



Prop. 64 and the Regulation of Marijuana

Proposition 64 - the "Control, Regulate, and Tax Adult Use of Marijuana Act" initiative was approved by California voters on November 8, 2016 and took effect immediately. There have been sections added to the existing Health and Safety Code (H&S), as well as sections that have been amended or repealed, that would decriminalize the personal, nonmedical use of marijuana.

Effective November 9, 2016, it is now legal for adults 21 years and older to possess up to 28.5 grams of marijuana, 8 grams of concentrated cannabis, and 6 living plants. For individuals between the ages of 18 years old to 21 years old, it is now an infraction to possess marijuana within these limits.

An adult over the age of 21 years old may be charged with misdemeanor possession (11357a H&S) when the amount of marijuana possess exceeds the prescribed limits. Previous charges of cultivation of marijuana (11358 H&S), possession of marijuana for sale (1135 H&S) and transportation of marijuana for sale (11360 H&S) are no longer filed as straight felonies and may be charged only as misdemeanors.

It should also be noted that those previously convicted of a marijuana offense may now be eligible for full dismissal of their case or reduction of the charge consistent with the newly enacted regulations (11361.8 H&S).

The below sections have been added to the existing Health and Safety Code:

11362.1 H&S Permits a person 21 years and older to:

- Possess, process, transport, purchase, obtain, or give away (without any compensation) to persons 21 years old not more than 28.5 grams (1 ounce) of marijuana and not more than 8 grams of concentrated cannabis.
- Possess, plant, cultivate, harvest, dry, or process not more than 6 living plants and possess the marijuana produced by the plants, and smoke or ingest marijuana and marijuana products.

11362.2 H&S The personal cultivation of marijuana must comply with any local ordinances (i.e. reasonable regulations) and the living plants must be kept within the person's private residence or upon the grounds, in a locked space, not visible by normal unaided vision from a public place. A single private residence is limited to no more than 6 living plants.

11362.3 H&S Nothing permits a person to smoke marijuana in a location where smoking tobacco is prohibited, or within 1,000 feet of a school, day care center, or youth center while children are present. A person may not possess an open container or open package of marijuana or marijuana products, or smoke or ingest marijuana, while driving, operating or riding in a motor vehicle, boat, or other vehicle used for transportation. (11362.3(4) H&S).

11362.4 H&S A person who smokes or ingests marijuana in a public place (violates 11362.3(a)(1)) is guilty of an infraction punishable by \$100 fine.

- A person who smokes or ingests marijuana where smoking tobacco is prohibited or within 1,000 feet of school, etc. (violates 11362.3(a)(2) or (3)), or possesses an open container in a vehicle (violates 11362.3(4)), is guilty of an infraction punishable by \$250 fine.
- A person who possesses, smokes, or ingests marijuana upon the grounds of a school, day care center, or youth center while children are present (violates 11362.3(5)), shall be subject to same misdemeanor punishments as H&S 11357(c). A person who manufactures concentrated cannabis using a chemical solvent without a license (violates 11362.3(6)) shall be subject to felony punishment (3-5-7) under H&S 11379.6. An adult who cultivates marijuana in excess of limits set forth in 11362.2(a) is guilty of an infraction punishable by \$250 fine.

The below sections of the Health and Safety Code have been amended:

11357 H&S

- (a) A person at least 18 years of age but less than 21 years of age who possesses not more than 28.5 grams of marijuana, or not more than 4 grams of concentrated cannabis, is guilty of an infraction punishable by \$100 fine.
- (b) A person at least 18 years of age who possesses more than 28.5 grams of marijuana, or more than 4 grams of concentrated cannabis, is guilty of a misdemeanor punishable by 6 months/\$500 fine.

11358 H&S

- (b) A person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than 6 living marijuana plants is guilty of an infraction punishable by \$100 fine.
- (c) A person at least 18 years of age who plants, cultivates, harvests, dries, or processes more than 6 living marijuana plants is guilty of a misdemeanor punishable by 6 months and/or \$500 fine.
- (d) A person at least 18 years of age who plants, cultivates, harvests, dries, or processes more than 6 living marijuana plants may be guilty of a (16-2-3) felony if: (1) person has one or more prior convictions for a 'super-strike' offense (PC 667(e)(2)(C)(iv)) or PC 290(c) offense; (2) person has two or more convictions under newly added H&S 11358 (c); or (3) person has a prior offense which violated Water Code 13260, 13264, 13272, 13387; or Fish and Game Code 5650, 5652, 1602, 2080, 3513; or Penal Code 374.8.

11359 H&S

- (b) A person at least 18 years of age who possesses marijuana for sale is guilty of a misdemeanor punishable by 6 months and/or \$500 fine.
- (c) A person at least 18 years of age who possesses marijuana for sale may be guilty of a (16-2-3) felony if: (1) person has one or more prior convictions for a 'super-strike' offense (PC 667(e)(2)(C)(iv)) or PC 290(c) offense; (2) person has two or more convictions under newly added

H&S 11359 (b); or (3) the offense occurred in connection with the knowing sale or attempted sale of marijuana to a minor.