mothers Against Drunk Driving

★ **REBUTTAL TO ARGUMENT AGAINST PROPOSITION 19** ★

**THE CHOICE IS CLEAR: REAL CONTROL OF MARIJUANA, OR MORE OF THE SAME**

Let’s be honest. Our marijuana laws have failed. Rather than accepting things as they are, we can control marijuana.

Like the prohibition of alcohol in the past, outlawing marijuana hasn’t worked. It’s created a criminal market run by violent drug cartels, wasted police resources, and drained our state and local budgets. Proposition 19 is a more honest policy, and a common sense solution to these problems. Proposition 19 will control marijuana like alcohol, making it available *only* to adults, enforce strong driving and workplace safety laws, put police priorities where they belong, and generate billions in needed revenue.

**THE CHOICE IS CLEAR: REAL CONTROL OF MARIJUANA, OR MORE OF THE SAME**

We can make it harder for kids to get marijuana, or we can accept the status quo, where marijuana is easier for kids to get than alcohol.

We can let police prevent violent crime, or we can accept

the status quo, and keep wasting resources sending tens of thousands of non-violent marijuana consumers—a disproportionate number who are minorities—to jail.

We can control marijuana to weaken the drug cartels, or we can accept the status quo, and continue to fund violent gangs with illegal marijuana sales in California.

We can tax marijuana to generate billions for vital services, or we can accept the status quo, and turn our backs on this needed revenue.

**THE CHOICE IS CLEAR**  
Vote Yes on 19.

**JOYCELYN ELDERS**, United States Surgeon General (Ret.)  
**ALICE A. HUFFMAN**, President  
California NAACP  
**DAVID DODDRIDGE**, Narcotics Detective (Ret.)  
Los Angeles Police Department

## PROPOSITION 19

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure amends and adds sections to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

#### 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.”

##### SEC. 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 nonviolent cannabis consumers, we have failed to control cannabis or reduce its availability.

2. According to surveys, roughly 100 million Americans (around one-third 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, libraries, roads, and more.

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

8. The illegality of cannabis enables 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, 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 Sections 11362.5 and 11362.7 through 11362.9 of the Health and Safety Code.

8. Ensure, 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 under Sections 11362.5 and 11362.7 through 11362.9 of the Health and Safety Code.

9. Tax and regulate cannabis to generate billions of dollars for our state and local governments to fund what matters most: jobs, health care, schools, libraries, parks, roads, transportation, and more.

10. Stop arresting thousands of nonviolent 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: Sections 11014.5 and 11364.5 (relating to drug paraphernalia), Section 11054 (relating to cannabis or tetrahydrocannabinols), Section 11357 (relating to possession), Section 11358 (relating to cultivation), Section 11359 (possession for sale), Section 11360 (relating to transportation and sales), Section 11366 (relating to maintenance of places), Section 11366.5 (relating to use of property), Section 11370 (relating to punishment), Section 11470 (relating to forfeiture), Section 11479 (relating to seizure and destruction), Section 11703 (relating to definitions regarding illegal substances), and Section 11705 (actions for use of illegal controlled substance) of the Health and Safety Code; and Sections 23222 and 40000.15 of the Vehicle Code (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: Section 11357 (relating to

possession on school grounds), Section 11361 (relating to minors, as amended herein), Section 11379.6 (relating to chemical production), or Section 11532 (relating to loitering to commit a crime or acts not authorized by law) of the Health and Safety Code; Section 23152 of the Vehicle Code (relating to driving while under the influence); Section 272 of the Penal Code (relating to contributing to the delinquency of a minor); or any law prohibiting use of controlled substances in the workplace or by specific persons whose jobs involve public safety.

SEC. 3. Article 5 (commencing with Section 11300) is added to Chapter 5 of Division 10 of the Health and Safety Code, to read:

*Article 5. Lawful Activities*

*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:

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

(2) 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 25 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.

(3) Possess on the premises where grown the living and harvested plants and results of any harvest and processing of plants lawfully cultivated pursuant to paragraph (2), for personal consumption.

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

(b) "Personal consumption" shall include, but is not limited to, possession and consumption, in any form, of cannabis in a residence or other nonpublic 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:

(1) 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.

(2) Consumption in public or in a public place.

(3) Consumption by the operator of any vehicle, boat, or aircraft while it is being operated, or that impairs the operator.

(4) Smoking cannabis in any space while minors are present.

*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) The cultivation, processing, distribution, safe and secure transportation, and sale and possession for sale, of cannabis, but only by persons and in amounts lawfully authorized.

(b) The 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) The 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 subdivision (a) of Section 11300 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.

*11302. Imposition and Collection of Taxes and Fees.*

(a) Any ordinance, regulation, or other act adopted pursuant to Section 11301 may include the imposition of appropriate general, special or excise, transfer or transaction taxes, benefit assessments, or fees, on any activity authorized pursuant to that 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.

*11303. Seizure.*

Notwithstanding Sections 11470 and 11479 of this 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, or sold for sale,

*sold, or used in compliance with this act or any local government ordinance, law, or regulation adopted pursuant to this act.*

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. 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:*

(1) *“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.*

(2) *“One ounce” means 28.5 grams.*

(3) *For purposes of paragraph (2) of subdivision (a) of Section 11300, “cannabis plant” means all parts of a living cannabis plant.*

(4) *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 subdivision (a) of Section 11300.*

(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.*

(5) *“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.*

(6) *“Local government” means a city, county, or city and county.*

(7) *“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.*

SEC. 4. Section 11361 of the Health and Safety Code is amended to read:

11361. *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 one thousand dollars (\$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.*

SEC. 5. Amendment.

Pursuant to subdivision (c) of Section 10 of Article II 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 of the Health and Safety Code, which limitations are minimum thresholds and the Legislature may adopt less restrictive limitations.

(b) Statutes and authorized 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 of the Health and Safety Code.

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

SEC. 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.