

Proposition 64 Revenues

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Senate Budget and Fiscal Review Committee

Hon. Holly J. Mitchell, Chair

Hon. Jim Nielsen, Vice Chair





Overview of Proposition 64



Legalizes Adult Nonmedical Use of Cannabis

- The measure changed state law to legalize the use of cannabis for nonmedical purposes by adults age 21 and over. The figure below summarizes the activities that are allowed under the measure.

Proposition 64 Legalizes Nonmedical Cannabis Activities, With Restrictions		
Activity	Activities Allowed Under the Measure	Activities Not Allowed Under the Measure
Smoking cannabis	Smoking cannabis in a private home or at a business licensed for on-site cannabis consumption.	Smoking cannabis (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 cannabis for personal use	Possession of up to 28.5 grams (about one ounce) of cannabis and up to 8 grams of concentrated cannabis (such as hash).	Possession of cannabis on the grounds of a school, day care center, or youth center while children are present.
Growing cannabis	Growing up to six cannabis plants and keeping the cannabis produced by the plants within a private home.	Growing in an area that is unlocked or visible from a public place.
Giving away cannabis	Giving away to other adults up to 28.5 grams of cannabis and up to 8 grams of concentrated cannabis.	Providing cannabis to minors under the age of 21 for nonmedical use.



Creates System for Regulating Nonmedical Cannabis

- State agencies have responsibilities generally similar to those under current law for medical cannabis. Under the measure, the system for tracking medical cannabis products must be expanded to include nonmedical cannabis products.
- Cities and counties can require nonmedical cannabis businesses to obtain a local license and set rules for such businesses (such as restricting where they could be located). Cities and counties can also completely ban cannabis-related businesses.



Overview of Proposition 64



Changes Penalties for Cannabis-Related Crimes

- The measure changes various state penalties related to cannabis. For example, prior to Proposition 64, selling cannabis for nonmedical purposes was punishable by up to four years in prison or jail. Under the measure, selling cannabis without a license is a crime generally punishable by up to six months in jail and/or a fine of up to \$500.
- Individuals serving sentences for activities that are now subject to lesser penalties are eligible for resentencing. Qualifying persons will be resentenced by the courts to whatever punishment they would have received under the measure.
- Individuals who have completed sentences for crimes that are now reduced can apply to the courts to have their criminal records changed.



Imposes Taxes on Cannabis

Taxation of Cannabis Under Proposition 64

Type of Tax	Type of Cannabis Taxed	Rate
New state tax on growing	Both medical and nonmedical.	\$9.25 per ounce of dried cannabis flowers and \$2.75 per ounce of dried cannabis 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.

- The state excise tax on retail sales and the state tax on growing, as well as certain fines, will be deposited in a new special fund—the California Marijuana Tax Fund. As we discuss later, Proposition 64 specifies how monies in the fund will be allocated.



Estimating Excise Tax Revenue



Amount of Revenue Highly Uncertain

- As described below, the amount of excise tax revenue will depend on many economic and regulatory factors. Due to considerable uncertainty in these factors, excise tax revenues are likewise uncertain.



Key Unknowns

- **Size of New Legal Cannabis Market.** The amount of excise tax revenue will depend directly on the amount of cannabis grown and sold in the legal market, as well as the prices paid by consumers. These prices and quantities will depend, in turn, on many factors that are difficult to estimate, including:
 - The current amounts of cannabis grown and consumed in the state, and the current prices paid.
 - How production and consumption decisions will respond to legalization.
 - Rates of voluntary compliance with the new taxes.
- **Government Actions.** The above factors will depend not only on the decisions of market participants, but also on government actions at the federal, state, and local levels. For example, state and local licensing will affect the amounts of cannabis grown and consumed in the legal market.



Allocation of California Marijuana Tax Fund Revenues



Regulatory and Administrative Costs

- Revenues deposited in the California Marijuana Tax Fund would first be used to pay back certain state agencies for any cannabis regulatory and administrative costs not covered by license fees.



Specific Allocations

- The figure below summarizes the specific allocations made after regulatory and administrative cost are addressed.

Proposition 64 Makes Specific Allocations for Various Purposes

Primary Administrator	Purpose	Annual Funding	Duration
Governor's Office of Business and Economic Development	Implement a community reinvestment grant program that would fund 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
Public University or Universities in California	Evaluate the effects of the measure.	\$10 million	2018-19 through 2028-29
California Highway Patrol	Create and adopt methods to determine whether someone is driving while impaired, including by cannabis.	\$3 million	2018-19 through 2022-23
University of California San Diego Center for Medical Cannabis Research	Study the risks and benefits of medical cannabis.	\$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 Remaining Revenues

- 60 Percent—Youth Education, Prevention, Early Intervention and Treatment Account**
 - Funds would be allocated to the Department of Health Care Services to support youth programs including substance use disorder education, prevention, and treatment program.

- 20 Percent—Environmental Restoration and Protection Account**
 - Funds would be allocated to the Department of Fish and Wildlife and the Department of Parks and Recreation to clean up and prevent environmental damage resulting from the illegal growing of cannabis.

- 20 Percent—State and Local Government Law Enforcement Account**
 - Funds would be allocated to the California Highway Patrol to support programs designed to reduce driving while impaired, including by cannabis.
 - Funds would also be allocated to the Board of State and Community Corrections to support programs designed to reduce any potential negative impacts on public health or safety resulting from the measure.



Legislature's Role in Allocating California Marijuana Tax Fund Revenues



Proposition 64 Places Some Initial Limits on Legislature . . .

- Initially, the Legislature's role in allocating the revenue in the California Marijuana Tax Fund is limited to some extent. For example, the measure specifies that the Legislature cannot change the amount allocated to the community reinvestment grant program operated by the Governor's Office of Business and Economic Development or any of the three accounts established within the California Marijuana Tax Fund before July 1, 2028.
- However, the measure does allow amendments that further its purposes with a two-thirds vote of the Legislature.



. . . But Allows Some Changes Beginning in 2028-29

- Beginning in 2028-29, the measure requires that the community reinvestment grant program and the three accounts established within the California Marijuana Tax Fund receive at least as much funding as they did in 2027-28. However, the Legislature could allocate any additional monies in the fund differently with a majority vote, as long as it furthers the purpose of the measure.
- In addition, the measure states that the Legislature may allocate funds from the three accounts to programs other than those specified in the measure with a majority vote, as long as it furthers the purpose of the measure.