



Proposition 64: Immediate Legal Changes

On Tuesday, November 8th, California voters passed Proposition 64 to legalize the commercial, adult-use of marijuana in California. While commercial activities (sales, manufacturing, cultivation) of commercial marijuana will not commence until January 1, 2018, several statutory changes made by Proposition 64 are **EFFECTIVE IMMEDIATELY**. Please be advised that Proposition 64 makes no changes to driving under the influence laws.

Sentencing Changes for Minors

Pursuant to §11357 of the Health and Safety Code, all offenses by minors up to the age of 18 will now result an infraction and require counseling, community service and drug education¹

Resentencing and Expungement

Pursuant to §11361.8² of the Health and Safety Code, individuals who have been arrested for one of the below activities can petition to have their record expunged for the new legal activities or resentenced to reflect the new penalties.

Information for Employers

Pursuant to §11362.45(f) of the Health and Safety Code, public and private employers maintain the rights and obligations to maintain a drug and alcohol free workplace.

The above information is for general use and is not legal advice. Please seek the opinion of your city attorney.

¹ (1) Persons under the age of 18 shall be guilty of an infraction and shall be required to: (A) Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days. (B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days. (2) Persons at least 18 years of age but less than 21 years of age shall be guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).

² A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that Act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 113 62. 3, and 113 62. 4 as those sections have been amended or added by this Act.

Sentencing Changes for Adults 21+

Green = Legalized **Yellow** = Misdemeanor **Red** = Felony

| <i>Activity</i> | <i>Previous Penalty</i> | <i>New Penalty</i> |
|--|--|---------------------------------------|
| <i>Possession up to 1 ounce of marijuana</i> | <i>Infraction- \$100 ticket</i> | <i>Legal for 21+</i> |
| <i>Possession over 1 ounce of marijuana</i> | <i>Misdemeanor- six months, \$500</i> | <i>Misdemeanor- six months, \$500</i> |
| <i>Intent to sell</i> | <i>Felony- 16 months/ two/three years</i> | <i>Misdemeanor- six months, \$500</i> |
| <i>Sales to minors</i> | <i>Felony- 3-7 years</i> | <i>Felony- 3-7 years</i> |
| <i>Possession up to 8 grams concentrate</i> | <i>Misdemeanor- 1 year, \$500 or both</i> | <i>Legal for 21+</i> |
| <i>Possession over 8 grams concentrate</i> | <i>Misdemeanor- one year, \$500</i> | <i>Misdemeanor- six months, \$500</i> |
| <i>Transport up to one ounce</i> | <i>Misdemeanor- \$100</i> | <i>Legal 21+</i> |
| <i>Transport/ Share over one ounce</i> | <i>Felony- two/three/four years</i> | <i>Misdemeanor- six months, \$500</i> |
| <i>Share up to one ounce</i> | <i>Misdemeanor- \$100</i> | <i>Legal 21+</i> |
| <i>Homegrow up to six plants per residence</i> | <i>Felony- 16 months, two/three years</i> | <i>Legal 21+</i> |
| <i>Homegrow over six plants</i> | <i>Felony- 16 months, two/ three years</i> | <i>Misdemeanor- six months, \$500</i> |
| <i>Smoking where tobacco is banned</i> | <i>\$100 ticket</i> | <i>\$250 ticket</i> |

Questions? Please contact Lauren Michaels with the California Police Chiefs Association at lmichaels@californiapolicechiefs.org