

Understanding the Commercial Cannabis Industry



- **The Proposition 64 Statewide Vote:** Yes: 56.1% No: 43.9%
- **What:** Legalizes adult nonmedical use of marijuana
- **What About Locals:** Does not change local governments' ability to regulate and/or place taxes on medical or non-medical marijuana.
- **Effective Date:** November 9, 2016
- **When Will Recreational Cannabis Businesses Activities Begin:** January 1, 2018
- **SB 94 (2017):** Reconciled Medical Cannabis Regulations and Safety Act with Prop. 64
- **AB 133 (2017):** Makes technical and clarifying changes necessary to implement state regulatory requirements

RESTRICTIONS

- Smoking marijuana
- Processing marijuana for personal use
- Growing marijuana
- Giving away marijuana

State Agencies:

- **Bureau of Cannabis Control**
 - <https://cannabis.ca.gov/>
 - <http://www.bmcr.ca.gov/meetings/index.shtml>
- **California Department of Food and Agriculture**
<https://www.cdфа.ca.gov/is/mccp>
- **California Department of Public Health**
 - <https://www.cdph.ca.gov/Programs/CEH/DFDCS/Pages/OMCS.aspx>
- **California Department of Tax and Fee Administration**
 - <http://www.cdtfa.ca.gov/>

Cities and Counties:

Local License and Zoning: Maintains authority to ban or authorize any or all segments of the commercial cannabis industry. Has authority to regulate commercial cannabis businesses and personal cultivation.

- **Where Can Consumption Take Place:** Smoking marijuana in a private residence or at a business licensed for on-site marijuana consumption.
- **How Much Can be Possessed:** Up to 28.5 grams (about one ounce) of marijuana and up to 8 grams of concentrated marijuana (such as hash).
- **Where Can the Plants be Grown for Personal Use and How Much:** Growing up to six living marijuana plants and keeping the marijuana produced within a private residence.

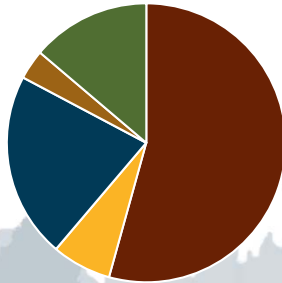
- **Consumption:** Smoking marijuana (1) while driving a car, (2) in any public place (other than at a business licensed for on-site consumption), or (3) anywhere that smoking tobacco is prohibited.
- **Possession:** May not be possessed on the grounds of a school, day care center, or youth center while children are present.
- **Growing:** Not allowed in an area that is unlocked or visible from a public place.
- **Minors:** Providing marijuana to minors under the age of 21 for nonmedical use is not allowed.

Local Authority Under Proposition 64

- May adopt and enforce ordinances: to regulate businesses licenses, local zoning and land use

Local control allows local governments to tailor their regulations to fit community standards and enacting appropriate levels of taxes or fees to offset the costs of administration, enforcement and compliance

Sales and Use Tax
7.25% +
(Applies to non-medical)*



- State General Fund (3.9375%)
- Local Public Safety Fund (.50%)
- Local Revenue Fund (1.5625%)
- County Transportation Fund (.25%)
- City/County Operations Fund (1.00%)

State Cannabis Excise Taxes
(Applies to medical and non-medical)

Retail Tax

15%
Gross
Receipts of
Retail Sales

Cultivation Tax

\$9.25/oz.
Flowers
\$2.75/oz.
Leaves

City Excise Taxes
(Can apply to medical and/or non-medical)

Cultivation/Retail/
Manufacturing/
Broker, Testing*

XX% of Gross Receipts
\$XX per Square Footage
\$XX per Quantity

City Administrative Fees
(Can apply to medical and non-medical)

\$XX Application Fee
\$XX License Fee
\$XX Renewal Fee
\$XX Administration Fee
(Cost Recovery)

1) Administrative costs and payments

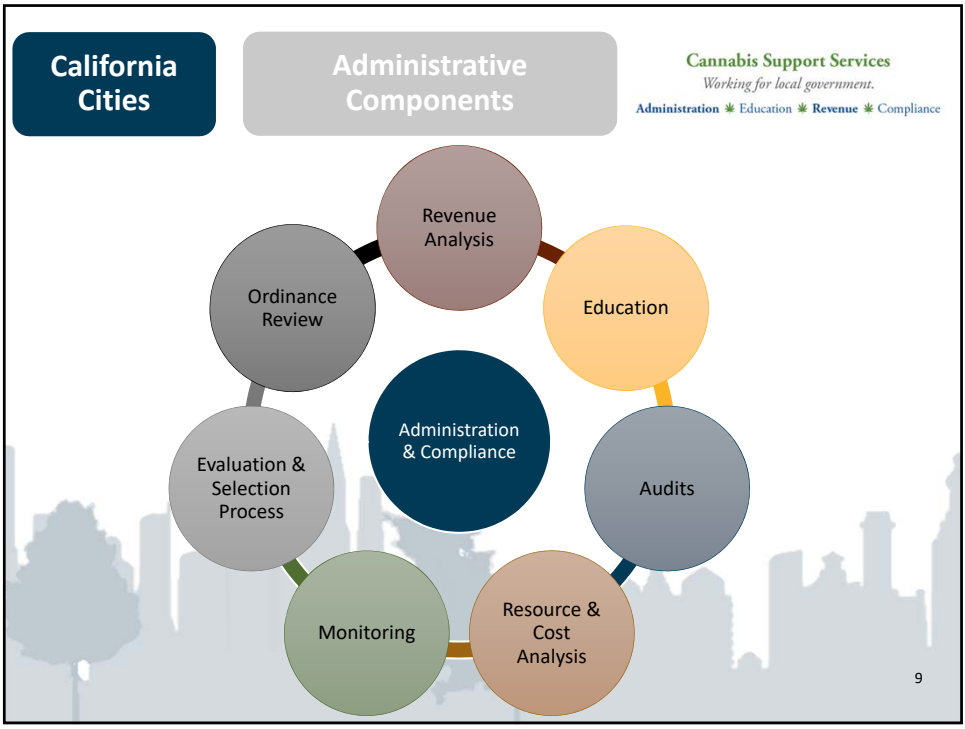
- Reasonable administrative costs including BOE costs shall not exceed 4% of tax revenues received
- Bureau, the Department of Consumer Affairs, Department of Food and Agriculture, Department of Public Health, Department of Fish and Wildlife, State Water Resources Control Board, Department of Pesticide Regulation, Controller, State Auditor, Legislative Analyst's Office, Division of Labor Standards Enforcement and Occupational Safety and Health are included in the administrative costs

2) Controller's fund disbursement

- \$10,000,000 to a public university or University in California annually beginning with FY 2018-19 through FY 2028-29 to research and evaluate the implementation of Prop 64
- \$3,000,000 to the Department of Highway Patrol Beginning in FY 2108-19 through FY 2022-23 to establish and adopt protocols to address DUI issues
- \$10,000,000 in FY 2018-19, up to \$50,000,000 by FY 2022-23 to the Governor's Office of Business and Economic Development to administer community reinvestment grants for local health departments
- \$2,000,000 annually to the University of San Diego San Diego Center for Medicinal Cannabis Research

3) Additional distributions from the tax fund during the prior fiscal year

- 60% to the Youth Education, Prevention, Early Intervention and Treatment Account under the Department of Health Care Services
- 20% to the Environmental Restoration and Protection Account under the Department of Fish and Wildlife and the Department of Parks and Recreation
- 20% to the State and Local Government Law Enforcement Account under the Department of Highway Patrol and the Board of State and Community Corrections



- California Cities**
- Public Safety and Health**
- Cannabis Support Services**
Working for local government.
 Administration * Education * Revenue * Compliance
- **Consumption in Public and Intoxication:** What enforcements and regulations are needed
 - **Driving and Traffic Enforcement:** Intoxicated in public standards
 - **Neighbors:** Housing and cooperative enforcement and regulation
 - **What About our Youth:** What prevention programs are needed that work
 - **Cash:** Nature of the industry heightens risk of robberies and home crimes
 - **Enforcement:** Increased demand or a reduction for illegal markets
 - **Cultivation and Manufacturing Means New Waste:** Hazardous chemicals, pesticides, and other waste need a 'resting place' that protects the public
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- Economic Analysis, Market and Demand Studies
- Resource requirements for permitting, regulations and compliance
- Know what already exists in your community and region
- Inventory your available sites/where your zoning will allow cannabis industry

- Cannabis is a Federal Schedule I Controlled Substance
- Status of Cole Memo is Unclear
- Banking Access is Still Limited
- Continued Impact of the Black Market
- Lessons Learned/Best Practices
 - Surrounding Communities
 - State Level

Determine Community Interest

- Organize Community Workshops to educate the City Staff and community on the various aspects of commercial cannabis businesses.
- Conduct a community survey to understand the community's views on commercial cannabis businesses.
- Return to Council with information on community interest.

Decision Matrix

	Delivery	Dispensary	Testing Lab	Manufacturing	Indoor Cultivation	Outdoor Cultivation	Distribution
Authorized Business	Y/N	Y/N	Y/N	Y/N	Y/N	Y/N	Y/N
Classification Medical/Rec. or Both	M/R Both	M/R Both	NA	NA	NA	NA	NA
Available Property	NA	Y/N	Y/N	Y/N	Y/N	Y/N	Y/N
Community Support	Y/N	Y/N	Y/N	Y/N	Y/N	Y/N	Y/N

* Generally a single "No" will eliminate that commercial cannabis business from consideration

What Does the Community Want?

- Ban or authorize commercial cannabis businesses
- Determine the number and size for each authorized commercial cannabis business category
- Develop a city zoning map or identify acceptable areas for the authorized business types
- What are the potential resources and costs associated with administering commercial cannabis businesses
- What levels of fees and/or taxes would be supported by your community
- Identify key constituencies and Stakeholders

- Planning
- Code enforcement
- Finance
- Police
- Fire
- Economic Development
- City Attorney
- Public Health
- Public Utilities

Know what resources will be required to develop and administer a cannabis program.

- Planning and Permitting
- Initial and On-going Inspections – building and safety, fire and hazmat, public health
- Tax and Compliance Audits
- Prevention Programs
- Education Programs
- Public Relations/Media
- Data Collection and Interpretation
- Evaluate the existing workload for City Staff

Know what your costs will be, develop a mix of fees and taxes to provide ongoing resources.

- Permit and Application Fees
- Permit review and renewal Fees
- Voter approved excise taxes
- Fees vs Voter Approved taxes (special vs general taxes)
- Consider level of fees and taxes and potential impacts on black market cannabis

- **Business License Taxes:** Allows revenue to be appropriated for any municipal purpose unless the tax has been approved as a “specific tax” for a specific purpose.
- **Business Regulatory Fees:** May be used to recover the reasonable regulatory costs for issuing licenses and permits, performing investigation, inspections, and audits and enforcing these regulations.

Drafting Language

- Have a clear direction based on community standards
- Leverage State commercial cannabis regulations
- If authorized, include specific requirements to ensure businesses will meet or exceed the City's expectations
 - Identify and address possible impacts on sensitive areas that impact children and youth
 - Ensure flexibility to allow for the changing commercial cannabis industry

Plan for input from key demographics

- Law Enforcement
- Parent Organizations
- Ethnic Organizations
- Chambers of Commerce

MPG provides that annual average sales per square foot for a cannabis dispensary/retail business range from \$800.00 to \$1,000.00 per sq. ft.

(Average = \$900.00)

MPG provides that a cultivation and manufacturing businesses would expect to have annual revenues of between \$2M - \$15M.

Average cannabis business sales information is not generally available. Most local jurisdictions do not separately list/show cannabis business taxes.

Estimating future tax revenues for commercial cannabis business activities is difficult but not impossible. It is important to understand and evaluate the complexities and changing cannabis industry environment when making revenue projections. Additionally, the City's determination on the type, size, location and number of cannabis businesses will also impact the expected tax revenue. Dispensaries are generally similar in size to a small convenience store, and will likely range from approximately 1,000 sq. to 3,000 sq. ft.

- Average Gross Receipts per Dispensary: \$900,000 – \$2,700,000
- Assuming a sample tax rate of 5% would generate approximately \$45,000 - \$135,000 in revenue for the city.

Gross Receipts

- Percentage of Gross Receipts
- Dollar amount per specified amount of gross sales (\$100.00 for every \$1,000 of gross receipts)
- Audits are needed to verify cash sales
- Impacted by price fluctuations
- Can be applied to all commercial cannabis businesses
- Common for Retailers and Wholesalers
- Provides information on business activities

Square Footage

- Can be applied to all commercial cannabis businesses
- Not impacted by price fluctuations
- Less complex
- Will not represent volume of business activities
- Common for cultivation and manufactures
- Easy to estimate future revenues

FACTORS THAT CAN IMPACT TAX REVENUE

- Business Operators
- Tax rate
- Change in product price
- Size, number and type of business operations
- Consumption
- Competition
- Black Market
- Competent

- Security
 - Appropriate staff coverage
 - Limited access to cash and facilities
 - Video and camera placement
 - Facility evaluation
 - Documentation and verification
 - Separation of Duties
- Staff health and safety concerns
 - Specific safety supplies
 - Adequate ventilation
 - Limited exposure to cash
 - Cleaning supplies
- Specialized equipment
 - Cash counting machines
 - Storage safes
- Transportation
 - Armored Car services

- Collect Data
- Solicit Feedback
- Plan to make changes in your ordinances and regulations based on your experiences

- Fran Mancia, Vice President of Government Relations
- Jeff Kolin, Senior Advisor
- Larry Bergkamp, Senior Technical Advisor
- Ben Fay, Jarvis Fay, LLC Attorneys
- Miles Light and Adam Orens, Marijuana Policy Group, Economists
- Mike Madrid, Grass Roots Labs, election consultants and polling

Thank You