

LAO 
75
YEARS OF
SERVICE

Proposition 64



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Legislative Analyst's Office

Introduction

Drew Soderborg
Managing Principal Analyst
Legislative Analyst's Office

What Is the Role of the LAO?

- **Nonpartisan Fiscal and Policy Analysts for All Members of the California State Legislature**
 - Analyze the Governor's annual budget.
 - Prepare special reports on the state budget and topics of interest to the Legislature.
- **Analyze Initiatives and Ballot Measures**
 - Prepare fiscal analysis for initiative petitions.
 - Prepare analysis of ballot measures for voter information guide.

Outline

- **What Is Current Law on Marijuana?**
- **What Would Proposition 64 Do?**
- **What Fiscal Effects Would Proposition 64 Have on State and Local Governments?**

What Is Current Law on Marijuana?

State Marijuana Law

- **Marijuana Generally Illegal Under State Law**
 - Penalties range from a fine to jail or prison sentences.
- **Proposition 215 (1996) Legalized Medical Marijuana**
 - Requires recommendation from a doctor.
- **State Currently Adopting New Medical Marijuana Regulations**
 - New Bureau of Medical Cannabis Regulation and other state agencies are responsible for this regulation.
 - Requires standards for labelling, testing, and packaging products, as well as a system to track marijuana from production to sale.
 - Collectives will be replaced by state-licensed businesses.

State Marijuana Law

Medical Marijuana Industry to Be Regulated by Multiple State Agencies

Regulatory Agency	Primary Responsibilities
Bureau of Medical Cannabis Regulation	License medical marijuana distributors, transporters, testing facilities, and retailers.
Department of Food and Agriculture	License and regulate medical marijuana growers.
Department of Public Health	License and regulate producers of edible marijuana products.
State Water Resources Control Board	Regulate the environmental impacts of marijuana growing on water quality.
Department of Fish and Wildlife	Regulate environmental impacts of marijuana growing.
Department of Pesticide Regulation	Regulate pesticide use for growing marijuana.

State Marijuana Law

➤ **State and Local Taxes on Marijuana**

- State and local governments currently collect sales tax on medical marijuana.
- Some cities also impose additional taxes specifically on medical marijuana.
- The total amount collected likely is several tens of millions of dollars annually.

Federal Marijuana Law

➤ **Marijuana Illegal Under Federal Law**

- Illegal to possess or use marijuana, including for medical use.

➤ **U.S. Department of Justice (DOJ) Generally Chooses Not to Prosecute**

- Currently does not prosecute users or businesses that follow state and local marijuana laws.
- Laws must be consistent with federal priorities.
- Priorities include preventing minors from using marijuana and marijuana from being taken to other states.

What Would Proposition 64 Do?

Overview of Proposition 64

- **Legalizes Adult Nonmedical Use of Marijuana**
- **Creates System for Regulating Nonmedical Marijuana**
- **Imposes Taxes on Marijuana**
- **Changes Penalties for Marijuana-Related Crimes**

Legalization of Nonmedical Use of Marijuana for Adults 21 and Over

Proposition 64 Legalizes Nonmedical Marijuana Activities, With Restrictions

Activity	Activities Allowed Under the Measure	Activities Not Allowed Under the Measure
Smoking marijuana	Smoking marijuana in a private home or at a business licensed for on-site marijuana consumption.	Smoking marijuana (1) while driving a car, (2) in any public place (other than at a business licensed for on-site consumption), or (3) anywhere that smoking tobacco is prohibited.
Possessing marijuana for personal use	Possession of up to 28.5 grams (about one ounce) of marijuana and up to 8 grams of concentrated marijuana (such as hash).	Possession of marijuana on the grounds of a school, day care center, or youth center while children are present.
Growing marijuana	Growing up to six marijuana plants and keeping the marijuana produced by the plants within a private home.	Growing in an area that is unlocked or visible from a public place.
Giving away marijuana	Giving away to other adults up to 28.5 grams of marijuana and up to 8 grams of concentrated marijuana.	Providing marijuana to minors under the age of 21 for nonmedical use.

Regulation of Nonmedical Marijuana Businesses

➤ State Regulation

- Bureau of Medical Cannabis Regulation would be renamed the Bureau of Marijuana Control and would be responsible for regulating and licensing nonmedical marijuana businesses.
- Other state agencies would have responsibilities similar to those they have for medical marijuana.
- Various restrictions on marijuana business. For example:
 - Generally could not be located within 600 feet of a school, day care center, or youth center.
 - Cannot also sell tobacco or alcohol.
 - Cannot allow consumption in areas within the presence of minors or areas visible from public.

Regulation of Nonmedical Marijuana Businesses

➤ Local Regulation

- Cities and counties could regulate nonmedical marijuana businesses. For example, they could:
 - Require nonmedical marijuana businesses to obtain local licenses and restrict where they could be located.
 - Completely ban marijuana-related businesses, but could not ban transportation of marijuana through their jurisdictions.

Taxation of Marijuana

Taxation of Marijuana Under Proposition 64

Type of Tax	Type of Marijuana Taxed	Rate
New state tax on growing	Both medical and nonmedical.	\$9.25 per ounce of dried marijuana flowers and \$2.75 per ounce of dried marijuana leaves.
New state retail excise tax	Both medical and nonmedical.	15 percent of retail price.
Existing state and local sales tax	Nonmedical only.	Rates vary across the state but average around 8 percent.
Existing and future local taxes	Can apply to both medical and nonmedical.	Subject to local government decisions.

Allocation of the California Marijuana Tax Fund

Proposition 64 Allocates a Portion of State Revenues for Specific Purposes

Purpose	Annual Funding	Duration
Grants for certain services (such as job placement assistance and substance use disorder treatment) in communities most affected by past drug policies	\$10 million to \$50 million ^a	2018-19 and ongoing
Evaluate effects of the measure	\$10 million	2018-19 through 2028-29
Create and adopt methods to determine whether someone is driving while impaired, including by marijuana	\$3 million	2018-19 through 2022-23
Study the risks and benefits of medical marijuana	\$2 million	2017-18 and ongoing

^a \$10 million in 2018-19, increasing by \$10 million annually until 2022-23, and \$50 million each year thereafter.

Allocation of the California Marijuana Tax Fund

➤ Remaining Revenues

- 60 percent for youth programs—including substance use disorder education, prevention, and treatment.
- 20 percent to clean up and prevent environmental damage resulting from the illegal growing of marijuana.
- 20 percent for (1) programs designed to reduce driving under the influence of alcohol, marijuana, and other drugs and (2) a grant program designed to reduce any potential negative impacts on public health or safety resulting from the measure.

Penalties for Marijuana-Related Crimes

➤ **Changes in Penalties for Future Marijuana Crimes**

- Penalties generally reduced.
- However, the penalties for driving a vehicle while impaired by marijuana would remain the same.
- Requires the destruction—within two years—of criminal records for individuals arrested or convicted for certain marijuana-crimes.

➤ **Individuals Previously Convicted of Marijuana Crimes**

- Certain individuals serving sentences for marijuana crimes would be eligible for resentencing to the lesser penalties created by the measure.
- Those who have completed their sentences could apply to the courts to have their criminal records changed.

What Fiscal Effects Will Proposition 64 Have on State and Local Government?

Fiscal Effects Subject to Significant Uncertainty

➤ Key Factors Driving Uncertainty

- How state and local governments chose to regulate and tax marijuana.
- Whether the U.S. DOJ enforces federal laws prohibiting marijuana.
- How marijuana prices and consumption change under the measure.

Effects on State and Local Costs

➤ **Reduction in Various Criminal Justice Costs**

- Primarily related to a decline in state prison and county jail populations.
- Partially offset by certain factors, such as costs for resentencing offenders.
- Net cost reduction could be in the tens of millions of dollars annually.

➤ **State and Local Health Programs**

- Increased marijuana use could have various fiscal effects on state and local health programs.
- Could result in more individuals seeking substance use treatment, but these costs could be offset by additional tax revenues for this purpose.
- Research is limited, but some evidence shows that smoking marijuana has harmful effects. This could increase health program costs.

➤ **Increased State Regulatory Costs**

- Costs would vary, but could amount to several tens of millions of dollars annually.
- These costs would likely be entirely offset by license fees and tax revenues.

Effects on State and Local Revenues

- **Tax Revenues Could Reach \$1 Billion Annually, but Not Right Away**
 - New state excise taxes.
 - Individuals switching from untaxed, illegal purchases to taxed, legal purchases.
 - Increase in consumption of marijuana.
 - Lower prices could result in tax revenue from other purchases.
 - Partially offset by loss of medical marijuana sales tax revenues.
- **Additional Local Government Revenues**
 - If local governments impose additional taxes on revenue, it could easily amount to tens of millions of dollars annually.
- **Potential Impact on Local Economies in Marijuana Producing Areas**
 - Exports of marijuana currently contribute significantly to the economy in parts of Northern California.
 - Lower marijuana prices and legal cultivation elsewhere could reduce tax revenues in these areas.
 - Effects could be offset if these areas can effectively market their products.

Questions or Comments?

Drew Soderborg

Managing Principal Analyst

Legislative Analyst's Office

(916) 319-8346

drew.soderborg@lao.ca.gov

lao.ca.gov