

PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION
WORKING GROUP ON CULTIVATION

APRIL 3, 2017

9:30-11:30 A.M. - CMO CONFERENCE ROOM, HALL OF JUSTICE, REDWOOD CITY, CA

Welcome and Introductions

PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION WORKING GROUP ON CULTIVATION

Countywide Collaborative Goals

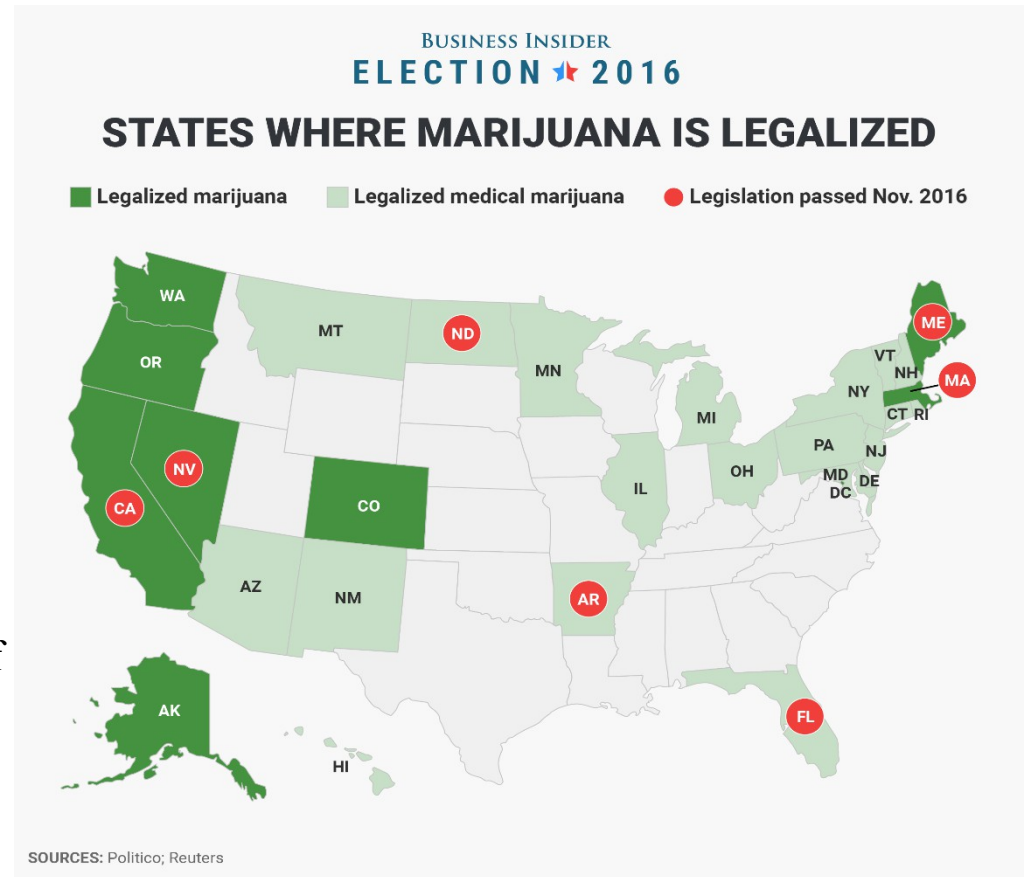
While individual jurisdictions may make very different decisions about what activities to license and what activities to ban, this effort can:

- Provide sufficient information concerning cannabis legalization and potential impacts to facilitate informed decisions by policymakers.
- Ensure that where local permits are issued, they are issued in accordance with State law.
- Coordinate common regulatory frameworks to ease local enforcement.

PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION WORKING GROUP ON CULTIVATION

Federal Framework:

- US Controlled Substances Act (CSA) classifies marijuana as a Schedule I drug with no medical use
- Because it is a controlling federal law, marijuana activities allowed under state law are still prohibited by the CSA
- However, Obama administration had a hands-off approach, guided by 2013 DOJ Cole Memo and 2014 FinCEN (Treasury) guidance
- While Trump administration has indicated a harder-line against recreational marijuana, medicinal marijuana may see a continuation of current Federal policy
- The upcoming Federal budget may signal any shift in enforcement with the inclusion/exclusion/expansion of the Rohrabacher-Farr Amendment, which has prohibited DOJ spending to interfere with state medical marijuana laws



PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION WORKING GROUP ON CULTIVATION

State Legal Framework:

Prop 215 (1996): Compassionate Care Act

- Exempted from criminal prosecution ***patients and caregivers who possess or cultivate marijuana***, if recommended by physician.

Medical Marijuana Program Act (2004)

- Laid out rules for the cultivation of medical marijuana by (non-profit) ***collectives and cooperatives***.

Medical Cannabis Safety & Regulation Act (2015):

- AB 266: Legalized “commercial cannabis activity” ***pursuant to a state medical marijuana license***, allowed ***for-profit business*** to obtain licenses, created 17 different licenses related to cultivation, manufacturing, distribution, and transportation (to be implemented by January 1, 2018).
- AB 243: Included regulations intended to address environmental concerns associated with cultivation. Allowed local jurisdictions to enact further regulations, including complete ban on cultivation within borders. Required license/permit at local level.
- SB 654: Exempted small-scale cultivation by patients and caregivers from licensure scheme. Prohibited cultivation within 600 feet of a school. Established “track and trace” program.

Prop 64 (2016): Adult Use of Marijuana Act

- Preserved existing medical marijuana laws and created ***a parallel system for non-medical marijuana***.
- ***Requires state licenses for commercial cultivation***, manufacturing, testing, retail, or distribution (to be implemented by January 1, 2018).

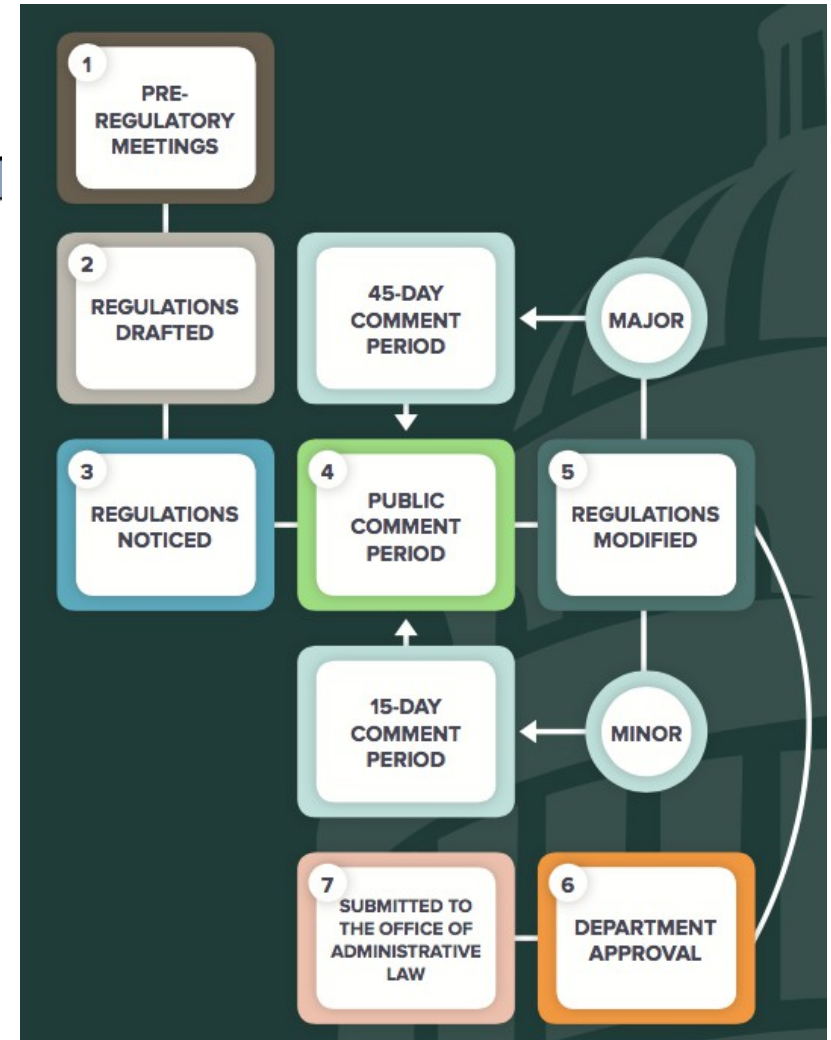
Pending Legislation?

PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION WORKING GROUP ON CULTIVATION

State Regulatory Process:

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.



PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION WORKING GROUP ON CULTIVATION

State Licensing & Enforcement

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE



The California Department of Food and Agriculture's **CalCannabis Cultivation Licensing** branch is preparing to accept applications for cultivation licenses beginning **January 1, 2018**.

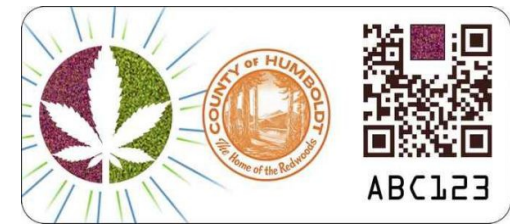


What CalCannabis Is Working on Now

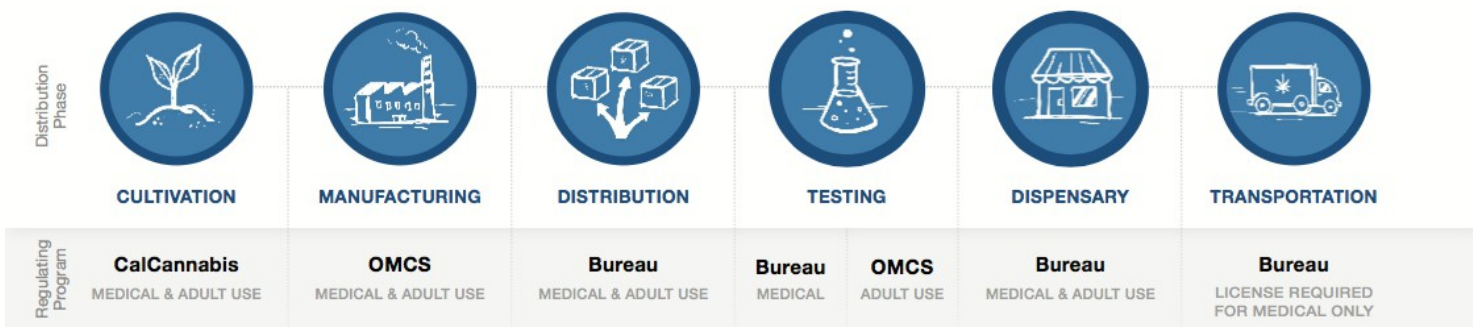
- Developing **regulations** to license cultivators of medical and adult-use cannabis
- Conducting a statewide **Programmatic Environmental Impact Report (PEIR)** to determine and mitigate the significant environmental impacts of cannabis cultivation
- Implementing an **online licensing program** and a **track-and-trace system** to record the movement of cannabis through the distribution chain

The Three Licensing Authorities

Bureau	CalCannabis	OMCS
BUREAU OF MARIJUANA CONTROL Housed within the Department of Consumer Affairs, the bureau licenses testing labs, transporters, distributors, dispensaries, and microbusinesses. ☎ 800-952-5210 📧 bmcr@dca.ca.gov 🌐 bmcr.ca.gov	CALCANNABIS CULTIVATION LICENSING Housed within the Department of Food and Agriculture, CalCannabis licenses cannabis cultivators and establishes a track-and-trace system. ☎ 916-263-0801 📧 calcannabis@cdfa.ca.gov 🌐 calcannabis.cdfa.ca.gov	OFFICE OF MANUFACTURED CANNABIS SAFETY Housed within the Department of Public Health, OMCS licenses manufacturers of cannabis products, such as edibles. ☎ 916-445-0275 📧 omcs@cdph.ca.gov 🌐 cdph.ca.gov/programs/pages/omcs.aspx



Who Does What



This graphic illustrates the movement of cannabis and cannabis products through the state agencies responsible for regulating cannabis.

PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION WORKING GROUP ON CULTIVATION

State Licensing

Application Requirements

The MCRSA requires cultivators to submit the following for license applications:

- Board of Equalization seller's permit number
- Proof of fingerprinting submission to the California Department of Justice
- Copy of a local license, permit or other authorization from a local jurisdiction to cultivate
- A cultivation plan detailing grow site dimensions, chemical use protocols, water source and storage, waste removal plan, security protocols, inventory tracking procedures, quality control procedures, product storage and labeling
- Proof of the legal right to occupy the proposed cultivation site
- Proof of a bond in the amount of \$25,000
- If applicable, a copy of a valid Fish and Game Code section 1602 streambed alteration agreement or written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not required
- If applicable, approval of water diversion and water rights
- If applicable, a certificate of rehabilitation for a conviction

The MCRSA also requires an applicant to attest to the following:

- A license is only valid for the single, identified location
- The proposed location is located beyond a 600-foot radius from a school
- The applicant is not a licensed retailer of alcoholic beverages
- The applicant is an "agricultural employer"
- For an applicant with 20 or more employees, the applicant will enter into a Labor Peace Agreement
- Under penalty of perjury, the information in the application is complete, true and accurate; the applicant has read and is familiar with all applicable laws and regulations

PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION WORKING GROUP ON CULTIVATION

Local Framework

CDFA PUBLIC INTEREST SURVEY RESULTS – LICENSE TYPE BY COUNTY - FINAL

	1	1A	1B	2	2A	2B	3	3A	3B	4	6/7	8	10	11	12	TOTAL
San Mateo	10	9	7	5	12	7	3	8	8	8	6	2	14	9	11	119

'Yes' or 'No'?

- If 'No', then Board or Council should explicitly prohibit potential operators, per Proposition 64:

Medical Cannabis Safety & Regulation Act (2015)

- State licenses requires local permit. Therefore, inaction is an effective ban, except for medicinal delivery which must be explicitly prohibited.

Prop 64 (2016): Adult Use of Marijuana Act

- No state license will be issued if prohibited by local ordinance, allows complete ban of commercial activities. Unlike license for medical marijuana, local license is **not** required for state-issued license. Thus, no local action could result in state issuance of licenses within a jurisdiction.

- Local jurisdiction **cannot ban** lawful transportation or delivery of marijuana through their jurisdiction.
- Local jurisdiction **cannot ban** personal cultivation (up to 6 plants for personal use), but may regulate.
- If 'Yes', then under what conditions?

PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION WORKING GROUP ON CULTIVATION

Working Groups

Cultivation:

- License Types 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4, 5, 5A, 5B, 12
- Personal Cultivation
- Set-backs
- Permit saturation
- Odor Control
- Hazardous Waste
- Agricultural Protection
- Hemp
- Applicant Screening
- Permit application process & frequency
- Security concerns
- Pesticides

Manufacturing:

- License Types 6, 7, 8, 12
- Extraction Process Guidelines
- Fire inspection - Extraction Room Construction, Gas Detection, Exhaust, & Electrical Systems
- Product testing and labelling
- Track and Trace
- Permit saturation
- Waste Disposal
- Applicant Screening
- Permit application process & frequency
- Security concerns

Dispensaries & Sales:

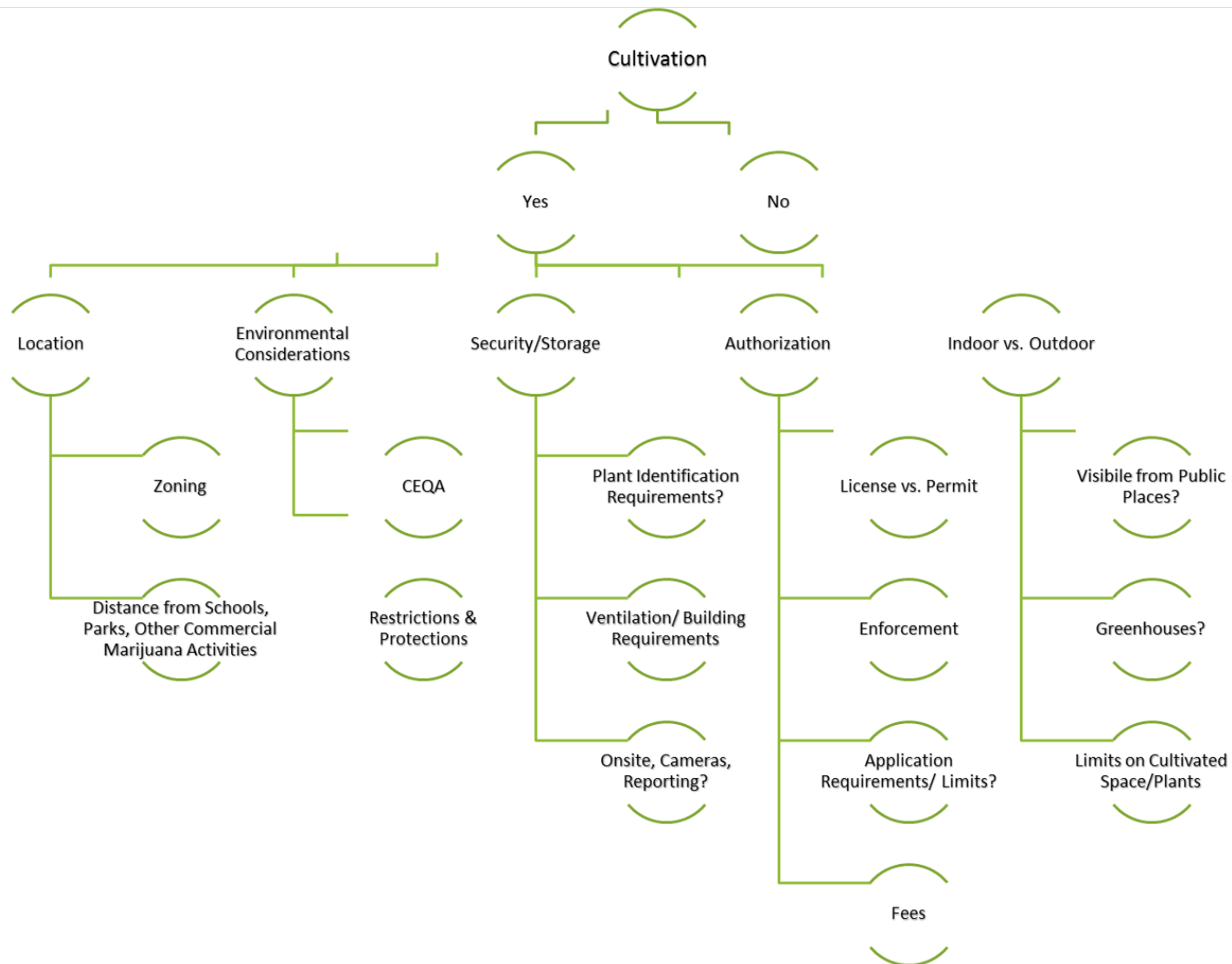
- License Types 10, 11, 12
- Delivery Sales
- Set-backs/Siting
- Permit saturation
- Inspection Programs
- Product testing and labelling
- Track and Trace
- Permit saturation
- Applicant Screening
- Permit application process & frequency
- Security concerns

Revenue:

- Revenue options
- Revenue estimating
- State funding
- Cash payments
- FinCEN Guidelines/Banking
- Security concerns
- Predicting regulatory costs & identifying non-recoverable costs

PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION WORKING GROUP ON CULTIVATION

Cultivation Workplan



PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION WORKING GROUP ON CULTIVATION

Cultivation Workplan

Cultivation Licenses:

- Type 1 – Cultivation; Specialty outdoor; Small (No artificial light, $\leq 5k$ sq ft or up to 50 plants)
- Type 1A – Cultivation; Specialty indoor; Small (Exclusively artificial light, $\leq 5k$ sq ft)
- Type 1B – Cultivation; Specialty mixed light; Small (Natural & supplemental artificial light, $\leq 5k$ sq ft)
- Type 2 – Cultivation; Outdoor; Small (No artificial light, 5,001-10k sq ft)
- Type 2A – Cultivation; Indoor; Small (Exclusively artificial light, 5,001-10k sq ft)
- Type 2B – Cultivation; Mixed-light; Small (Natural & supplemental artificial light, 5,001-10sq ft)
- Type 3 – Cultivation; Outdoor; Medium (No artificial light, 10,001-one acre)
- Type 3A – Cultivation; Indoor; Medium (Exclusively artificial light, 10,001-22,000 sq ft)
- Type 3B – Cultivation; Mixed-light; Medium (Natural & supplemental artificial light, 10,001-22,000 sq ft)
- Type 4 – Cultivation; Nursery (Cultivation solely as a nursery. May transport live plants.)
- Type 12 – Microbusiness (Cultivation on area $< 10k$ sq ft. Not allowed for Type 5, 5A, and 5B)

No issue until January 1, 2023:

- Type 5 – Cultivation; Outdoor; Large (No artificial light, greater than one acre)
- Type 5A – Cultivation; Indoor; Large (Exclusively artificial light, greater than 22,000 sq ft)
- Type 5B – Cultivation; Mixed-light; Large (Natural & supplemental artificial light, greater than 22,000 sq ft)

- Personal Cultivation
- Set-backs
- Permit saturation
- Odor Control
- Hazardous Waste
- Agricultural Protection
- Hemp
- Applicant Screening
- Permit application process & frequency
- Security concerns
- Pesticides

PROPOSITION 64 IMPLEMENTATION: COUNTYWIDE COLLABORATION
WORKING GROUP ON CULTIVATION

APRIL 3, 2017

9:30-11:30 A.M. - CMO CONFERENCE ROOM, HALL OF JUSTICE, REDWOOD CITY, CA

Next Steps