

Amdt. #1 S

## The Regulate Marijuana Like Wine Act of 2012

**SPONSORED BY THE REGULATE MARIJUANA LIKE WINE COMMITTEE**

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May 24, 2011

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

**RECEIVED**  
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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Dear Attorney General Kamala D. Harris,

Please accept my written request to amend the text we previously submitted on May 18, 2012. The new text removes Section 1(f) regarding Harm Reduction Officers, approximately 400 words.

A copy of the new text is enclosed.

Respectfully submitted,

*The People of the State of California do enact as follows:* Amdt. #1 S  
**The Regulate Marijuana Like Wine Act of 2012**

**SECTION 1. Findings, Declarations, Purpose, Directives, and Orders**

New Section 11362.95 is added to the Health and Safety Code:

11362.95. This section shall be known as and may be cited as the "Regulate Marijuana Like Wine Act of 2012," known hereinafter as the "Act."

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

- (1) Outlawing marijuana has not reduced its availability and has actually resulted in making it easier for minors to acquire.
- (2) Marijuana is an untapped revenue source for the State of California, and that the best way to tap into that source for the benefit of all Californians is to tax and regulate it.
- (3) The regulation of marijuana will benefit the People of the State of California by reducing criminal gang activity, promoting agriculture, creating jobs by creating a new hemp industry in the State of California, and reduce the fiscal and overpopulation burdens on the Department of Corrections and Rehabilitation.

(b) The purposes of this Act are as follows:

- (1) To amend the California Health and Safety Code sections 11357, 11358, 11359, 11360, 11366, 11366.5, 11485, and Vehicle Code section 23222(b), such that persons 21 years of age or older shall no longer be prohibited from the use, possession, trade, gifting, sales, distribution, storage, transportation, production, or cultivation of marijuana.
- (2) Marijuana, THC, and CBD explicitly and/or by inference, shall be removed from Health and Safety Code section 11054, except for those statutes pertaining to:
  - (A) Operating a motor vehicle;
  - (B) Using marijuana or being impaired in the workplace or public nonsmoking areas.
  - (C) Providing, transferring, or selling marijuana to a person under 21 years of age; and

(D) The use, possession, cultivation, processing, sales, distribution, transporting, or storing on premises of marijuana by persons under 21 years of age.

(3) The amendment of statutes that criminalize the use, possession, cultivation, processing, transportation, storage, distribution, gifting and/or selling of marijuana in any form, or method of ingestion by persons 21 years of age or older, to legalize all such for-profit or non-profit activity by those persons, groups, or by approved business entities, and does not subject these persons/entities to search, arrest, prosecution, seizure, asset forfeiture, and/or any criminal or civil penalty or sanction.

(4) That these enumerated activities are not punishable herein.

(5) That all pending court actions under said amended statutes that conflict with the provisions of this Act shall be dismissed with prejudice.

(c) The People of the State of California hereby declare that this Act expressly prohibits the following:

(1) The search, arrest, prosecution, seizure of marijuana, asset forfeiture, or imposition of any criminal or civil penalties or fines for persons 21 years of age or older or entities for acting within the provisions of this Act. Without limiting any other greater immunity or rights granted herein, these persons/entities are also granted the immunity specified in Health and Safety Code section 11367, subject to its provisions.

(2) Any and all commercial advertising of the sales, distribution, and use of marijuana, except for medical marijuana and products that contain less than one percent THC. This provision shall be enforced hereafter by penalties to be set forth by the Legislature.

(d) The People of the State of California hereby expressly declare that this Act does not repeal, modify, or change any present medical marijuana statutes as set forth in California Proposition 215 and its progeny.

(e) The People of the State of California hereby declare:

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

(2) Existing taxes and regulations for the establishment of the farming, industry, distribution, retail sales, and wholesale transactions of agricultural crops and products shall apply to marijuana, regardless of THC level, using the grape winery industry as a model, so long as the results support these declarations, purposes and goals.

(3) All marijuana or hemp products with a THC level below one percent shall be authorized for normal retail sales. All marijuana or hemp products with a THC level of one percent or above shall be restricted for normal retail 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.

(4) The State of California, and all branches of its government, shall liberally construe the meaning and implementation of this Act to favor and benefit individuals, and qualifying business entities regarding the following:

(A) No taxes, fees, laws, rules, regulations, or 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 persons 21 years of age or older, associations, organizations commercial, agricultural, or industrial businesses from engaging in the activities protected by this Act, and all civil rights apply as set forth in Civil Code Sections 52.1 et seq., 54, Food and Agricultural Code Sections 54033 through 54035, inclusive.

(B) As per the winery regulations of the alcohol industry model that allow for non-commercial home brewing, any person, association, or collective group not producing more than 25 flowering plants or 12 pounds of dried processed marijuana per adult, per year, shall be exempt from any winery regulations of the alcohol industry model, excises, fees, and taxes, except for income taxes and sales taxes, if they apply.

(C) No regulations, taxes, or fees shall be enacted or imposed for marijuana for qualifying persons and entities, which are more severe or restrictive than those for comparable and reasonable usage in the commercial wine grape farming and winery regulations of the alcohol industry model, including for farming, planting, cultivating, irrigating, harvesting, processing, brokering, storing, selling, distributing, and establishing of cooperatives or collective associations.

(5) Regardless of jurisdictional arguments, all state, local, elected, appointed, hired employees, officers, and officials shall refuse to and shall not cooperate with or assist federal, state, or local officials or employees

who would eradicate marijuana, act for seizure or forfeiture, or defeat any liberally construed purpose of this Act, or to operate under any contract or arrangement to repeal or circumvent this Act directly or indirectly, or to follow or to abide by any federal laws or regulations that are in conflict with this Act. Further, no such person acting alone, or with any other person or legislative or executive body, may contract or agree to cooperate with or to assist federal officials, employees, agencies or departments to obtain any money, property, gain, or advantage by the arrest, prosecution, conviction, or deprivation or seizure of property of anyone acting within the age provisions of this Act.

(6) 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 is a state-regulated medical practice. Physicians have evaluated thousands of patients who have used marijuana with no adverse consequences, and for that reason demands or petitions 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 a drug with no accepted medical use.

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

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

## **SECTION 2. 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.

## **SECTION 3. Conflicting Measures**

If this Act is approved by the voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting measures are later held invalid, this Act shall be self-executing and given the full force of law.