

Legal Marijuana and Workplace Drug Policies

by Elizabeth Harmon

As of 2017, California is one of eight states and the District of Columbia where recreational use of marijuana is now legal.

The legalizing of marijuana in these states may be changing the laws and the social acceptance of marijuana but not necessarily changing attitudes in the workplace. This is especially true regarding whether employers will continue to do drug testing in these states and depending on the results of those drug tests,

refuse to hire an applicant or terminate a current employee. In general, employers could require drug testing prior to employment, randomly or with justifiable suspicion in the past and after the passage of Proposition 64, in 2016, California employers may continue to do so.

The California Health and Safety Code, Section [11362.45\(f\)](#) states that Section 11362.1, which legalizes the use of not more than 28.5 grams of cannabis, “does not amend, repeal, affect, restrict, or preempt”: *The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption...of cannabis in the workplace, or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or complying with state or federal law.* The nine states that have made marijuana legal still allow employers to implement and enforce drug policies in the workplace. One of the key reasons given by employers for drug testing is concerns over safety, not just in the workplace but on jobs that require operating heavy equipment or driving large vehicles like a bus or a tractor-trailer. The National Institute on Drug Abuse reports that when using marijuana, among other short-term issues, the user’s memory, keeping track of time, and solving problems can all be affected.

Some employers, regardless of the passage of Proposition 64, still prohibit use of marijuana on their premises because they fall under the *Drug-Free Workplace Act (DFWA)*, which makes the possession, use, or distribution of marijuana or any other drug illegal. Federal contractors are required by DFWA to develop policies that forbid any drug activity at work and encourage drug-free awareness. For example, The Office of the Presi-

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Weed v. Water

by Mora Prestinary

In November 2016, California legalized recreational marijuana. The decision, supported by 56 percent of the state’s voters, allows marijuana to be shared, traded, grown at home and smoked without a medical reason. (Using it medically has been legal since 1996). California is the fifth state to legalize recreational pot, and it was the first state to legalize medical marijuana. Most growers in California operate at small production levels, often on country side farms, and often using organic growing methods. Proposition 64 was a stroke of luck for marijuana users and growers. Looking north, over the Golden Gate Bridge, toward Humboldt, Mendocino and Trinity counties, lies the hotbed of California’s newly legalized commercial cannabis production.

It is the heart of the state’s industry, along the north coast region known informally as the Emerald Triangle. Most growers – thousands of them in the heavily wooded counties of Humboldt, Trinity and Mendocino – who currently operate illegally, are now lining up at county offices to apply for cannabis production permits. Conservationists, growers and scientists are asking how the new era of pot production will affect the environment, especially California water sources, in a state that has been absorbed in a far-reaching drought for the past 6 years.

Humboldt County’s planning and building department has received more than 2,300 applications for new growing permits since the November election. Already, the forests of the county may support somewhere between 8,000 and 10,000 pot growers, according to rough estimates.

The California Department of Fish and Wildlife proclaims: “The paperwork of getting permits is not just a formality”. “You have to abide by it and we’re going to be checking on people. Someone who doesn’t follow the rules could lose their permit and would have to start over.”

However, it may have positive effects. For instance, a grower seeking a commercial production permit must install a water storage system that can be filled in the wet winter season. Such a system would allow growers to keep farms green all summer without drawing water from creeks, which can easily be pumped dry during California’s hot and mostly rainless summers. Here we have highly motivated growers, under regulatory inspection. Will these be the people who will be leading agriculture toward

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*Legal Marijuana**(Continued from page 1)*

dent of the University of California states, in their *UC guidance on use and possession of marijuana on UC property*, “The University of California prohibits the use, possession and sale of marijuana in any form on all university property, including university-owned and leased buildings, housing and parking lots. Marijuana is also not permitted at university events or while conducting university business.” Marijuana is only allowed for approved academic research. Both the *Drug Free Workplace Act* and *The Drug Free Schools and Communities Act* mandate that because UC receives federal funding, the UC campuses must follow federal law regarding marijuana possession, use, or sale.

Whether a company is influenced by state law or federal law, it is apparent that having a strong policy and clear guidelines for employees regarding workplace marijuana use is necessary and should be specific to each workplace. It is not surprising that The Department of Transportation strictly forbids the use of Schedule I drugs – such as heroin, LSD, mescaline, & marijuana – for any reason including medical marijuana. However, every employer should establish policies that create a safe environment for employees, while at the same time making sure that employees are aware of those policies and the current state laws.

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sustainable water management?

California cannabis is likely to be recognized as the state's top-valued crop, which is no surprise, especially as experts believe 60 to 70 percent of the pot sold in America comes from the Golden State. The Christian Science Monitor cites a value of \$11–17 billion per year for the California cannabis crop. Compare that to the state's next-ranked commodity, milk and cheese, at \$6.7 billion.

Jared Huffman, a representative in congress from the state of California introduced a bill, H.R. 2983, that includes many of these solutions, including the promotion of innovative de-salination technologies, water recycling and reuse, groundwater recharge, storm water capture and reduced losses from evaporation: “This bill provides emergency supplemental appropriations for FY2015 from the Reclamation Fund to the Department of the Interior, the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), the Department of Justice (DOJ), and the Army Corps of Engineers for water projects, programs, grants, or loans in states impacted by drought. <https://www.congress.gov/bill/114th-congress/house-bill/2983>”

(Worth reading is Ryan B. Stoa's comprehensive article on “Weed and Water Law: Regulating Legal Marijuana” in the Hastings Law Journal, (2015-2016), in which he covers the who, which and what of weed and water).

It may have negative effects. It will worsen conditions for fish in places. Many northern California salmon and trout were just surviving in the years heading up to the drought, and the recent rush in marijuana farming has all but wiped them out. The Water Boards are concerned with the diversion and use of surface water and waste by-products that could harm the waters of the State. Farmers are sidetracking waters directly from tributaries of small creeks close to the source of larger rivers, and pumping these little streams dry. It's easy to pump out the creeks, save your stored water and then use your tanks as back-up. Water waste and use of pesticides and herbicides has yet to be seriously examined even with marijuana's obvious ecological impacts.

All of these concerns are on a “wait and see” course.

The best effects that could happen: California marijuana growers will be responsible farmers. They will do what is best for the environment: the land, the air and the water.

References

Huffman, Jared D. “Drought Recovery and Resilience Act of 2015”, H.R. 2983, 114th, Cong., 1st sess. (August 15, 2015). <https://www.congress.gov/bill/114th-congress/house-bill/2983/text>
Legislative Analyst's Office. “Proposition 64”. <http://www.lao.ca.gov/BallotAnalysis/Proposition?number=64&year=2016>

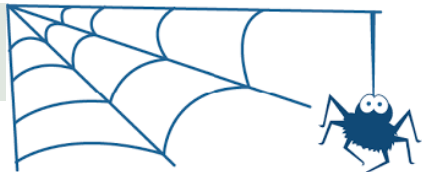
Osbeck, Mark K.. **Marijuana Law in A Nutshell** St. Paul, MN: West Academic Publishing, 2017. Floor 4 KF3891.M2 O83 2017

United States. Congress. House. Committee on Natural Resources. Subcommittee on **Water, Power, and Oceans**. . **“The 2016 California Water Supply Outlook During the El Niño and Three Years of Restricted Water Deliveries.”** Floor A – Microforms, Y 4.R 31/3:114-32 . <https://www.gpo.gov/fdsys/pkg/CHRG-114hhrg98878/pdf/CHRG-114hhrg98878.pdf>

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Looking at the Web

by Mora Prestinary



Proposition 64 (Text): Marijuana Legalization
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB64

Adult Use of Marijuana Act (AUMA): Health & Safety Code §11362.775
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=11362.775

State Marijuana Laws in 2017 - Map
<http://www.governing.com/gov-data/state-marijuana-laws-map-medical-recreational.html>

To celebrate Hispanic American (September) and Italian American Heritage (October) months, we include these associations :

Orange County Hispanic Bar Association
<http://www.ocbar.org/About/AffiliateBarAssociations/HispanicBarAssociation.aspx>

Orange County Italian American Bar Association
<http://www.ocbar.org/About/AffiliateBarAssociations/ItalianAmericanLawyersofOrangeCounty.aspx>

ask a librarian

by Mora Prestinary



How can I get help with an eviction?



The Courts Self-Help Center:
<http://www.occourts.org/self-help/landlordtenant/index.html>

Public Law Center 601 Civic Center Drive West,
 Santa Ana, 714-541-1010
<http://www.publiclawcenter.org/>

Fulltext book online with forms and instructions:

California Tenants' Rights

The book is available on the database
 "EBSCO Legal Information Reference Center".

<http://search.ebscohost.com/login.aspx?authtype=custuid&custid=ns022935>

To access the database use:

State Abbreviation: ca

Password: orange

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Ryan B. Stoa. "Weed and Water Law: Regulating Legal Marijuana". Hastings Law Journal, vol. 67 pp.565 (2015-2016).
<http://www.hastingslawjournal.org/wp-content/uploads/Stoa-67.3.pdf> . Also on Hein Online (available on the public computers in the Library)

Water Deeply." How Changing Marijuana Laws May Affect California's Water and Wildlife".

<https://www.newsdeeply.com/water/articles/2017/03/22/how-changing-marijuana-laws-may-affect-californias-water-and-wildlife>



Awards & Retirements:

Our director, Maryruth Storer, received the 2017 American Association of Law Libraries "Hall of Fame" award. The AALL Hall of Fame was established in 2009 to recognize those members whose contributions to the profession and service to the Association have been significant, substantial and long-standing. Maryruth's list of involvement with the Association dates back to 1978. Over the years she has served on various AALL boards and committees, including the Executive Board, and more recently she has been involved with the Government Law Libraries Special Interest Section. Congratulations!

Tricia Trujillo, the library's Reference Technician, retired at the end of June 2017 after 16 years at the Law Library. Tricia handled Conference Room reservations, Interlibrary loans, Document Delivery, supervised loose-leaf filing, and she always worked at the Reference desk at Noon. While we know she will miss all of those activities, we wish her happy times and the best of luck in her new retirement.

Looking at: Legal Apps & Podcasts

Notarycam - Get documents legally and securely notarized in all 50 U.S. states.
<https://www.notarycam.com/>

CamsScanner - Scan documents or handwritten notes and convert them into PDF images.
<https://itunes.apple.com/gb/app/camsScanner-free-pdf-document/id388627783?mt=8>

Lawyer 2 Lawyer - Weekly, 40 minute show discusses contemporary legal issues. Hosted by J. Craig Williams and Bob Ambrogi.
<https://legaltalknetwork.com/podcasts/lawyer-2-lawyer/>

Talks on Law - Filter by topic, date, or search by speakers and tags.
<https://itunes.apple.com/us/app/talksonlaw/id1075459516?mt=8>

This Week in Law - California specific.
<https://twit.tv/shows/this-week-in-law>



Library Databases:

EBSCO Legal Information Reference Center -
 Nolo Press titles, fulltext.
 (Remote access to EBSCO available [see pg.3](#) "Ask a Librarian")

Fastcase
 Federal & state case law, statutes, regs.

Hein Online
 Law journals, CFR, Fed Reg, Statutes at Large, etc.

Lexis Advance
 California Matthew Bender pubs, CA Forms of P&P, Deerings, Shepards.

LLMC
 Public domain government documents.

Martin Dean's Essential Forms
 Judicial Council & local court forms.

Onlaw
 CEB publications fulltext.

Westlaw
 Federal and state case law, stats, regs, Rutter.

XSpouse
 Calculates California child and spousal support (& arrears).

The Library will be closed

Monday	Sept 4, 2017
Friday	Nov 10, 2017
	&
Thursday	Nov 23, 2017
Friday	Nov 24, 2017



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Currently on display on Floor 3:

Selections from the Library of Congress

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