



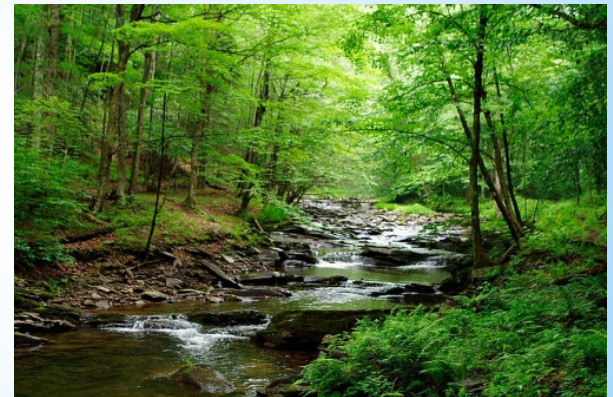
# The Devil is Always in the Details.

Now that Cannabis is Recreational and 'Legal', I can go to my neighborhood dispensary and load up on legal weed right. What else is there to worry about? Well the answer to that is, **there is plenty to worry about** if you're concerned about maintaining your civil liberties AND you want to maintain access to the medical cannabis you've come to rely upon.

For the purposes of this presentation we're going to use California's passing Prop 64, the Adult Use of Marijuana Act (AUMA) and the subsequent passing of amendment SB 94, which combines medical and recreational cannabis with language that shows why the laws, rules and regulations will be of concern to ANYONE who consumes, produces, cultivates or retails legal cannabis products. Here's why:

1) It should come as no surprise that with the passing of laws making cannabis and its cultivation legal, environmental agencies will play an increasingly important role in determining who can cultivate and who can not.

Make no mistake about it, we're not saying that environmental protections are a bad thing but what we are saying is that farmers need to be aware, that within the language of these laws, new and existing governmental agencies will now have authority that will forever change the way we cultivate cannabis as well as who is given the license to do so.





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For example, in AUMA, the law specifically addresses water diversion and waste water discharge issues. It is within the language of this law, and within the discretion of up to 13 different government agencies, to revoke a cultivation license when defending the environment as detailed within the AUMA language in SECTION 2- FINDINGS and DECLARATIONS paragraph (F).

F. Currently, illegal marijuana growers steal or divert millions of gallons of water without any accountability. The Adult Use of Marijuana Act will create strict environmental regulations to ensure that the marijuana is grown efficiently and legally, to regulate the use of pesticides, to prevent wasting water, and to minimize water usage. The Adult Use of Marijuana Act will crack down on the illegal use of water and punish bad actors, while providing funds to restore lands that have been damaged by illegal marijuana grows. If a business does not demonstrate they are in full compliance with the applicable water usage and environmental laws, they will have their license revoked.

Here again the 'Devil is Always in the Details'. No one would argue that making laws, rules and regulations that would prevent water diversion and waste water runoff from ILLEGAL MARIJUANA GROWERS would be a bad thing. Passing Prop 64 to ensure regulated uses of pesticides and minimizing water use while punishing 'bad actors' are also good things voters can support. The problem is that when you combine, within the same paragraph the illegal marijuana growers with 'if a BUSINESS does not demonstrate they are in FULL COMPLIANCE with applicable water usage and environmental laws they will have their license REVOKED' has tied in language that affects the illegal and the licensed cannabis farmer. This did not have to be structured this way and yet it was. It was not by accident. Nothing ever is.



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2) How can any business person protect themselves from the unknown? They can't. All they can do is make an informed decision with the best information and advice they have available to them. If that advice they are receiving comes from respected sources such as attorney's, accountants and industry leaders who advocate the business investment it helps. But if the law is written in such a way that all of that respected information can be overturned with a simple implementation of law, rules and/or regulations that have yet to be written, would the informed business person elect to invest in that industry?

Within AUMA, Division 10, Chapter 1, General Provisions 26001(2)(dd) warn investors that if they choose to venture into this industry, the regulations and measures, many yet to be defined, may in fact make the entire endeavor "Unreasonably impractical".

*(dd) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.*



What attorney or financial advisor would ever advise their client to sign a contract were there was language warning them they are entering into a contract unworthy of being carried out by a 'reasonably prudent business person'? In fact has there ever before even been a law passed whereby this type of language was included? If not why not? Maybe because no one in the right mind would have agreed to it?





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3) When a local government decides to open their city or town up to regulated cannabis, we as citizens need to be sure that by doing so our elected officials have developed well reasoned strategies to how cannabis, as an industry, is going to look and work in their communities. The questions that they need to ask in structuring regulations that will govern the **socio-economic aspects** of this industry within their communities but also as if they were the **business person** who is in investing into a cannabis business and must comply with state laws that will govern the cannabis industry.

As a business person considering investing in your communities cannabis industry I would ask that the following questions be answered;

3.1) When passing your ordinances what peer reviewed papers were used as the basis for determining how many licensed dispensaries were going to allowed?

3.2) In regards to retail cannabis businesses, have there been any regulations that have been created insofar as how medical versus recreational cannabis products will be made available to the public or how they would be taxed?

3.3) Since licensed dispensaries will be the only form of retail distribution of regulated cannabis products in your community, what economic model was used to determine the number of licensed cultivators that would be needed to meet the local demands?



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3.3.1) For example; if I were a business person considering investing in a cultivation license in the City of San Diego I would have to consider that investment from the standpoint that there will be a total of 36 licensed dispensaries that will be opened within the city.

3.3.2) Next I would take into consideration the best industry estimates that show an average of 1 lb. of cannabis is sold per store per day. That would come to 454 grams x 365 days = 165,710 grams per store per year. With a total of 36 dispensaries that comes to 5,965,560 grams of cannabis flower required for the local cannabis market. **As a medical cannabis provider I would rather serve the local market because I want the freshest, locally grown products going to the medical cannabis patient within those licensed dispensaries.**

3.3.3) Next I would take into consideration that commercial cannabis flower cultivation averages yields between 30-50 grams per sq-ft and does so with 4 harvests per year. This give us  $30 \times 4 = 120$  g/sq-ft or  $50 \times 4 = 200$  g/sq-ft.

With a total local annual demand of  $5,965,560 \text{ g} \div 200 \text{ g/sq-ft}$  (high end yield) = 29,827 sq-ft of cultivation space should be accounted for, or 49,713 sq-ft for low end yield harvests.



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3.3.4) The City of San Diego is licensing 40 cultivation sites. If one were to calculate the **low end yields** which shows a required 49K sq-ft overall for flower that would mean each cultivation site would require no more than 1,242 sq-ft ( $49,713 \div 40 = 1,242$ ) of flowering cultivation space for local dispensary needs.

If one were to calculate the **high end yields** which shows a required a 29K sq-ft overall for flower that that would mean each cultivation site would require no more than 745 sq-ft ( $29,827 \div 40 = 745$ ) for the 40 licensed cultivation sites.

Now some would say that the city is not in the business of restricting the square footage of the licenses for cultivation and to that I would say not true. **The city(s) are putting themselves in a position of oligopolistic control of the industry** whereby a dispensary can raise the price of products to cover all burdens until such point that the customers go to alternative unlicensed suppliers but a licensed cultivator on the other hand has to compete with other licensed cultivators in the city and from around the state who may have lower operating costs when it comes to meeting their burdens and while still trying to make a profit.

The cultivator has to move all the flower they grow and per AUMA Section 7, Paragraph 34012(a)(1) they will be taxed by the State on that flower @ \$9.25 per dry weight ounce and on the leaves @ \$2.75 per dry weight ounce before it can leave the farm.





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34012.

*(a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code. The tax shall be due after the marijuana is harvested.*

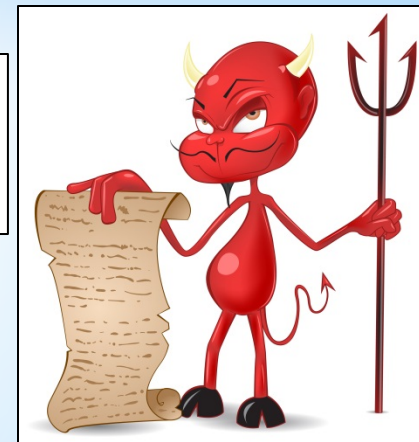
*(1) The tax for marijuana flowers shall be nine dollars and twenty five cents (\$9.25) per dry-weight ounce.*

*(2) The tax for marijuana leaves shall be set at two dollars and seventy five cents (\$2.75) per dry-weight ounce.*

In addition the State, under AUMA Section 7, Para 34014(b) has the right to require surety bonds for cannabis businesses that would provide security to cover liability for taxes imposed under state law for the marijuana cultivator. If that is imposed the taxes that would be due whether or not the cannabis is sold and if state licenses are granted that in the future are tied into some type of mandatory low limit level of production (28 grams/sq-ft is what's been bandied about) would require the licensed cultivator to pay those taxes regardless of whether or not the crop was ever even harvested.

*providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation have been properly prepared, executed and submitted under this part.*

As business people who consider themselves to be 'reasonably practicable' we'd REALLY like local governments to tell us what the TOTAL CULTIVATION SQ-FT licensing is going to be in your city, how much of that will be used for medical and how much will be used for recreational and how many dispensaries is that expected to serve?



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