

Why Drug Policy Action Supports Prop. 64: It Protects Small Businesses and Small Farmers in California

Californians for
Responsible
Marijuana
Reform.

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Proposition 64, or the Adult Use of Marijuana Act (“Prop. 64”) ensures that the workers, farmers and small businesses who have shepherded the state to where it is today—at the threshold of legalizing marijuana for adult use—will not be overrun.

Overview of Prop. 64

Prop. 64 is designed to allow the responsible use of marijuana by adults 21 and over within a tightly regulated system. It will allow adults to legally possess, transport, purchase, consume and share up to one ounce of marijuana and eight grams of concentrated marijuana. Adults 21 and over may also legally grow up to six plants at their homes. The newly-formed Bureau of Marijuana Control, within the Department of Consumer Affairs, will coordinate with the Department of Food & Agriculture and other state and local agencies to oversee regulation for both medical and nonmedical marijuana.

Prop. 64 Prevents “Big Marijuana” and Imposes Strict Anti-Monopoly Restrictions

Prop. 64 ensures that the nonmedical marijuana industry will be built around small and medium sized businesses by prohibiting the issuance of cultivation licenses for large growers (cultivating over 22,000 square feet) for the first five years that licenses are issued. This will allow small growers the opportunity to establish themselves in the legal market before larger cultivation licenses are issued in 2023. Once issued, large cultivation licensees will be subject to restrictions on vertical integration.

Prop. 64 also protects small businesses by requiring agencies to consider whether issuing any license will create or maintain a monopoly. Licensees are forbidden from fixing or discounting price in any manner that would lessen competition or create a monopoly. In addition, as part of the independent

evaluation of Prop. 64, the University of California will evaluate whether additional protections are needed to prevent such unlawful monopolies or other anti-competitive behavior.

Prop. 64 Prioritizes Licenses for Applicants Who Have Complied With the Compassionate Use Act and Allows for “Microbusinesses”

Smaller businesses will pay smaller licensing fees. Existing medical marijuana dispensaries, cultivators and others that are in compliance with the Compassionate Use Act and local laws will get priority for licenses in the new nonmedical market. Prop. 64 creates a “microbusiness” license that allows small businesses cultivating marijuana in less than 10,000 square feet to provide services from seed to sale, subject to strict consumer protection rules. Holders of a large cultivation license are unable to vertically integrate, but must sell their product to licensed distributors.

Prop. 64 Does Not Punish Farmers with Prior Drug Convictions

While a well-regulated legal market is necessary to reduce the size of the illicit market for marijuana, opportunities will be made for those cultivators and dispensaries who placed themselves at risk in the previously unregulated system. Any prior conviction for possession, possession for sale, sale, manufacturing, transportation or cultivation of a controlled substance may not be the sole basis for the denial of a license under Prop. 64.

Prop. 64 Protects Appellations of Origin

As in the recent medical marijuana bills passed by the legislature and signed by Governor Brown, Prop. 64 provides that marijuana grown in a certain geographical region may receive an appellation of origin designation.