

Heidi Eidson

From: Annie Greenfeld <shorti2448@gmail.com>
Sent: Tuesday, July 15, 2014 10:17 PM
To: Heidi Eidson; Michael Mais; Jeffrey Winklepleck
Cc: Amy Bodek
Subject: Subject: Planning Commission Meeting Agenda item #6 re: 14-046PL Medical Marijuana Presentations
Attachments: UPDATED LBPost story Oct. 2012 LBPost.pdf; USA TODAY article 071314p.pdf; lb cpac letter to PC.pdf; NY LaW DAILY INTELLIGENCERJune 2014.pdf

PLEASE CONFIRM RECEIPT AND CONFIRM THAT THIS WILL GO INTO THE PLANNING COMMISSIONERS' PACKETS

Subject: Planning Commission Meeting Agenda item #6

re: 14-046PL Medical Marijuana Presentations

Dear Planning Commissioners, Mr. Mais, Ms. Carney and Staff,

As President of Long Beach Central Project Area Council, Inc. (LB CPAC) and being a concerned citizen and volunteer in many different neighborhoods in the City of Long Beach, I wanted to share some concerns LB CPAC has with the creation of the ordinance.

The Long Beach Central Project Area Council, Inc. (LB CPAC) replaces the Central Project Area Committee for Redevelopment which ceased to exist when the Redevelopment Agencies were eliminated by Governor Brown in 2012. We are incorporated as a 501c3 non-profit corporation. We also represent organizations from the Central, West and industrial areas of the City of Long Beach, as well as residents and businesses in Long Beach.

We are meeting with Kendra Carney along with other members of the community and we have also had an LB CPAC community meeting with members of the Collectives. We would welcome the opportunity to discuss these items and be part of the process as the ordinance is created.

We have read over the material that will be discussed at the July 17 meeting and have concerns, specifically regarding some items that appear in the ordinance attached to the 07-09-14 memorandum of Ms. Carney.

1. One of our concerns is that the definition of "medical marijuana" is weak and there is nothing to distinguish medical marijuana from recreational use of marijuana. Recreational use of marijuana is illegal and the ordinance should state that. It should also be made very clear who should be

permitted to use "medical marijuana" and that a treating physician who has been treating the patient is the one who should prescribe/recommend this treatment.

2. There are certain areas in the proposed draft of the ordinance which are clearly geared toward only in favor of the collective or "so called" marijuana business.
3. It is also very clear that much more input should come from the neighborhoods that will be impacted by these "businesses".
4. This is a land use issue and zoning plays a very important part of the placement of these "businesses".
5. This is also an issue of the safety of the community and businesses located in the zones that are being proposed for the placement of these "businesses". Zoning and uses permitted in zones have been in place for many, many years, and the only changes that have occurred are in the planned developments that have been located in these planned developments. For example, light industrial zones have been proposed to allow these "businesses"; however, the only areas that they can be placed in are on the Westside and North Long Beach. The other "newer" industrial zones have been designated as "planned developments" so these "businesses" cannot be located within them.
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7. The selection of the operators of these businesses is also crucial to the public's safety.
8. The areas that are being proposed for the locations of these businesses have had tens of millions of Redevelopment dollars poured into them, with all of these redevelopment areas being left "unfinished" and to fend for ourselves. These businesses have proven to create blight in these underserved areas. The communities are working very hard to rid these areas of blight and to make them safe. We don't have the police/public safety numbers to protect us from crime and to keep us safe.

These are only a few of the issues we have, and would like to be part of the solution and not part of the problem. We are an intelligent and creative group and are willing to help the City. Please don't ignore us and allow us to be part of the solution.

Attached is some of the research done by us. We will have much more to share with you soon.

Sincerely,

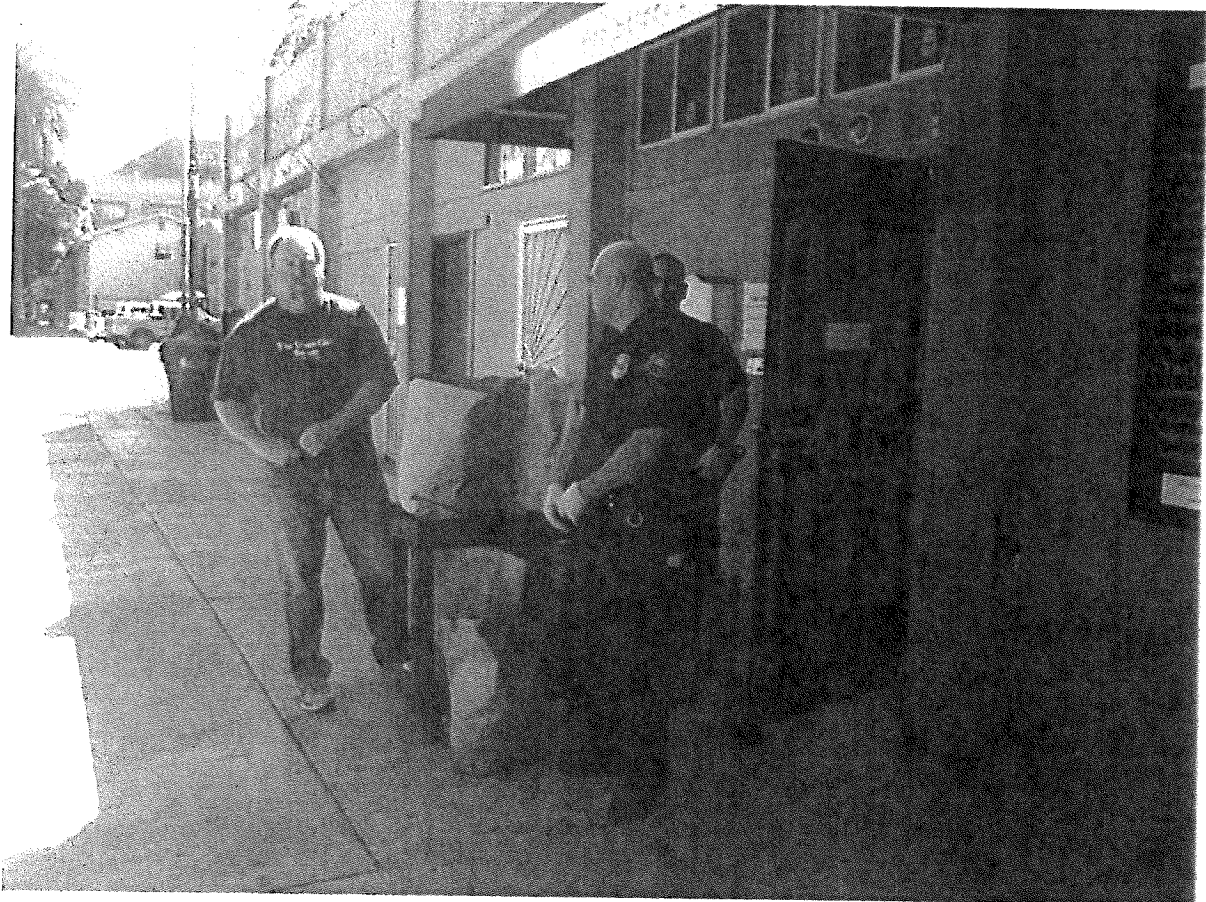
Annie Greenfeld
President, LB CPAC

*"Never, never be afraid to do what's right, especially if the well-being of a person or animal is at stake.
Society's punishments are small compared to the wounds we inflict on our soul when we look the other way*

UPDATED: Multiple Medpot Dispensary Raids Carried Out by LBPD and DEA

by GREGGORY MOORE
OCTOBER 10 2012 16:31
in NEWS

1



Officers emerge from 4th Street Long Beach Natural Health with confiscated cannabis products. Photos by Gregory Moore.

UPDATED 11:00AM THURSDAY | Information on all of seven of the dispensaries raided Wednesday as well as quotes from the LBPD on the operation can be found at our follow-up story [here](#).

ORIGINAL 3:33PM WEDNESDAY | At approximately 1PM Wednesday multiple medical-marijuana dispensaries—all of which were operational despite the City's full ban on

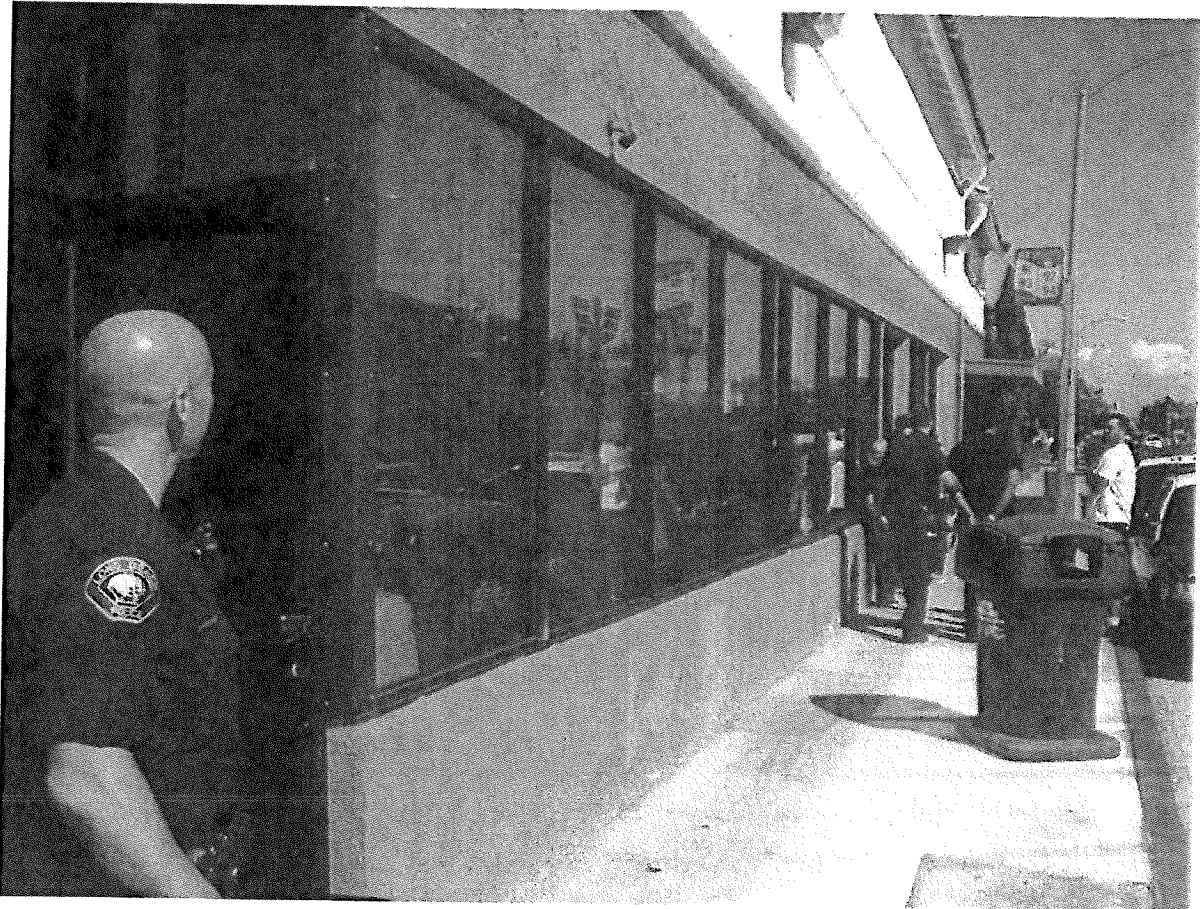
dispensaries that went into effect in August—were raided simultaneously by a combination of Long Beach police and Drug Enforcement Administration agents.

LBPD Detective Wayne Watson, lead officer at the scene of a raid being carried out at 4th Street Long Beach Natural Health (the scene of a recent protest), confirmed that multiple dispensaries had been raided on Wednesday.

"I don't know the exact number," Watson said. "Quite a few."

The *Long Beach Post* recieved reports that at least four dispensaries were being raided, and that the DEA was involved in all if them. Watson confirmed the DEA's involvement with the raids.

"[The DEA] is just assisting local law enforcement with the actual service of the search warrants," he said.



An officer escorts an arrestee to a police car as another looks on at 4th Street Long Beach Green Room.

According to DEA Public Information Officer Sarah Pullen, "The DEA was providing assistance to the Long Beach Police Department in the service of several warrants. The warrants were obtained by the Long Beach Police Department and it is their investigation, so I would need to refer you to them for any information on this."

The *Post* is awaiting comment from the LBPD.

Officers at the scene of 4th Street Long Beach Green Room declined to comment on the operation, which yielded at least two arrestees.

Det. Watson told the *Post* that six persons had been arrested at 4th Street Long Beach Natural Health, though he was unaware of grounds for their arrests, saying that the arresting officer was no longer on the scene, and that his (i.e., Watson's) role in the operation was to collect evidence. Watson reported that four bags of plants were seized, along with six bags of edibles.

Watson noted that one of the arrestees was a security guard, who was in possession of a handgun. Watson said there were no incidents with the arrests.

This story will be updated as more information becomes available.

Comments:

Here's a personal story directly related to these raids: Weeks ago, LBPD pulled detectives off of a meth dealer investigation in our apartment building to go after all of Long Beach's Medical Marijuana dispensaries. The detective who was working the case told us himself, and it was confirmed through the police department. Our little group of residents was naturally angered by this. Who to blame? After complaining to the city about this, we found out that this is Mayor Foster's pet project. He knows that we don't have a big enough police force/budget to go after Med-pot and real drug dealers, so he has chosen to go after med-pot. This is an example of BAD GOVERNMENT. I wonder how many other serious investigations were stopped so Foster's crusade against medical pot could continue? (Maybe the *Post* could investigate that angle?) Thanks, Mayor Foster, for making us all less safe.

USA TODAY

Pots of marijuana cash cause security concerns

Trevor Hughes, USATODAY 12:50 p.m. EDT July 13, 2014

DENVER — The unmarked armored truck rumbles to a stop in a narrow alley, and former U.S. Marine Matthew Karr slides out, one hand holding a folder, the other hovering near the pistol holstered at his hip. With efficient motions he retrieves a locked, leather-bound satchel from a safe set into the truck's side and presses a buzzer outside the door. It swings open to reveal a cavernous warehouse filled with marijuana and a safe stuffed with cash.

Welcome to the rear guard of Colorado's rapidly expanding legal marijuana industry, where eager users pour millions of dollars — most of it in small bills — into buying pot, hashish, and marijuana-infused foods and drinks. All that cash adds up, and there are few places to put it: Federal regulations, which still classify pot as an illegal drug, make it difficult for marijuana producers to deposit their profits into traditional bank accounts.

And those cash-heavy small businesses make awfully attractive — and vulnerable — targets for criminals. That's where Karr and the company he works for come in.

Heading through the warehouse where workers tend young marijuana plants, Karr greets a young woman, and the two empty a safe of tens of thousands of dollars in cash neatly packed in plastic envelopes. Like every room in this combined marijuana store and grow house, the smell of pot hangs heavy in the air. Karr double-checks the ledger, locks his satchel and hustles outside, where former cop Phil Baca waits at the wheel of the armored car.

Karr opens the truck's safe, pitches the satchel inside and climbs back into the passenger seat, an AR-15 rifle stashed behind him. It's a scene that plays out six times in three hours. Their take for the day: somewhere close to \$100,000 in cash.

"For the first three months, people were just keeping the money everywhere — in the walls, in mattresses, at home," says Sean Campbell, CEO of Blue Line Protection Group, which provides marijuana security services, including Karr, Baca and the armored car. "And banks don't even want to deal with it. You have a quarter-of-a-million dollars in cash show up all at once. The counting time alone is going to take an hour." The unusual problem of having too much cash is forcing business owners to hire security firms like Campbell's, especially after Denver police warned in June of a credible threat against marijuana stores and couriers.

Marijuana-store owners have suffered some smash-and-grab robberies over the last several years but surveillance systems and close police attention have solved many of them. Experts say those robberies were largely committed by amateurs, rather than sophisticated crime rings.

Campbell said he believes it will take a serious high-dollar heist to force smaller marijuana stores to take their security more seriously.

State law requires marijuana businesses to have security cameras and systems on the premises, and many have armed guards, but they remain easy targets. The stores and grow operations often are in remote industrial areas, in warehouses that have not been hardened against a determined intruder. Many stores have large amounts of pot sitting around in rooms secured only by flimsy wooden doors.

Options are limited, however. Unlike most other businesses, marijuana-store owners can't easily open bank accounts for fear of running afoul of federal law. Despite Washington state joining Colorado last week in legalizing sales of marijuana for recreational purposes and 23 states plus the District of Columbia permitting medical pot, the federal government still classifies the plant as an illegal drug more dangerous than cocaine or methamphetamine.

By opening a bank account, pot growers and shop owners run the risk of being charged with money laundering, because federal banking laws and regulations are deliberately aimed at tracking large flows of

cash like those generated by both legal and illegal drug sales. A single such charge can bring decades in prison, and most banks and pot-shop owners don't want to run that risk.

"When you go into the business, and you know it's federally illegal, you're taking your chances," said Tom Gorman, who runs the federally funded Rocky Mountain High Intensity Drug Trafficking Area task force.

"That's the problem when the state legalizes something that remains illegal at the federal level."

While declining to be quoted by name, many marijuana store owners interviewed by USA TODAY shared tales of playing cat-and-mouse with banks, managing to keep accounts open for only a few months at a time before getting shut down.

U.S. Treasury officials require banks to file what are known as "suspicious activity reports" whenever they suspect someone is trying to launder money. Anyone bringing in a pile of cash sets off internal alarms for bank workers, pot-shop workers say. Federal financial-crimes investigators encourage banks to report suspected marijuana transactions because pot remains illegal at the federal level.

"Our goal is to promote financial transparency and make sure law enforcement receives the reporting from financial institutions that it needs to police this activity and to make it less likely that this financial activity will run underground and be much harder to track," said Steve Hudak, a spokesman for the Treasury Department's Financial Crimes Enforcement Network.

Tax-and-marijuana attorney Rachel Gillette said she's seen banks' concerns firsthand — several banks she deals with said they wouldn't let her open an account, even though both the federal and state government are allowed to deposit tax payments from pot sellers. Gillette said federally regulated banks say it's just easier for them not to risk getting their hands tainted by pot.

"They literally told me they would not take my account because I do business with the marijuana industry," Gillette said. "That seems fundamentally unfair — the state is taking that money and putting it in the bank; the IRS is taking that money and putting it in the bank."

Gillette is suing the IRS on behalf of one of her clients who has been paying federal payroll tax bills with cash. The IRS calls for electronic payments and adds a 10% surcharge for cash payments, she said. With some marijuana businesses paying payroll taxes of \$100,000 a quarter, those penalties are substantial. Colorado has tried to solve the problem with a new state law permitting creation of marijuana banking cooperatives, which would have the power to accept deposits, lend money and make electronic payments. But that system likely won't begin operating for at least another year, said Gov. John Hickenlooper, and even then federal officials would need to bless the plan.

The amount of cash already flowing through the fast-growing system has forced state tax officials to change how they accommodate payments. While Colorado allows businesses to pay their taxes in cash, most pay electronically. Marijuana businesses, however, must trek to a central Denver office, cash in hand, where they're met at the curb by armed guards and escorted inside.

"Some people walk in with shoe boxes. Some people have it in locked briefcases. We've had people bring it in buckets," said Natriece Bryant, a spokeswoman for the Colorado Department of Revenue.

Campbell, who runs the armored-car company, said the vast cash flows are a clear come-on for criminals. He said he's working with banks to offer alternatives for marijuana businesses, including vault services. For many in the marijuana industry, the scene from the Emmy-winning television series *Breaking Bad* of a storage unit filled with drug cash hits uncomfortably close to reality.

Says Campbell, "You're effectively creating a magnet for crime."

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Sincerely,

Annie Greenfeld
President, LB CPAC

DAILY INTELLIGENCER June 20, 2014 4:15 a.m.

New York Is Legalizing Medical Marijuana: Answers to All Your Burning Questions

By **Margaret Hartmann** Follow @marghartmann
Tweet 44 Share 0 Share 29 22 Email Print

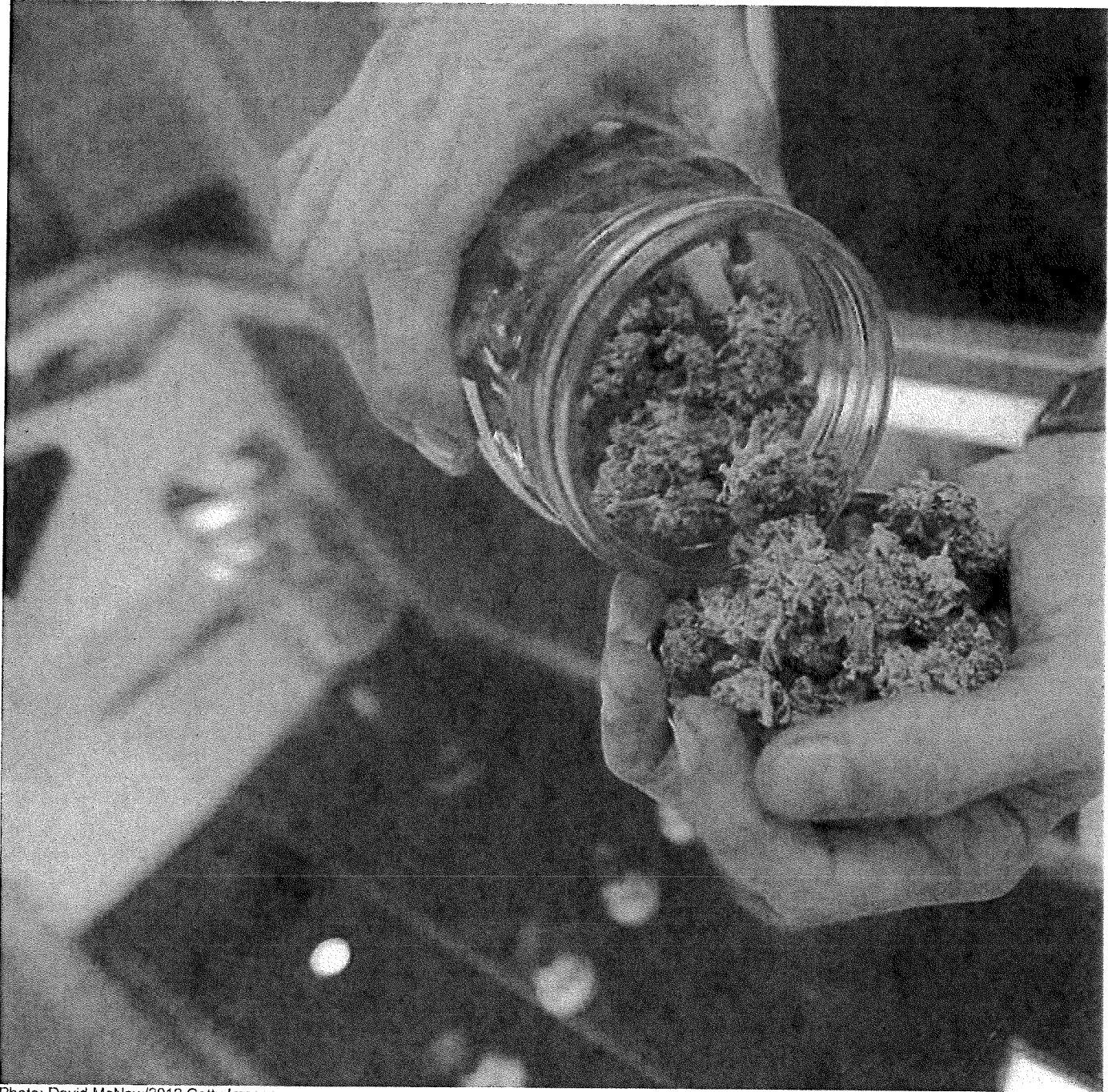


Photo: David McNew/2012 Getty Images

Members of the New York State Legislature have been trying to legalize medical marijuana for nearly two decades, and on Thursday Governor Andrew Cuomo and legislative leaders announced that they've finally reached an agreement that will allow sick New Yorkers to use the drug. The specifics were still being hammered out late on Thursday evening, but the bill is expected to pass on Friday, making New York the 23rd state with medical marijuana. Governor Cuomo was initially opposed to legalizing the drug, and in January he proposed a plan to prescribe it in just 20 hospitals for research purposes. The new law will include strict restrictions, including a ban on smoking medicinal cannabis. New Yorkers are understandably excited (a recent poll found 88 percent of voters support medical marijuana), but there are a few things you need to know before you whip out your green corduroy jeans and prepare to enter a hallucinatory state.

When can New Yorkers actually start buying medical marijuana?

After Governor Cuomo signs the bill into law, there will be an 18-month waiting period to give the state time to add regulations, train doctors, and establish growing and distribution centers. The governor will have the power to "pull the plug" at any time if he decides that the program creates a public safety risk. Cuomo insisted on that provision, and another that says the program will expire in seven years, unless lawmakers reauthorize it.

Who will be eligible to buy medical marijuana?

Only people diagnosed with epilepsy, multiple sclerosis, Lou Gehrig's Disease, Parkinson's disease, Huntington's disease, neuropathies, spinal cord injuries, cancer, and HIV/AIDS. According to Syracuse.com, the health commissioner is expected to decide on whether to add Alzheimer's disease, muscular dystrophy, dystonia, post-traumatic stress disorder, and rheumatoid arthritis within the next 18 months, and conditions can be added or removed at any time.

How can New Yorkers get a prescription?

Patients will need to be certified by a doctor who is part of their continuing care, and who's registered with the state's medical marijuana program. They'll receive an ID card, which they must carry at all times. Obtaining the certification will cost \$50 per year, but the fee may be waived due to hardship. Terminal patients will qualify for certification that lasts until their death, and other patients can be certified for a year or less, depending on what their doctor recommends. The drug probably won't be covered by insurance plans, as it's still illegal at the federal level.

How will marijuana be grown and distributed?

The drug will be produced, manufactured, and distributed in New York State (though somehow, we doubt it will replace Greek yogurt as lawmakers' favorite locally made product). Five manufacturers will be granted grow licenses by the state, and each will be allowed to run four dispensaries. Legislators can increase those numbers later, if there's greater demand. The dispensaries can be for-profit or non-profit, and guidelines will be developed to ensure that they're spread throughout the state.

There will be a 7 percent sales tax on the pot, and counties where the dispensaries are located will receive 22.5 percent of that revenue. Officials said they have no way of estimating how many people will buy the drug, or how much the state stands to collect in taxes.

What can patients buy? How much will it cost?

Patients can purchase marijuana in various forms — including edibles, tincture, e-cigarette-like vaporizers — but one of the Cuomo administration's major demands was that smoking the drug be banned. It's unclear how much the drug will cost, but it will be up to the health commissioner to set the price. Assemblyman Richard Gottfried, who sponsored the bill, said patients can be prescribed as much as two ounces of the drug every 30 days, according to Capital New York.

Why no smoking?

"We have spent billions of dollars in the effort to eliminate smoking, and it goes against all the wisdom of public health to turn our backs on all that we have done in this area," acting State Health Commissioner Howard Zucker said on Thursday. He claimed edibles, oils, and vaporization can deliver marijuana just as effectively as smoking, but Gabriel Sayegh, the New York director of the Drug Policy Alliance, disagreed. "The cost of purchasing a vaporizer and the extract products will likely leave many low-income patients behind, and there is little research on the long-term health effects," Sayegh told the Daily News. He added, "The decision about the mode of administration for any medication should be left up to doctors and their patients."

Are there any other states that ban smoking?

Of the 22 states that have approved medicinal marijuana, Minnesota is the only one that bans smoking. The law was only passed there last month, and Minnesota won't begin distributing medical cannabis until July 1, 2015.

Could smoking medicinal pot still be added to the law?

While the health commissioner can change some parts of the program, expanding it to include smoking would require another vote by the Legislature.

Will it really be that hard for someone who's relatively healthy (aside from their, uh ... debilitating insomnia and back pain) to obtain a prescription?

Yes, unless you know a doctor willing to risk spending four years in jail. The law will make prescribing marijuana for patients who don't qualify a felony. Anyone else who tries to sell or distribute medical marijuana can be charged with a misdemeanor.

So, when can the rest of us smoke legally?

Several New York legislators introduced a bill in December that would have legalized recreational marijuana, but Cuomo's spokesman called it a "non-starter." During this week's debate, Cuomo described marijuana as a "gateway drug," citing the state's heroin and opiate prescription drug abuse problems, so it appears he's not evolving very quickly on the issue.

Related

New York Is About to Legalize Medical Marijuana (But With No Smoking Allowed)

White House Upholds States' Rights, At Least For Marijuana

3:05 PM 07/15/2014

Jonah Bennett

In reaction to a proposed amendment to block decriminalization of marijuana in D.C., the White House Office of Management and Budget took a strong stance in favor of states' rights.

Republican Rep. Andy Harris of Maryland introduced an amendment that would prevent the D.C. Council from using any federal funds to enact pot policy changes, calling marijuana "poison to a teenager's brain." The D.C. Council has also released a statement condemning interference from Congress. The current legislation adopted by the Council replaces criminal penalties for marijuana usage with fines.

The marijuana amendment in the Financial Services and General Government appropriations bill is just one of the reasons that the White House has announced its intentions to veto the whole bill if it ever passes through the Senate. The administration has previously refused to engage in legal action against Colorado or Washington for their legalization proposals, despite the fact that marijuana is still illegal on a federal level.

"The Administration strongly opposes the language in the bill preventing the district from using its own local funds to carry out locally-passed marijuana policies, which again undermines the principles of States' rights and of District home rule. Furthermore, the language poses legal challenges to the Metropolitan Police Department's enforcement of all marijuana laws currently in force in the District," the Office of Management and Budget stated.

Mason Tvert, communications director for the Marijuana Policy Project, noted that Rep. Andy Harris' justification for hindering the D.C. Council's marijuana proposals is irrelevant, as the measure does not allow for teen use of marijuana.

"Nobody wants teens using marijuana, but the measure adopted in DC does not allow for teen use. A majority of Americans think that making marijuana legal would be a better approach to preventing teen marijuana use. Prohibition has failed to prevent teens from accessing marijuana and has resulted in hundreds of thousands of responsible consumers being arrested," Tvert told The Daily Caller News Foundation.

"We certainly commend the White House for making it clear that states should have the ability to establish their own marijuana policies. They should not be forced to maintain our federal government's failed policy of prohibition. Voters in the District of Columbia have made it clear that they support ending marijuana prohibition, and their elected officials have taken action to move in that direction. They should have every right to do so," Tvert added.

Follow Jonah Bennett on Twitter

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Read more: <http://dailycaller.com/2014/07/15/white-house-upholds-states-rights-at-least-for-marijuana/#ixzz37gjpKqj3>

Heidi Eidson

From: diana lejins <dianalejins@yahoo.com>
Sent: Wednesday, July 16, 2014 6:23 PM
To: Heidi Eidson; Jeffrey Winklepleck; Amy Bodek
Cc: Michael Mais; Kendra Carney; Charles Parkin; Douglas Haubert; Jim McDonnell; Robert Luna; Diana Lejins
Subject: Denver Murder Rate Cut in Half

Denver Murder Rate Cut in Half After Marijuana Legalization. Coincidence?
(Please add to agenda info)

The Free Thought Project

John Vibes

May 20, 2014

According to statistics recently released by the government in Denver, the amount of robberies and violent crimes significantly decreased since marijuana legalization went into effect. It is important to mention that this strong correlation is not definitive proof that legalization is the cause of this drop in crime, but it does strongly suggest that this is the case.

These statistics are especially convincing considering the short amount of time that this drastic reduction in crime has taken place. In just one short year the number of homicides dropped by 52.9%. Sexual assaults were reduced by 13.6%. Robberies were down by 4.8% and assaults were down by 3.7%.

The statistics measured the first few months of the year for both 2013 and 2014, and then compared those numbers with one another to determine whether they were higher or lower after legalization went into effect.

There are many different factors contributing to this drop in crime, and it is likely that marijuana legalization is a very big piece of the puzzle. Legalization has had a profound impact on local economies, and has created a large boom in new residents who have moved to the area to flee persecution. This increase in prosperity surely has some effect on the amount of robberies and burglaries that have taken place.

Additionally, marijuana is traditionally known to mellow people out and calm them down, making them far less likely to act out in anger or plan a murder.

One final possibility that comes to mind is the fact that possibly, police resources are being diverted towards serious crimes instead of nonviolent offenses. Unfortunately, they are still writing plenty

of fines and locking up plenty of people for nonviolent offenses, but marijuana smokers and traders have been one of the largest group of persecuted nonviolent offenders for a very long time.

See the UCR Citywide Report

John Vibes is an author, researcher and investigative journalist who takes a special interest in the counter culture and the drug war. In addition to his writing and activist work he is also the owner of a successful music promotion company. In 2013, he became one of the organizers of the Free Your Mind Conference, which features top caliber speakers and whistle-blowers from all over the world. You can contact him and stay connected to his work at his Facebook page. You can find his 65 chapter Book entitled "Alchemy of the Timeless Renaissance" at bookpatch.com.

Read more at <http://thefreethoughtproject.com/denver-crime-rate/#DQf0PmZkzLQCHuxr.99>

Working to make the World a better place,
diana

MATTHEW S. PAPPAS
A T T O R N E Y

E-MAIL:
OFFICE@MATTPAPPASLAW.COM

22762 ASPAN ST, #202-107
LAKE FOREST, CA 92630

(949) 382-1485
FACSIMILE: (949) 382-1512

July 16, 2014

VIA E-MAIL ONLY

Ms. Donita Van Horik, Chair
Mr. Alan Fox, Vice Chair
Long Beach Planning Commission
333 W. Ocean Blvd.
Long Beach, CA 90802

Re: Review of Proposed Medical Marijuana Ordinances

Dear Commissioners Van Horik and Fox:

I ask that this letter please be included in the record of the Planning Commission meeting set for July 17, 2014. As you likely know, I was a candidate for City Attorney in the primary election held April 8, 2014. I also represent seriously ill and disabled patients who have, in the past, been members of Long Beach Medical Marijuana Collectives. Those collectives are now closed.

During the recent election, Mr. Parkin made clear his job is not to set policy, but rather to act as a legal adviser. To wit, during the election, at one of the various forums, Mr. Parkin was asked about the City's underfunded pension issue. According to James Johnson, former 7th District Councilman and one of the candidates for City Attorney, Mr. Parkin gained hundreds of thousands of dollars in pension value. Mr. Parkin's response was that it is not the City Attorney's job to set policy – that the council sets policy and he simply determines whether something is legal or not. In the case of the pension issue, he said it was legal, so that determination is where the City Attorney's job ended.

Despite saying this during the campaign, Mr. Parkin has insisted on putting forward a proposed medical marijuana ordinance rife with problems. He's done this even though City staff has been presented with and responded positively to an ordinance prepared by the Long Beach Medical Marijuana Ordinance Task Force – an ordinance that is far less susceptible to legal attack. Indeed, that task force, established pursuant to the City Council's vote in December to re-regulate medical marijuana, includes as members a former L.A. County Deputy Sheriff and a former Deputy Los Angeles City Attorney.

Ms. Donita Van Horik, Chair
Mr. Alan Fox, Vice Chair
July 16, 2014
Page Two

COMPELLED INCRIMINATION

Although the federal position has changed after my office won several federal forfeiture cases last October, there is still a conflict between state medical marijuana law and federal law. In order for the difference between the laws of the two sovereigns to result in potential issues, the state and federal provisions must positively conflict with each other. One of the biggest problems with Mr. Parkin's ordinance is *compelled incrimination*. People cannot be compelled to incriminate themselves under the Fifth Amendment to the Constitution. Since any marijuana activity is currently illegal under federal law despite the changing position of Congress as well as the Executive Branch, laws that require reporting of who is engaged in marijuana activities, names of patients and video recording of those activities indeed force, by a government entity, people to incriminate themselves. The City Attorney's ordinance includes a host of provisions that will be subject to legal attack:

"The ordinance also includes record-keeping provisions as a condition of obtaining a permit. (Long Beach Mun. Code, ch. 5.87, § 5.87.040, subd. S.) Other record-keeping provisions appear unconnected to the permit requirement. (Long Beach Mun. Code, ch. 5.87, § 5.87.060.) Although we requested briefing on the issue of whether the record-keeping provisions violated the Fifth Amendment privilege against self-incrimination, the trial court will first have to determine, as a preliminary matter, whether each of the comprehensive record-keeping provisions can stand in the absence of the permit provisions."
(Pack v. Superior Court [City of Long Beach, Real Party in Interest] (2011) slip opinion at p. 35, fn. 35.)

That quote is from *Pack v. Superior Court (City of Long Beach, Real Party in Interest)* (2011) *slip opinion*. Although *Pack* was de-published when it was taken-up by the California Supreme Court, it is still valid in terms of the City of Long Beach through the rule of *law of the case* following remittitur by the Appellate Court back in 2012. Please note that the Appellate Court, in the highlighted sentence, "requested briefing on the issue of whether the record-keeping provisions violated the Fifth Amendment privilege against self-incrimination." Including such provisions in the new ordinance is doing the same thing over again and expecting a different result – it is asking for protracted litigation that will cost taxpayers thousands, if not millions, of dollars. There's no need to expose taxpayers to such potential liability because the Task Force ordinance does not include such provisions yet still provides strong regulation of collectives.

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PERMITTING

Perhaps the best way to demonstrate why the Conditional Use Permit system is likely invalid is to quote directly from the Second District California Court of Appeal in its *Pack* opinion:

“The City’s ordinance, however, goes beyond decriminalization into authorization. Upon payment of a fee, and successful participation in a lottery, it provides permits to operate medical marijuana collectives ... **In other words, the City determines which collectives are permissible and which collectives are not, and collects fees as a condition of continued operation by the permitted collectives.** A law which “authorizes [individuals] to engage in conduct that the federal Act forbids . . . ‘stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress’” and is therefore preempted. (*Michigan Canners and Freezers Association, Inc. v. Agricultural Marketing and Bargaining Board* (1984) 467 U.S. 461, 478.)” (*Pack* at

I’ve highlighted a sentence from the opinion – *In other words, the City determines which collectives are permissible and which collectives are not, and collects fees as a condition of continued operation by the permitted collectives.* The Court then went on to strike the permitting and lottery parts of the ordinance.

Although the permit at issue in *Pack* was called a “Medical Marijuana Collective Permit,” disguising the same thing as a *Conditional Use Permit* does not vitiate the original problem – the City “determines which collectives are permissible and which collectives are not, and collects fees as a condition of continued operation by the permitted collectives.” It is the same thing with the name changed. The problem remains in the City Attorney’s ordinance. They have simply reworded the same thing thereby exposing taxpayers.

The Long Beach Medical Marijuana Task Force proposed ordinance does **not** issue a permit. It provides for a general business license. The general business license is for revenue purposes only – it is not regulatory. Every business in Long Beach must have a business license, including certain non-profit charitable organizations that still must obtain business licenses, but that are not subject to the same business license fee every other business must pay. There is no collection of extra fees paid for approval.

“The City has created a system by which: (1) of all collectives which follow its rules, only those which pay a substantial fee may be considered for a permit; and (2) of all those which follow its rules and pay the substantial fee, only a randomly selected few will be granted the right to operate. **The conclusion is inescapable:**

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the City's permits are more than simply an easy way to identify those collectives against whom the City has chosen not to enforce its prohibition against collectives; the permits instead authorize the operation of collectives by those which hold them. As such, the permit provisions, including the substantial application fees and renewal fees, and the lottery system, are federally preempted." (*Pack* at p. 33.)

The Long Beach Medical Marijuana Task Force proposed ordinance includes additional restrictions – substantial restrictions. However, rather than using a **permit** system (*i.e.* the conditional use permit system provided in the City Attorney's proposed ordinance), the Task Force's ordinance uses general business licenses that every business must have as **"simply an easy way to identify those collectives against whom the City has chosen not to enforce its prohibition."** Unlike the City Attorney's proposed ordinance, those restrictions –restrictions that are substantial – are not tied to a permitting system:

"However, we make the following observations: **Several provisions of the City's ordinance simply identify prohibited conduct without regard to the issuance of permits.** For example, the ordinance includes provisions (1) prohibiting a medical marijuana collective from providing medical marijuana to its members between the hours of 8:00 p.m. and 10:00 a.m. (Long Beach Mun. Code, ch. 5.87, § 5.87.090 at subd. H); (2) prohibiting a person under the age of 18 from being on the premises of a medical marijuana collective unless that person is a qualified patient accompanied by his or her physician, parent or guardian (*id.* at subd. I); and (3) prohibiting the collective from permitting the consumption of alcohol on the property or in its parking area (*id.* at subd. K). **These provisions impose further limitations on medical marijuana collectives beyond those imposed under the MMPA, and do not, in any way, permit or authorize activity prohibited by the federal CSA."** (*Pack* at p. 34.)

PUNITIVE MEASURES

The City Attorney's office wrote and submitted LBMC Chapter 5.87 in 2009 and 2010. The permitting and lottery parts of that ordinance were stricken and then the City Attorney demanded the Council impose a ban. Former council members who voted for the hastily passed ban, including then 7th District Councilman James Johnson, said they were provided with "bad legal advice" when they approved the 5.89 prohibition of all collectives. Before 5.87 was even enacted, former Councilwoman Reyes-Uranga called the law "pretty much a sham."

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People invested hundreds of thousands of dollars based on their belief the City Attorney had provided an effective law. They spend millions on improvements and permits – all to comply with a law that was not properly drafted. Now, the City Attorney is presenting an ordinance that is replete with the same problems that plagued the original 5.87 law. It does not appear the City Attorney has recently read the *Pack* opinion even though that decision is still in effect in Long Beach. More importantly, the new ordinance seeks to penalize people that have provided medical marijuana to patients. Not only was the law in flux in Long Beach, it was in flux throughout California – it is still, to a lesser degree, undergoing changes. The point system included in the City Attorney's proposed law imposes penalties against people who operated during what was, for all intents and purposes, a "hurricane" of legal changes happening statewide. It makes absolutely no sense to penalize people who believed they were complying with the law. Moreover, there were many people who continued to operate collectives following a host of appellate court decisions holding City's could not ban patient collectives. In one opinion issued in the summer of 2012 – *AMCC v. County of Los Angeles* – the Second District held bans of medical marijuana collectives were invalid under state law. That was later reversed by the state Supreme Court in May, 2013 when the decision in *City of Riverside v. Inland Empire Health and Wellness* was handed-down, but reliance on the *AMCC* opinion and decisions to continue to operate by collectives in light of seven or eight different opinions out there before *Riverside* should not result in the punitive measures included in the new ordinance proposed by the City Attorney. Instead, the people who were operating should have past penalties, convictions and fines removed. Cases under the older laws should be dismissed and the City should move forward – not penalize people in an area that was so "upside-down" nobody knew which way it would end up.

Apparently, it was suggested that the City will need to hold another "lottery" for medical marijuana collectives. Again, it does not appear the City Attorney has even looked at the *Pack* opinion. The quotes I've provided in this letter show the big problem with the lottery system. It is important to remember that the *Pack* decision was not *reversed* -- review was dismissed because 5.87 had been repealed and the issue became moot for purposes of appellate review. When the case returned to the appellate court, while it remains de-published outside of Long Beach, the decision still applies here in our city. At the very least, the new ordinance proposed by the City Attorney should have been vetted to ensure it would not violate *Pack*. Not only vetted in regard to the holding in *Pack*, but also potential issues – like the *compelled incrimination* issue the appellate court took very seriously and ordered briefing on while the case was pending before it.

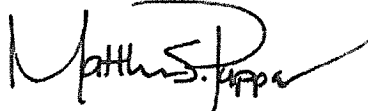
The ordinance proposed by the City Attorney is extremely susceptible to legal attack. It violates the holding in *Pack* which is still a case in-force in Long Beach. It

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exposes taxpayers to substantial financial risk and utterly certain legal costs and expenses that will amount to hundreds of thousands if not millions of dollars. On the other hand, the ordinance proposed by the Medical Marijuana Ordinance Task Force is well designed and thoughtfully accounts for the issues that came up in *Pack*. It reduces the exposure of taxpayers while providing significant restrictions. If enacted, it will be considered – along with the mechanism of using a Task Force – the best way for other cities to create legislation. It will demonstrate leadership by Long Beach – the leadership the City should be providing for other cities and counties throughout California.

When speaking on the issue of pensions, Mr. Parkin said the City Attorney's office does not set policy. Rather, it determines whether something is legal or illegal. It follows that Mr. Parkin's job here is to evaluate whether the Long Beach Medical Marijuana Ordinance Task Force's ordinance is valid. The City Council voted to create the Task Force. The Task Force has done its job and provided a strong and thoughtful law. The City Attorney's job is to evaluate that ordinance in terms of its legality. That is what Mr. Parkin said his job was during the recent campaign. The Medical Marijuana Ordinance Task Force proposed law is less susceptible to attack, well designed and was researched, prepared and drafted by an experienced group of citizens, including a former Deputy Los Angeles City Attorney and Deputy Sheriff. It reduces potential taxpayer exposure and provides a law that is much more stable for medical marijuana patients and for all Long beach citizens.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew S. Pappas", with a stylized flourish at the end.

Matthew S. Pappas

MSP:jm

cc: Hon. Robert Garcia, Mayor, City of Long Beach
Hon. Members of City Council, City of Long Beach
Mr. Pat West, City Manager, City of Long Beach

TO: Planning Commission/City of Long Beach
Mike Mais, City Attorney's Office/All Council Members/
Pat West, City Manager's Office/Amy Bodek, Economic Development
DATE: July 17, 2014
FROM: Pat Paris Appleby, CPACouncil Member, Third District Resident, East
Village Activist and Volunteer, HOA Manager
SUBJECT: Medical Marijuana Ordinance for Long Beach

Dear Planning Commissioners,

Statement: Please delay any approval of this ordinance until the community has a chance for more input. The ordinance has been developed using marijuana proponents input and we as citizens need to be allowed time to work together to find better solutions for dispensing medical marijuana. While this ordinance may have been in discussion since December 2013, enough time has not been spent educating the residents of Long Beach. This ordinance will affect the health and welfare of all our community members and deserves more attention from them. I urge new council members to have open forums and let the public know what will happen to their community with an approval of this ordinance.

I am a Central Project Area Council Member. I was on CPAC whose mission was to help the Redevelopment Agency craft a plan to remove blight and stimulate economic development. I can think of no other measure currently being discussed that is so counter-intuitive to this mission. Blight is also a description of what happens to communities when we forget to take care of every corner and keep them safe from criminal elements. While I support helping a percentage of our citizens who are sick and need medical marijuana, I am unhappy that we are inviting a criminal element the opportunity to take advantage of any step we take in dispensing marijuana.

I have read the proposed city ordinance (PDF) 5.91 submitted to the Planning Commission on July 17, 2014. I also have read the proposed state law still being developed SB1262. First, it difficult to create a local law until the state law is signed and enforced. Such planning allows for oversights.

Six points of concerns now stated in text Ordinance 5.91:

1. 5.91.070, line 4, page 20, D. Location of dispensaries

The concern is the location of dispensaries should be based on "need for services" and not set up as a walk-in counter store in a commercial corridor. . The suggested number of 2 per council district or 18 is just an arbitrary number and is not based on need at all.

I propose those who create this ordinance must provide mandatory evidence of how many legal prescriptions have been administered in Long Beach, by whom and to whom, by what and in what areas of the city to set

a requirement before dispensary licenses are determined. Currently there is evidence of 33 different locations which seems excessive.

My opinion is that proponents have greatly exaggerated the need and have placed ballot measures before the public that often provides misleading information. Once voters have experienced the actual results of local medical marijuana stores in their neighborhoods, their opinions on legalizing marijuana have changed. It has not resulted in positive results and further promotes an unwanted impact on local adjacent businesses and residents.

2. **5.91.07, Page 22 & 23.** **The location of dispensaries 1000 to 1500 feet is not enough** feet to restrict locations adjacent to schools, parks, churches, residential locations, and substance abuse housing. It should be required that any **medical dispensary stores be located in terms of miles not feet** and not in the path of children walking to and from school or near to people who struggle to break their addictions. They should not be stores at all or in the public highly visible street front locations.

Example: There is a dispensary located between 10th and 11th on Redondo. It is located one block from two substance abuse homes and in the walking path of students who walk to and from school at both Wilson High (10 blocks) and Jefferson Middle School (5 blocks). I have watched many students walk past the area every time I drive by. Stores are put in the public right of way to promote easy access like 7-11s or small markets. People who are struggling to change their addictions are confronted with marijuana stores almost next door.

Most people go to hospitals and medical clinics for health care. Zoning and the use of land for commercial corridors is not the best use for these stores. They are a specialized medical service and should be located in areas that are not confused with serving general public needs. Why else would a marijuana dispensary be placed in such highly visible areas?

3. **5.91.07, line 11, Page 24, A. Onsite use prohibited**
Smoking is a health risk-no matter what kind of smoke and from where. Limitations on smoking should state more limitations of where smoking is allowed.

Smoking outside the confines of one's residence has been a continuous nuisance to those who are sensitive to smoking of any kind. We have worked hard to create a smoking ban in this city to protect our citizens yet this ban has not stopped those who obtain marijuana and smoke it in parks, near residences and schools. There is no sufficient evidence that suggest this drug is not a risk to health to others that indirectly smell the smoke. Having stores located in the heart of the community create more opportunities for smoking outside or near dispensaries.

I am an HOA manager (condo associations) and continually have to deal with the problem of traveling marijuana smoke to other adjacent condominiums, which greatly impact the quality of life of others. Having stores on corridors have not stopped this behavior, only promoted it more.

4. 5.91.070, Page 27, Locations for growing marijuana

Cultivation now required to be grown within the city also create even more logistical issues which would create more challenges to police and city agencies considering the transportation of the product and cash. Also zoning does not explain why these sites should be in industrial areas. It would be logical that cultivation of plants should be nearer to nurseries, as an example: open areas under power lines near freeways.

5. NO CLEAR DEFINITIVE REGULATION OF MED. MARIJUANA.

The ordinance is missing a clear definition of an “experienced regulatory agency” which is the only way this system can responsibly function. An oversight and regulatory agency should be created to ensure the proper cultivation, production, distribution and sales of Medical Marijuana and should be handled by third party experts in the field of medicine, health and law enforcement. Until this agency is formed and functioning it would create opportunity, as now, to illegally grow and sell.

I am concerned that stating licenses should be obtained through the City Manager is only a small step. Monitoring the activities is as important and not enough importance has been placed on oversight.

Liquor licenses are carefully controlled. They are regulated by ABC. Such an agency should be created to regulate medical marijuana growth, distribution and sales. Without control, there are more opportunities for illegal activities to take place.

6. 5.91.180, line 3 thru 18, Page 46, 7 Member Task Force

This task force represents votes and now heavily weighted in the favor of marijuana advocates with three dispensary owners and one representative of a patient advocacy. I request that four neighborhood representatives (from those neighborhoods where dispensaries are located), one person representing the city interest (law enforcement perhaps) and one one impartial party with medical background, a physician or health official is appointed to a **9 Member Task Force**. The process should be fair to the community as this is who is being impacted by this ordinance.

Thank you, Pat Paris Appleby
3409 East Colorado/Long Beach, CA 90814/patparis@applebyre.com

Heidi Eidson

From: MaunaEichner&LeeFukui <melf@charter.net>
Sent: Monday, July 14, 2014 10:56 AM
To: Jeffrey Winklepleck; Heidi Eidson; Michael Mais
Cc: Amy Bodek
Subject: Planning Commission Meeting Agenda item #6

re: 14-046PL Medical Marijuana Presentations

Dear Planning Commissioners, Mr. Mais, and Staff,

Being concerned citizens and volunteers in the Wrigley neighborhood of the 6th district we wanted to share some of the thoughts we have with the creation of the ordinance. We have met with Mr. Mais along with other members of the community and we have also had a community meeting with members of the Collectives. We would welcome an opportunity to discuss these items further as the ordinance moves through the process.

We have read over the material that will be discussed at the July 17 meeting and have concerns specifically regarding these six items in the order of how they appear in the ordinance attached to the 07-09-14 memorandum:

1) 5.91.010 Purpose: page 4, lines 8 thru 12: We hope that the imposed fees to cover the cost to the City of regulating medical marijuana related operations... will include, the additional staff needed to adopt a mechanism for monitoring of compliance with the provisions of this chapter. Currently the City does not have a specific person(s) to enforce the conditional use permits, that person retired and was not replaced. It seems that this needs to be addressed. Also, we would like to have the City consider doing surprise spot checks that the business doesn't know about in advance, similar to what the ABC/Vice does with bars. If they pass the spot check they get a letter, if they fail, that gets a monetary penalty etc.

2) 5.91.040 General Permit Provisions: page 11, lines 16 thru 22, Insurance: These numbers seem insufficient and a study should be done to make them comparable to what liquor stores and bars are required by the ABC.

3) 5.91.070 Location of medical marijuana businesses:

page 20, lines 4 thru 9, D. Location — total per council district: A cap of 5 per council district and a limit of 4 in industrial zones yet only allowing 18 throughout the city. We fear this distribution method will put an unfair burden on the westside and north Long Beach, based on past experiences like Schroeder Hall (eastside police substation for westside mental health facility), the preponderance of predatory lenders, and most importantly the list of potential medical marijuana sites from the lottery in 2010. At one point, there was discussion of 2 per district maximum for a total of 18, which we feel is a more fair and equally distributed proposal. This is an issue of accessibility for those residents who need medicinal marijuana, so facilities need to be conveniently located in all districts. We agree that only one per district in a CCA or CHW should be allowed, but the rest of that provision needs to be changed to a more equitable division—and it may turn out that the maximum of 18 is not met.

4) 5.91.070 Location of medical marijuana businesses:

page 23, lines 6 thru 14, G. Separation from schools, parks, and other medical marijuana uses. Line item 1: The Buffers created between medical marijuana businesses and elementary and junior high schools are not spaced out enough. It doesn't make sense to us as to why they are less than those for high schools. Neighbors have stated they have seen young minors coming out of collectives, which is why we feel 1,000 feet between a marijuana business and elementary or junior high school should be increased to 1,500 feet. Also, Sober Living or addiction treatment facilities should also be identified and included in the buffer of 1,500 feet.

5) 5.91.080 Requirements related to operation of medical marijuana. Q. Advertisement Page 28, lines 25 thru page 29, line 12, a. Any sign located on the same lot as a medical marijuana business which exists solely for the purposes of identifying the location... :

We are concerned about signage on the lot because it could have a blighting effect on the neighborhood and also attract criminal elements. We would like a provision included that would make signage unobtrusive to the neighborhood, e.g. small, low, and just the business name--or if the green cross is deemed necessary, limiting the size of the cross to very small.

6) 5.91.100 (page 37) Requirements Related to monitoring and security of medical marijuana businesses: page 38, lines 16 thru 20, D. Security Guard Security should include guards monitoring the outside of the facilities to discourage loitering and consuming marijuana in public. Part of the problem and complaints from neighbors is due to consumers loitering, littering, and redistributing goods outside in the neighborhoods. The guards should be able to monitor at least a 250 foot radius of the business. If necessary they should be able to move people along to avoid some of these issues.

Finally, we are sure you are aware that the state legislature is working on SB1262 (some items in the ordinance seem to relate directly to SB1262) which will make further rules and regulations regarding medical marijuana. It appears that they are currently expecting a final vote at the end of August. We are not sure where the City's ordinance is in it's process, but we would hope that it won't be finalized until the state has finished with SB1262.

We hope that you take our concerns into consideration.

Sincerely,
Mauna Eichner and Lee Fukui
6th District

Heidi Eidson

From: diana lejins <dianalejins@yahoo.com>
Sent: Monday, July 14, 2014 6:42 PM
To: Heidi Eidson; Amy Bodek; Jeffrey Winklepleck
Cc: Diana Lejins; Kendra Carney; Michael Mais; Charles Parkin
Subject: CA Law Bans Job App Criminal Background

Please include in the info for July 17, 2014 Planning Com meeting and attach to Agenda item #6 Thanks

NEWS FLASH

California Law Bans Criminal Background Question On State Job Applications Max Pringle Friday, July 11, 2014 | Sacramento, CA Max Pringle / CPRN

State and local agencies in California can no longer ask about a job applicant's criminal background on the initial job application. It's a new state law that takes effect this month.

Supporters of AB 218 say more than 20 percent of California adults have an arrest record. They say job seekers who answer "yes" to the question "have you ever been arrested" on an application, usually get no further in the hiring process. Assemblyman Roger Dickinson authored the law. He says it could help the state reach its prison population reduction goals.

"If a person can't find a job, the odds increase dramatically that the person is simply going to return to what they were doing before," says Dickinson. "They'll end up offending again and in all likelihood returning to incarceration."

Agencies are still allowed to conduct background checks later in the hiring process. The law exempts jobs involving public safety and children.

Working to make the World a better place, diana

Councilmember O'Donnell:

We have received many phone calls from irate business owners and individuals in our district regarding the medical marijuana dispensaries within the District.

We are contacting you to convey our disappointment in the fact that the East Anaheim Street Business Alliance (EASBA) was not notified well enough in advance that the Planning Commission will be voting on a Marijuana Zoning Ordinance on July 17th. Due to this lack of notification, our BID will not be able to organize enough business owners to show up to the meeting and voice opposition to this ordinance.

Because of this lack of timely notification, we respectfully ask you to have item number six removed from the July 17th Planning Commission agenda.

As you know, unlike EASBA and Council District Four, other Long Beach business and council districts have zero "industrial zones", which means they will not have to deal with the negative effects of marijuana dispensaries, while EASBA and CD4 could end up with as many as five.

Of particular interest to EASBA regarding this poorly written ordinance are items number 3 and 4:

3. Medical marijuana businesses have location restrictions within certain zones allowing industrial zones, community automobile-oriented districts ("CCA"), and regional highway districts ("CHW"), but excluding residential and institutional zones;

4. There is a cap of 5 medical marijuana business locations per Council District, and a limit of four medical marijuana businesses in industrial zones per Council District, one medical marijuana business in a CCA or CHW per Council District, and no more than 18 locations citywide;

Over the past four years EASBA has been striving to make East Anaheim Street an inviting place to work and live by creating an environment where businesses can prosper and, in turn, helping the surrounding residential community to flourish. Every time a marijuana dispensary opens within our boundaries, it makes those goals that much harder to obtain.

Our BID was unfortunate enough to have four medical marijuana dispensaries operating at the same time, all within a short distance from each other. Those dispensaries have produced negative effects on our local business community. These effects include: increased criminal activity, loitering, noise, litter, and a loss of trade for other businesses located nearby.

Some of these dispensaries posted armed guards outside their doors (on city owned sidewalks), in plain view of the hundreds of Wilson High School students that walk past on their way to and from school every weekday. That is not the message we trying to convey about our business community. It has taken us over 20 years to get out from under the dark cloud of violence that happened during the

riots of 1992. The City's plan to allow marijuana dispensaries to freely operate within our boundaries only serves to take us back to that unfortunate period in our history.

As the City of Long Beach battles with topic of what to do, if anything, about future zoning of medical marijuana dispensaries, it's local residents, business and property owners that will pay the price. EASBA is unique in the sense that we have both Commercial and Industrial Zones within our boundaries, making us an obvious target for future dispensaries under the Planning Commissions' current scheme.

EASBA has an ethical duty and obligation to foster an environment in which our member businesses can thrive; at the same time ensure the safety of our community. We feel medical marijuana dispensaries are harmful to our business community and its residents and constitute a public nuisance contrary to the values of our organization.

Respectfully,

Rod Wilson, President
Pacific Research & Strategies, Inc.

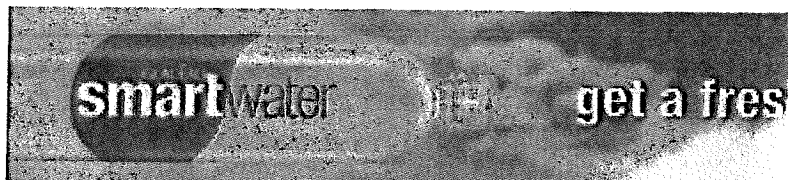
Steve Guillen, Vice President
Iguana Kelley's

Lee Vieira, Treasurer
The Mortgage Planning Group

Tracy Ames
The Red Leprechaun

Renee Kim
Cookies by Design

Bill Leisy
Masterworks Construction



Featured Research

from universities, journals, and other organizations

Marijuana use involved in more fatal accidents since commercialization of medical marijuana

Date: May 15, 2014

Source: University of Colorado Denver

Summary: The proportion of marijuana-positive drivers involved in fatal motor vehicle crashes in Colorado has increased dramatically since the commercialization of medical marijuana in the middle of 2009, according to a study. The study raises important concerns about the increase in the proportion of drivers in a fatal motor vehicle crash who were marijuana-positive since the commercialization of medical marijuana in Colorado, particularly in comparison to the 34 non-medical marijuana states.

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The proportion of marijuana-positive drivers involved in fatal motor vehicle crashes in Colorado has increased dramatically since the commercialization of medical marijuana in the middle of 2009, according to a study by University of Colorado School of Medicine researchers.

With data from the National Highway Traffic Safety Administration's Fatality Analysis Reporting System covering 1994 to 2011, the researchers analyzed fatal motor vehicle crashes in Colorado and in the 34 states that did not have medical marijuana laws, comparing changes over time in the proportion of drivers who were marijuana-positive and alcohol-impaired.

The researchers found that fatal motor vehicle crashes in Colorado involving at least one driver who tested positive for marijuana accounted for 4.5 percent in the first six months of 1994; this percentage increased to 10 percent in the last six months of 2011. They reported that Colorado underwent a significant increase in the proportion of drivers in a fatal motor vehicle crash who were marijuana-positive after the commercialization of medical marijuana in the middle of 2009. The increase in Colorado was significantly greater compared to the 34 non-

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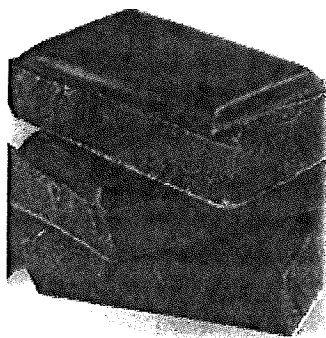
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Thursday, July 17, 2014

medical marijuana states from mid-2009 to 2011. The researchers also reported no significant changes over time in the proportion of drivers in a fatal motor vehicle crash who were alcohol-impaired within Colorado and comparing Colorado to the 34 non-medical marijuana states.

Stacy Salomonsen-Sautel, Ph.D, who was a postdoctoral fellow in the Department of Pharmacology, is the lead author of the study, which is available online in the journal *Drug and Alcohol Dependence*. Christian Hopfer, MD, associate professor of psychiatry, is the senior author.

Salomonsen-Sautel said the study raises important concerns about the increase in the proportion of drivers in a fatal motor vehicle crash who were marijuana-positive since the commercialization of medical marijuana in Colorado, particularly in comparison to the 34 non-medical marijuana states. While the study does not determine cause and effect relationships, such as whether marijuana-positive drivers caused or contribute to the fatal crashes, it indicates a need for better education and prevention programs to curb impaired driving.

Story Source:

The above story is based on materials provided by University of Colorado Denver. Note: Materials may be edited for content and length.

Journal Reference:

1. Stacy Salomonsen-Sautel, Sung-Joon Min, Joseph T. Sakai, Christian Thurstone Christian Hopfer. **Trends in fatal motor vehicle crashes before and after marijuana commercialization in Colorado.** *Drug and Alcohol Dependence*, 2014. DOI: 10.1016/j.drugalcdep.2014.04.008


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Long Beach Central Area Council, Inc. Jack Smith's comments @ Planning Commission, July 17, 2014

Jack Smith, just north of Ocean on Elm in the East Village, District 2

I am a board member of and speaking on behalf of the Long Beach Central Project Area Council.

At our recent monthly meeting we discussed the medical marijuana ordinance. In addition to LB CPAC members there were residents, bar owners and members of the marijuana industry.

LB CPAC agrees that medical marijuana, when distributed and used appropriately, can be effective medicine for seriously ill people.

We have 4 primary goals:

1. Provide community input to City staff, appointed officials and elected officials.
2. Ensure marijuana is used strictly for medical purposes to treat serious illnesses.
3. Ensure appropriate mechanisms are in place to safeguard that marijuana sold for medical purposes is NOT subsequently used casually or recreationally.
4. Minimize any adverse effects on the community, neighborhoods and residents of providing Medical Marijuana to Long Beach's serious ill patients who need it.

We divided the discussion into 9 topics.

1. DEFINITIONS of medical marijuana and Cannabis

2. ELIGIBILITY

Who determines that? ("physician" or "treating physician")

How many eligible patients are there in Long Beach?

3. REGULATION

Should it be very similar to the regulations for bars?

4. GROWING

Where can it be grown and what sort of increased security is required there?

What are the health and safety rules?

5. DISTRIBUTION

How many stores are allowed and where can they be?

The # in the draft is completely arbitrary.

And, it's not fair to allow almost all of them to be in the City's western and northern Council districts.

Who can own, manage and operate the stores?

Ban marijuana farmers markets.

What sort of advertising, if any, is to be allowed?

What special security arrangements are required?

6. EDIBLES AND INFUSED Drugs

Who has jurisdiction over these products?

Will the Health Department be involved?

Should there be dosage limits for these? One dose is often 1/10th of a cookie – does anybody cut their cookies into 10 pieces?

7. PUNISHMENT

Are the punishments in the ordinance appropriate?

What are personal and employment related legal consequences?

What about the dangers of second hand smoke?

8. ENFORCEMENT

Who enforces? Should it be like the ABC?

Should there be a separate City department dedicated to these businesses? – especially a special CUP investigator.

Who should pay for that?

Have the police been included in the discussion?

The Task Force should be 9 people not 7 = 5 from neighborhoods, 3 from stores and 1 patient. That better protects the interests of the neighborhoods and community.

9. INSURANCE

The requirements in the draft ordinance are way too low.

We've been studying this draft in detail and <<wave pages>> have 9 typed pages of notes – so far. We're very willing to work together with marijuana business representatives and go through the ordinance line by line.

We ask you to embrace our 4 goals and to direct Staff and the City Attorney's office to meet with representatives from LB CPAC, marijuana businesses and others – all together – for a working session to hammer out a good recommended ordinance to bring back to you.

Thank you.

Annie Greenfeld on behalf of LB CPAC and Magnolia Industrial Group

Planning Commission – 07/17/14

I am President of LB CPAC and its members. We are not here to stop medical marijuana and wanted to share some concerns that we have with the draft ordinance as it now stands.

It is important to note that we do not come unprepared, and we do have solutions to our concerns and stand ready to share them with the city in working together on the ordinance.

It is clear from the ordinance that much more input needs to come from the neighborhoods (including the industrial areas) that will be impacted by these “stores” and this should start at the Planning Commission level. It is also clear from the trial court’s decision of Nov. 2012 in *Pennbrooke vs. City of Long Beach*, that community input is vital to these decisions.

1. We know that this is a land use and zoning issue. The placement of these “stores” in the past have created nuisances in the underserved neighborhoods of the Westside and North Long Beach.
2. Light industrial zones have been proposed to allow these “businesses”; and the only areas that they can be placed are on the Westside and in North Long Beach.
3. These areas have had tens of millions of Redevelopment dollars poured into them, with all of these redevelopment areas being left “unfinished” and to fend for themselves and then this. These communities work hard to keep themselves safe. We don’t have the public safety numbers to protect us from crime and keep us safe.
4. Why can the institutional zones not accommodate these uses, (i.e. close to hospitals, medical clinics and pharmacies)?
5. The selection of the operators of these businesses is also crucial to the public’s safety and nuisance abatement.

We ask you to embrace our 4 goals and to direct Staff and the City Attorney’s office to meet with representatives from LB CPAC, marijuana businesses and others – all together – for a working session to hammer out a good recommended ordinance to bring back to you.

Planning Commission July 17, 2014 Agenda Item 14-046PL, Item #6... Thursday, 17 July 2014

I would like to thank the Honorable Chair Van Horik, Commissioners and Staff for this opportunity to express the impacts and land use that affect our community with Marijuana Stores and outlets.

My name is Dan Pressburg and I live in North Long Beach. My address is on file. I am the President of the North Long Beach Community Action Group and many other groups in North. Today I am speaking solely on my behalf.

May I start with saying we need to review this further with all parties at the table and hopefully this will be laid over until further notice I apologize for not being in attendance this evening.

Currently adjacent to the 9th district in North Long Beach located on the 5600 block of Atlantic Avenue, North Long Beach has an open Marijuana Store that is out of compliance, that has not met current standards nor has abided by any direction by planning or law enforcement. There have been upwards of 25 calls for service at that location and it continues to operate outside of the jurisdictional boundaries of the council, planning and law enforcement today. This is not an indication or reflection that other operations would not comply throughout the city. It is however an example how some have operated with complete disregard for law enforcement, the community and adjacent surrounding areas.

The disproportionate use of manpower by the officers at the North Station is an indication that we need to further review these types of operations and the land use impact on the corridors as well as the industrial areas. My intent is to seek out the best possible locations as these businesses service those of us who seek relief medically from pain and suffering from acute and chronic diseases. I concede that those patients need this care and relief in order to survive and have a better quality of life.

Local government is currently between a rock and a hard place in regulating because of the overlapping jurisdictions has essentially regulated medical marijuana into a quasi-legal state. So, we are all placed in an awkward position as we want to provide safe access to meet the need for those who really need this. Many of us have heard it would be a whole lot easier if it went through a pharmacy. We do not have that luxury right now so it is incumbent that we get all of us around the table to discuss the need.

Land use requires certain limits be placed as to not further impact areas whose income may be dealt a double blow by adversely impacting those areas in North and West that are at or below the poverty level. Traditionally, these are blighted areas that were in Redevelopment and since Redevelopment no longer exists are further blighted with no direct standard for development as yet. These blighted areas require focused law enforcement to maintain a safe standard of living and better quality of life. Continuing to place these stores in those areas will further require law enforcement and based upon the failure of these stores to comply with CUP's and other guidelines that will standardize how they maintain a lawful presence most of us in North wonder how this may be enforced? Over the past ten years there have been cuts to all departments within Long Beach law enforcement is at its lowest levels since the 1970's. Inspection and code enforcement is also.

Again, I believe that all parties need to be at the table to eliminate any urban legends or finger pointing from being created. In North we consider this an opportunity to discover and apply best practices so these business may survive in a lawful manner throughout the city and help those in need.

The state of California has failed and so far refuses to direct or take a leadership role in deciding how operations such as these may be established. It has fallen to the cities to develop guidelines and priorities in order for a safe establishment of these businesses and the health and welfare for those who require their service.

There are current 23 states throughout the country that have voted to have Medical Marijuana for medicinal purposes.

New York recently established guidelines that define types of use for specified chronic and acute disease. It limits licensing to physicians that have had patients in their care and treatment for an extended period of time.

Nevada is very similar and has developed identification cards and medical certification rather than permission slips at a small fee. This seems to control patients and definitions of disease that may qualify. Colorado is more liberal and their laws appear to be working well also.

11 other states have attempted new laws too but have not made it through their legislatures.

Most have required operators to provide their own types of security that does not impact other business and is their cost of doing business. Cameras have also been required inside as well as outside in order to provide safety for the operator and the patient. Tapes and digital recordings are accessible by law enforcement. Regular CUP conditions such as signage, landscaping, and maintenance is also required. Nevada has legislated the medical identification card to alleviate questionable practices. Businesses may be certified either in CUP's on the local level or with a state certification. The city has not been guided or directed to do this however many other cities have implemented this without challenge either through the CUP process or health and safety codes.

Locations have varied from, industrial, light industrial to commercial areas. Some states provide a given area four times a month at large facility and retailers may sell from those specific area and times.

In California we require these businesses to be a non-profit so their information as a nonprofit should be made and published in an annual report that can be easily ascertained from the business or available online. I would like to reiterate that a certification process for other established businesses so that these businesses like other medical facilities may be monitored and looked at for their practices. This may also be a requirement for licensing. Regulations for certifications can put limits and requirements for certification with a simple standard review which can be part of the review of the CUP on the local level.

It is my belief that all operators at this point should be reviewed based on a simple point system and meeting certain standards for operations so they may meet the requirements for land use based upon a CUP.

Operating hours and cleanliness would also fall on the CUP use. I also believe business operations and review can determine land use in order to review who is assigning patients and how. I have listed some ideas and suggestions below;

“Attending physician” defined. “Attending physician” means a physician who:

1. Is licensed to practice :
 - (a) Medicine pursuant to the provisions of California Medical review and licensing or
 - (b) Osteopathic medicine pursuant to the provisions and definitions as specified ; and
2. Has the responsibility for the care and treatment of a person diagnosed with a chronic or debilitating medical Condition.

A simple log as defined by record the issuing physician that is subject to review may also be assigned as part of the business licensing and requirement for operation 15 of the aforementioned states have this provision as either licensing or the CUP process.

“Enclosed, locked facility” means a closet, display case, room, greenhouse or other enclosed area that meets the requirements as specified and is equipped with locks or other security devices which allow access only by a medical marijuana establishment agent and the holder of a valid registry identification card.

“Electronic verification system” defined. “Electronic verification system” means an electronic database that:

1. Keeps track of data in real time; and
2. Is accessible by the by registered medical marijuana establishments and enforcement.
3. Can record access of ingress and egress of persons entering and exiting the facility.

“Inventory control system” means a process, device or other contrivance that may be used to monitor the chain of custody of marijuana used for medical purposes from the point of cultivation to the end consumer.

Registry identification card: Holder is to notify the city of certain changes in information; required annual update of documentation from attending physician; designation of primary caregiver after initial issuance of card; deemed expiration of card. The city can or may designate a facility for registraqtion

1. A person to whom the city or its designee has issued a registry identification card pursuant to paragraph shall, in accordance with regulations adopted by the City:

(a) Notify the Division of any change in the person’s name, address, telephone number, designated medical marijuana dispensary, attending physician or designated primary caregiver, if any; and

(b) Submit annually to the city:

(1) Updated written documentation from the person’s attending physician in which the attending physician sets forth that:

(I) The person continues to suffer from a chronic or debilitating medical condition;
(II) The medical use of marijuana may mitigate the symptoms or effects of that condition; and

(III) The attending physician has explained to the person the possible risks and benefits of the medical use of marijuana; and

(2) If the person elects to designate a primary caregiver for the subsequent year and the primary caregiver so designated was not the person's designated primary caregiver during the previous year:

(I) The name, address, telephone number and social security number of the designated primary caregiver; and

(II) A written, signed statement from the person's attending physician in which the attending physician approves of the designation of the primary caregiver.

2. A person to whom the city or its designee has issued a registry identification card pursuant to paragraph (b) pursuant to regulation shall, in accordance with those regulations adopted by the city, notify any change in the person's name, address, telephone number, designated medical marijuana dispensary or the identity of the person for whom he or she acts as designated primary caregiver.

3. If a person fails to comply with the provisions of the registry identification card issued to the person shall be deemed expired. If the registry identification card of a person to whom the Division or its designee issued the card pursuant to paragraph (a) of subsection is deemed expired pursuant to this subsection, a registry identification card issued to the person's designated primary caregiver, if any, shall also be deemed expired. Upon the deemed expiration of a registry identification card pursuant to this subsection:

(a) The Division shall send, by certified mail, return receipt requested, notice to the person whose registry identification card has been deemed expired, advising the person of the requirements of paragraph (b); and

(b) The person shall return his or her registry identification card to the Division within 7 days after receiving the notice sent pursuant to paragraph (a).

Taskforce

I believe a taskforce should be established. The task force can have the ability to recommend a systematic permitting process that can distinguish and monitor activity and numbers between dispensaries. Maybe a two tiered system can be used to review and distinguish size of dispensaries from each other as we may consider locations for dispensaries. We should also consider a new permitting under a CUP for neighborhoods (may a NUP - AUP) for those smaller. That would require a hearing officer to ensure that development "complies with all applicable regulations of the zone." The hearing officer may also impose "reasonable conditions ... as deemed necessary and desirable to protect the public health, safety and welfare,"

A more stringent conditional use permit (CUP), wherein the hearing officer determines on a case-by-case basis "whether and under what conditions the use may be approved at a given site." In granting a conditional use permit, the decision maker may impose reasonable conditions as deemed necessary and desirable to protect the public health, safety, and welfare including making any applicable use that may be more restrictive in its current applications for the zone.

A taskforce consisting of 9 individuals and an administrator should be in place to review and help monitor activities and placement.

Distancing

I am sure that we of course consider distance from schools, libraries, parks playgrounds, religious institutions, and locations that would require maintenance and sustainability.

The 1500 foot limitation seems applicable for the potential adverse impacts and 1000 feet from any other co-operative / store.

Signage

Design guidelines and signage should be compliant with the neighborhoods and local areas and should be of two colors so no psychedelic references may be construed, referenced and curbed. The storefront should have the emergency contact number of the owner as well as a health warning indicating the legality of medical marijuana and the potential hazards and consciousness altering factors to motor abilities.

Safety Operations: We believe that operations should have interior and exterior cameras to protect patrons as well as operators. Almost all bars and restaurants have cameras including Mac Donald, Burger King In And Out, and may others. Since there may be a large volume of activity safety is of the utmost especially for the operator. Monitoring should be done periodically and law enforcement should have access to tapes or digitally mastered recordings. Review should be done by the taskforce and law enforcement.

Medical Testing For Purity and Health Safety

Most labs today have not been qualified or refuse to examine purity and testing. Pharm Labs a group in San Diego claims to currently be testing as a certified lab. They are also reviewing CBD pills with a stronger ingestion without the mind altering affects. As part of the reviewing and testing for safety it would be possible for Pharm Labs to test with a 24-48 hour turn around for the protection of patients. PharmLabs is one of many new facilities that provide the medical cannabis community with analytic services and laboratory testing to ensure patients have access to safe medication. Labs like PharmLabs allow medical cannabis patients to take a closer look at the medication they are acquiring, and help zero in on the specific methods and strains to help treat their own unique medical condition. PharmLabs tests can offer a quantitative analysis of individual samples of medication, measuring the levels of THC, CBD, and CBN by using Gas Chromatography with a Flame Ionization Detector for the separation and quantification of the several common psychoactive compounds typically found in cannabis.

"We are here to serve the medical marijuana community with lab testing and analytic services to ensure patients have access to safe medicine," said Magdoff. "Through laboratory testing, PharmLabs will provide safe medicine for the medical marijuana community and arm patients with the proper information

to make an informed decision on the type of medicine they require to best combat their specific medical condition."

Although this may not qualify as part of a CUP review of records and operations may classify a certified lab under Municipal code for Health Safety and Welfare and may add requirement in a CUP under operations.

In conclusion, I would like to thank the Commissioners and staff and would entertain further scrutiny to work out the best practices for the community and operators involved. Thank you all for your consideration.

Good evening _____

Thank you for this opportunity to speak. My name is Judi Farris I am a resident of Long Beach; and have been working on the Medical Marijuana Task Force to help craft a workable/reasonable ordinance.

In 2010 I spoke at the City Council meeting in regards to whether Ordinance 5.87 was in compliance with federal law.

Quoting City atty. Shannon's statement of Jan 19 2010 at the city council meeting: (Quote) "But we will eliminate the word federal and basically what we're saying is nothing in this chapter purports to permit activities otherwise illegal under state or local law."

"But I want to emphasize one thing, there's no way we can enact an ordinance that will trump federal law; we cannot nullify federal law. So the fact that we are not mentioning the word federal does not mean we're indicating that we can ignore federal law." (Un-quote)

The Second Appellate District Court of Appeal; ruled that LB 5.87 was a "permitting scheme". In this new ordinance, 5.91, changing the name from "Marijuana Permit"; to "Conditional Use Permit"; while leaving the discretionary scoring system and conditional requirements rife with approvals of how marijuana activities are conducted; renders this proposal defective. It operates through the CUP with parameters included in the approval process that result in approval of medical marijuana distribution by the city.

In our meeting with Deputy Attorney Kendra Carney, I asked her if they were planning on removing the permitting scheme verbiage; so as not to have the same problem as 5.87?

She stated that issuing a business permit was a violation of federal law. No it will not be removed; because we will be litigated one way or another.

Litigated..... but successfully?

....At what cost!!

The patients ordinance: Advocates for the Disabled and Seriously Ill / (ADSI;)

- Does not incorporate any discretionary provisions.
- Nothing that might be illegal federally; is "permitted by the city".
- The ordinance operates to restrict rather than approve.
- It appears the ADSI ordinance would be difficult to challenge successfully in court.

Thank you.

Dear Planning Commission Members & CC

July 17, 2014

RE: MEDICAL MARIJUANA ORDINANCE DRAFT

This City Attorney (CA) proposed Ordinance for Medical Marijuana collectives was obviously written by someone(s) who has little, if any, compassion for sick patients and people with disabilities who rely on cannabis for their maladies and pain. It blatantly throws "due process" out the window, repeatedly insults the United States Constitution, and shamelessly disregards the rights of patients.

I personally experienced the painful, prolonged deaths of both my mother and other family from cancer. It's not a pretty picture. At that time, cannabis was sadly not allowed as medicine. It is now, and we should do everything we can to alleviate the needless suffering in this world. The people of California have spoken and voted for the Compassionate Use Act. We must never forget that a patient could be your mother, your sister, your friend or your child. While abuse does happen, we don't deprive cancer patients of pain meds because others abuse it.

This CA draft is little more than a punitive, miserably failed 5.87 (2010) on steroids. Fraught with litigation landmines, it promotes a biased agenda and provides great insurance for job security.

Our committee, the Long Beach Medical Marijuana Task Force, was allowed only a brief token meeting with the CA's office after the draft had been written. On reading the 2nd draft, it has become apparent to us that the CA has no intention of considering our advice. Their meager efforts at including community input been nothing less than disingenuous.

Our patient advocacy group has used the tag Long Beach Medical Marijuana Task Force since April 2014. One of the Council's directives was to create an "advisory task force"—which was supposed to give advice in the drafting of this ordinance. To avoid confusion, we suggest that they find another name for the official Ordinance.

The group they propose is too little, too late. It should have been in place to help frame a workable ordinance. This proposed one has three reps from neighborhoods, three from collectives and only one from a patient advocacy perspective. What if that person is absent for any reason? There would be no representation at all from those that this ordinance is supposed to be serving. Additionally, each one in our group has their own unique expertise. Bottom line, there should be **at least three reps** from the patient advocacy side.

Another issue is that other entities have also been ignored. One of the concerns shared by the three main groups—patients, collectives and neighborhoods—is the restriction of locations that will generally force

facilities into the westside of Long Beach. Lifting the park and commercial corridor bans will greatly facilitate a more equitable distribution, reduce impact and create a safer access for patients and disabled persons. At the very least, only the larger named parks should have a buffer. Buffering all "parkland" is excessively and ridiculously restrictive. Areas adjacent beaches should not be banned. May I remind you that the FULL legalization Calif Prop 19 initiative garnered the majority vote in Long Beach.

The Council also directed CA Parkin to (address) [7] development of a mechanism accommodation of previously vetted marijuana dispensaries. Not only has this been undermined, but rather they have in fact penalized former collectives that have already lost so much.

In a Signal Hill Tribune article Mar 21, 2014, Parkin believes in drawing a hard line that the role of the City Attorney is not to shape policies and agendas, but to act as a nonpartisan advisor. Parkin said, "I am responsible to the mayor and City Council to provide them with neutral legal advice not subject to my legislative priorities or opinions." He continued, "(one of) The three most pressing challenges of the City relating to the Long Beach City Attorney's Office are: • reduce City liability through aggressive risk management"

The City Council directives were made on Dec 17, 2013. Yet, City Attorney Parkin waited until a week after the primary election in April (four months later) before presenting here with this litigation time bomb. And, he has freely created many of his own slanted policies.

Another possibility that has not been mentioned in the Ordinance is that any tax revenues from the collectives should be distributed proportionately to the Districts that welcome them. For instance, if five out of 25 locations are in District 4, then that District should be given 1/5th of any income for infrastructure or special programs, etc.

Our Long Beach Medical Marijuana Task Force has spent a great deal of time and effort creating an Ordinance that not only has addressed federal preemption concerns, but many other litigious issues as well. We would sincerely appreciate your recommendation of our Medical Marijuana Ordinance and pass it on to the City Council for their consideration.

Yours truly,

Diana Lejins
Advocates for Disability Rights
Chair, Long Beach Medical Marijuana Task Force

FOR Agenda
Item

Details and notes on proposed City Ordinance.

There are many potential problems with City version of this Ordinance.

A bad ordinance is essentially the same as a ban. Voters approved a MMJ tax measure. The will of the voters is clearly to support MMJ and dispensaries.

The City, by not respecting the will of the people, are using a non-workable ordinance as an excuse to enact a quasi-ban without actually calling it so.

This is not a complete list, however this is a good summary of some of the differences and stand-out problems with the City version.

Number of Dispensaries allowed.

Not clear and not defined in totality of the City version.

Are the storefront locations AND cultivation sites the same thing?

Does a dispensary and a separate site for cultivation and processing count as two locations? None? ???

Are we only counting locations that patients actually frequent to purchase MMJ?

The planning City and Planning Commission will determine the rules where a dispensary can actually be located based upon State law and rules of location and separation from each other and from sensitive sites in the City (parks, schools, etc.)

The term "Parks" need to be defined. "Green Belt" areas seem to qualify.

CUP permits only. (Possible problems with Permit process.) (Pack Decision?)

Business license / ordinance process may be better and not in conflict with Federal law.

Planning and CA Office might prefer CUP to other method for convenience and the ability to deal with dispensaries.

All approaches must be explored.

Any association of 4 or more individuals that cultivates or "sells" must have CUP.

Is "providing or giving away" to patients considered selling under ordinance. H&S code?

No garden clubs / "Family" or "informal group or association" cultivation?

Closed circuit associations?

Collectives Cooperatives (Legally formed CA non-profits) are the same as informal associations of 4 or more individual patients and considered a Medical Marijuana Business. CUP Required.

Any PERSON who cultivates or distributes more than 6 plants can fall under this ordinance.

Some patients require greater amounts and these are allowed under law.

Pre Kelly (2009) amounts used here. Not in agreement with current case law.

Only verified LB City residents may purchase MMJ.

No similar requirement for any other businesses.

MMJ is a State issue. CA Residency required everywhere else.

Less traffic = Less tax revenue for City.

Too restrictive – obviously punitive.

Patients from other cities discriminated against?

Number of dispensaries allowed only based upon City of Long Beach population.

Long Beach Patients prevented from going to other cities that follow this approach.

Bad precedence to start.

No Delivery Services.

Customary service provided by dispensaries everywhere to allow access for patients who can't get there.

Require delivery Services to abide by State law and reasonable City regulations.

Rules to insure safety and non-diversion must be abided by.

All MJ to be grown in Long Beach. No way to effectively enforce.

Why? What benefit is there?

Other similar programs have failed. (Plant tagging, Mendicino County program?)

MMJ is a State measure. Rely on existing State Law for guidance and control.

Cannabis testing cannot determine WHERE a sample of MJ was grown.

Many dispensaries have 25 or more strains or varieties of MJ.

Requires 25 or more separate grow operations? Too large and unmanageable.

Some popular strains are only grown outdoors in Northern CA.

Promotes black market trafficking of some popular strains.

Increases likelihood of "MMJ street dealing".

No CO2 generators of any kind used in cultivation. (Fire Department Request)

Why? Customary method used for years by experienced growers. Improves uptake of nutrients, Accelerates plant growth naturally and safely.

CO2 is dangerous only in a closed environment. Once the door is open, danger decreases rapidly.

Fire Department has the safety equipment and "gas sniffers" to deal with this.

All plants to be accounted for.

Records of plants grown and destroyed required.

Failed crops and their disposal?

Potentially Expensive Haz-Mat disposal requirements not defined.

Is Cannabis a hazardous material?

Can local haz-mat disposal agencies even take marijuana material for disposal?

Costs of inspection, enforcement (raids?) or audits paid for by collectives.

Is there any estimation on expected annual costs of routine audits / inspections / etc.?

Needs to be defined.

There needs to be process for unfounded complaints or audits without cause.
Health Department model... grading, correction and verification policies.

No consumption of MJ on premises by anyone.

Dispensary workers are patients, might need to medicate during business hours.
Use outside dispensary is counter to ordinance intent.
Employee / volunteer smoking/use area.

Require No commercial Use or Use by Patient Patrons. No Hash or Dab Bars.

No public advertising?

What actually constitutes advertising?
Print? Internet Blogs? Weedmaps? Newspaper articles?
No Billboards or public advertising?

No free incentives (MMJ) to patients. See: No Advertising.

No concentrated cannabis to be sold.

No Authorization of ANY extraction method.

What about Critical Fluid Extraction and CO2 Extraction?

Kief and Bubble Hash OK? (non-chemical, non flammable)

What does the ordinance classify as concentrated cannabis?

Butane Honey Oil? Hashish? Rick Simpson Oil? (Naphtha based) CBD Oil? (Alcohol extraction)

Concentrated cannabis is authorized for medical use and possession under MMJ law.

Law Enforcement defines "concentrates" loosely as anything cannabis that is "not dried bud".

Are we more concerned with the manufacture of these concentrates?

Can we come up with controls that will prevent manufacture in Long Beach?

Edibles and infused products all contain concentrated cannabis products by legal definition.

Source of all MJ must be accounted for.

Why? State measure. Rely on existing State Law for guidance.

Testing Required:

Dried processed cannabis to be tested for THC and CBD content only?

Mold Fungus and Insect inspections?

Testing standards and recommendations by qualified Cannabis testing labs (The Werk Shop / Steep labs)

Labs to be chosen by City or the individual permitted dispensary?

Only Visible inspection of LIVE plants for mold and insects. (Testing is destructive)

Pesticide testing only in processed dried usable marijuana.

Testing positive for “Any” Pesticides:

Definition? Harmful “Chemicals”? Natural Oils? Organic? Biologics?
Do plant nutrient products qualify?

Designated Caregiver language? (Not valid for collectives/cooperatives since 2007)

Permittee shall maintain inventory records of the amount of marijuana on site not excessive for the number of “patients who designated the marijuana business owners as their “primary caregiver””?

NOTE: Patients become members of the legally formed collective (or cooperative) under CA law and customarily sign documentation to that end. Primary caregiver is an outdated term and has not been in use since 2007. Its definition under CA law has been refined and no longer applies to collectives or cooperatives.

Cultivator and/or evaluator of Cannabis must have a BS degree in horticulture?

Cannabis cultivation is not taught in local universities that award BS degrees.
It does not take a BS degree to judge the health of an immature plant. This requirement is unnecessary. The person who would normally evaluate immature plants (clones) is traditionally the cultivator. Dispensary personnel who normally process, package and evaluate cannabis are not traditionally BS degree holders.

24 hour internet video access by Law Enforcement.

Why? What do you think you will see? Everyone will know the cameras are there.
Possible chilling effect on free access to lawful medical marijuana.
Little regard for HIPAA protections and patient privacy
Are other medically focused businesses in Long Beach subject to this requirement?
Requiring on site video surveillance and 30 day retention of all video feeds is reasonable.

All sales must be accounted for and recorded.

Patient purchase info must be supplied to Law Enforcement if requested.
State ID card program is voluntary to protect patient privacy. Why not Long Beach?

No felony convictions for principals within 10 years

Points off for any violation of law other than traffic violations.
Better clarifications needed.
What about convictions based on previous flawed ordinances?
What about unsuccessful prosecutions and/or plea agreements?

Hours of operation 8am to 7pm.

(10am to 10pm more reasonable for working patients)

ARMED security guards required.

Not the safest situation. Build “better mouse traps”. Guns are less necessary.

Allow for security plans that do not rely on deadly force possibilities.

"Prohibited acts" appear to cover ALL persons Section 5.91.130

Operation of a vehicle, motorboat (sailboats exempt?) or aircraft while under the influence?

No proof of intoxication or impairment necessary? Subverts CA DUI/BUI laws.

Possess marijuana that is not in a sealed package? Patient use? MMJ "open container"

How does a patient carry medical cannabis? Any requirements to only use at home?

Possess more than 6 mature or 12 immature plants and 8 oz. without a CUP. (11362.5 H&S exception)

Purchase Marijuana on the street.

Deliver medical marijuana to a patient.

Lease to any medical marijuana business without a CUP.

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Background checks required?

What standards for checks?

Clear, disqualifying factors?

No consideration of fines owed the City for violations under bad prior ordinance.

Money still owed.

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The Marihuana Tax Act of 1937

THE MARIHUANA TAX ACT OF 1937

Full Text of the Marihuana Tax Act as passed in 1937

Introduction (in italics) by David Solomon

The popular and therapeutic uses of hemp preparations are not categorically prohibited by the provisions of the Marihuana Tax Act of 1937. The apparent purpose of the Act is to levy a token tax of approximately one dollar on all buyers, sellers, importers, growers, physicians, veterinarians, and any other persons who deal in marijuana commercially, prescribe it professionally, or possess it.

The deceptive nature of that apparent purpose begins to come into focus when the reader reaches the penalty provisions of the Act: five years' imprisonment, a \$2,000 fine, or both seem rather excessive for evading a sum (provided for by the purchase of a Treasury Department tax stamp) that, even if collected, would produce only a minute amount of government revenue. (Fines and jail sentences were further increased to the point of the cruel and unusual in subsequent federal drug legislation that incorporated the Marihuana Tax Act. It is now possible under the later version of the Act to draw a life sentence for selling just one marihuana cigarette to a minor.) One might wonder, too, why a small clause, amounting to an open-ended catchall provision, was inserted into the Act, authorizing the Secretary of the Treasury to grant the Commissioner (then Harry Anslinger) and agents of the Treasury Department's Bureau of Narcotics absolute administrative regulatory, and police powers in the enforcement of the law. The message becomes entirely clear when, having finished the short text of the Act itself, one proceeds to the sixty-odd pages of administrative and enforcement procedures established by the infamous Regulations No. 1. That regulation, not fully reproduced here, calls for a maze of affidavits, depositions, sworn statements, and constant Treasury Department police inspection in every instance that marijuana is bought, sold, used, raised, distributed, given away, and so on. Physicians who wish to purchase the one-dollar tax stamp so that they might prescribe it for their patients are forced to report such use to the Federal Bureau of Narcotics in sworn and attested detail, revealing the name and address of the patient, the nature of his ailment, the dates and amounts prescribed, and so on. If a physician for any reason fails to do so immediately, both he and his patient are liable to imprisonment and a heavy fine. Obviously, the details of that regulation make it far too risky for anyone to have anything to do with marijuana in any way whatsoever.

Regulations No. 1 was more than an invasion of the traditional right of privacy between patient and physician; it was a hopelessly involved set of rules that were obviously designed not merely to discourage but to prohibit the medical and popular use of marijuana. In addition to the Marihuana Tax Act and Regulations No. 1, the Bureau of Narcotics prepared a standard bill for marihuana that more than forty state legislatures enacted. This bill made possession and use of marihuana illegal per se, and so reinforced the federal act.

U. S. TREASURY DEPARTMENT

BUREAU OF NARCOTICS

REGULATIONS No. 1

RELATING TO THE

IMPORTATION, MANUFACTURE, PRODUCTION

COMPOUNDING, SALE, DEALING IN, DISPENSING

PRESCRIBING, ADMINISTERING, AND

GIVING AWAY OF

MARIHUANA

UNDER THE

ACT OF AUGUST 2, 1937

PUBLIC No. 238, 75TH CONGRESS

NARCOTIC-INTERNAL REVENUE REGULATIONS

JOINT MARIHUANA REGULATIONS MADE BY THE

COMMISSIONER OF NARCOTICS AND THE

COMMISSIONER OF

INTERNAL REVENUE WITH THE APPROVAL OF

THE SECRETARY OF THE TREASURY

EFFECTIVE DATE, OCTOBER 1, 1937

LAW AND REGULATIONS RELATING TO THE IMPORTATION, MANUFACTURE, PRODUCTION, COMPOUNDING, SALE, DEALING IN, DISPENSING, PRESCRIBING, ADMINISTERING, AND GIVING AWAY OF MARIHUANA

THE LAW

(Act of Aug. 2, 1937, Public 238, 75th Congress)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this Act,

(a) The term "person" means an individual, a partnership, trust, association, company, or corporation and includes an officer or employee of a trust, association, company, or corporation, or a member or employee of a partnership, who, as such officer, employee, or member, is under a duty to perform any act in respect of which any violation of this Act occurs.

(b) The term "marihuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin- but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(c) The term "producer" means any person who (1) plants, cultivates, or in any way facilitates the natural growth of marihuana; or (2) harvests and transfers or makes use of marihuana.

(d) The term "Secretary" means the Secretary of the Treasury and the term "collector" means collector of internal revenue.

(e) The term "transfer" or "transferred" means any type of disposition resulting in a change of possession but shall not include a transfer to a common carrier for the purpose of transporting marihuana.

SEC. 2. (a) Every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, prescribes, administers, or gives away marihuana shall (1) within fifteen days after the effective date of this Act, or (2) before engaging after the expiration of such fifteen-day period in any of the above mentioned activities, and (3) thereafter, on or before July 1 of each year, pay the following special taxes respectively:

(1) Importers, manufacturers, and compounders of marihuana, \$24 per year.

(2) Producers of marihuana (except those included within subdivision (4) of this subsection), \$1 per year, or fraction thereof, during which they engage in such activity.

(3) Physicians, dentists, veterinary surgeons, and other practitioners who distribute, dispense, give away, administer, or prescribe marihuana to patients upon whom they in the course of their professional practice are in attendance, \$1 per year or fraction thereof during which they engage in any of such activities.

(4) Any person not registered as an importer, manufacturer, producer, or compounder who obtains and uses marihuana in a laboratory for the purpose of research, instruction, or analysis, or who produces marihuana for any such purpose, \$1 per year, or fraction thereof, during which he engages in such activities.

(5) Any person who is not a physician, dentist, veterinary surgeon, or other practitioner and who deals in, dispenses, or gives away marihuana, \$3 per year: Provided, That any person who has registered and paid the special tax as an importer, manufacturer, compounder, or producer, as required by subdivisions (1) and (2) of this subsection, may deal in, dispense, or give away marihuana imported, manufactured, compounded, or produced by him without further payment of the tax imposed by this section.

(b) Where a tax under subdivision (1) or (5) is payable on July 1 of any year it shall be computed for one year; where any such tax is payable on any other day it shall be computed proportionately from the first day of the month in which the liability for the tax accrued to the following July 1.

(c) In the event that any person subject to a tax imposed by this section engages in any of the activities enumerated in subsection (a) of this section at more than one place, such person shall pay the tax with respect to each such place.

(d) Except as otherwise provided, whenever more than one of the activities enumerated in subsection (a) of this section is carried on by the same person at the same time, such person shall pay the tax for each such activity, according to the respective rates prescribed.

(e) Any person subject to the tax imposed by this section shall, upon payment of such tax, register his name or style and his place or places of business with the collector of the district in which such place or places of business are located.

(f) Collectors are authorized to furnish, upon written request, to any person a certified copy of the names of any or all persons who may be listed in their respective collection districts as special taxpayers under this section, upon payment of a fee of \$1 for each one hundred of such names or fraction thereof upon such copy so requested.

SEC. 3. (a) No employee of any person who has paid the special tax and registered, as required by section 2 of this Act, acting within the scope of his employment, shall be required to register and pay such special tax.

(b) An officer or employee of the United States, any State, Territory, the District of Columbia, or insular possession, or political subdivision, who, in the exercise of his official duties, engages in any of the activities enumerated in section 2 of this Act, shall not be required to register or pay the special tax, but his right to this exemption shall be evidenced in such manner as the Secretary may by regulations prescribe.

SEC. 4. (a) It shall be unlawful for any person required to register and pay the special tax under the provisions of section 2 to import, manufacture, produce, compound, sell, deal in, dispense, distribute, prescribe, administer, or give away marihuana without having so registered and paid such tax.

(b) In any suit or proceeding to enforce the liability imposed by this section or section 2, if proof is made that marihuana was at any time growing upon land under the control of the defendant, such proof shall be presumptive evidence that at such time the defendant was a producer and liable under this section as well as under section 2.

SEC. 5. It shall be unlawful for any person who shall not have paid the special tax and registered, as required by section 2, to send, ship, carry, transport, or deliver any marihuana within any Territory, the District of Columbia, or any insular possession, or from any State, Territory, the District of Columbia, any insular possession of the United States, or the Canal Zone, into any other State, Territory, the District of Columbia, or insular possession of the United States: Provided, That nothing contained in this section shall apply to any common carrier engaged in transporting marihuana; or to any employee of any person who shall have registered and paid the special tax as required by section 2 while acting within the scope of his employment; or to any person who shall deliver marihuana which has been prescribed or dispensed by a physician, dentist, veterinary surgeon, or other practitioner registered under section 2, who has been employed to prescribe for the particular patient receiving such marihuana; or to any United States, State, county, municipal, District, Territorial, or insular officer or official acting within the scope of his official duties.

SEC. 6. (a) It shall be unlawful for any person, whether or not required to pay a special tax and register under section 2, to transfer marihuana, except in pursuance of a written order of the person to whom such marihuana is transferred, on a form to be issued in blank for that purpose by the Secretary.

(b) Subject to such regulations as the Secretary may prescribe, nothing contained in this section shall apply:

(1) To a transfer of marihuana to a patient by a physician, dentist, veterinary surgeon, or other practitioner registered under section 2, in the course of his professional practice only. Provided, That such physician, dentist, veterinary surgeon, or other practitioner shall keep a record of all such marihuana transferred, showing the amount transferred and the name and address of the patient to whom such marihuana is transferred, and such record shall be kept for a period of two years from the date of the transfer of such marihuana, and subject to inspection as provided in section 11.

(2) To a transfer of marihuana, made in good faith by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, veterinary surgeon, or other practitioner registered under section 2: Provided, That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, veterinary surgeon, or other practitioner who issues the same: Provided further, That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled so as to be readily accessible for inspection by the officers, agents, employees, and officials mentioned in section 11.

(3) To the sale, exportation, shipment, or delivery of marihuana by any person within the United States, any Territory, the District of Columbia, or any of the insular possessions of the United States, to any person in any foreign country regulating the entry of marihuana, if such sale, shipment, or delivery of marihuana is made in accordance with such regulations for importation into such foreign country as are prescribed by such foreign country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

(4) To a transfer of marihuana to any officer or employee of the United States Government or of any State, Territorial, District, county, or municipal or insular government lawfully engaged in making purchases thereof for the various departments of the Army and Navy, the Public Health Service, and for Government, State, Territorial, District, county, or municipal or insular hospitals or prisons

(S) To a transfer of any seeds of the plant *Cannabis sativa* L. to any person registered under section 2.

(c) The Secretary shall cause suitable forms to be prepared for the purposes before mentioned and shall cause them to be distributed to collectors for sale. The price at which such forms shall be sold by said collectors shall be fixed by the Secretary but shall not exceed 2 cents each. Whenever any collector shall sell any of such forms he shall cause the date of sale, the name and address of the proposed vendor, the name and address of the purchaser, and the amount of marihuana ordered to be plainly written or stamped thereon before delivering the same.

(d) Each such order form sold by a collector shall be prepared by him and shall include an original and two copies, any one of which shall be admissible in evidence as an original. The original and one copy shall be given by the collector to the purchaser thereof. The original shall in turn be given by the purchaser thereof to any person who shall, in pursuance thereof, transfer marihuana to him and shall be preserved by such person for a period of two years so as to be readily accessible for inspection by any officer, agent, or employee mentioned in section 11. The copy given to the purchaser by the collector shall be retained by the purchaser and preserved for a period of two years so as to be readily accessible to inspection by any officer, agent, or employee mentioned in section 11. The second copy shall be preserved in the records of the collector.

SEC. 7. (a) There shall be levied, collected, and paid upon all transfers of marihuana which are required by section 6 to be carried out in pursuance of written order forms taxes at the following rates:

(1) Upon each transfer to any person who has paid the special tax and registered under section 2 of this Act, \$1 per ounce of marihuana or fraction thereof

(2) Upon each transfer to any person who has not paid the special tax and registered under section 2 of this Act, \$100 per ounce of marihuana or fraction thereof

(b) Such tax shall be paid by the transferee at the time of securing each order form and shall be in addition to the price of such form. Such transferee shall be liable for the tax imposed by this section but in the event that the transfer is made in violation of section 6 without an order form and without payment of the transfer tax imposed by this section, the transferor shall also be liable for such tax.

(c) Payment of the tax herein provided shall be represented by appropriate stamps to be provided by the Secretary and said stamps shall be affixed by the collector or his representative to the original order form.

(d) All provisions of law relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps provided for in the internal-revenue laws shall, insofar as applicable and not inconsistent with this Act, be extended and made to apply to stamps provided for in this section.

(e) All provisions of law (including penalties) applicable in respect of the taxes imposed by the Act of December 17, 1914 (38 Stat. 785; U. S. C., 1934 ed., title 26, secs. 1040--1061, 1383-1391), as amended, shall, insofar as not inconsistent with this Act, be applicable in respect of the taxes imposed by this Act.

SEC. 8. (a) It shall be unlawful for any person who is a transferee required to pay the transfer tax imposed by section 7 to acquire or otherwise obtain any marihuana without having paid such tax; and proof that any person shall have had in his possession any marihuana and shall have failed, after reasonable notice and demand by the collector, to produce the order form required by section 6 to be retained by him, shall be presumptive evidence of guilt under this section and of liability for the tax imposed by section 7.

(b) No liability shall be imposed by virtue of this section upon any duly authorized officer of the Treasury Department engaged in the enforcement of this Act or upon any duly authorized officer of any State, or Territory, or of any political subdivision thereof, or the District of Columbia, or of any insular possession of the United States, who shall be engaged in the enforcement of any law or municipal ordinance dealing with the production, sale, prescribing, dispensing, dealing in, or distributing of marihuana.

SEC. 9. (a) Any marihuana which has been imported, manufactured, compounded, transferred, or produced in violation of any of the provisions of this Act shall be subject to seizure and forfeiture and, except as inconsistent with the provisions of this Act, all the provisions of internal-revenue laws relating to searches, seizures, and forfeitures are extended to include marihuana.

(b) Any marihuana which may be seized by the United States Government from any person or persons charged with any violation of this Act shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States.

(c) Any marihuana seized or coming into the possession of the United States in the enforcement of this Act, the owner or owners of which are unknown, shall be confiscated by and forfeited to the United States.

(d) The Secretary is hereby directed to destroy any marihuana confiscated by and forfeited to the United States under this section or to deliver such marihuana to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as may be prescribed by the Secretary.

SEC. 10. (a) Every person liable to any tax imposed by this act shall keep such books and records, render under oath such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

(b) Any person who shall be registered under the provisions of section 2 in any internal- revenue district shall, whenever required so to do by the collector of the district, render to the collector a true and correct statement or return, verified by affidavits, setting forth the quantity of marihuana received or harvested by him during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine. If such person is not solely a producer, he shall set forth in such statement or return the names of the persons from which said marihuana was received, the quantity in each instance received from such persons, and the date when received.

SEC. 11. The order forms and copies thereof and the prescriptions and records required to be preserved under the provisions of section 6, and the statements or returns filed in the office of the collector of the district under the provisions of section 10 (b) shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose, and such officers of any State, or Territory, or of any political subdivision thereof, or the District of Columbia, or of any insular possession of the United States as shall be charged with the enforcement of any law or municipal ordinance regulating the production, sale, prescribing, dispensing, dealing in, or distributing of marihuana. Each collector shall be authorized to furnish, upon written request, copies of any of the said statements or returns filed in his office to any of such officials of any State or Territory, or political subdivision thereof, or the District of Columbia, or any insular possession of the United States as shall be entitled to inspect the said statements or returns filed in the office of the said collector, upon the payment of a fee of \$1 for each 100 words or fraction thereof in the copy or copies so requested.

SEC. 12. Any person who is convicted of a violation of any provision of this Act shall be fined not more than \$2,000 or imprisoned not more than five years, or both, in the discretion of the court.

SEC. 13. It shall not be necessary to negative any exemptions set forth in this Act in any complaint, information, indictment, or other writ or proceeding laid or brought under this Act and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of evidence by the defendant that he has complied with the provisions of section 6 relating to order forms, he shall be presumed not to have complied with such provisions of such sections, as the case may be.

SEC. 14. The Secretary is authorized to make, prescribe, and publish all necessary rules and regulations for carrying out the provisions of this Act and to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him by this Act upon such officers or employees of the Treasury Department as he shall designate or appoint.

SEC. 15. The provisions of this Act shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, and the insular possessions of the United States, except the Philippine Islands. In Puerto Rico the administration of this Act, the collection of the special taxes and transfer taxes, and the issuance of the order forms provided for in section 6 shall be performed by the appropriate internal revenue officers of that government, and all revenues collected under this Act in Puerto Rico shall accrue intact to the general government thereof. The President is hereby authorized and directed to issue such Executive orders as will carry into effect in the Virgin Islands the intent and purpose of this Act by providing for the registration with appropriate officers and the imposition of the special and transfer taxes upon all persons in the Virgin Islands who import, manufacture, produce, compound, sell, deal in, dispense, prescribe, administer, or give away marihuana.

SEC. 16. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 17. This Act shall take effect on the first day of the second month during which it is enacted.

SEC. 18. This Act may be cited as the "Marihuana Tax Act of 1937."

(T. D. 28)

Order of the Secretary of the Treasury Relating to the Enforcement of the Marihuana Tax Act of 1937

September 1, 1937

Section 14 of the Marihuana Tax Act of 1937 (act of Congress approved August 2, 1937, Public, No. 238), provides as follows:

The Secretary is authorized to make, prescribe, and publish all necessary rules and regulations for carrying out the provisions of this Act and to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him by this Act upon such officers or employees of the Treasury Department as he shall designate or appoint.

In pursuance of the authority thus conferred upon the Secretary of the Treasury, it is hereby ordered:

I. Rights, Privileges, Powers, and Duties Conferred and Imposed Upon the Commissioner of Narcotics

1. There are hereby conferred and imposed upon the Commissioner of Narcotics, subject to the general supervision and direction of the Secretary of the Treasury, all the rights, privileges, powers, and duties conferred or imposed upon said Secretary by the Marihuana Tax Act of 1937, so far as such rights privileges, powers, and duties relate to:

(a) Prescribing regulations, with the approval of the Secretary, as to the manner in which the right of public officers to exemption from registration and payment of special tax may be evidenced, in accordance with section 3 (b) of the act.

(b) Prescribing the form of written order required by section 6 (a) of the act, said form to be prepared and issued in blank by the Commissioner of Internal Revenue as hereinafter provided.

(c) Prescribing regulations, with the approval of the Secretary, giving effect to the exceptions, specified in subsection (b), from the operation of subsection (a) of section 6 of the act.

(d) The destruction of marihuana confiscated by and forfeited to the United States, or delivery of such marihuana to any department, bureau, or other agency of the United States Government, and prescribing regulations, with the approval of the Secretary, governing the manner of application for, and delivery of such marihuana.

(e) Prescribing rules and regulations, with the approval of the Secretary, as to books and records to be kept, and statements and information returns to be rendered under oath, as required by section 10 (a) of the act.

(f) The compromise of any criminal liability (except as relates to delinquency in registration and delinquency in payment of tax) arising under the act, in accordance with section 3229 of the Revised Statutes of the United States (U. S. Code (1934 ed.) title 26, sec. 1661), and the recommendation for assessment of civil liability for internal- revenue taxes and ad valorem penalties under the act.

II. Rights, Privileges, Powers, and Duties Conferred and Imposed upon the Commissioner of Internal Revenue

1. There are hereby conferred and imposed upon the Commissioner of Internal Revenue, subject to the general supervision and direction of the Secretary of the Treasury, the rights, privileges, powers, and duties conferred or imposed upon said Secretary of the Marihuana Tax Act of 1937, not otherwise assigned herein, so far as such rights, privileges, powers, and duties relate to:

- (a) Preparation and issuance in blank to collectors of internal revenue of the written orders, in the form prescribed by the Commissioner of Narcotics, required by section 6 (a) of the act. The price of the order form, as sold by the collector under section 6 (c) of the act shall be two cents for the original and one copy.
- (b) Providing appropriate stamps to represent payment of transfer tax levied by section 7, and prescribing and providing appropriate stamps for issuance of special tax payers registering under section 2 of the act.
- (c) The compromise of any civil liability involving delinquency in registration, delinquency in payment of tax, and ad valorem penalties, and of any criminal liability incurred through delinquency in registration and delinquency in payment of tax, in connection with the act and in accordance with Section 3229 of the Revised Statutes of the United States (U. S. Code (1934 ed.), title 26, sec. 1661)- the determination of liability for and the assessment and collection of special and transfer taxes imposed by the act; the determination of liability for and the assessment and collection of the ad valorem penalties imposed by Section 3176 of the Revised Statutes, as modified by Section 406 of the Revenue Act of 1935 (U. S. Code (1934 ed.) title 26, secs. 1512-1525), for delinquency in registration; and the determination of liability for and the assertion of the specific penalty imposed by the act, for delinquency in registration and payment of tax.

General Provisions

The investigation and the detection, and presentation to prosecuting officers of evidence, of violations of the Marihuana Tax Act of 1937, shall be the duty of the Commissioner of Narcotics and the assistants, agents, inspectors, or employees under his direction. Except as specifically inconsistent with the terms of said act and of this order, the Commissioner of Narcotics and the Commissioner of Internal Revenue and the assistants, agents, inspectors, or employees of the Bureau of Narcotics and the Bureau of Internal Revenue, respectively, shall have the same powers and duties in safeguarding the revenue thereunder as they now have with respect to the enforcement of, and collection of the revenue under, the act of December 17, 1914, as amended (U. S. Code (1934 ed.), title 26, sec. 1049).

In any case where a general offer is made in compromise of civil and criminal liability ordinarily compromisable hereunder by the Commissioner of Internal Revenue and of criminal liability ordinarily compromisable hereunder by the Commissioner of Narcotics, the case may be jointly compromisable by those officers, in accordance with Section 3229 of the Revised Statutes of the United States (U. S. Code (1934 ed.), title 26, sec. 1661).

Power is hereby conferred upon the Commissioner of Narcotics to prescribe such regulations as he may deem necessary for the execution of the functions imposed upon him or upon the officers or employees of the Bureau of Narcotics, but all regulations and changes in regulations shall be subject to the approval of the Secretary of the Treasury.

The Commissioner of Internal Revenue and the Commissioner of Narcotics may, if they are of the opinion that the good of the service will be promoted thereby, prescribe regulations relating to internal revenue taxes where no violation of the Marihuana Tax Act of 1937 is involved, jointly, subject to the approval of the Secretary of the Treasury.

The right to amend or supplement this order or any provision thereof from time to time, or to revoke this order or any provision thereof at any time, is hereby reserved.

The effective date of this order shall be October 1, 1937, which is the effective date of the Marihuana Tax Act of 1937.

STEPHEN B. GIBBONS,

Acting Secretary of the Treasury.

REGULATIONS

Introductory

The Marihuana Tax Act of 1937, imposes special (occupational) taxes upon persons engaging in activities involving articles or material within the definition of "marihuana" contained in the act, and also taxes the transfer of such articles or material.

These regulations deal with details as to tax computation, procedure, the forms of records and returns, and similar matters. These matters in some degree are controlled by certain sections of the United States Revised Statutes and other statutes of general application. Provisions of these statutes, as well as of the Marihuana Tax Act of 1937 are quoted, in whole or in part, as the immediate or general basis for the regulatory provisions set forth. The quoted provisions are from the Marihuana Tax Act of 1937 unless otherwise indicated.

Provisions of the statutes upon which the various articles of the regulations are based generally have not been repeated in the articles. Therefore, the statutory excerpts preceding the several articles should be examined to obtain complete information.

Chapter I

Laws Applicable

SEC. 7 (e) All provisions of law (including penalties) applicable in respect of the taxes imposed by the Act of December 17, 1914 (38 Stat. 785; U. S. C., 1934 ed., title 26, secs. 1040- 1061, 1383-1391), as amended, shall, insofar as not inconsistent with this Act, be applicable in respect of the taxes imposed by this Act.

ART. 1. Statutes applicable. All general provisions of the internal revenue laws, not inconsistent with the Marihuana Tax Act, are applicable in the enforcement of the latter.

Chapter II

Definitions

SEC. 1. That when used in this Act:

(a) The term "person" means an individual, a partnership, trust, association, company, or corporation and includes an officer or employee of a trust, association, company, or corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform any act in respect of which any violation of this Act occurs.

(b) The term "marihuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resins; but shall not include the mature stalks of such plant, fiber produced from such

stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(c) The term "producer" means any person who (1) plants, cultivates, or in any way facilitates the natural growth of marihuana; or (2) harvests and transfers or makes use of marihuana.

(d) The term "Secretary" means the Secretary of the Treasury and the term "collector" means collector of internal revenue.

(e) The term "transfer" or "transferred" means any type of disposition resulting in a change of possession but shall not include a transfer to a common carrier for the purpose of transporting marihuana.

ART. 2. As used in these regulations:

(a) The term "act" or "this act" shall mean the Marihuana Tax Act of 1937, unless otherwise indicated.

(b) The term "United States" shall include the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, and the insular possessions of the United States except Puerto Rico and the Virgin Islands. It does not include the Canal Zone or the Philippine Islands.

(c) The terms "manufacturer" and "compounder" shall include any person who subjects marihuana to any process of separation, extraction, mixing, compounding, or other manufacturing operation. They shall not include one who merely gathers and destroys the plant, one who merely threshes out the seeds on the premises where produced, or one who in the conduct of a legitimate business merely subjects seeds to a cleaning process.

(d) The term "producer" means any person who induces in any way the growth of marihuana, and any person who harvests it, either in a cultivated or wild state, from his own or any other land, and transfers or makes use of it, including one who subjects the marihuana which he harvests to any processes rendering him liable also as a manufacturer or compounder. Generally all persons are included who gather marihuana for any purpose other than to destroy it. The term does not include one who merely plows under or otherwise destroys marihuana with or without harvesting. It does not include one who grows marihuana for use in his own laboratory for the purpose of research, instruction, or analysis and who does not use it for any other purpose or transfer it.

(e) The term "special tax" is used to include any of the taxes, pertaining to the several occupations or activities covered by the act, imposed upon persons who import, manufacture, produce, compound, sell, deal in, dispense, prescribe, administer, or give away marihuana.

(f) The term "person" occurring in these regulations is used to include individual, partnership, trust, association, company, or corporation; also a hospital, college of pharmacy, medical or dental clinic, sanatorium, or other institution or entity.

(g) Words importing the singular may include the plural; words importing the masculine gender may be applied to the feminine or the neuter.

1. The definitions contained herein shall not be deemed exclusive.

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