



**AGENDA**  
**CITY COUNCIL OF THE CITY OF MORENO VALLEY**  
**MORENO VALLEY COMMUNITY SERVICES DISTRICT**  
**CITY AS SUCCESSOR AGENCY FOR THE**  
**COMMUNITY REDEVELOPMENT AGENCY OF**  
**THE CITY OF MORENO VALLEY**  
**MORENO VALLEY HOUSING AUTHORITY**

**October 10, 2017**

**STUDY SESSION – 6:00 PM**

**City Council Study Sessions**

Second Tuesday of each month – 6:00 p.m.

**City Council Meetings**

Special Presentations – 5:30 P.M.

First & Third Tuesday of each month – 6:00 p.m.

**City Council Closed Session**

*Will be scheduled as needed at 4:30 p.m.*

City Hall Council Chamber – 14177 Frederick Street

*Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, in compliance with the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to Guy Pegan, ADA Coordinator, at 951.413.3120 at least 72 hours before the meeting. The 72-hour notification will enable the City to make reasonable arrangements to ensure accessibility to this meeting.*

Victoria Baca, Mayor Pro Tem  
David Marquez, Council Member

Dr. Yxstian A. Gutierrez, Mayor

Jeffrey J. Giba, Council Member  
Ulises Cabrera, Council Member

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**\*THE CITY COUNCIL RECEIVES A SEPARATE STIPEND FOR CSD  
MEETINGS\***

**STUDY SESSION – 6:00 PM  
OCTOBER 10, 2017**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**INTRODUCTIONS**

**PUBLIC COMMENTS ON MATTERS ON THE AGENDA ONLY**

There is a three-minute time limit per person. Please complete and submit a BLUE speaker slip to the City Clerk. All remarks and questions shall be addressed to the presiding officer or to the City Council.

**A. BUSINESS**

- A.1. WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS (WRCOG) UPDATE  
(Report of: City Manager)

**Recommendation:**

Receive an update regarding programs and activities managed by the Western Riverside Council of Governments.

- A.2. DISCUSSION REGARDING REGULATION OF COMMERCIAL CANNABIS  
ACTIVITIES IN THE CITY (Report of: City Attorney)

**Recommendation:**

Staff recommends that the City Council receive the information from staff, consider any public input, discuss and provide direction to staff as to the type of regulations Council wishes to consider for commercial cannabis activity in the City.

A.3. CITY COUNCIL REQUESTS AND COMMUNICATIONS

**(ITEMS MAY BE DEFERRED BY COUNCIL IF TIME DOES NOT PERMIT FULL REVIEW.)**

**ADJOURNMENT**

**CERTIFICATION**

I, Pat Jacquez-Nares, City Clerk of the City of Moreno Valley, California, certify that 72 hours prior to this Study Session, the City Council Agenda was posted on the City's website at: [www.moval.org](http://www.moval.org) and in the following three public places pursuant to City of Moreno Valley Resolution No. 2007-40:

City Hall, City of Moreno Valley  
14177 Frederick Street

Moreno Valley Library  
25480 Alessandro Boulevard

Moreno Valley Senior/Community Center  
25075 Fir Avenue

Pat Jacquez-Nares, CMC & CERA  
City Clerk

Date Posted: October 5, 2017



## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Martin Koczanowicz, City Attorney  
Marshall Eyerman, Chief Financial Officer

**AGENDA DATE:** October 10, 2017

**TITLE:** DISCUSSION REGARDING REGULATION OF  
COMMERCIAL CANNABIS ACTIVITIES IN THE CITY

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### **RECOMMENDED ACTION**

#### **Recommendation:**

Staff recommends that the City Council receive the information from staff, consider any public input, discuss and provide direction to staff as to the type of regulations Council wishes to consider for commercial cannabis activity in the City.

### **SUMMARY**

In 1996 the voters in California approved legalizing commercial activity for medical cannabis. In November 2016 Proposition 64 passed legalizing non-medical, or recreational cannabis. Cities, both by statute and through case law, have the authority to ban, to allow, and/or to regulate commercial cannabis activity under the municipal police powers inherent in land use regulations. Currently our city has a ban on any commercial cannabis activity. This item is before the Council in a study session format for discussion and direction to staff on how the City of Moreno Valley will exercise its authority moving forward and what regulation will be considered with regard to commercial cannabis activity in the city limits.

### **DISCUSSION**

#### **Background**

City Municipal Code prohibits all medical cannabis activity in the City. Prior to the election in November of 2016 and in anticipation of passage of Prop 64, City Council adopted an urgency Ordinance banning all (medical and recreational) commercial cannabis activity from every zone in the City. The Urgency Ordinance was intended to

provide the time necessary to evaluate potential permanent land use regulations which could range from a continued total ban to allowed land use under Conditional Use Permit and a Regulatory License. The urgency Ordinance was extended due to a vacancy on the Council to allow for the June 6<sup>th</sup> election to take place, thus filling the vacant seat for District 4.

With the passage of Prop 64 and the follow up legislation (MAUCRSA, a cleanup trailer bill summarized in Attachment 1 to this staff report, which becomes effective January of 2018) the distinctions between medical and recreational cannabis have been mostly eliminated, though State Licenses will still have a designation for each. The law provides for dual concurrent regulatory schemes: one by the State through Department of Consumer Affairs, Bureau of Cannabis Control and several other agencies with “licensing” authority, the other through local regulations by cities or counties.

In contrast with the voters’ actions legalizing the use of cannabis in numerous individual states, the Federal Law still identifies cannabis as a Schedule 1 drug; making any possession, distribution or sale of cannabis a crime. Whether or not the federal drug enforcement agencies take any steps against what otherwise would be a legal activity under state laws, remains to be seen.

### **Commercial Cannabis Activities**

In general the commercial cannabis activity occurs in the following formats:

**Dispensaries** are the retail arm of the trade, providing the opportunity for the public to purchase cannabis in a storefront location, like any other product. As Council is aware several illegal locations have opened in the City and they have been cited, prosecuted and shut down in a number of instances. Retail distribution can also occur from mobile distribution centers, which deliver the product to the buyers’ homes or to agreed upon locations.

**Cultivation** is the commercial growing of cannabis and can take place in nurseries for immature plants or seedlings or in mature groves where product is cultivated for harvest and processing. Generally when permitted in cities, cultivation is allowed indoors, generally in warehouse setting. State has eight categories of licenses for cultivation based on size of the canopy.

**Testing Labs** are another form of commercial activity that can be regulated. Testing labs are charged with insuring that the raw product is suitable for the end purpose and meets standards set by the State regulatory agencies.

**Manufacturing** is the conversion of cannabis into other forms of consumption, including eatable and topical applications. Also it involves the extraction of “honey oil” from cannabis designed to obtain higher concentration and wider range of application. In this arena the State has designated two levels of Manufacturing activity, Level I and Level II. The first prohibits the use of volatile substances in the manufacturing process, the second allows it. If manufacturing was to be considered as one of the regulated uses,

further analysis can be provided as to which of the levels would be appropriate and in which zoning district(s) in the City. To date State has not provided a specific definition for substances allowed and those prohibited in Level I and II manufacturing. The concern about the volatile substances is high as illegal and unregulated “honey oil labs” have been the sources of explosions (most recently in Wildomar) which result in death, injuries and property damage.

### **Cost recovery**

If Council directs staff to move forward with potential regulations for the permitting of commercial cannabis activity in the City, part of those regulations would include a fee structure which would provide for full cost recovery for the City. In other words, any cannabis business which is permitted under the regulations, would be subject to processing and regulatory fees which would be directed at recovery of any and all costs the City incurs in processing the application (both CUP and Regulatory License) as well as costs related to ongoing monitoring, auditing of security compliance and costs of necessary code enforcement and law enforcement.

### **Revenue Generation**

Should the City Council decide to allow and regulate commercial cannabis activity, it may also consider in the future whether or not to tax that activity. A number of jurisdictions in the State obtained voters’ approval for a tax to be levied on such businesses. The tax, unlike the fees directed only at recovery of costs, would be a revenue generating mechanism, with funds raised going directly to the General Fund of the City to be used for any authorized purpose. Further discussion on methods and types of tax can be presented to the City Council if regulations are in fact adopted.

For the November 2016 election, coinciding with the statewide Proposition 64 which legalizes marijuana in California, there were 63 local measures related to cannabis including 39 to impose local taxes on marijuana. Thirty eight of the measures were passed/approved by the voters.

When retail gross receipts taxes were proposed, the rates ranged from 5% up to 20%, with an average of 11%. Proposed cultivation rates ranged from \$1 up to \$50 per square foot, with an average of \$22.

Depending on actual activities within each city, the revenue estimates were between an unmeasurable amount and \$13 million for cultivation within the City of Long Beach. Excluding Long Beach, the average estimated revenue was \$1.8 million. In all cases these amounts only represent estimates and actual numbers are currently not available to confirm the accuracy of the estimates.

### **Public Safety**

There are serious public safety considerations that need to be addressed should cannabis activity be allowed and regulated in the City. There will be an additional

demand for personnel and expertise necessary to provide initial Development Standards and Regulations as well as ongoing safety inspections and audits, to insure compliance with the regulatory permits. There are concerns use of volatile substances, interior venting and other fire and occupancy hazards, especially in instances of “home labs” and other illegal and unregulated activities.

The Police department will be presenting additional information to the Council at the Study Session.

### **Potential Zoning Districts and Development Regulations**

Establishing regulatory framework and determining proper zoning districts will require consideration of elements including but not limited to land use compatibility, proximity to sensitive receptors (e.g. schools, parks, child care, sober living, drug recovery facilities, potential for environmental impacts (e.g. odors, noise, water and electricity demands), size of facilities, setbacks, parking standards, and signage; all would be based on the particular type of cannabis land use activity. In addition, consideration would be given to limitation on the length of approvals with criteria/provisions for renewal and extensions. Consideration of a maximum number of permits to be allowed (citywide and/or per specific zoning districts) could be a consideration. It is currently unknown what level of environmental analysis will be required under the California Environmental Quality Act; however, it should be assumed that establishing such regulatory framework would be considered a “project” under CEQA. The extent of probable environmental analysis would be particularly dependent upon the extent and types of cannabis activities to be allowed.

### **Schedule**

Should Council desire to move forward with consideration of regulations in the City, staff would return with some specific recommendations at a future meeting. The timing would depend on the breadth of the direction provided. Any Ordinance amending Title 9 Planning and Zoning regulations with respect to any particular land use designation, development standards and land use permitting as would be necessary for cannabis activities would be presented to the Planning Commission before returning to the City Council for final action. Regulatory/Licensing Ordinance can be considered by the City Council without the necessity of the Planning Commission involvement, though the two would be overlapping in some areas and input from the Planning Commission may be desired on both.

In the event Council directs that staff prepares some form of regulations for Council’s consideration, it is expected that the process of drafting and adoption of any Municipal Code amendments would require a considerable period of time and both, Planning Commission and City Council review and action.

### **ALTERNATIVES**

The Council has a range of options to consider with regard to the commercial cannabis

activity. On one end of the scale, Council could direct staff to draft an Ordinance in conformity with the current Urgency Ordinance and institute a permanent ban of all commercial cannabis activities in the City. On the other end of the spectrum, Council can consider allowing some or all of the commercial activities subject to a Conditional Use Permit and Licensing Regulation. Such regulations would need to include identification of Zoning Districts that would be appropriate for different uses, as well as a detailed regulatory scheme, which would provide the City with the authority to shut down those businesses that do not follow the regulations.

### **FISCAL IMPACT**

For this study session, there are no fiscal impacts related to the item, other than staff time to comply with whatever direction is provided by Council.

### **NOTIFICATION**

Agenda was posted in accordance with the Brown Act.

### **PREPARATION OF STAFF REPORT**

Report presented from the City Attorney's Office, Community Development, Finance and Public Safety Departments.

### **CITY COUNCIL GOALS**

**Revenue Diversification and Preservation.** Develop a variety of City revenue sources and policies to create a stable revenue base and fiscal policies to support essential City services, regardless of economic climate.

**Public Safety.** Provide a safe and secure environment for people and property in the community, control the number and severity of fire and hazardous material incidents, and provide protection for citizens who live, work and visit the City of Moreno Valley.

**Positive Environment.** Create a positive environment for the development of Moreno Valley's future.

**Community Image, Neighborhood Pride and Cleanliness.** Promote a sense of community pride and foster an excellent image about our City by developing and executing programs which will result in quality development, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood restoration.

### **CITY COUNCIL STRATEGIC PRIORITIES**

1. Economic Development
2. Public Safety
3. Library



- 4. Infrastructure
- 5. Beautification, Community Engagement, and Quality of Life
- 6. Youth Programs

**ATTACHMENTS**

- 1. MAUCRSA summary
- 2. Fire Department Memo on Cannabis
- 3. Moreno Valley PD Presentataion

**APPROVALS**

Budget Officer Approval	<u>✓ Approved</u>	8/17/17 3:34 PM
City Attorney Approval	<u>✓ Approved</u>	8/17/17 11:05 AM
City Manager Approval	<u>✓ Approved</u>	8/17/17 4:14 PM

## **Medicinal and Adult-Use Cannabis Regulation and Safety Act or MAUCRSA – Summary of Provisions**

Purpose: The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA or the “Act”) contains portions of the Medical Cannabis Regulation and Safety Act (MCRSA) that do not conflict with the Adult Use of Marijuana Act (AUMA) along with a variety of provisions designed to create a single, comprehensive regulatory system for commercial cannabis activity and product sale, testing, distribution, and enforcement.

Effectively, the Act makes the MCRSA superfluous although it does not repeal it. There is additional regulation as to the content and packaging for edibles (cannabis products).

The Act eliminates:

- regulation of mobile dispensaries (permitted as a form of retail sales);
- the City’s ability to prohibit transport on public roads by compliant licensees;
- residency requirements for licenses; and
- regulation of industrial hemp

Administration: The state office in charge of administering and interpreting the Act is the Department of Consumer Affairs, Bureau of Cannabis Control (the “Bureau”). Several other state agencies have roles, including the Food and Agriculture Department, the Public Health Department, the State Fire Marshal and Fish & Wildlife, and each is called a “licensing authority.” Currently, they share a joint (although not-up-to-date) website, the California Cannabis Portal.

Single regulatory system:

A. Licenses: The Act codifies state licensing authority with regulations to follow. The Bureau must begin processing licenses starting January 1, 2018. Because it does not appear that final regulations can be in place by then, the Bureau and each licensing authority have the authority to adopt temporary regulations until January 1, 2019. However, they may grant licenses only where there is a local license in place (or no requirement for a local license).

The highlights are:

1. Producing dispensary and transporter licenses will not be available.
2. Types of Licenses: There are 12 types of licenses; eight are for types of cultivation, one is for testing labs (Type 8), one for retailers (Type 10); one for distributors (Type 11) and one for a microbusiness (Type 12). Each license, except for the testing license, must be designated as a medicinal (M) or adult use (A) license, and separate licenses are required. For example, a medicinal commercial cannabis operation requires a Type 10-M license.
3. Microbusiness includes cultivation of an area of less than 10,000 sq. feet along with distribution and sale.
4. “Retailer,” means someone who sells and delivers cannabis or cannabis products to customers. A retailer must identify a specific physical location from which commercial cannabis activities are conducted. A retailer’s premises may be closed to the public. A retailer may conduct sales exclusively by delivery but a retailer cannot distribute without a separate distribution license. *A retailer shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering significant inventory discrepancies; theft, loss or criminal activity in the operation or by an employee or agent of the retailer, or loss or alteration of records, specifically including those for registered qualifying patients and primary caregivers.*
5. A state temporary event license will be granted only where a local jurisdiction allows for the state to grant a temporary event license.
6. A person may hold any combination of licenses although a person with a testing license may hold only that license.
7. Separate license are required for each location.
8. No licensee may sell alcohol or tobacco.
9. The state may deny the license because of the operator, the premises, or failure to comply with the Act or its regulations. The state also may deny a license on the grounds of an excessive concentration of commercial cannabis facilities, i.e. over 1 per 15,000 people; licensee acts in restraint of trade or discriminates in sale.

10. Priority in licensing to those operating legally before September 1, 2016; a city must identify those businesses for the state and provide a copy of the local ordinance plus any amendments.

B. Licensing provisions address who is allowed on the premises as well as recordkeeping: “The designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.” This rule allows for more than one license to be associated with a given address or parcel because parcels may include multiple premises.

C. Delivery and distribution require specific safety standards. For example, the license holder must employ all drivers. Cannabis for delivery or distribution must have security manifest with that unique identifier for each recreational cannabis plan and the retailer or distributor must participate in the track and trace program.

D. Security measures for retailers must include, at a minimum

*(1) Prohibiting individuals from remaining on the licensee’s premises if they are not engaging in activity expressly related to the operations of the retailer.*

*(2) Establishing limited access areas accessible only to authorized personnel.*

*(3) Other than limited amounts of cannabis used for display purposes, samples, or immediate sale, storing all finished cannabis and cannabis products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.*

### Local Control:

The Act deals with matters of statewide concern; therefore, including for charter cities, the Act specifies the areas of local control by local jurisdictions (which means cities and counties (B&P Code Sections 26000 et seq.)).

1. Local legislative authority continues to prohibit commercial cannabis activity, which is defined to include both dispensing and cultivation (B&P Code Section 26001(k)).
2. Local legislative authority continues over land use and business licenses: *“This division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.”*
3. Therefore, current bans on commercial sales of medical cannabis and cultivation remain legal along with the regulation of personal indoor and outdoor cultivation, although the definitions in those ordinances should be updated to be consistent with those used in the Act.
4. Commercial cannabis activity (defined as both distribution and cultivation) needs to be addressed with an ordinance effective on or before January 1, 2018 as it is unlikely if there will be permanent statewide regulations by that time (and somewhat doubtful that there will be temporary regulations).
5. Any ordinance in place or adopted needs to be provided to the state Bureau of Cannabis Control; there is a system that will be set up for that, but it is not yet in place.
6. Local jurisdictions may, but are not required to:
  - Establish rules and regulations more strict than those established by Act or by regulations of the Bureau or licensing authorities: *“Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.*
7. The Act allows local enforcement of state law by delegation from the bureau under a written agreement with that local jurisdiction.

8. The Act outlines a process for a local jurisdiction and the Bureau to communicate regarding state and local licenses:
  - Notification by the city to the state of denial or revocation of local license (B&P Code Sections 26055 and 26200 (c))
  - Creation of a database of local ordinances and amendments regarding commercial cannabis plus written identification of a contact person (otherwise assumed to be the City Clerk)
  - Coordination with the state: The state notifies the city of a license application; the city may notify state whether the entity has a local license if one is allowed or the entity may provide a copy of the license
  - If the city does not respond, the state will presume compliance and go ahead with the license (assuming other qualifications are met)
  - If the city responds late, it still may notify the state of non-compliance and the state may take disciplinary action or decide not to renew; the city can still enforce its local ordinance
9. Location of either commercial sale or cultivation cannot be within 600 feet of K-12, day care, youth center at the time the license is granted unless the city makes that distance larger or smaller.
10. A local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a licensed retailer or microbusiness by those 21 or older when such consumption is not visible from a public place or other non-age restricted area and where that is allowed by the local jurisdiction.
11. The city attorney may enforce civil penalty provisions of state law regarding unlicensed operation of a commercial cannabis facility.
12. Until July 1, 2019, any city ordinance that requires discretionary review of permits for commercial cannabis activity is exempt from CEQA as long as each permit is subject to CEQA review.
13. State Fire Marshal regulations including building standards for fire and panic safety may be enforced by the state or by local jurisdictions.
14. Local non-profit licenses: The state is reviewing whether there should be state non-profit licenses to serve low-income users. While that is determined, if a local jurisdiction wishes to proceed with a non-profit

license, it may do so under certain conditions (See B&P Code Section 26070.5).

15. A local jurisdiction may require its own track and trace program, which could include medicinal cannabis, although not required under state law for medicinal cannabis.

### Cannabis Cooperatives:

A cannabis cooperative association is 3 or more unlicensed people who pool resources with one or more license holders to cultivate no more than 4 acres and distribute the product. This portion of the Act creates a new form of non-profit corporation and specifies similar requirements for articles of incorporation, bylaws, and so forth. The name “cannabis cooperative” cannot be used except in compliance with these provisions (B& P Code Sections 26220 et seq.).

### Quality Control, Inspection and Testing

- Distributors will store cannabis batches on their premises during testing; testing lab employees will obtain samples for testing and transport those samples to testing labs, and distributors will conduct a quality assurance review to ensure compliance with labeling and packing requirements, among other things.
- Allows testing by cannabis businesses themselves with state oversight; testing labs must be independent and separately licensed and with no other license.
- Chain of custody and standard operating procedures apply.
- Limited sale of untested products allowed.

### Packaging

- Production, packaging and labeling, and regulations will be developed by the state Department of Public Health and will apply to all licensees.
- Packaging must be re-sealable, tamper evident, child resistant and include the unique identifier; cannot be attractive to children with the following warning:



GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS/CANNABIS PRODUCT, A SCHEDULE 1 CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.

- Packaging also must have source, date of cultivation, type and date of manufacturing or packaging, the list of active ingredients, appellation, nuts or other allergen, identifying and for medical cannabis: FOR MEDICAL USE ONLY.

### Edibles

- Cannabis products are regulated by Food and Agriculture Department and Drug Administration but not treated as food.
- Edible cannabis may not be appealing to children or made to be confused with candy.
- Have lower concentrations of active ingredients and is homogenized.
- The state Department of Public Health controls sanitation standards similar to those for food preparation.
- Packaging must provide information as to effect of the cannabis product and be marked with the universal cannabis symbol.

### Cultivation:

- The Food and Agriculture Department handles all cultivation licenses, including indoor and outdoor, mixed light, cottage and nursery and must adopt regulations.
- Cultivation must comply with all state and local laws, current building and fire regulations, grading, land conversion, water usage & quality, etc. (B&P 26066)
- Any cultivation license application must identify a water source and any proposed diversion of water.



- The Food and Agriculture Department also handles use of pesticide.
- The Food and Agriculture Department must develop an organics program and establish an appellation (to identify the county of cannabis origin).
- The Food and Agriculture Department must develop a track and trace program with a unique identifier for each plant to track its movement.
- Track and trace system information is exempt from Public Records Act disclosure but available to law enforcement.

### Environmental Protections

- Administered by the state Department of Fish and Wildlife.
- A cultivation application has to identify water source and waste discharge.
- Promulgation of regulations for lake or streambed discharge and use of pesticides.
- Prohibition on alteration of water flow.

### Advertising

- Restrictions on advertising (both web and billboard) require display of the current license number and universal cannabis symbol.

### Excise Taxes and Fees

- 15% excise tax on all commercial products which is set by the average market price for a retail sale (changed from gross receipts); the purchaser remains liable for the tax until he/she has a receipt from the retailer which says it was paid.
- Distributors impose the cultivation tax at the time produce enters the commercial market and collected.
- Licensing authorities will charge fees.
- A county may impose a tax on cultivation separately when approved under Proposition 218.

Enforcement:

- Vehicle Code Section 23222 has been revised to provide that it is an infraction with a \$100 fine to possess an open cannabis or cannabis product container in a motor vehicle while driving (unless the container is in the trunk). The exception is for a qualified patient or person with an ID card, where the container is closed.
- Provisions legalizing medicinal possession and use, as well as personal recreational possession, cultivation and use remain in effect.
- The Act adds the state Impaired Driving Task Force.

## Fire Department Memo

The current California Fire Code (CFC) does not specifically regulate cannabis and cannabis processes, however the code does address hazardous materials processes such as compressed gases and flammable liquids and places limits on amounts that can be stored within buildings and occupancies and specifies fire protection measures. The International Code Council, which produces the CFC in conjunction with the California Office of the State Fire Marshal has adopted new regulations specifically related to plant processing to include cannabis growth, manufacturing and extraction with volatile and non-volatile solutions that will become effective in the 2019 California Fire Code set for adoption on January 1, 2020 along with any local amendments. In the interim, the Office of the State Fire Marshal will move these regulations into the supplement of the current CFC effective July 1, 2018. The Riverside County Fire Department has produced policies based on the forthcoming regulations that are currently being utilized in jurisdictions who have decided to move forward with allowing commercial cannabis operations. If the city chose to move forward with any of the options as stated, fire prevention staff will require specific training related to marijuana cultivation, storage, extraction and testing processes, occupancy classification, and best safety and risk management practices to utilize while specifically inspecting marijuana facilities. Fire prevention currently has cost recovery mechanisms in place for the construction, inspection, and permitting of these occupancies and the processes they contain. These regulations and accompanying cost recovery fees are only applicable to commercial operations and not relevant to single-family homes, as they are out of the scope and jurisdiction of the California Fire Code.

Operationally, the Fire Department would be concerned about the increase in hazardous operations that would put workers, residents and first responders at risk. Marijuana cultivation and extraction processes have inherent risks that may pose a significant danger to the public. Zoning for these facilities should be appropriate to minimize the exposure to and provide for locations suitable in limiting life safety threats of catastrophic exposure, fires and environmental concerns.

As seen with the City of Denver, the recreational use of Marijuana has led to increases in emergency incidents such as traffic collisions, overdoses and other medical and traumatic emergencies which has led to emergency department visits. Presumably, fire department emergency resources can expect to see an increase in emergency incidents related to marijuana.

### Hospitalizations

Per the Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics released in *"Marijuana Legalization in Colorado: Early Findings"*, hospitalizations have increased since the legalization of marijuana. Prior to the legalization of medical marijuana, the rate of hospitalizations due to marijuana was 575 per 100,000. During the medical marijuana era, this increased to 803 hospitalizations per 100,000. When retail commercialization of marijuana occurred, there was a significant increase to 2,413 hospitalizations per 100,000. This data excludes Emergency Department visits.

In the "SUPPLEMENT to: *The Legalization of Marijuana in Colorado: The Impact, Volume 4, September 2016*", Emergency Department visits have increased by 35% since the legalization of recreational marijuana going from 660 per 100,000 to 889 per 100,000.

### Traffic Accidents

Marijuana-related traffic deaths increased 48% in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization. During the same time period, all traffic deaths increased 11%. Also of note, the number of driving under the influence of drugs (DUIDs) involving marijuana has increased from 674 per year in 2014 to over 760 in 2016.

In 2009, Colorado marijuana-related traffic deaths involving operators testing positive for marijuana represented 10% of all traffic fatalities. By 2015, that number doubled to 21%.

Additionally, since Washington State legalized recreational marijuana use, marijuana-related DUIDs accidents have also doubled. The Washington State Traffic Safety Commission also reports that drivers with active THC in their blood involved in a fatal driving accident have increased by 122% from 2010 (16) to 2014 (23).

8/17/2017

# The Impact of Marijuana Legalization on Public Safety

City of Moreno Valley

Riverside County Sheriff's Department  
Special Investigations Bureau

8/17/2017

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## Statement of Purpose

- Colorado and Washington Marijuana Legalization Case Study and Crime Statistics
- Potential California Law Enforcement Impacts, Challenges and Key Concerns
- California Law Enforcement: AB 109 and Prop 57
- BHO Labs
- Inherent Danger of BHO Extraction

8/17/2017

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8/17/2017

## Colorado Marijuana Legalization Challenges

- Homelessness (influx of homeless from other states due to marijuana availability). Cities have channeled millions of funds towards resources.
- Increase in burglaries and robberies in marijuana businesses (marijuana businesses are keeping too much cash on hand due to strict federal banking restrictions).
- Illegal marijuana market (2014 demand for marijuana was 130 metric tons, yet legal supplies only produced 77 metric tons).
- Gray market growth (growers sell portion of their harvest illegally without taxation).
- Marijuana diversion through mail (mailing marijuana to other states, where the drug is illegal, to make unreported profits).
- Public safety conflicts between law enforcement and city governments.
- Negative impact on neighbor states (increase in organize crime).
- Increase in hospitalizations related to marijuana (mostly due to tourists visiting the state to indulge in legal marijuana).

\*\* Kevin Sabet in his book "Refer Sanity"

8/17/2017

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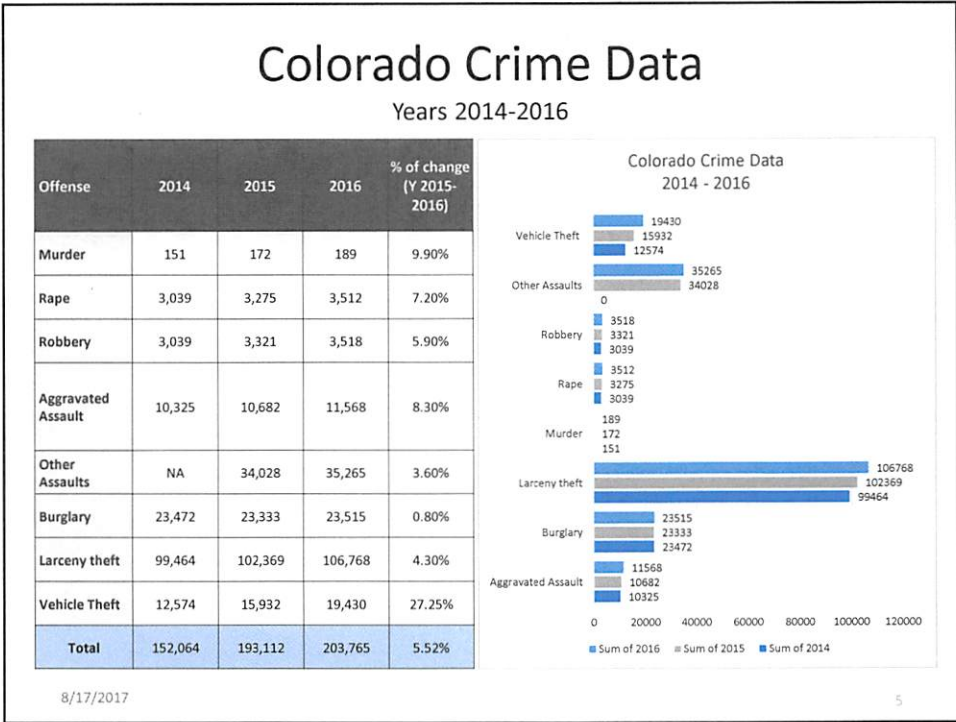
## Colorado Challenges of Marijuana DUI

- Increased number of deaths due to driving under the influence of marijuana.
- Marijuana DUI requires specialized training of law enforcement officers (approximate cost \$1.2 million per year).
- High cost of DUI tests (only blood tests are currently available for accurate sobriety and drug detection testing for marijuana).

\*\* Kevin Sabet in his book "Refer Sanity"

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### Washington Marijuana Legalization Study (HIDTA)

- Since marijuana legalization, calls to Poison Center increased by 80% for youth under 20 years of age.
- 90% of population resides within 10 miles of a marijuana retail store .
- Black market is thriving due to higher demand of marijuana.
- Washington grown marijuana was distributed illegally to 43 other states.
- Substantial increase in marijuana – impaired driving incidents.
- Upsurge in marijuana related crime since marijuana legalization.
- 312 percent increase in calls to Poison Center due to product infused with marijuana (edibles consumption).

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## Federal Law

- Possession, sales and cultivation of marijuana is still illegal under the Federal Law.
- Federal Government does not recognize the legality of medical marijuana.
- Marijuana is classified as a Schedule I Drug by the DEA.

### Schedule I Drug definition:

- “Substances in this schedule have no currently accepted medical use in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse.”

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## Potential Law Enforcement Impact

- Rise in violent crime associated with marijuana dispensaries, facilities and grows.
- Safety concerns with indoor grows (homemade BHO lab, unsafe electrical wiring).
- Unrest in communities with large numbers of dispensaries, marijuana facilities and BHO Labs.
- Increased cost of training.
- Increase in marijuana DUI deaths.
- Increase in cost for custody and incarceration for violent crimes.
- Increase in calls for service related to marijuana.

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## Challenges for Law Enforcement

- Sophistication of criminal element
- Complexed California justice system.
- Criminal street gangs and repeat criminal offenders (no deterrent).
- Difficulties in collecting data regarding impact of marijuana (what data to collect and underreporting of marijuana related crimes).
- Conflict between State and Federal Law.
- Regulation of mobile dispensaries and storefront retail businesses.
- Addressing public safety concerns with indoor and outdoor marijuana facilities (burglaries and robberies).
- Proximity to Mexico borders, Cartel and DTO organizations.
- New regulations for seized evidence related to marijuana grows.
- Retraining of drug sniffing canines during traffic stops (most K9s are trained to alert on all drug scents).
- Marijuana DUI training and testing cost.

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## Law Enforcement Key Concerns

- Prop 64 reduced illegal cultivation and sales to misdemeanor crimes.
  - Marijuana cultivation is a felony in other states, with prison terms.
- California climate allows for cultivation year round.
  - Cultivation is limited in other, colder states, to fewer months per year.
- Prop 47 reduced commercial burglaries and thefts under \$950 to misdemeanor crimes.
  - Colorado continues to experience enormous increases in burglaries and thefts at marijuana facilities (63% of all burglaries occurs at a marijuana facility).

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## California Proposition 57 and AB109

- California Proposition 57 (approved on November 08, 2016) redefined violent crimes and allowed early parole for non-violent offenders.
- AB109 (approved November 2011) realigned county jails, releasing low-level offenders back into communities.

What do these Propositions mean?

Cultivation and possession of marijuana is now a misdemeanor crime. Many drug offenders have been and will be released back to communities, which presents challenges for Law Enforcement.

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## Changes in Enforcement Operations

- Additional Law Enforcement personnel to enforce the Adult Use of Marijuana Act.
- Additional personnel to collect and analyze necessary data.
- Allocate funds for law enforcement training on field sobriety testing for marijuana.

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## Conclusion

- Based on Colorado and Washington case studies, marijuana legalization does not prevent under age marijuana use. On contrary, both states have shown an increase in underage marijuana use.
- In addition, legalization of marijuana has shown a substantial increase in marijuana related crimes (burglaries, robberies), black market marijuana sales and marijuana impaired driving.
- Furthermore, legalization of marijuana will require substantial funds to be allocated for additional Law Enforcement personnel and training.

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## BHO Labs

Butane Honey Oil Labs

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## What is Butane Honey Oil?

- Honey Oil is an evaporated solution of THC (Tetrahydrocannabinol) produced by a solvent extraction of cannabis.
- Honey Oil is made from dissolving marijuana with butane.
- The resulting liquid is then separated from any plant matter and the solvent is allowed to evaporate.
- The substance that remains is a potent form of cannabis known as hash oil or honey oil.
- The more refined honey oil, the lighter the color and the higher the potency (higher THC).
- Butane Honey Oil could contain levels of THC from 60% to over 90%, depending on the manufacturing process.

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## Inherent Danger of BHO Extraction

- The most dangerous aspect of BHO extraction is the manufacturing process.
- Butane is extremely volatile, and large amounts of it are used in mostly closed-room, makeshift labs, with improper setup or the appropriate knowledge of safety measures.
- This too often results in injury, property damage and even death.
- In fact, fires and explosions caused by makeshift BHO labs have become so common that the U.S. Fire Administration issued a message informing the Emergency Services Sector of the extraction process and the BHO labs threat to public safety.

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## BHO Explosion



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## Inherent Danger of BHO Extraction

### Additional Hazard:

- The process of boiling off the butane is not 100 percent effective, meaning that traces of it exist in the resulting oil. Users then inhale the butane particles, which can impair the brain and nervous system, causing an increased heart rate, dizziness and loss of consciousness.
- Inhaling too much butane can be lethal.
- Poorly manufactured batches can contain larger amounts of butane residue, causing more damage. Symptoms of paranoia and hallucinations are common in those who abuse BHO regularly or in large amounts.

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## Upsurge of Butane Honey Oil Extraction

- Reason for the increase in BHO extraction is due to the extreme levels of THC in the product, which results in a “super high” for the users.
- Butane Honey Oil has been described by users as the “crack cocaine” of cannabis.
- Similar to “crack cocaine” Butane Honey Oil resin creates an immediate, intense high. Many users are experiencing a psychedelic effect while under the influence.
- Users high from BHO resin lasts between 2 to 3 hours.

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## BHO and the State of California

- Medical marijuana dispensaries can legally sell honey oil.
- Honey oil accounts for as much as 40% of a California dispensary daily sales.
- Qualified medical marijuana patients are legally allowed to possess concentrated cannabis.
- Since November 1, 2017, anyone over 21 years of age is allowed to legally possess up to 8 grams of honey oil.
- However, it remains **illegal** to manufacture concentrated cannabis by means of chemical extraction.

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## Conclusion

- Illegal BHO laboratories operation places the public and first responders in immense danger.
- In 2016, the Riverside County Sheriff Department was called to 29 BHO labs, 3 of them were engulfed in flames. One child was inside a house when it exploded.
- In 2017, 18 BHO labs have been discovered, 2 of them were on fire and 2 subjects suffered 3<sup>rd</sup> degree burns. Children were involved in two of these cases.
- In 2017 the DA's Office released "The Survivor Story" video series to bring public awareness to the rise and extreme dangers of BHO labs.

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## Questions?

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