

SUMMARY OF THE CONTROL, REGULATE, AND TAX CANNABIS ACT OF 2016

On October 2, 2015, the Coalition of Cannabis Policy Reform, a collection of the leading organizations seeking to reform cannabis laws and policies in California, filed its draft initiative to decriminalize, regulate, and tax the use of cannabis and cannabis products. The initiative, known as The Control, Regulate, and Tax Cannabis Act (“the Act”), is expected to be on the November 2016 ballot. Below summarizes the major points that the Act will accomplish:

- **Personal use.** The Act legalizes the possession of up to one ounce of cannabis and equivalent amounts of cannabis products for adults over 21 years of age and allows for personal cultivation and possession of “homegrown cannabis” of up to 100 square feet. Collective personal use cultivation is also permitted under the Act.
- **Decriminalization.** The Act repeals current laws criminalizing the use, possession, cultivation, and sale of cannabis and cannabis products, and replaces those laws with a new criminal justice and licensing regimes. Among the new criminal justice provisions, persons attempting to sell, possess, or transport more than one ounce of cannabis without a license could be subject to an infraction punishable by a fine of not more than \$500, with escalating penalties for amounts over sixteen ounces. The Act will also create an expungement process for those previously convicted of cannabis-related offenses.
- **Minors.** Persons under the age of 21 who possess, share, or transport cannabis could be subject to an infraction of not more than \$100. Sales to minors under 18 years of age may be treated as felonies. Revenues generated pursuant to the Act will be apportioned to programs intended to provide assistance to children in disadvantaged communities. Moreover, additional security measures will exist for businesses operating near schools in a manner consistent with existing laws governing medical cannabis.
- **Vehicles.** The Act makes the consumption of cannabis in a public transit vehicle or the consumption of cannabis by persons sitting in the passenger compartment of a motor vehicle an infraction subject to a fine of not more than \$100. Persons under the influence of cannabis or consuming cannabis while operating a motor vehicle could be subject to a misdemeanor punishable by fine or imprisonment.
- **Employment.** The Act expressly intends to “safeguard the rights of patients using medical cannabis and medical cannabis products in a manner reasonably equivalent to other legal medications.” Accordingly, it proposes to overturn the adverse consequences of *Ross v. RagingWire*, while not forcing employers to accept cannabis use by their employees.
- **Administration.** The Act creates a California Cannabis Commission (“the Commission”). The Commission will be comprised of government officials and experts in public health, medical cannabis, organized labor, local government, and law enforcement. Similar to the Alcohol Control Board, the Commission will devise rules and help form the policies applying to the cultivation, sale, and consumption of medical and non-medical cannabis in California.

- **Licensing.** Licenses will be distributed through an Office of Cannabis Regulation (“the Office”), subject to the oversight of the Commission. Using alcohol licensing as a model, the Act will provide for, at a minimum, cultivation, nursery, distribution, manufacturing, retail, transportation, testing, and research/education licenses. The Office will also make available and administer provisional licenses to allow preexisting medical cannabis dispensaries, collectives, operators, and other entities involved with medical cannabis to obtain provisional licenses by July 1, 2017 (or earlier if practicable).
- **No prohibition on vertical integration.** With the exception of those holding testing licenses, persons and businesses will be permitted to hold more than one cannabis license. There will be no complicated rules restricting vertical integration. The Act also confirms that licenses may be sought by for profit and non-profit companies. Moreover, the Commission is instructed to devise a process to allow persons and entities holding a license under existing medical cannabis laws to hold a reasonably equivalent license under the laws governing non-medical cannabis as provided in the Act. Priorities are given for current medical cannabis businesses.
- **Existing laws governing medical cannabis.** The Act is not intended to infringe upon the protections granted under the Compassionate Use Act of 1996. However, the Act is designed to operate in parallel with the California Legislature’s recent changes to the production, sale, and control of medical cannabis. The Commission will be responsible for establishing regulations so that cannabis and cannabis products from the legislatively approved medical cannabis regime can move seamlessly into the adult use system. This includes the recognition of medical licenses for commercial purposes and maintaining the ability to track and trace commercial cannabis. The Act is also sensitive to protecting the rights of qualified patients and primary caregivers.
- **Small and medium size business.** The Act is designed to encourage the protection of small and medium size businesses by establishing licensing tiers and application fees based on the size of businesses, requiring disclosures be made by corporate interests, placing obligations on “responsible” parties of record who will be accountable for the conduct of their companies.
- **Local control.** Cities and counties may adopt reasonable regulations, restrictions, or prohibitions on the cultivation, manufacture, distribution, sale and use of cannabis in public areas. Related prohibitions on medical cannabis are subject to a majority vote. Restrictions on the controlled transportation of cannabis are not allowed.
- **Taxation.** The Act envisions a simple and manageable taxing regime with a \$2 per square foot cultivation tax, a \$15 per ounce production tax paid, with a \$10 reduction for certain small businesses for their first 500 pounds produced annually, a 10% state sales tax on edibles and concentrated extracts, a 5% state sales tax on all other cannabis and cannabis products, and a 5% tax for local governments on all cannabis and cannabis extracts. Medical cannabis will be exempt from the 10% tax on edibles and concentrated extracts and the 5% tax on other cannabis and cannabis products. Medical cannabis

purchased by those eligible for Medi-Cal is exempt from the 10% tax on edibles and concentrated extracts, the 5% tax on other cannabis and cannabis products, the 5% cannabis tax for local governments and the state sales tax.

- **Revenues.** Funds collected under this Act will be dedicated to local governments; allocated for environmental protection and restoration; fund grants with a priority to disadvantaged communities for infant and toddler care, youth counseling, drug education and rehabilitation, and gang diversion, among other programs; fund research product safety, labeling, and testing; fund studies to reduce and prevent driving while under the influence of cannabis; and provide assistance for programs for the protection of seniors and to advance public health.

The Act was drafted with the input of the California NAACP, Latino Voters' Leagues, Law Enforcement Against Prohibition, and various labor, medical, health care and environmental groups. The Coalition of Cannabis Policy Reform also engaged in discussions with a Drafting Advisory Group, which included state and national activist and industry groups, such as the Drug Policy Alliance, the Marijuana Policy Project, Americans for Safe Access, the California Cannabis Industry Association, the Greater Los Angeles Collective Alliance, the Emerald Growers Association, New Approach, the Harborside Group, and the Council on Responsible Cannabis Regulation. Likewise, the initiative was crafted to comport with the policy recommendations offered by Lt. Gov. Gavin Newsom's Blue Ribbon Commission on Marijuana Policy, along with the assistance of other community leaders, activities, elected officials, and other stakeholders throughout the state.

The Coalition of Cannabis Policy Reform encourages public comment of its draft initiative. Comments will be received at <http://www.reformca.com/2016>.