

Repeal Cannabis Prohibition Act of 2012

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

This initiative measure adds Chapter 6.7, entitled “Repeal of Cannabis Prohibition,” to Division 10 of the Health and Safety Code.

PROPOSED LAW

SECTION 1. Sections 11420, 11421, 11422, 11423, 11424, 11425, 11426, 11427, and 11428 are added to the Health and Safety Code, to read:

11420(a). This Act shall be known and may be cited as the Repeal Cannabis Prohibition Act of 2012.

(b)(1) The People of the State of California hereby find and declare that the purposes of the Repeal Cannabis Prohibition Act of 2012 are as follows:

- (A) To ensure that adults have the right to obtain and use cannabis.
- (B) To ensure that adults who participate in cannabis related activities are not subject to criminal arrest, prosecution, or sanction.
- (C) To make cannabis available for scientific, medical, industrial, and research purposes.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from driving impaired, nor to condone the diversion of cannabis to minors.

(c) “Cannabis” means “marijuana” as defined in Health and Safety Code Section 11018 and “concentrated cannabis” as defined in Section 11006.5.

11421(a). The following statutes are hereby repealed from the Health and Safety Code: Section 11054(d)(13), Section 11054(d)(20), Section 11357, Section 11358, Section 11359, Section 11360, and Section 11361. Section 23222(b) of the California Vehicle Code is hereby repealed. Cannabis related activities are hereby removed from the prohibitions contained within Health and Safety Code Sections 11364.7, 11365, 11366, 11366.5, 11379.6 and 11570.

(b). The repeal of Health and Safety Code section 11360, as related to sales only, will be effectuated within 180 days of passage of the Act in order to allow the California Department of Public Health the opportunity to enact commercial cannabis regulations.

11422. It shall not be a crime or public offense for an adult to use, possess, share, cultivate, transport, process, distribute, sell or otherwise engage in cannabis related activities.

11423(a). The California Department of Public Health shall oversee the regulatory system for the commercial cultivation, manufacturing, processing, testing, transportation, distribution, and sales of cannabis. This shall include promulgation of regulations to control, license, permit, or otherwise authorize the commercial cultivation, manufacturing, processing, testing, transportation, distribution and sales of cannabis. These regulations shall include appropriate controls on the licensed premises for commercial cultivation, sales 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 other environmental and public health controls. These regulations may not include bans of the conduct permitted by this Act.

(b) Any regulations created by the California Department of Public Health may not impede on the individual rights set forth in this Act. Any taxes, regulations, fines and fees imposed pursuant to this section shall not be imposed on personal amounts of cannabis below 3 pounds of processed cannabis and 100 sq. ft. of cannabis plant canopy provided that the processed cannabis was not sold or purchased pursuant to subdivision (a).

(c) The California Department of Public Health may regulate the smoking of cannabis in public and where minors are present.

11424. This Act, and all state implementations of this Act, shall preempt enactments of local jurisdictions with the exception that local jurisdictions may enhance the rights and protections of persons involved in cannabis related activities beyond what is delineated by the state or this Act.

11425. This Act shall not adversely affect the individual and group medical rights and protections afforded by California Health and Safety Code §11362.5 through §11362.83.

11426. Cannabis related conduct that contributes to the delinquency of a minor shall remain punishable by Penal Code section 272. Driving while impaired by cannabis shall remain punishable by Vehicle Code Sections 23103, 23152(a) and 23153. Impairment occurs when a person's mental or physical abilities are so impaired that he or she is no longer able to drive a vehicle with the caution of a sober person, using ordinary care, under similar circumstances.

11427. If any provision of this Act or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

11428. The provisions of this Act shall become effective November 7, 2012.