

# The Regulate Marijuana Like Wine Act of 2012

SPONSORED BY THE REGULATE MARIJUANA LIKE WINE COMMITTEE  
POST OFFICE BOX 13591, SOUTH LAKE TAHOE, CALIFORNIA 96151  
STATE CAMPAIGN ID NUMBER 1336887 • Phone: 415 830-6070

August 30, 2011

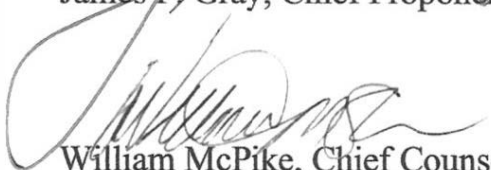
Attorney General's Office  
California Department of Justice  
Attn: Public Inquiry Unit  
P.O. Box 944255  
Sacramento, CA 94244-2550

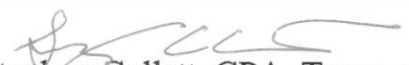
Dear Attorney General Kamala D. Harris,

Please accept our written request that a circulating title and summary of the chief purpose and points of the proposed measure be prepared.

Respectfully submitted,

  
James P. Gray, Chief Proponent

  
William McPike, Chief Counsel

  
Stephen Collett, CPA, Treasurer

  
Steve Kubby, Chief Officer and Campaign Manager

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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

## The Regulate Marijuana Like Wine Act of 2012

*The People of the State of California do enact as follows:*

### **Section 1. Findings, Declarations, Purpose, Directives, and Orders**

Section 11420 is added to the Health and Safety Code as Chapter 6.8 Regulation and Taxation of Marijuana. This section shall be known as and may be cited as the "The Regulate Marijuana Like Wine Act of 2012," known hereinafter as the "Act."

(a) The People of the State of California find and declare all of the following:

- (1) Outlawing marijuana has created illicit markets, empowered gangs, drug cartels and terrorists, resulted in violence, corruption and violations of rights against search and seizure, and contributed to the highest incarceration rate in the world.
- (2) Marijuana is an untapped revenue source for the State of California. The best way to tap that source for the benefit of all Californians is to regulate and tax marijuana just like wine.
- (3) The regulation of marijuana will benefit the People of the State of California by reducing criminal gang and cartel activity, promoting agriculture, creating jobs by reestablishing a hemp industry, and reducing the fiscal and incarceration overpopulation burdens on law enforcement, and courts.

(b) This Act does all of the following:

- (1) Repeals California Health and Safety Code sections 11357, 11358, 11359, 11360, 11361, 11485, Vehicle Code section 23222(b). Marijuana is removed from Health and Safety Code sections 11364 through 11375, 11366, 11366.5, 11469 through 11495, 11532(b)(7), 11590, 11703, and 11999. Adults 21 years of age and older, and approved business entities shall no longer be prohibited from association, use, possession, trade, processing, packaging, gifting, vending, sales, distribution, storage, transportation, production, or cultivation of marijuana. This Act establishes rights not defenses.
- (2) Establishes that the following shall be punishable by a fine of, up to \$2,500.00 per occurrence.
  - (A) The sale or distribution of marijuana by or to any individual under 21 years old, or;

(B) The sale or commercial activity authorized herein, when outside the commercial and regulatory system established herein.

(3) Removes “marijuana,” “THC,” and “CBD,” explicitly or by inference as a controlled substance, from Health and Safety Code section 11054.

(4) This Act does not control, repeal, modify, or change statutes pertaining to:

(A) Operating a motor vehicle;

(B) Using marijuana or being impaired while in the workplace or in public;

(C) Medical marijuana statutes as set forth in Proposition 215 (H&S11362.5) and its progeny.

(5) For persons under 21 years of age it is an infraction punishable by a fine up to \$2,500.00, for any one of the following:

(A) Possession of over one ounce of marijuana.

(B) Cultivation of marijuana.

(C) Gifting, sharing, distributing, sales, storage, transporting over one ounce of marijuana.

(D) Possession of one ounce or less of marijuana, in this class shall be an infraction with a \$100 fine.

(6) This Act enjoins the search, arrest, prosecution, property seizure, asset forfeiture, eradication costs, and/or any criminal or civil penalty, or sanction, for activity authorized herein.

(7) No later than February 1, 2013, the state Alcohol Beverage Control Board shall adopt regulations and procedures, provide and accept forms for the implementation of *commercial* activity under this Act. Such regulations shall not prohibit marijuana farming, the operation of marijuana establishments or point of sale outlets, either expressly or through regulations that make their operation different than wine or beer regulations and fees, or unreasonably impracticable. Should the Alcohol Beverage Control Board fail to have procedures in effect by this date, it shall use forms presently used for wine and beer, and replace the words wine, beer, alcohol, with the word marijuana, and accept and process those forms within sixty days of submission or approval is automatic. Localities may not adopt higher or extra fees, limits, site plans, zoning, regulations or

procedures for commercial activity which are different than those which regulate grape farms, wineries, distribution and sales of wine and beer. Commercial cultivation, infused-product manufacturing, and distribution licenses, consistent with the declarations, purposes and goals of this section may be issued if fees are equal to or less than any such fees charged for similar wine industry activity. Should the Alcohol Beverage Control Board fail to enact regulations, a person or business acting commercially, shall not be subject to the penalty provided in 11420 (b)(2)(B).

(8) All pending state court actions under said amended statutes which conflict with the provisions of this Act, shall be dismissed with prejudice.

(9) The state and/or local jurisdictions may regulate the processing, distribution, sales, and outdoor use within 600 feet of a school, and in residential zones.

(10) Experimentation, development, research, testing, cultivation, sales, or possession of genetically-modified (GMO) marijuana, hemp, and its seeds, shall be banned throughout the state of California.

## **Section 2. Provisions**

(a) This Act adopts the definitions of marijuana, concentrates, and THC as they presently exist in Health and Safety Code Sections 11018 and 11006.5. However, those definitions shall be broadly interpreted to include the species *Cannabis Indica*, *Ruderalis*, and *Americana*, as well as any plant part, form, derivative, interspecies hybrids or cross-breeds, and all non-genetically-modified strains of the *Cannabis* genus and plant.

(b) State taxes and regulations which may be similar and apply to the grape farming and wine industries, produce and processed agricultural products and brokerage industry, distribution, wholesale and retail sales, and transactions of agricultural crops and products shall apply to marijuana, regardless of THC level, using the grape farming and winery industry as an example, so long as the results support these declarations, purposes and goals.

(c) All wholesale and retail products with a final THC level below 0.3 percent shall be authorized for sales as hemp products. All marijuana or hemp products with a final THC level of 0.3 percent or above shall be restricted for sales to persons 21 years of age or older and regulated in a manner similar to wine, so long as the results support these declarations, purposes and goals. Both hemp and marijuana are declared agricultural crops.

(d) The State of California, and all branches of its government, shall liberally construe

the meaning and implementation of this Act to favor and benefit this class of adults, and business entities as follows:

(1) No taxes, fees, laws, rules, regulations, zones, local city or county zoning requirements may be adopted or enacted to defeat, deny, or prohibit the purposes of this Act, or to defeat, deny, or prohibit this adult class or, associations, organizations, commercial, agricultural, or industrial businesses authorized herein, from engaging in the activities authorized and protected by this Act.

(2) Adults 21 years and older may produce up to 6 mature outdoor flowering plants, or up to 12 mature indoor flowering plants per person; or a total number of plants cultivated per household not to exceed 12 mature flowering plants outdoors or 24 plants indoors. The cultivation shall take place in an indoor or outdoor space or area not visible to the public. These plants and their produce may not be made available for sale.

(3) Nothing in this section shall prevent a property owner from prohibiting conduct that damages their property.

(4) This Act creates and requires statewide standards and preempts and nullifies any and all conflicting local regulations, while allowing local jurisdictions limited regulation under Health and Safety Code 11570 over cultivation in residential and school zones only. Local regulations cannot decrease plants in (d)(2) above but may allow a greater number of plants instead.

(5) No regulations, taxes, or fees shall be enacted or imposed upon marijuana for qualifying business entities, which are more severe or restrictive than those comparable and reasonable in the commercial wine grape farming and winery regulations of the alcohol industry model.

(e) State, local, elected, appointed, hired employees, officers, and officials shall not directly or indirectly cooperate with or assist federal, state, local officers or officials, volunteers, or employees who eradicate marijuana, act for seizure or forfeiture, or to defeat any liberally construed purpose of this Act, nor may any state or local agency contract to eradicate marijuana that is being grown, manufactured or stored under the provisions of this Act.

(f) Within 30 days of passage of this Act, the offices of both the state Attorney General and the Department of Public Health shall inform the United States Department of Health and Human Services, the United States Attorney General, Congress, Drug Enforcement Agency, and Food and Drug Administration that in 1996 the state of California recognized the current medical use of marijuana in treatment in the United

States, and since 1996 has approved a state-regulated physician medical marijuana practice. Physicians have recommended the use of marijuana to thousands of patients. For that reason diligently demand or petition as is appropriate (see 21 CFR 1308.43, 21 USC 811-812) that marijuana and tetrahydrocannabinols as defined in §21 USC 802(16) be removed from Schedule I of the Controlled Substances Act, 21 USC 800 et seq., where it is currently listed as an addictive drug with no accepted medical use in treatment in the United States.

(g) The State of California is ordered to protect and defend all provisions of this Act from any and all challenges or litigation, whether by persons, officials, cities, counties, the state or federal governments.

(h) This Act prohibits all commercial advertising for sales, distribution, and use of marijuana, except for medical marijuana and products that contain less than a final THC level below 0.3 percent. This provision shall be enforced hereafter by penalties to be set forth by the Legislature.

(i) This Act shall become effective immediately upon passage.

### **Section 3. Severability**

If any of the provisions of this Act, or any part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.