



SAN FRANCISCO PLANNING DEPARTMENT

To: Honorable Members of the Planning Commission

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Re: Implementation Update on Proposition 64 - The Adult Use of Marijuana Act

Date: January 19, 2017

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As you are aware, on November 8, 2016 voters passed California Proposition 64 ("the Proposition") which legalized the cultivation, sale and use of nonmedical (a.k.a. "adult use") cannabis. Two days later, the Planning Department provided the Planning Commission with a memo describing relevant aspects of the Proposition. We also committed to furnish you with periodic updates on the City's work regarding implementation of the Proposition.

The purpose of this memo is to provide (1) additional clarity with respect to the impacts of the Proposition on existing Medical Cannabis Dispensaries ("MCDs") and (2) a high-level summary of relevant portions of the *Year 1 Report and Recommendations* released by the San Francisco State Cannabis Legalization Task Force ("Task Force") on December 16, 2016.

1. Existing MCDs and the Proposition. Prior to any business engaging in the sale of adult use cannabis, the Proposition requires that a license be obtained from the State Bureau of Marijuana Control ("BMC"). These licenses, which will begin to be issued by January 2018, cannot be approved if doing so would violate the provisions of any local law. The Planning Department maintains a *very* high level of confidence that San Francisco will embrace the opportunity to develop a robust local regulatory scheme for adult use cannabis retailers, including MCDs seeking to sell adult use cannabis. If a retailer failed to obtain approval under San Francisco's forthcoming regulations, the BMC could not issue a license and the retailer would be unable to sell adult use cannabis.

In keeping with Mayor Lee's Executive Directive 16-05, we anticipate that a complete regulatory package will be ready for review by September. As with any change to the Planning Code, this will be presented to the Planning Commission prior to consideration by the Board of Supervisors and Mayor. As such, we cannot offer absolute certainty as to the final nature of these regulations. Nonetheless, in the event that the City fails to adopt permanent local regulations before the end of the year, two additional avenues for "contingency" regulations would remain: (1) the Board of Supervisors could enact interim zoning controls in order to limit or prohibit adult use cannabis sales or (2) the Planning Commission, by Resolution, could adopt a policy requiring that any adult use cannabis retailer be subject to a mandatory Discretionary Review hearing.

Accordingly, we consider it exceptionally unlikely that existing MCDs or any other business will be able to "automatically" dispense adult use cannabis.

2. Task Force Recommendations. Last month, the Task Force released 84 recommendations relating to the implementation of the Proposition in three broad categories: (1) public safety and social environment; (2) land use and social justice; and (3) regulation and city agency framework. The following is a summary of the Task Force's recommendations related to land use:

1. Non-retail adult use cannabis businesses (e.g. growers and manufacturers) should be regulated using the Planning Code's existing framework for industrial uses. They should not be subject to the proximity limitations from sensitive uses that are currently applicable to MCDs.
2. The minimum distance between adult use cannabis retailers and sensitive uses should be reduced from the Proposition's baseline minimum of 600 feet and should be measured by "path of travel" rather than "as the crow flies." Additionally, sensitive uses should be better defined.
3. Meetings between adult use cannabis retail applicants and neighbors, both pre- and post-application, should be facilitated.
4. Different types of review processes for adult use cannabis retailers should be considered for different Zoning Districts, with more rigorous processes in districts which present potential land use conflicts and less rigorous processes in other districts.
5. Policies to prevent clustering of adult use cannabis retailers should be developed in order to prevent over-concentrations while also encouraging healthy competition. Minimum separation distances could vary based on Zoning District.
6. Formula Retail controls should be expanded to include adult use cannabis retailers.
7. Adult use cannabis retailers should be allowed to locate above and below the ground floor, unlike regulations currently applicable to MCDs in certain Zoning Districts.
8. Signage regulations for adult use cannabis retailers should mirror regulations for non-cannabis retail businesses, rather than the use-specific signage controls applicable to MCDs.
9. Adult use cannabis retailers should be required to make accessibility improvements at the same level as are non-cannabis retailers, rather than the heightened level applicable to MCDs.
10. A process should be developed to prioritize applications for adult use cannabis retailers filed by former MCD operators who were forced to close by the federal government or loss of lease.
11. A process should be developed to address existing MCDs seeking to convert in whole or part to adult use cannabis retailing. Grandfathering provisions should allow existing MCDs to apply regardless of any possible future prohibition of adult use cannabis retailers at that location.

We will continue to update the Commission on the progress made with respect to local regulations as they are developed.

Attachment

San Francisco State Cannabis Legalization Task Force - Year I Report And Recommendations (182 pages);
December 16, 2016 [electronic attachment only]



SAN FRANCISCO STATE CANNABIS LEGALIZATION TASK FORCE

YEAR I REPORT AND RECOMMENDATIONS

Prepared by the San Francisco Department of Public Health
December 2016

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Message from the Task Force Chair and Co-Chairs

San Francisco re-emerges as a leader in cannabis policy after being home to the historic passage of Proposition 215.

The historic passage of Proposition 215 in 1996 created the first pathway of legal protections for cannabis-use by AIDS patients who sought to successfully treat a wide variety of conditions. And now Proposition 64 is a new historic opportunity to positively impact the lives of our citizens and our visitors.

As chair and co-chairs of the Task Force charged with proposing cannabis policy to City Hall, we are proud to present our first year's report containing over 80 recommendations in 8 policy areas. We created them all through a consensus process, where all voting members studied, discussed, and agreed on each recommendation.

We thank the City Departments which sent representatives, all of whom participated fully in the information gathering, questioning, and resolution phases of the year's work. We also thank the members of the public who not only participated in public comment, but who were willing to share their thoughts with the team through policy papers and other forms of communication.

This report provides a clear perspective on the overarching strategy and priority issues from which all policy should be written. To that end, this document does two things: 1) it lays out our recommendations for Year I; and more importantly 2) it clarifies where the Task Force should direct its time and resources in Year II.

In Year II, the Task Force will develop legislative proposals for Board members to turn our consensus-based policy recommendations into real legislation for San Francisco to manage the newly created legalized medical and adult-use cannabis marketplace, from plant to consumer. For this new industry to successfully, safely, and uniformly meet the demands of Proposition 64, we need leadership from the Mayor's Office and the Board of Supervisors to direct our work with stakeholders -- from residents to non-cannabis businesses, from patients and adult-users to the existing cannabis community.

We are extremely grateful for the dedication and extraordinary work of the Task Force coordination team at the Department of Public Health, including Colleen Chawla, Mavis Asiedu-Frimpong, Gretchen Paule, and Nicole Sandberg.

We look forward to the year ahead, and believe our report will serve as a model for San Francisco, as well as other urban environments working to implement well-thought-out policy to legalize cannabis for medical patients and adult users.

Respectfully Submitted,

Terrance Alan, Chair

Daisy Ozim and Sara Payan, Co-Chairs

Executive Summary

In November, 2016, California voters legalized the use, possession and retail sale of nonmedical, or adult use, cannabis across the State via Proposition 64—the “Adult Use of Marijuana Act.” Proposition 64 makes it legal for individuals age 21 and older to:

- possess, transport, purchase, consume and share up to one ounce of adult use cannabis and eight grams of adult use cannabis concentrates; and
- personally cultivate up to six plants in their private residence.

The Proposition also establishes a State-level regulatory system for the commercial cannabis industry as well as a Bureau of Marijuana Control to oversee this process. Under this regulatory system, individuals wishing to participate in the commercial cultivation, manufacture, distribution and/or retail sale of adult use cannabis will require a State license and maintain compliance with any regulations promulgated by other State regulatory agencies.

Along with a State-based regulatory structure, Proposition 64 also allows localities to tailor implementation of the law to their needs and preferences. In anticipation of this, then-San Francisco Supervisor Scott Wiener sponsored legislation creating the City’s Cannabis State Legalization Task Force in July of 2015.¹ According to the Ordinance, “the purpose of the Task Force shall be to advise the Board of Supervisors, the Mayor, and other City departments on matters relating to the potential legalization of cannabis so that the City’s policymakers are fully prepared to address the policy questions through legislation, administrative actions, and otherwise, following the adoption of a State law.”¹

California has had a medical cannabis program in place since 1996, and its regulatory landscape was recently altered through a set of laws collectively known as the Medical Cannabis Regulation and Safety Act (MCRSA). Proposition 64 and the adult use market it establishes preserves the medical cannabis system under MCRSA and builds upon it by aligning the two regulatory structures. For example, it tasks the same State agencies with regulatory responsibilities under both systems, and requires the Bureau of Medical Cannabis to oversee both markets. Though the Task Force is exclusively focused on adult use cannabis legalization, the medical cannabis landscape will have effects on that of adult use and vice versa. This report therefore reflects this notion.

The Task Force will be active for a two-year period, which began in January, 2016. Over the course of its first year, the Task Force’s designed a set of approximately eighty recommendations across various topic areas to fulfill its mandate. In drafting recommendations, the Task Force developed consensus principles that guided its process:

1. **Evidenced-based approach:** Task Force will use an evidence-based approach in its process.
2. **Protect youth:** Task Force will design policy recommendations that protect youth.

¹Unless part of a quote or formal name of a statute, organization or regulatory body, the term “cannabis” will be used throughout this document. Under those conditions, this document will also use the terms “medical” and “nonmedical” to distinguish between the two markets.

3. **Second-hand smoke:** Task Force recognizes the importance of reducing second-hand smoke exposure.
4. **Land Use:** Task Force will develop guidelines to inform local land use decision-making processes for cannabis businesses.
5. **Data collection:** The Task Force will use science and data to support and inform recommendations and policy.
6. **Illicit Market:** Task Force will develop recommendations that seek to reduce the illicit market.

Within this context, the recommendations included in this report fall into three main categories and are the culmination of research and analysis, expert testimony, and discussions among Task Force Members.

RECOMMENDATION CATEGORY 1: Public Safety and Social Environment.

Discussions in this topic area focused on possible driving under the influence policies and neighborhood safety issues, and social environment considerations were divided into three main sub-categories: public consumption, youth access and exposure, and tourism/hospitality. Recommendations stemming from these discussions addressed the following areas:

- Driving Under the Influence
- Neighborhood Safety
- Cannabis Training and Enforcement Priorities for the San Francisco Police Department
- Public Consumption
- Youth Access and Exposure
- Cannabis Tourism and Hospitality

RECOMMENDATION CATEGORY 2: Land Use and Social Justice. Discussions in this topic area focused on retail and non-retail adult use business zoning approval processes, as well as diversity within the cannabis industry's workforce and business ownership opportunities. Recommendations stemming from these discussions addressed the following areas:

- Zoning Approaches for Non-Retail Cannabis Uses
- Zoning Approaches for Retail Cannabis Uses
- Medical Cannabis Dispensary and Adult Use Retail Zoning Approval Processes
- Workforce Development and Entrepreneurship Opportunities
- Tax Revenue Allocation to Support Social Justice Goals

RECOMMENDATION CATEGORY 3: Regulation and City Agency Framework.

Discussions in this topic area revolved around local licensing possibilities, local cannabis regulatory agency responsibilities, and local taxation considerations. Recommendations stemming from these discussions addressed the following areas:

- Local Cannabis Licensing Structures
- Cannabis Delivery Policies
- Business Participation in the Adult Use and Medical Markets
- Local Agency Oversight of the Cannabis Industry

- Local Taxation and Revenue Allocation
- Data Collection Tools to Monitor Impact of Adult Use Legalization

This report highlights key research findings in the above main recommendation categories. It also includes the full set of recommendations that the Task Force encourages the City and County of San Francisco to consider in order to successfully implement Proposition 64. With its continued adoption across the State, the adult use cannabis landscape will likely be a fast-moving and ever-evolving one. In Year II of its active period, the Task Force will therefore closely monitor Proposition 64 implementation and continue in its advisory role for the City.

Project Design

Year I of the San Francisco's State Cannabis Legalization Task Force began in January, 2016, and concluded in December of that same year. The Task Force currently consists of 22 seats, the first seven of which are held by non-voting government bodies, and the remaining seats by voting members from various sectors, including advocacy, business, and tourism. Current Task Force Member seats as of December 2016 are included in this report as Appendix A.

The Task Force conducted monthly public meetings over its Year I period, with time allotted during each meeting for public comment. The overarching Year I goal was to draft a set of recommendations in three main areas:

- Public Safety and Social Environment
- Land Use and Social Justice
- Regulation and City Agency Framework

Research for this report relied on three main sources of information. First, while several legalization initiatives were proposed for the November 2016 California ballot over the course of the Task Force's active period, Proposition 64 - the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) - appeared to have the most momentum. It therefore served as the policy foundation for the Task Force's discussions. California Lieutenant Governor Gavin Newsom and other policy experts formed the Blue Ribbon Commission on Marijuana Policy in 2013. This document also relies on the Blue Ribbon Commission's 2015 report, "Policy Options for Regulating Marijuana in California," to outline important policy considerations against the backdrop of Proposition 64's provisions. Finally, the experiences of other states across the Nation that have legalized cannabis for adult use lent helpful insight to Task Force Members in Year I, and, where that information is available in the aforementioned topic areas, it is included in this report.

In preparation for the recommendation drafting process in each topic area, Task Force coordinators prepared issue briefs for the Task Force and the public. These issue briefs formed part of the information-sharing process and focused on main areas of Task Force discussion, including the existing legal landscape, social environment, public safety, youth access and exposure, land use, social justice, tourism, and regulation and city agency framework. The collection of issue briefs is included here as the main research sections of the report. The Task Force also identified experts to provide additional information and context for meeting discussions. Meeting activities included small and large group discussions to identify and reflect upon priority areas, spotlight panel presentations from Task Force Members on the key issues represented by their seat, and Task Force Coordinator presentations on key research findings in each of the recommendation drafting areas. Task Force coordinators also provided recommendation drafting packets for each topic area that included brainstorming questions based on previous Task Force discussions and a set of the main Proposition 64 provisions corresponding to that issue area.

Task Force Members worked in small groups to draft each set of recommendations, and the full Task Force then reviewed, edited and approved each recommendation via a consensus-building process. Task Force Members had multiple opportunities throughout the year to review the draft

recommendations until they were finalized at the Task Force's November 9, 2016, meeting. The report and recommendations will be presented to the San Francisco Board of Supervisors in January 2017.

1. INTRODUCTION AND BALLOT INITIATIVE REVIEW

The information in Section 1 addresses the following questions:

1. What is the status of medical and adult use legalization across the Nation?
2. What is the cannabis use landscape in California and in San Francisco?
3. How would Proposition 64 affect the current landscape in California and in San Francisco?
4. What are the general experiences of other states that have legalized adult cannabis use?

CANNABIS ACTIVITY: AN OVERVIEW

United States

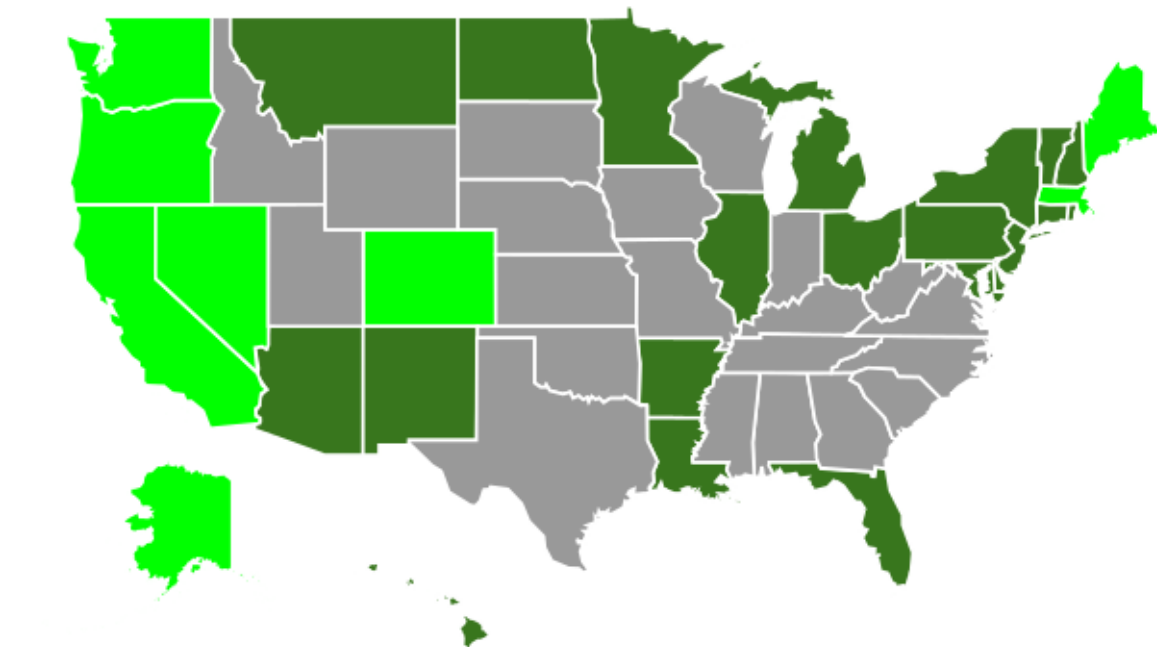
As of November 2016, twenty-nine states and the District of Columbia have medical cannabis access laws, and eight states and the District of Colombia have expanded access for nonmedical purposes.

Cannabis refers to the dried leaves and flowers of the cannabis sativa plant. The cannabis plant contains many different chemicals, with perhaps the most commonly known being its psychoactive element, delta-9-tetrahydrocannabinol, or “THC.”² In the United States, cannabis has two main uses – medical, in which it is used to treat various illnesses, and nonmedical. Cannabis can be consumed in multiple ways – e.g. by inhalation, oral ingestion, absorption into the bloodstream sublingually, or via topical application.³

The medical benefits of cannabis are not well-researched due to its current federal status as a Schedule I drug, meaning that, from the federal government’s point of view, it has “no currently accepted medical use in treatment in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse.”⁴ The California Medical Association and other advocacy groups assert that cannabis does have medicinal value and can be used to treat pain, nausea, anorexia and a host of other illnesses.⁵ The residents of many states now hold this view, and as of November 2016, twenty-nine states and the District of Columbia, Puerto Rico

and Guam have laws permitting cannabis use for medicinal purposes.^{ii,6} As of November 2016, eight states and the District of Columbia have also expanded access for nonmedical purposes,ⁱⁱⁱ as well, although in Maine, where the measure to legalize adult use cannabis narrowly passed, the voting tallies are expected to undergo a recount.⁷

Cannabis Legalization in the United States, 2016



Marijuana Legalization Status

- Medical marijuana legalized
- Marijuana legalized for medical and nonmedical use
- No laws legalizing marijuana

Source: Governing. (2016). *State Marijuana Laws in 2016 Map*. Retrieved from <http://www.governing.com/gov-data/state-marijuana-laws-map-medical-recreational.html>.

ⁱⁱ The twenty-nine states which have legalized medical cannabis in some capacity are: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont and Washington.

iii Colorado, Washington, Oregon, Alaska, California, Massachusetts, Maine and Nevada have legalized cannabis for adult use.

California

California has had medical cannabis laws in place since 1996, with city and county-based programs across the State. New medical cannabis laws alter this environment significantly by enacting State-level licensing and safety standards.

The California Blue Ribbon Commission on Marijuana Policy worked to identify possible cannabis policy options in anticipation of nonmedical use legalization.

In 1996, California became the first state in the U.S. to legalize medical cannabis. This came by way of via Proposition 215, i.e. the Compassionate Use Act, which was incorporated into California's Health and Safety Code (Sec. 11362.5) after passage. Its purpose is:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where the medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief; and

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.⁸

Senate Bill 420 followed almost a decade later to prescribe personal cultivation and possession limits and establish the right of qualified patients and caregivers to form collectives/cooperatives for the lawful cultivation and distribution of cannabis among members.⁹ These laws allowed for medical cannabis access and created city and county-based systems across the State.

Medical Cannabis Regulation and Safety Act (MCRSA)

This landscape was altered significantly on October 9, 2015, when California Governor Jerry Brown signed a package of three bills collectively known as the Medical Cannabis Regulation and Safety Act (MCRSA), into law.¹⁰ Taken together, MCRSA gives the State more regulatory control over the medical cannabis industry, from cultivation to sale. Perhaps one of the most significant ways in which this will be achieved is via a dual State-local licensing system identifying seventeen different licensing categories across the supply chain. After such licenses become available at the State level, no entity may operate a medical cannabis business without express permission to do so from the State and the appropriate local authority. A newly established State Bureau of Medical Cannabis Regulation (sitting under the Office of Consumer Affairs) will manage this process and all other aspects of MCRSA implementation.^{iv} It is estimated that licenses under this system will be issued beginning January 1, 2018.¹¹

^{iv} As noted in the report, Proposition 64 establishes a central regulatory agency for both medical and nonmedical cannabis – the Bureau of Marijuana Control (BMC). The BMC will assume the duties of the previously established State Bureau of Medical Cannabis Regulation.

Proposition 19

Cannabis legalization advocates attempted to legalize nonmedical use on previous occasions, most recently in 2010 via the failed Proposition 19, which garnered 46.5 percent of the popular vote that year.¹² Though it failed to pass, that same year, then Governor Arnold Schwarzenegger signed SB 1449 into law, which made possession of less than one ounce a civil infraction rather than a criminal misdemeanor.¹³ After 2010, legalization advocates continued to call for California to follow in the footsteps of Colorado and other states that have legalized nonmedical cannabis use.

Blue Ribbon Commission on Marijuana Policy

In anticipation of the repeated attempt to legalize nonmedical use, California Lieutenant Governor Gavin Newsom and other policy experts formed the Blue Ribbon Commission on Marijuana Policy in 2013. The Commission has engaged in an effort to examine various cannabis policy options and its most recent 2015 report, “Policy Options for Regulating Marijuana in California,” provides a blueprint for the State and local jurisdictions to consider in preparation for legalization.¹⁴

San Francisco

Various agencies share responsibility for administering San Francisco’s medical cannabis program, with the Department of Public Health managing the medical dispensary permitting process. The program currently consists of approximately 34 licensed dispensaries.

The State’s medical cannabis laws are codified within San Francisco’s Health and Safety Code, Article 33 – the Medical Cannabis Act. The Act outlines the permitting guidelines for medical dispensaries, which all operate as collectives/cooperatives. In order to legally obtain medical cannabis from such a dispensary, a patient or qualified caregiver must obtain a physician’s recommendation for medical cannabis and join a collective/cooperative. This essentially establishes a closed system of cannabis activity, where a group of qualified patients/caregivers are responsible for all aspects of cannabis cultivation and sale.¹⁵

As of September 30, 2016, there were 34 licensed medical cannabis dispensaries in the City/County of San Francisco, including two delivery-only dispensaries.¹⁶ Though the Department of Public Health is responsible for the dispensary permitting process, overall management of the medical cannabis program is the shared responsibility of various City agencies. For instance, the Planning Department determines whether a dispensary meets the zoning requirements for each particular location, since only certain areas in San Francisco, mostly in the SOMA and Tenderloin neighborhoods, are zoned to allow for a dispensary.¹⁷ The Department of Building Inspection, the Fire Department, and the Mayor’s Office on Disability all need to approve an application for a dispensary permit before a dispensary can legally begin operations.

BALLOT INITIATIVE REVIEW

California Proposition 64 - The Adult Use of Marijuana Act

In November 2016, California voters passed Proposition 64 legalizing adult use cannabis across the State. Proposition 64 mirrors the new MCRSA laws and is aligned with the Blue Ribbon Commission's recommendations.

In November 2016, California legalized adult use cannabis via Proposition 64, also known as the Adult Use of Marijuana Act (AUMA). The measure passed with 56.5 percent of the vote.¹⁸ Proposition 64 allows individuals 21 years of age or older to legally grow, possess and consume cannabis for nonmedical purposes, with certain restrictions. Proposition 64 also provides for the regulation of nonmedical cannabis businesses and establishes a cannabis taxation and revenue allocation structure. The review below focuses on Proposition 64 specifically as the policy framework for the Task Force's discussions.

According to the text of Proposition 64, its purpose is to:

establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and old, and to tax [its] commercial growth and retail sale.¹⁹

Under Proposition 64, adults will be able to legally possess one ounce of cannabis and cultivate six personal plants. Proposition 64 also establishes a Statewide regulatory system for commercial production and sale. To achieve the above goal, the initiative outlines several policy objectives, including:

- a) the transfer of cannabis activity from the illicit market to an effective regulatory scheme that protects public health and bars youth exposure;
- b) tracking and tracing cannabis products throughout the supply chain;
- c) giving local governments control over nonmedical cannabis business requirements and zoning laws; and
- d) the generation of State tax revenue for public interest purposes, such as youth treatment/prevention and environmental protections.

Proposition 64 is aligned with many of the recommendations in the aforementioned Blue Ribbon Commission report. Proposition 64's nonmedical cannabis system is also designed to run parallel to the State's new medical cannabis structure under MCRSA. Proposition 64 references this new legislation and models much of its regulatory structure on its foundation. For example, its licensing categories are very similar to MCRSA's and it tasks the same State agencies with regulatory enforcement duties. Further detail on Proposition 64's main elements is provided throughout this report and in Appendix B.

OTHER STATES' EXPERIENCES²⁰

As of November 2016, eight states and the District of Columbia have legalized nonmedical cannabis use in some capacity. This report draws primarily from the experiences of four states with legalized adult use cannabis laws prior to the November 2016 elections—Colorado, Washington, Oregon and Alaska—since more data and information are available for these states. In Year II of its active period, the Task Force will continue to monitor the progress of the states that have most recently legalized adult use cannabis.

Appendix B provides a state-by-state comparison of the nonmedical cannabis laws in the aforementioned states: Colorado, Washington, Oregon and Alaska. All four have the same provisions with respect to legal age to use/possess cannabis (21) and personal possession amounts (one ounce), but the states differ significantly in other policy areas. Policy implementation timelines, the strength of existing medical cannabis markets in each state, and other factors all contribute to the different experiences each is facing. As the policy landscape rapidly evolves in each state, such experiences could provide insight into important policy considerations.

Colorado

Legalization of nonmedical cannabis began with Colorado in 2012, and advocacy groups and State government officials have reportedly noted both benefits and challenges since implementation began.

The nonmedical use legalization wave began in 2012 with Colorado. The Marijuana Policy Project calls the State's post-legalization results "overwhelmingly positive," noting an increase in tax revenue and job opportunities, and a decrease in crime rates.²¹ A status report published by the Drug Policy Alliance noted similar results – lower cannabis possession arrest rates, a decrease in traffic fatalities, and allocation of tax revenue towards public interest goals, such as mental health and prevention services for youth.²² In terms of tax revenue, media reports that while State government officials see it as a boost to its budget, they also caution against that being the driving force behind cannabis legalization policy, further noting that, according to an official within Colorado Governor John W. Hickenlooper's Office of Marijuana Coordination, the main goals of legalization should rather be to ensure a safer, more regulated market or as an alternative to the war on drugs.²³

The Colorado Department of Revenue is tasked with implementation and regulatory enforcement of Colorado's cannabis legalization laws.²⁴ A Brookings Institution report published during the first policy implementation year viewed the process as successful and attributes that to a number of factors, including collaborative approaches to policy implementation, strong State leadership, and adaptation of regulatory institutions to respond effectively to the new law. Further, the report viewed Colorado's establishment and reliance upon a task force to advise policymakers on implementation as one of the "most important [and successful] administrative actions."²⁵

While Colorado has reportedly seen some gains, there have also been challenges associated with legalization. In a media interview transcription from January 2015, Mr. Ron Kammerzell, a senior Department of Revenue official, identified edible cannabis as one of the biggest legalization challenges. In that transcript, he stated that Colorado's regulations for edible cannabis in the nonmedical market were designed to mirror existing ones for the medical market, but regulators found there to be better knowledge about THC potency among medical cannabis consumers, resulting in higher risks of overconsumption for nonmedical users.²⁶ As discussed in the subsequent Youth Access and Exposure section of this report, Colorado has legislated changes to address these concerns, but it remains an ongoing challenge. Another challenge appears to be the use of highly volatile butane solvents to create hash oil high in THC concentrates. According to media reports,²⁷ this caused an increase in butane-related explosions in Colorado since nonmedical use sales began. To address these concerns, Colorado recently passed House Bill 15-1305, placing limitations on the home production of cannabis using hazardous substances.²⁸

Colorado has also faced legal challenges from its neighboring states after legalizing adult use cannabis. In December 2014, Nebraska and Oklahoma filed a lawsuit with the U.S. Supreme Court, arguing that federal law preempts Colorado's legalization efforts.²⁹ The Supreme Court ultimately declined to hear the case in March 2016.³⁰ Media reports indicate that this case may be consolidated with a similar case brought by sheriffs in Nebraska and Kansas and initially dismissed by a federal judge in 2016. If consolidated, the joint claims would be heard at the 10th Circuit Court of Appeals in Denver, Colorado.³¹ The outcomes in these and any other legal challenges may have effects on the cannabis policy landscape in Colorado and nationwide.

Washington

Since nonmedical use sales began in 2014, Washington has made significant changes to its cannabis legalization system, consolidating the medical and nonmedical markets into one nonmedical system and opting for a simpler, one-time retail tax rather than levying taxes at multiple steps of the supply chain.

Initiative 502 legalizing nonmedical cannabis use passed in 2012, and the system has gone through significant changes since that time. Cannabis activity during the State's 2015 legislative session was focused on lawmaking to fill perceived policy gaps. Initially, the State opted to keep its medical and nonmedical cannabis systems separate; but in 2015 it consolidated them into one nonmedical system. Media reports and public testimony during hearings on the subject noted that consolidation was a way to level the playing field and create a more effective regulatory structure for the medical market.³² The merged market went into effect on July 1, 2016, and the State's health department developed emergency regulations aimed at ensuring continued access for patients.³³ Under the new structure, certain adult use retail locations have an endorsement to serve medical cannabis patients.³⁴

As of July 1, 2016, Washington has altered its cannabis taxation structure, moving from a model that levied taxes at various stages of the supply chain (production, distribution and sale) to a

simpler, one-time 37 percent retail tax. This allows cannabis businesses to deduct normal business expenses from federal tax returns, which was not possible under the previous scenario, due to federal cannabis prohibition.³⁵ Ensuring a smooth market consolidation and managing this tax change will likely continue to be major priorities for the State.

Oregon

Following the passage of Measure 91 to legalize adult use cannabis in 2014, Oregon began issuing nonmedical cannabis licenses in early 2016. The first nonmedical cannabis retail stores opened on October 1, 2016.

Measure 91 legalized nonmedical cannabis in Oregon in November 2014. Since that time, individuals have been allowed (from 10/1/2015 until 12/31/2016) to purchase limited amounts of cannabis for nonmedical use from medical cannabis dispensaries – one-quarter ounce of dried leaves and flowers per day.³⁶ Medical cannabis businesses received waivers to temporarily sell nonmedical cannabis before the State began the process of issuing nonmedical types of licenses.³⁷

Under this temporary system, Oregon applies a 25 percent tax to nonmedical cannabis retail sales made in medical cannabis dispensaries. This provision is in effect until December 31, 2016, after which time medical cannabis dispensaries will no longer be able to sell nonmedical cannabis and the tax rate will be lowered to 17 percent. Cities and counties can add up to an additional three percent tax on nonmedical cannabis sales.³⁸

Oregon's Liquor Control Commission oversees cannabis regulation in the state. It began accepting nonmedical cannabis license applications on January 4, 2016,³⁹ and the first nonmedical cannabis retail stores opened on October 1, 2016.⁴⁰

Alaska

Alaska began issuing cannabis licenses in February 2016 and will be the first state to allow on-site consumption at retail locations.

Since legalizing the nonmedical use of cannabis in 2014 via Ballot Measure 2, the state has been focused on designing the necessary policies and regulations to formalize and standardize the nonmedical market. Though the personal use of medical cannabis by qualified patients and caregivers was legal before Measure 2, the State did not have provisions or regulations for medical cannabis sales.⁴¹ Measure 2 affirmed that the legalization of nonmedical cannabis would not adversely affect medical cannabis use and the initiative made no provisions for a separate medical cannabis market.⁴²

The newly formed Marijuana Control Board (MCB), part of the Alcohol and Marijuana Control Office, is overseeing the State's cannabis industry.⁴³ The final cannabis regulations set forth by

the Marijuana Control Board went into effect February 21, 2016,⁴⁴ at which time Alaska began accepting applications for its four license types: cultivation facilities, manufacturing facilities, testing facilities and retail stores.⁴⁵ In October 2016, the first nonmedical cannabis retail stores opened.⁴⁶

As of November 2016, Alaska allows on-site consumption at licensed retail locations at the discretion of its Marijuana Control Board.⁴⁷ As discussed in the report, Denver, Colorado, recently passed an initiative allowing for on-site cannabis consumption in designated areas of a business. Proposition 64 has a similar provision, which would make California the third location to allow the practice.⁴⁸ Monitoring the implementation of this provision may therefore be an important consideration for California and its localities.

2. LEGAL AND REGULATORY LANDSCAPE

The information in section 2 addresses the following questions:

1. How would federal cannabis regulations and policies impact State adult use legalization laws?
2. What is the illicit market's connection to broader legalization goals?
3. How might adult use legalization impact and interact with the existing medical cannabis market?
4. How have other adult use legalization states addressed these issues?
5. How does Proposition 64 address these issues?

FEDERAL CANNABIS POLICY

Legal Status of Cannabis in the United States

Cannabis possession and distribution is illegal at the federal level, but federal authorities and Congress have recently provided enforcement guidance for States with cannabis legalization laws.

In the United States, it is illegal to “manufacture, distribute, or dispense, or possess ... a controlled substance.”⁴⁹ Federal law further defines a controlled substance as one classified under schedules one through five of the Controlled Substances Act (CSA).⁵⁰ Cannabis is classified as a Schedule I drug under the CSA, meaning that it has “no currently accepted medical use in treatment in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse.”⁵¹ As medical and nonmedical cannabis are legal in several states, this represents a conflict between federal and state law, and the federal government has the authority to enforce the Controlled Substances Act across the United States.⁵²

Department of Justice Enforcement Priorities

In recognition of this legal conflict, the federal government has provided guidance in the past for states with cannabis legalization laws.⁵³ Most recently, in 2013, then Deputy Attorney General James Cole released a memorandum outlining eight enforcement priorities for the Department of Justice (DOJ) with respect to cannabis. By that time, Colorado and Washington had become the first two states to legalize cannabis for both adult use and medical purposes. According to the memorandum, the DOJ is “committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational

way.”⁵⁴ The enforcement priorities serve as focus areas for the DOJ to ensure that this goal is met.

2013 Department of Justice Memorandum: Federal Enforcement Priorities

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

The Cole memorandum also notes that, for states with existing cannabis legalization laws, the DOJ expects “strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests.” Finally, the memorandum notes the DOJ may challenge state legalization systems that do not align with this standard and the enforcement priorities.⁵⁵ It is important to note that this guidance and the enforcement priorities could change under a future U.S. president’s views and direction.

In December 2015, the Government Accountability Office (GAO) released a report analyzing the connection between these DOJ enforcement priorities and the effects of cannabis legalization in the United States. According to the report, the DOJ does prosecute cases where there is a violation of the enforcement priorities, discuss issues that implicate these priorities with state officials, and collaborate with other federal partner agencies to review data they may collect that would relate to enforcement. The GAO report also found that the DOJ does not adequately document its process for monitoring compliance with the enforcement priorities, and the DOJ has concurred with the GAO recommendation that it begin doing so.⁵⁶ In the future, therefore, there are likely to be changes in the way the DOJ documents compliance in states that have legalized cannabis for medical and/or adult use.

Federal Cannabis Policy Updates at the Congressional Level

Members of the U.S. Congress have introduced legislation in the past that would alter cannabis’ federal legal status—none has been enacted thus far.⁵⁷ Most recently, the *Ending Federal*

Marijuana Prohibition Act of 2015, introduced by U.S. Senator Bernie Sanders, would permit states to decide whether to legalize and regulate cannabis within their borders and remove cannabis from the Controlled Substances Act, except in cases when it is transported to jurisdictions where it is illegal.⁵⁸

Though federal cannabis prohibition remains in place, Congress has made its own enforcement priorities known to the DOJ. In 2014, Congress passed its spending bill, known as the Congressional Appropriations Act of 2015, stating that:

none of the funds made available in this Act to the Department of Justice may be used, with respect to [states with medical cannabis legalization laws, including California], to prevent such States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana.⁵⁹

This direction to the DOJ was renewed in the spending bill of 2016⁶⁰ and must be renewed each year for it to remain effective. The language is currently intact in Senate Bill 2837,⁶¹ the Commerce, Justice, Science, and Related Agencies Appropriations Act for 2017, which has been approved by the Senate Appropriations Committee and is awaiting further action per the federal budgeting process.^{v,62}

Two recent cases have illustrated the impact of this provision. In August 2016, the U.S. Court of Appeals for the 9th Circuit upheld the budget provision when the Department of Justice attempted to prosecute cases against medical cannabis patients and providers in California and Washington.⁶³ The Court ruled that State regulations took precedence over federal regulations, and that as long as the defendants did not violate their respective state's laws, the Department could not proceed with its federal criminal prosecutions. The budget provision was also crucial to a 2015 California District Court case, where the Court held that this provision barred the Drug Enforcement Administration from pursuing actions against those acting in compliance with California cannabis legalization laws.⁶⁴ As long as the budget provision is in place, both cases provide legal interpretations of the federal government's enforcement boundaries related to medical cannabis.

Though an increasing number of states have legalized cannabis at the state-level, the federal government has maintained its prohibition policies. Most recently, the Drug Enforcement Administration announced that cannabis will remain a Schedule 1 substance under the Controlled Substances Act.⁶⁵

^v Congress passed a continuing resolution for the federal budget for fiscal year 2017, which provides funding at 2016 levels through April 28, 2017. Although Congress has not yet passed a budget for 2017, the appropriations process has begun.

Federal Banking Rules

Federal cannabis policy affects the industry's access to banking services, which may present public safety concerns in areas where cannabis is legalized.

Under the Controlled Substances Act, it is also illegal to aid or abet the commission of a federal crime, such as the production or distribution of cannabis.⁶⁶ Further, the Department of Justice released a memorandum in 2014 that focused on financial transactions within the cannabis industry, stating that

Financial transactions involving proceeds generated by marijuana-related conduct can form the basis for prosecution under the money laundering statutes (18 U.S.C. §§ 1956 and 1957), the unlicensed money transmitter statute (18 U.S.C. § 1960), and the Bank Secrecy Act.⁶⁷

Offering banking services to the cannabis industry could therefore expose banks to criminal liability. According to media reports, this means that cannabis business owners cannot easily access the banking systems, and instead operate largely as cash-only entities. They further report this to be a public safety concern, as the businesses may be targets for robberies and theft because of large amounts of cash that may be stored on-site.⁶⁸ Former U.S. Attorney General Eric Holder voiced similar concerns in a 2014 media interview.⁶⁹ In California, Board of Equalization members have also commented on these public safety concerns and the inability to accurately collect taxes within a cash-only system.⁷⁰

Colorado Credit Union Lawsuit

The aforementioned concerns would also implicate the adult use market. Other states' experiences may provide further insight into this issue. Colorado was the first state to legalize cannabis for adult use, and in 2015, the Fourth Corner Credit Union of Denver filed suit against the Federal Reserve, asking that it be permitted to provide banking services to legally compliant cannabis businesses in the area. Before the lawsuit, the Colorado Division of Financial Services approved the Credit Union's credentials and it then submitted an application to the Federal Reserve for a master account necessary for the electronic transfer of funds. The Federal Reserve denied this request and the Credit Union sought legal relief via the lawsuit. In its ruling, the District Court found for the Reserve, stating that it "cannot use equitable powers to issue an order that would facilitate criminal activity."⁷¹ Current federal policy remains an important consideration, even against the backdrop of the Department of Justice's enforcement priorities and guidance.

THE ILLICIT MARKET

The Illicit Market's Connection to Adult Use Legalization Policy Areas

Any adult use legalization structure will be in competition with the illicit market for consumers, and this implicates other policy areas, such as youth access, public safety and taxation.

The illicit market operates outside of legally established rules of operation, and it is an important consideration for any cannabis legalization framework. This is because a tension exists between the legal and illicit markets, where one would compete with the other for consumers. If one legalization goal is to create a pathway for the legal sale of cannabis, reducing the illicit market would be of chief concern. California's Blue Ribbon Commission on Marijuana Policy names the reduction of the illicit market as one of its core strategy recommendations for cannabis legalization, since, according to the Commission, that goal is essential to a well-functioning cannabis market.⁷² As part of its work, the Commission established three main working groups: (1) Youth Education and Prevention, (2) Public Safety and (3) Taxation and Regulation, and illicit market concerns were apparent in all three policy areas.

With respect to youth education and prevention, the working group found that effective regulation and taxation focused on youth protection could also reduce cannabis availability within the illicit market. Among the Public Safety working group's concerns was the need for clear separation between the legal and illicit markets. According to that working group's findings, these lines can be blurred in cases where cannabis is diverted from the legal market into the illicit market or vice versa. Finally, taxation is one of the many factors that would impact the illicit market's existence, since an ill-devised taxation structure could encourage users to patronize, and hence bolster, the illicit market.⁷³

Other States' Experiences with the Illicit Market

In Washington, a reduction in the cannabis excise tax amount is seen as a way to constrain the illicit market, and Colorado currently faces a legal challenge from neighboring states alleging cannabis trafficking across state lines.

Washington - Reduced Excise Tax and Delivery Services Pilot Program

Adult use sales began in Washington State in mid-2014, and in December 2015, roughly a year and a half later, best estimates from the State Liquor and Cannabis Board's state that adult use outlets claim 35 percent of the market, the medical cannabis markets claim 37 percent, and the illicit market's share is 28 percent.⁷⁴ Although the Washington Legislature introduced a bill in 2016 to reduce the cannabis excise tax from 37 percent to 25 percent in an attempt to discourage the purchase of cannabis in the illicit market,⁷⁵ the bill did not pass and the cannabis excise tax remains at 37 percent.⁷⁶

Another way that some State policymakers are seeking to address concerns about the illicit market is through a new program for cannabis home deliveries. Washington state law currently prohibits cannabis home delivery services, but these services continue in violation of this law and outside of the regulated market, which, according to Seattle Mayor Ed Murray, is undermining legal retail sales. To address this problem, he supported a state bill that would have authorized a pilot program to legalize delivery services and, from his City's point of view, "reduce the illicit market for marijuana."⁷⁷ The bill did not move forward in 2016.

Colorado – Lawsuit from Neighboring States

In Colorado, alleged diversion to the illicit market across State lines has led to a lawsuit from its neighboring states. In March 2015, sheriffs in Nebraska and Kansas filed a lawsuit in Colorado District Court, claiming that cannabis illegally entering neighboring states had unfairly burdened law enforcement officers in those states. In the Complaint, the Plaintiff sheriffs contended that:

the result of the increased Colorado-sourced marijuana being trafficked in [their] count[ies] due to [Colorado's legalization initiative] has been the diversion of a significant amount of [staff time and resources] to counteract the increased trafficking and transportation of marijuana which is illegal in his jurisdiction.⁷⁸

For these reasons, the Plaintiff sheriffs asked the Court to invalidate Colorado's legalization initiative. A federal trial court judge dismissed this case in February 2016.⁷⁹ According to media reports, the case was appealed to the 10th Circuit Court of Appeals in April 2016 and may be consolidated with another case brought by Nebraska and Oklahoma, as both Plaintiffs assert that Colorado's legalization efforts are preempted by federal law and should be halted on those grounds.⁸⁰

Proposition 64 Approach to the Illicit Market

Proposition 64 contains provisions aimed at reducing the illicit market and preventing illegal cannabis diversion.

Among other purposes noted within Proposition 64, the initiative seeks to "tax the growth and sale of marijuana in a way that drives out the illicit market for marijuana and discourages use by minors, and abuse by adults."⁸¹ To achieve these goals, Proposition 64 requires the Bureau of Marijuana Control, i.e. the agency with primary responsibility for regulating the adult use system at the State level, to establish an advisory group that ensures that the regulatory environment does not lead to an enhanced illicit market.⁸² It also requires the California Legislative Analyst's Office to submit a report to the Legislature with recommendations for cannabis tax rate adjustments that undermine the illicit market.⁸³

Another stated goal of Proposition 64 is to "prevent the illegal diversion of marijuana from California to other states or countries or to the illegal market."⁸⁴ One of the strategies for achieving this goal is a "seed to sale" tracking system for every step in the cannabis supply chain. The Medical Cannabis Regulation and Safety Act of 2015 (MCRSA) created this track

and trace system for medical cannabis, and Proposition 64 would authorize the California Department of Food and Agriculture, the Bureau of Marijuana Control and the Board of Equalization to expand the program to include cannabis in the adult use market.⁸⁵

ADULT USE LEGALIZATION AND THE EXISTING MEDICAL CANNABIS PROGRAM

Separate Medical and Nonmedical Legalization Systems

Since the medical cannabis market may have an impact on that of adult use, it will be important to monitor developments within the medical cannabis industry here in San Francisco.

With the passage of Proposition 64, nonmedical cannabis will be joining an existing medical cannabis framework in the State. Though the nonmedical and medical systems would be separate, it may be useful to consider the existing medical cannabis framework and understand the effects that each market may have on the other. For example, an adult use taxation structure that is perceived by users to make cannabis and cannabis products too expensive may push some to the medical cannabis market inappropriately, and it would be important to monitor such effects. As is noted in subsequent sections of this report, the intersection of the medical and nonmedical systems will likely have impacts on other areas of consideration.

Recent Development – 2016 Medical Cannabis Bills

Since the MCRSA significantly altered the medical cannabis landscape in California, legislators have enacted subsequent legislation to fill perceived legislative gaps. To that end, in 2016, several medical cannabis bills were proposed and passed, including the following:

- AB 21: Deleted a provision in MCRSA that required local governments to pass land use medical cannabis cultivation regulations by March 1, 2016, and clarified that local governments continue to have jurisdiction over the cultivation of medical cannabis by those individuals exempt from licensure requirements under MCRSA.⁸⁶
- AB 2679: Added additional required information for medical cannabis licensing reporting to the Legislature. It also allows the University of California’s Marijuana Research Program to include, as part of its reporting duties, studies on the effects of cannabis on motor skills.⁸⁷

The California Governor’s Trailer Bill for the 2016-2017 Budget, passed in May 2016, included additional funding for MCRSA implementation, as well as several statutory changes to the law. For example, the bill clarified that licensing departments have authority to create license types, set fees, and conduct license enforcement, as well as establish deadlines and provide conditional licenses. The bill also added requirements for labeling and child-proof packaging, and provided for the adoption of guidelines to protect water resources affected by cannabis cultivation. The bill also changes references from “marijuana” to “cannabis” in several provisions, including the

name of the leading regulatory agency, which is now referred to as the Bureau of Medical Cannabis Regulation.⁸⁸ Future regulatory changes to the medical cannabis sector may affect the adult use market and should be monitored.

Proposition 64 Medical Cannabis Provisions

Proposition 64 preserves the existing medical cannabis system and builds upon it.

California has had medical cannabis laws in place since 1996 through Proposition 215, i.e. the Compassionate Use Act. Proposition 64's nonmedical cannabis legalization structure is designed to run parallel to that of medical cannabis. The ballot initiative therefore preserves existing provisions under the Compassionate Use Act and MCRSA and builds upon them. It establishes a Bureau of Marijuana Control that would oversee both medical and adult use regulatory systems, thereby dissolving the Bureau of Medical Marijuana Regulation under MCRSA. Among other provisions, it requires all medical cannabis patients to obtain updated physician recommendations that meet the new MCRSA standards and tasks county health departments or the county's designee with developing protocols that ensure compliance.⁸⁹

3. PUBLIC SAFETY AND SOCIAL ENVIRONMENT

The information in section 3 addresses the following questions:

1. What are the public safety considerations related to driving under the influence and cannabis business security?
2. What are the considerations for developing policies on public consumption of cannabis?
3. What are the considerations for addressing youth access and exposure concerns?
4. How could adult use legalization affect tourism and the hospitality industry?
5. How have other adult use legalization states addressed these issues?
6. How does Proposition 64 address these issues?

PUBLIC SAFETY CONSIDERATIONS

Road Safety & Driving Under the Influence (DUI)

There is no scientifically-established cannabis intoxication threshold level for driving under the influence—states that have legalized adult use have taken different approaches to enacting DUI standards.

In California, Proposition 64 maintains existing California laws criminalizing the operation of a vehicle under the influence of cannabis and provides funding for further research and the development of cannabis DUI protocols.

Cannabis Use and Driving Impairment

California’s Blue Ribbon Commission on Marijuana Policy consulted various stakeholders in its process of developing policy options for cannabis regulation in California, and each agreed that “a person impaired and under the influence of marijuana, whether for medical or adult use, should not get behind the wheel of a car.”⁹⁰ The State of Colorado legalized adult use of cannabis in 2012, and in a report published two years later, the Colorado Department of Public Health and Environment found “substantial evidence that (i) the risk of motor vehicle crash doubles among drivers with recent marijuana use; (ii) combined use of marijuana and alcohol increases motor vehicle crash risk more than use of either substance alone, and (iii) [there exists] a positive relationship between [delta-9-tetrahydrocannabinol] THC^{vi} blood level and motor vehicle crash risk, meaning the higher the level of THC in blood, the higher the crash risk.”⁹¹

^{vi} Delta-9-tetrahydrocannabinol is cannabis’ main psychoactive element.

Although such evidence indicates that cannabis use may cause driving impairment, there is currently no scientifically established THC threshold level for intoxication in the blood. One challenge of determining this standard is that THC can remain in the bloodstream after the effects of intoxication have worn off, so the presence of THC may not be a reliable measure of intoxication.⁹² Another challenge is the lack of cannabis roadside impairment tests. While a roadside test such as the Breathalyzer can confirm blood alcohol content, a similar test for cannabis is not currently available.⁹³

DUI Standards in Other States

Among states that have legalized adult use, there are differences in the Driving Under the Influence (DUI) standards used, which may be a reflection of the aforementioned challenges in establishing cannabis intoxication levels. Oregon and Alaska maintained their existing prohibitions against driving under the influence of cannabis without specifying a threshold intoxication level, while Colorado and Washington both established a more specific 5ng/mL THC threshold DUI standard. In Colorado, if an individual shows blood test results of 5ng/mL of THC or higher, a jury may infer that the person was under the influence of cannabis, but the person may present evidence that the permissible inference should not apply in their specific case.⁹⁴ Washington establishes a 5ng/mL DUI *per se* standard, meaning that results above the limit are automatic evidence of impairment—motorists above the limit are guilty of driving under the influence.⁹⁵

Proposition 64 Road Safety Provisions

Proposition 64 maintains existing laws under the California Vehicle Code (Section 23152(e)) criminalizing the operation of a vehicle under the influence of cannabis. The ballot initiative does not set a threshold cannabis intoxication level, but does provide funding for the California Highway Patrol to establish cannabis DUI protocols and allows for possible grants to research organizations to develop driving impairment tools. Provisions in the ballot initiative also allocate funding for public education campaigns regarding the dangers of operating a vehicle while impaired and provides resources to local government for enforcement of DUI laws and programs to enforce traffic laws.⁹⁶

Cannabis as a Cash-Only Industry

Due to federal banking restrictions, many cannabis businesses operate on a cash-only basis, which may present public safety concerns in areas where cannabis is legalized.

Proposition 64 contains security measures for cannabis businesses that may help to address such concerns.

Federal cannabis policy bars cannabis businesses from accessing banking services. As a result, media reports that cannabis businesses instead operate as cash-only entities and that large

quantities of cash may therefore be stored on-site, making cannabis businesses susceptible to theft and burglary and posing safety risks to both workers and patrons.⁹⁷

Proposition 64 Cannabis Business Security Provisions

Proposition 64 includes provisions that require cannabis retailers and microbusinesses to implement security measures, including but not limited to, restricting access to areas containing cannabis products and storing products in secure and locked areas to prevent theft. With regard to delivery services, the proposed Bureau of Marijuana Control will establish security and transportation safety requirements, such as minimum qualifications for delivery personnel and vehicle type.⁹⁸

THC Extraction Methods

The manufacture of cannabis products can involve the use of highly flammable solvents, such as butane. To decrease this public safety risk, Proposition 64 requires that manufacturers obtain a license in order to engage in such practices in the commercial sector.

To produce more concentrated cannabis extracts such as hash oil, volatile solvents, e.g. butane, are often used. Due to their highly flammable nature, butane solvents can lead to dangerous explosions if not handled safely. Since adult use legalization began in Colorado in 2012, media reports that the State has seen an increase in butane-related explosions, particularly from THC extraction operations in residential settings, which can cause injury and damage property within the vicinity of the explosions.⁹⁹ To address this, the City and County of Denver has since passed an ordinance limiting hash oil extraction operations to those with licenses.¹⁰⁰ Proposition 64 employs a similar method of addressing this public safety concern, requiring a license for the manufacture of cannabis products with volatile solvents in the commercial sector.¹⁰¹

SOCIAL ENVIRONMENT CONSIDERATIONS

A. PUBLIC CONSUMPTION

Public Consumption Policy Considerations

Factors such as product type and location may be considered in regards to how and where cannabis is consumed, and given the multiple ways in which consumption may occur, the Task Force may consider policy options based on those differences.

Proposition 64 allows local jurisdictions discretion to permit on-site consumption at licensed cannabis retail locations, and it may be useful to consider existing public consumption laws in that decision-making process.

The questions of where and how cannabis may be consumed are central to social environment policy considerations. Cannabis can be consumed in multiple ways (e.g., smoking, ingesting, and vaping) and a variety of factors related to each method may be considered in developing consumption policies. Within that context, policy tools may be used to address issues related to (1) access, availability, and use by youth; (2) driving under the influence; (3) the risk of problematic use or overconsumption; (4) consumption of contaminated cannabis products and/or products of unknown potency; and (5) concurrent use of alcohol and cannabis, particularly in public settings and as it relates to driving impairment.¹⁰² According to the Blue Ribbon Commission, examples of such tools include advertising and public consumption limits to prevent youth exposure, and education campaigns to discourage problematic use and educate consumers about health risks associated with such use.¹⁰³

With the aforementioned considerations in mind, the Commission also notes the argument that a lack of public smoking spaces could lead consumers to use edible cannabis products instead, which may have unanticipated intoxication effects on those consumers. This argument would therefore support public consumption spaces as a way to provide more places for responsible consumption for tourists and residents alike. Another argument is that, in public consumption spaces, users are outside the safety and comfort of their home while using cannabis and may over-consume if retailers are motivated to sell more product than is safe to distribute at any one time.¹⁰⁴ In addition, on-site smoking of cannabis may pose secondhand smoke risks for workers at such establishments, and the Commission therefore states that this impact should be considered when evaluating the need for on-site cannabis smoking locations.¹⁰⁵

San Francisco's Current Smoking Laws

San Francisco Health Code, Article 19F defines smoking as “inhaling, exhaling, burning or carrying any lighted smoking equipment for tobacco or any other weed or plant,” which would include cannabis.¹⁰⁶ The San Francisco Health Code, Article 19N states that wherever smoking is prohibited, so is the use of electronic cigarette devices.¹⁰⁷ Therefore, devices used to vape liquids or products, including cannabis products, may not be used in any area where smoking a cigarette is prohibited. Several City ordinances clarify that smoking is prohibited in most public spaces (e.g. parks, playgrounds, athletic fields) and buildings (e.g. restaurants, workplaces,

common areas of multi-unit housing), as well as certain unenclosed areas (e.g. bus stops, sports venues, farmers' markets).¹⁰⁸ Some exceptions where smoking is allowed include one's own home and certain businesses meeting stringent criteria. The purpose of these smoking laws is to reduce exposure to secondhand smoke¹⁰⁹ and the extent to which youth view smoking as a social norm.¹¹⁰

Other States' Experiences

Washington and Oregon prohibit public consumption of cannabis and cannabis products, while Alaska allows for on-site consumption at cannabis retail locations at the localities' discretion.

Some local jurisdictions in Colorado and Washington have proposed legislation to allow for on-site consumption in order to provide more legal consumption spaces for residents and tourists.

Washington and Oregon all prohibit public consumption of cannabis and cannabis products.¹¹¹ Alaska allows for on-site consumption at cannabis retail locations at the discretion of its state regulatory body¹¹² and monitoring the implementation of this provision may be an important consideration for California and its localities. Also, it is important to note that due to federal prohibitions, it is still illegal to smoke or consume cannabis on federal property, such as national parks, even in states that have legalized cannabis use.¹¹³

Denver, Colorado

Some Colorado establishments have organized as private clubs with a limited number of employees or allowed on-site vaporizing only, which enables them to offer on-site consumption options for patrons.¹¹⁴ In November 2016, Denver voters passed Proposition 300, also known as the "City of Denver Cannabis Consumption Pilot Program Initiative."¹¹⁵ The proposition calls for the creation of a four-year pilot project to allow on-site cannabis consumption in designated areas of a business. The permitted businesses would need approval from the surrounding neighborhood or business improvement district and could only serve as consumption spaces and not be licensed for any other commercial cannabis activity.¹¹⁶ According to local media reports, this model would allow businesses like bars, cafes and restaurants to have cannabis consumption areas, which could provide more consumption locations for both residents and tourists.¹¹⁷ But, most recently, the Colorado Department of Revenue announced a regulation that would prohibit any location that serves alcohol from also allowing on-site cannabis consumption, which limits the types of models previously contemplated under Proposition 300.¹¹⁸

Seattle, Washington

Washington law does not currently allow for on-site consumption locations.¹¹⁹ In 2015, Seattle's City Attorney released a memorandum proposing local legislation to license and regulate "marijuana use lounges" which would permit cannabis vaporization and ingestion locations, but not allow for on-site cannabis sales in those locations, in order to provide spaces for legal cannabis consumption.¹²⁰ In the memorandum, the City Attorney states that enforcement of

public cannabis consumption laws would be more effective if there were additional locations for legal consumption.¹²¹ The legislation has not yet been introduced.

Proposition 64 Public Consumption Provisions

Under Proposition 64, consumption of cannabis and cannabis products in public remains illegal.

Proposition 64 allows local jurisdictions to determine whether or not to allow on-site consumption, subject to certain conditions.

Under Proposition 64, consumption of cannabis and other cannabis products in public remains illegal and smoking cannabis is prohibited in locations where smoking tobacco is also prohibited.¹²² But Proposition 64 also allows local jurisdictions to determine whether or not to allow on-site consumption. Localities may permit on-site consumption at licensed retailers under the following minimum conditions: (1) access is restricted to persons 21 years of age and older; (2) consumption is not visible from a public place or non-age restricted area; and (3) sale or consumption of alcohol or tobacco is not allowed at the retailer.¹²³

Proposition 64 also establishes a standard dosage (not to exceed ten milligrams of THC per serving) for edible cannabis products, and the product must be scored into serving sizes if the product contains more than one serving.¹²⁴

B. YOUTH ACCESS AND EXPOSURE

Risks of Early Onset Use

Cannabis use among youth can affect physical development and present consequences that potentially reduce job and educational prospects.

Edible cannabis-infused products present particular challenges with respect to youth exposure, and the Blue Ribbon Commission recommends that regulations be put in place to address them.

One of the guiding principles of California’s Blue Ribbon Commission on Marijuana Policy is to protect youth and limit youth exposure to cannabis. According to the Commission’s Youth Education and Prevention Working Group, regular or excessive cannabis use among youth can be associated with reduced educational attainment and puts teens at “greater risk for problems with alcohol and other substance abuse.”¹²⁵ Similarly, the California Department of Public Health cites studies indicating that early onset and regular cannabis use among adolescents is

associated with adverse changes to parts of the brain used for memory and learning, a decline in IQ scores, impaired school performance, and a greater likelihood of dropping out of high school.¹²⁶ According to the Commission, it is important to also note that many studies on this subject have limitations and are unable to make causal conclusions due to study design. The Commission further notes that youth behavior and academic achievement are determined by a complex system of factors, making it difficult to isolate the specific effects of cannabis use.^{127,128}

In addition to health risks, there may be consequences related to the criminal justice and school systems, as well. The Commission notes that teens who are regular or heavy cannabis users have a greater risk for disciplinary actions at school and are more likely to have contact with the criminal justice system.¹²⁹ Arrests and disciplinary actions can also render youth ineligible for federal loans and/or job opportunities, which may have lasting effects, particularly for racial minorities.¹³⁰

The Commission concludes that it is important to design policy tools and educational programs that prevent youth initiation and uptake of cannabis use and delay such use until adulthood.¹³¹ According to the Commission, lessons learned on that point from tobacco regulation show that advertising/marketing restrictions¹³² and evidence-based educational programs, such as school-based and broad-based campaigns aimed at the general public, are effective youth exposure prevention strategies.¹³³

Youth Access Points and Connections to Illicit Market

After adult use legalization, cannabis may continue to be readily available and accessible to youth through the illicit market. The Commission notes that adult use cannabis regulation and taxation could reduce access to cannabis from illicit sources and recommends that such regulations include¹³⁴:

- Strict enforcement of age limits
- Regulating the number, type, and location of retail outlets
- Limiting sale of products that attract youth (e.g. edibles in the form of candy)
- Restricting advertising and marketing
- Establishing standards for labeling, potency, purity and dosing
- Developing non-criminal sanctions for youth under 21 (e.g. Student Assistance Programs)

The Commission notes that the price of cannabis will likely impact youth use. It predicts that adult use legalization will lower cannabis prices in the new adult use market as compared to the illicit market. Youth often have less disposable income and are sensitive to changes in prices, meaning higher cannabis prices would put cannabis further out of youth's reach. So, although youth would not be able to legally purchase adult use cannabis, a decrease in price may still render cannabis more accessible to them. The Commission therefore recommends price-setting regulations, such as a minimum price or an excise tax, rather than a sales tax, to avoid the aforementioned circumstances.¹³⁵

Edibles and Potential Danger

Edible cannabis-infused products, or “edibles,” present a challenge for youth exposure, as they may resemble candy or foods which appeal to youth, or may be accidentally consumed by youth when mistaken for other foods.¹³⁶ Youth may also consume them intentionally. A 2016 study of youth aged 15-17 in San Francisco found that edible cannabis was nearly as common as that used for inhalation. In that study, youth reported that using edibles could reduce their chances of being caught with the substance, and that edibles are used to avoid smelling like smoke, if they do not enjoy smoking or wish to appear to peers as non-users.¹³⁷ Whether accidentally or intentionally consumed, cannabis exposure in youth may cause health effects such as drowsiness, dizziness, elevated heart rate, vomiting, trouble breathing and seizures.¹³⁸ These effects are often more severe in children who consume edible cannabis products, as edibles contain higher concentrations of THC and the effects last longer when ingested than inhaled.¹³⁹

In response to these concerns, the Blue Ribbon Commission calls for regulations on edible cannabis products, both to deter use among youth and to prevent accidental ingestion. The Commission recommends that edibles be sold in tamper-proof or childproof packaging, and be designed in a way that does not appeal to children.¹⁴⁰

Other States’ Experiences

Colorado and Washington have not seen significant increases in youth cannabis use, but the proportion of youth who view cannabis use as risky have decreased in each state post-legalization.

Both Colorado and Washington have passed laws to regulate cannabis packaging and edible cannabis-infused products in order to limit youth access and use.

Colorado - Youth Access and Use

Colorado’s medical cannabis program has been in existence since 2000, and the state legalized cannabis for adult use in 2012. The biannual Healthy Kids Colorado Survey includes cannabis use among middle and high school students as a data point. According to the Survey, cannabis use rates among middle and high school students from 2009 to 2015 remained relatively stable,¹⁴¹ but from 2013 to 2015, the percentage of middle and high school students who saw regular cannabis use as risky behavior decreased from 54 percent to 48 percent, respectively.

A 2016 report by the Colorado Department of Public Safety found that overall drug suspension and expulsion rates^{vii} in schools decreased from 2004/2005 to 2008/2009 but then increased in 2009/2010 which, according to the report, possibly corresponds to medical cannabis commercialization across the state during that time. Since that increase, rates have remained

^{vii} The Colorado Department of Public Safety report notes that suspension and expulsion data on cannabis is not collected separately, but rather that cannabis is included in the larger category of “drugs”. The report states that cannabis is the most commonly used drug in elementary and secondary schools, and because of this, it notes that trends in drug suspensions and expulsion are likely to be related to changes in use and possession of cannabis.

relatively stable for suspensions and have decreased for expulsions post-adult use legalization.^{viii} A law passed 2015 requires the Colorado Department of Education to collect discipline data about cannabis separately from other drugs, with the first set of data on that point to be released in late 2016.¹⁴² The aforementioned Department of Public Safety report also found that the total rate (+2 percent) and number (+5 percent) of juvenile cannabis arrests increased from 2012 to 2014.¹⁴³

Health Impacts of Youth Exposure

Colorado has relied on two main data sources to understand the health impacts of cannabis exposure on youth: poison center data and hospitalization/emergency department visit data. A Colorado Department of Public Health and Environment report using statewide poison center data found that cannabis-related exposure calls increased from 44 in 2009 (pre-adult use legalization) to 229 in 2015 (post-adult use legalization). Since 2010, 46.8 percent of cannabis exposure calls have been for individuals ages 17 and younger, indicating a large proportion of youth affected. Report data collected since July 1, 2014, show that in children ages 0-8, edible cannabis products constitute a majority (52.1 percent) of reported cannabis exposures.^{144,ix}

A Colorado Department of Public Health and Environment report focusing on hospitalization and emergency department visit data found that rates of hospitalizations due to possible cannabis exposures^x in children under age 9 increased from the 2001-2009 pre-adult use legalization time period to the 2014-June 2015 post-adult use legalization time period from 1 per 100,000 to 13 per 100,000.¹⁴⁵ The same report found that rates of emergency department visits in children under age 9 also increased from the 2011-2013 pre-adult use legalization time period to the 2014-June 2015 post-adult use legalization time period.^{146,xi}

Though these trends indicate increased cannabis exposures in children, the aforementioned studies and media sources note several limitations of the research findings. First, hospitalization and emergency department findings only represent “possible” cannabis exposures,^{xii} since cannabis use is often grouped with other drugs for reporting purposes, and/or cannabis use may

^{viii} The Colorado Department of Public Safety report notes that prior to the 2012 school year, legislation (S.B. 12-046/H.B. 12-1345) modified some zero-tolerance policies that had resulted in what some considered “unnecessary expulsions, suspensions, and law enforcement referrals.” The report states that this change in law should be taken into account when examining disciplinary trends, as this legislation may have impacted the number of suspensions and expulsions from 2012 onwards.

^{ix} In a separate study focused on one region in Colorado, researchers found similar results regarding poison call center trends and exposures to edibles among children ages 0-10. See Wang, G.S., M.C. Le Lait, S.J. Deakyne, A.C. Bronstein, L. Bajaj and G. Roosevelt. (2016). Unintentional Pediatric Exposures to Marijuana in Colorado, 2009-2015. *JAMA Pediatrics* 170(9):e160971.

^x The Colorado Department of Public Health and Environment report on hospitalizations and emergency department visits notes that the data represent “possible” cannabis use, given that records only indicate whether the exposure is from “psychodysleptic drugs,” a broader category which includes cannabis and other drugs. According to the report, other psychodysleptic drugs have a low prevalence of use, so this data measure can be considered a reasonable proxy for cannabis use. In addition, the report states that the age cut-off of 9 years was chosen to represent children who were unlikely to be intentionally using cannabis, but these data do not actually distinguish between intentional or unintentional cannabis use.

^{xi} In a separate study focused on one region in Colorado, researchers found similar results regarding hospitalizations among children ages 0-10. See Wang, G.S., M.C. Le Lait, S.J. Deakyne, A.C. Bronstein, L. Bajaj and G. Roosevelt. (2016). Unintentional Pediatric Exposures to Marijuana in Colorado, 2009-2015. *JAMA Pediatrics* 170(9):e160971. Doi: 10.1001/jamapediatrics.20160971

^{xii} See footnote ix above.

be noted in the medical record but may not be the main reason for the hospital/emergency department visit.^{147,148} Second, they note that hospital and emergency department visits could be a result of cannabis use exacerbating an existing health condition, rather than it causing the particular condition that led to the visit.¹⁴⁹ Third, poison center data is self-reported and may underestimate the true number of exposures.¹⁵⁰ Finally, the studies assert that cannabis-related exposure among children remains relatively rare in comparison to exposures to household products and pharmaceuticals,¹⁵¹ and that health problems caused by cannabis exposure are usually minor.^{152,153}

Limiting Youth Exposure

In light of the existing data, Colorado has taken legislative measures to limit youth exposure, with an emphasis on edibles. For example, cannabis sold at a retail store must use child-resistant packaging and meet labeling requirements, such as listing license and batch numbers, date of sale, a universal THC symbol, potency information, testing status, and health warning statements.¹⁵⁴ Edible products must be scored in serving sizes of 10 or fewer milligrams of THC and have opaque exit packaging.¹⁵⁵ The word “candy” is prohibited on labels¹⁵⁶ and edible products (not just the packaging) must be marked or imprinted with a universal symbol for THC to alert users about its content and help protect children, and adults, from unintended consumption.¹⁵⁷ Effective October 1, 2017, it will be illegal to sell cannabis-infused candies in the shapes of people, animals or fruits, as regulators determined these shapes may be attractive to children.¹⁵⁸

Colorado is also using cannabis tax revenues to address youth access and exposure concerns. Revenue from sales and excises taxes is allocated to various departments, including the departments of Education, Public Health and Environment, and Public Safety in support of youth-focused initiatives including school construction, school-based prevention and intervention services, a public awareness education campaign, juvenile diversion program, and substance use disorder treatments.¹⁵⁹

Washington - Youth Access and Use

Data from Washington illustrates trends that are similar to Colorado’s experience. Findings from the 2014 Washington State Healthy Youth Survey indicate a small but gradual increase in youth cannabis use over the past decade, but no significant trends in youth cannabis use since legalization.¹⁶⁰ According to the survey data, the percentage of 12th grade students who consider it risky to regularly use cannabis decreased between 2012 and 2014, from 34 percent to 26 percent.¹⁶¹ A separate study found that the percentage of teenagers who said it was “easy” to obtain cannabis increased slightly from 54 percent to 55 percent between 2010 and 2014.¹⁶²

Retail adult use sales began in July 2014, so there may not yet be sufficient data to assess the impact of legalization on youth access and use. Additionally, while it appears most middle and high school students in the state do not use cannabis^{xiii}, the Washington State Liquor and

^{xiii} According to the 2014 Washington State Health Youth Survey, 73 percent of 12th grade students, 82 percent of 10th grade students and 93 percent of 8th grade students had not used cannabis in the past month before the survey was conducted. See Washington State Department of Social and Human Service. (No date). 2014 Washington State Healthy Youth Survey – Facts about Teens and Marijuana. Retrieved from <http://www.askhys.net/Docs/HYS%202014%20Facts%20Marijuana%20mp.pdf>.

Cannabis Board (WSLCB) cautions that a trend of decreasing perception of cannabis use as risky is concerning and could lead to increased youth use in the future.¹⁶³ In terms of school-based consequences of cannabis use among youth, approximately 4 percent of all students were suspended or expelled in the 2013-2014 school year and of these, 11 percent of students were suspended or expelled due to cannabis possession.¹⁶⁴

Health Impacts of Youth Exposure

The Washington Poison and Drug Information Center saw an 86 percent increase in the number of cannabis exposure calls between 2011 and 2015, from 146 to 272. In 2015, 46 percent of such cases were for youth under age 19, and 32 percent involved edibles.^{165,166}

Limiting Youth Exposure

One of the Washington State Liquor and Cannabis Board's top priorities in regulation of adult use cannabis is preventing youth access.¹⁶⁷ Regulations on that issue have focused on edible products. Before sales of adult use cannabis began, Washington established regulations requiring WSLCB approval of all edible cannabis products and packaging to closely monitor items that might appeal to children.¹⁶⁸ Under the regulations, products, labels, and packages may not be "designed to be especially appealing to children."¹⁶⁹ Edibles must also be in child-resistant packaging that is also separately scored into serving sizes. Depending on the type of product, labels must contain information including, but not limited to, business name and license number, inventory ID in track and trace system, concentration of THC and CBD^{xiv}, date manufactured, and health warnings.^{xv,170} The WSLCB is currently collaborating with the Washington Poison Center to develop a warning symbol to identify adult-only products, such as cannabis, that are not intended for children.¹⁷¹

The WSLCB also tasked the University of Washington's Cannabis Law and Policy Project with investigating food and food marketing that appeal to children to inform additional regulation of edibles. The Project's 2016 research report shows that children prefer foods of certain colors, shapes and odors, and that promotional characters and television advertising influence children's preferences by attracting their attention to certain products, improving their memory of them, and encouraging them to ask their parents for those products.¹⁷²

The Washington ballot initiative legalizing adult use, Initiative 502, sets aside funds for the Washington Department of Health to mitigate public health impacts of cannabis use via a Marijuana Prevention and Education Program. The goal of this program is "to reduce initiation and use of cannabis by youth (ages 12-20), especially among populations most adversely affected by marijuana use."¹⁷³ Through this program, in April 2016, the Washington Department of Health began a new campaign to educate 12- to 17-year-olds about the risks and consequences of cannabis use.¹⁷⁴ Tax revenues have also funded a cannabis-specific educational website for the public with information and data on general cannabis laws and health effects as well as resources for youth prevention.¹⁷⁵ The website content is a collaborative effort between the Washington State Liquor and Cannabis Board, the Seattle Children's Hospital and the University of Washington's Alcohol and Drug Abuse Institute.¹⁷⁶

^{xiv} CBD, or cannabidiol, is a chemical unique to the cannabis sativa plant, which is not known to have psychoactive effects. See University of Washington Alcohol and Drug Abuse Institute. (2016). Learn About Marijuana. Retrieved from <http://learnaboutmarijuanawa.org/factsheets/cannabinoids.htm>

^{xv} Some health warnings may also be given separately to the consumer in accompanying materials.

Proposition 64 Provisions to Minimize Youth Access and Exposure

Proposition 64 contains multiple advertising and packaging requirement provisions designed to prevent sales to minors and reduce youth exposure and access.

The initiative also dedicates a portion of tax revenues to youth-focused education, prevention and treatment services.

Two of the primary goals of Proposition 64 are to protect children from potential dangers and to move cannabis from the illicit to the regulated market where stricter safeguards can be put in place to prevent youth from accessing it. To this end, Proposition 64 contains various provisions to prevent youth sales, access and exposure, such as advertising and package labeling requirements. It also sets aside funding for youth education, prevention and treatment services.

Preventing Youth Sales, Access and Exposure

Proposition 64 would legalize cannabis for adult use. As such, it contains multiple provisions to prevent sales to minors. Licensees are prohibited from¹⁷⁷:

- selling cannabis or cannabis products to anyone under 21 years of age
- allowing anyone under 21 access to access the premises
- employing any persons under 21 years of age
- selling or transferring cannabis unless first verifying via government-issued identification that the consumer is over 21 years of age.

An adult use licensee that also qualifies as a medical cannabis dispensary may allow access and sale to a person 18 years of age and older with valid government-issued identification and a medical cannabis identification card.¹⁷⁸ Proposition 64 also establishes that persons under 21 may be used by peace officers in the enforcement of the aforementioned provisions and are immune from prosecution.¹⁷⁹

Proposition 64 has provisions specifying where cannabis business may be located and where cannabis may be consumed to prevent youth access. Cannabis businesses may not be located within 600 feet of schools, day care centers or youth centers that are in existence at the time the license is issued and allows State licensing authorities or a local jurisdiction to set a different radius.¹⁸⁰ Individuals may not possess, smoke or ingest cannabis on the grounds of a school, day care center or youth center while children are present or smoke cannabis within 1,000 feet of these locations while children are present, except on the grounds of a private residence.¹⁸¹

Advertising, Labeling and Packaging Requirements for Edibles

Under Proposition 64, licensees may not advertise or market cannabis so as to encourage persons under the age of 21 years to consume. Additionally, advertising or marketing signs may not be within 1,000 feet of a school, day care, or youth center.¹⁸²

Proposition 64 also provides regulations for packaging and labeling, with additional requirements for edible cannabis-infused products. For example, cannabis products must be

packaged in child-resistant packages, which may not be made attractive to children, and licensed businesses are required to comply with labeling requirements that include potency information and specific health warning language.¹⁸³ Edible cannabis products may not be made appealing to youth or easily confused with commercially sold candy or foods that do not contain cannabis and individual servings may not exceed a 10mg dosage of THC.¹⁸⁴

Funding for Education, Prevention and Treatment

Regarding revenues, Proposition 64 outlines that after disbursement to specific areas, 60 percent of remaining tax revenue funds will be allocated to a Youth Education, Prevention, Early Intervention and Treatment Account. Funds will be disbursed by the California Department of Health Care Services, the California Department of Public Health, the California Department of Education and county behavioral health programs through grants that local programs may apply for. The funds will be used to establish, implement and administer programs that educate youth and prevent substance use disorders and consequences of substance abuse, including:¹⁸⁵

- prevention and early intervention services,
- support for Student Assistance Programs,
- outreach, education and treatment for homeless and out-of-school youth with substance use disorders,
- access and linkage to care for youth, their families and caregivers with a substance use disorder,
- youth-focused substance use disorder programs,
- programs to assist individuals, as well as family and friends of drug using young people, to reduce the stigma associated with substance use,
- workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use experience and expertise,
- construction of community-based youth treatment facilities.

C. TOURISM AND HOSPITALITY

Effects of Legalization on the Tourism Industry

Legalization of adult use cannabis may provide both benefits and challenges for localities and the tourism industry, particularly with regard to edible infused-cannabis products.

San Francisco is a popular destination for national and international tourists, and, according to the Blue Ribbon Commission, the legalization of adult use cannabis will have an impact on tourism and the hospitality industry.¹⁸⁶ Analyses from other states have found that cannabis tourists may include those individuals who make a long-distance trip for the purpose of obtaining cannabis, those who take short trips in order to obtain and consume cannabis (e.g. driving across the border from a neighboring state), or those who are visiting for other purposes and choose to

consume as part of their visit experience.¹⁸⁷ Alternatively, legalization may discourage some tourists from visiting a particular place, depending on their preferences and perceptions of cannabis culture. Tourists may make decisions about whether or not to visit one state over another to obtain cannabis based on perceptions of cannabis accessibility as well as geographic proximity of that state to where they live. The Commission encourages localities to balance the needs and expectations of all types of tourists by developing policies and regulations to ensure that tourists who wish to consume can do so safely, responsibly, and legally, and that tourists who prefer not to do so are protected from unwanted exposure.¹⁸⁸

Possible Tourism Benefits of Legalization

Adult use cannabis legalization may benefit the tourism industry. For example, tourists may be interested in accessing retail cannabis outlets while in San Francisco, as well as understanding other aspects of the cannabis industry, such as cultivation and manufacturing. To meet these needs, there may be opportunities to expand the tourism industry through cannabis-related activities. Cannabis tourism may also increase economic activity statewide and could result in increased tax revenues, although estimates of this effect are unknown.¹⁸⁹

Possible Tourism Challenges of Legalization

Adult use cannabis legalization may also present public health and safety challenges specific to tourism. According to media reports from other states that have legalized, education of tourists is critical to maintaining public health and safety, as tourists may not be familiar with cannabis regulations, which could result in inadvertent violations of cannabis possession, use and transport laws.¹⁹⁰ Tourists who are novice users may also be unfamiliar with the health impacts, dosing and/or side effects of cannabis, leading to possible overconsumption and its associated health effects.¹⁹¹

Edible cannabis products (e.g., cannabis-infused baked goods, candies, and drinks) do not produce second hand smoke, but present other important considerations, specifically for tourists. Tourists without a designated public smoking place may turn to edibles as an alternative way to consume cannabis.^{192,193} Because metabolism of THC via digestion is slower compared to inhalation through smoking, it can take longer to feel the effects of THC from edibles, which can cause individuals to consume more than they originally intended.¹⁹⁴

Other States' Experiences

The cannabis tourism industry has grown in Colorado and Washington, although exact estimates about its overall impact on tourism are not yet well-known.

Important considerations for tourists in other states that have legalized adult use include tourist education, consumption location availability, and edibles.

Colorado - Impact of Cannabis Tourism

Colorado's tourism industry has grown over the past few years, which may be partially due to cannabis legalization. For the fifth consecutive year, Colorado experienced high numbers of tourists, tourist spending, and tax generation from tourism in 2015.¹⁹⁵ Researchers quoted in a media interview attribute some of the tourism growth to cannabis.¹⁹⁶ Research conducted for the Colorado Tourism Office in April 2016 on visitors aged 25 and older showed that 64 percent of those surveyed reported that legalized adult use cannabis had no influence on their decision to visit the State, 14 percent reported that legalized adult use cannabis negatively influenced their interest in visiting, and 23 percent reported that legalized adult use cannabis positively influenced their decision to visit. The same research found that 11 percent of surveyed visitors ages 25 and older visited a dispensary during their time in Colorado and 4 percent reported that the ability to visit a dispensary motivated their visit.¹⁹⁷

Cannabis tourism has impacted Colorado in various ways. Attempting to assess the economic impact of cannabis tourism, the Department of Revenue initially estimated in mid-2014 that cannabis purchases by out-of-state visitors likely represented about 44 percent of cannabis retail sales in urban areas and about 90 percent of cannabis retail sales in heavily-visited tourist areas in rural communities, but it is important to note that these estimates were made only a few months after adult use sales began.¹⁹⁸ Colorado has seen an increase in the number and types of tourism-related cannabis activities.¹⁹⁹ Research also indicates that emergency department visits possibly related to cannabis seem to have increased more rapidly among out-of-state residents than Colorado residents from 2012 to 2014, possibly due to novice use or overconsumption of edibles.^{200,201}

Tourist Education

Media reports that, in response to the aforementioned public health and safety concerns, regulators and the tourism industry find it challenging to get such information to tourists, especially those on short trips, and are aiming to improve tourist education.²⁰² In 2015, the Colorado Department of Public Health and Environment launched *Good to Know*,²⁰³ a multi-media campaign about responsible cannabis use. Its content is available in English and Spanish and includes educational radio and social media broadcasting, educational materials for retailers to distribute to consumers, and a website.²⁰⁴ The website provides an overview of state laws, safe use tips, and information about health impacts and youth exposure. It also provides specific information for tourists, such as cannabis purchasing limits, consumption space information, cannabis transport restrictions, and rental car rules as they relate to cannabis.²⁰⁵ According to research from the Colorado Department of Public Health and Environment, adults exposed to the campaign were 2.5 times more likely to understand Colorado cannabis laws than those not exposed.²⁰⁶

The Colorado Tourism Office is also currently developing educational materials, which will eventually be available on the state's tourism website. The website's goal is to clarify laws, information, and expectations both for tourists who want to engage in the cannabis industry and for those who do not.²⁰⁷

Legislative Changes

Colorado has made legislative changes that impact the cannabis tourism industry. Recent regulations that limit THC content in servings of edible products and require a THC stamp on all edible products²⁰⁸ may help tourists avoid confusion and promote responsible consumption.²⁰⁹ A recent law also removes the previous out-of-state tourist cannabis purchase limit of ¼ of an ounce per transaction.²¹⁰ Effective October 1, 2016, tourists and Colorado residents will have the same purchase limit of one ounce per transaction. Media reports that, according to proponents of this change, the original purchasing requirement was instituted to avoid out-of-state cannabis diversion, but that tourism was likely not the source of diversion, obviating the need for separate purchasing limits for tourists.²¹¹

Washington - Impact of Cannabis Tourism

Washington has also become a destination for cannabis tourism. In 2013, a Washington State Liquor Control Board (WSLCB)-commissioned study of cannabis legalization estimated that there would be over 400,000 new visits a year to the state for cannabis tourism and that these tourists would account for 5 percent of total consumption.²¹² A 2016 status report by the Northwest High Intensity Drug Trafficking Area noted that Washington State has become a tourist destination for cannabis users, but did not provide market size, tax revenue, or economic impact estimates.²¹³ Similar to Colorado, Washington has seen expansion of the tourism industry into cannabis-related activities such as tours, transportation services, and cannabis-friendly lodging.²¹⁴ Media reports that Washington is experiencing cannabis tourism differently than Colorado as a result of variations in licensing, taxation, and regulations in the two states.^{215,216} Oregon issued its first licenses to adult use cannabis retailers on October 1, 2016, and media suggests that cannabis tourist sales in Washington border towns will decrease as a result.²¹⁷

Tourist Education

Both the WSLCB and the tourism industry distribute educational materials related to responsible cannabis use. Although not specifically for tourists, the WSLCB maintains a cannabis education webpage with information about cannabis laws, health effects, and safe cannabis consumption and storage.²¹⁸ The official Washington tourism website, operated by the Washington Tourism Alliance, also has a FAQ section for cannabis tourism, which includes details on the applicable state laws and guidance on where to purchase and use cannabis.²¹⁹

Legislative Changes

Legislation has impacted the cannabis landscape for tourists in Washington. Regulations promulgated in 2015 made it illegal to operate a "marijuana club" or other public place for the purpose of cannabis storage or on-site consumption.²²⁰ This law, combined with a public smoking prohibition, limits the locations where tourists can consume cannabis. A separate law passed in 2015 also made it a traffic infraction to consume or keep cannabis in a vehicle on highways unless unopened or in the trunk,²²¹ which reduced the possibility of tours allowing consumption in a vehicle.²²²

Proposition 64 Tourism Provisions

Proposition 64 does not contain any provisions that directly address tourism. Through the Proposition's local control provision, localities could develop measures that would impact the tourism industry.

Proposition 64 does not contain any provisions that address tourism. Under Proposition 64, local jurisdictions may adopt and enforce local cannabis-related ordinances, including business license requirements, on-site consumption rules, and requirements related to reducing exposure to second hand smoke.²²³ Via these provisions, localities could develop measures that would impact the tourism industry. Proposition 64's provisions regarding edibles, discussed in the Youth Access and Exposure section, may address concerns about edibles consumption among tourists.

4. LAND USE AND SOCIAL JUSTICE

The information in section 4 addresses the following questions:

1. What effects have previous drug policies had on communities?
2. How could cannabis legalization structures consider racial equity/social justice in their design?
3. What are San Francisco's current zoning processes for medical cannabis dispensaries and how could this inform land use considerations for adult use cannabis businesses?
4. What are the considerations for developing policies on cannabis delivery services?
5. How have other legalization states addressed these issues?
6. How does Proposition 64 address these issues?

At the January 13, 2016, Task Force meeting, Task Force Members expressed an interest in discussing social justice issues as they relate to legalization, i.e. the negative impacts of previous federal and State drug policies on communities and possible mechanisms for addressing these impacts. Adult use legalization may present an opportunity to repair damage to communities disproportionately affected by these policies and reduce any existing barriers to cannabis employment or business ownership that may exist in these communities. In addition, adult use legalization may also lead to an increased cannabis industry presence in San Francisco. Developing a zoning plan for this increase would involve creating an equitable distribution of the cannabis industry across the City and preparing the cannabis industry workforce for these new employment opportunities. These considerations allowed for a discussion not only of the technical aspects of land use and urban planning, but the accompanying social justice issues, as well.

CANNABIS LEGALIZATION AND SOCIAL JUSTICE

The “War on Drugs” and its Effects

The War on Drugs in the United States has led to large scale arrest and incarceration, and, according to drug policy experts, uneven application of the laws against communities of color in the United States.

Arrest and incarceration have negative effects on the individual, families and whole communities, and the disadvantages associated with arrest and conviction can be particularly devastating for youth.

President Richard Nixon and the War on Drugs

In the 1960s, drug use was associated with political unrest and social rebellion. A report released in May of 1971 also found drug addiction among soldiers deployed during the Vietnam War. In response to these findings, President Richard Nixon officially launched the war on drugs in the United States in June 1971. At a press conference introducing this strategy, the Intensified Program for Drug Abuse Prevention and Control, Nixon referred to drug abuse as “public enemy number one” necessitating a “new, all-out offensive.” This intensified program consolidated existing governmental efforts to curb drug abuse and introduced mandatory drug sentencing laws. President Nixon also called for additional funding to support the Program and its desired outcomes.²²⁴ In the 1980s, President Ronald Reagan and first Lady Nancy Reagan prioritized previous anti-drug efforts and campaigns to support the war on drugs. During that time, the federal government also passed the Anti-Drug Abuse Acts of 1986 and 1988, focusing on incarceration and punitive measures over treatment and rehabilitation.²²⁵

Racial Disparities in War on Drugs Policies

The Global Commission on Drug Policy has called the global war on drugs a failure, noting that its “vast expenditures on criminalization and repressive measures . . . have failed to effectively curtail [drug] supply or consumption,” thereby necessitating “fundamental reforms in national and global drug control policies.”²²⁶ According to the Commission, rather than reduce drug abuse and addiction, the war on drugs has hampered public health HIV/AIDS prevention efforts, stigmatized individuals who use drugs, and destroyed lives and families.²²⁷

War on drugs policies have led to large scale arrest and incarceration, and, according to drug policy experts, uneven application of the laws against communities of color in the United States. A 2016 Drug Policy Alliance report found that 16 percent of the U.S. state prison population was incarcerated for a drug violation, and of that 16 percent, 50,000 individuals were incarcerated for drug possession alone.²²⁸ The same report found that individuals of color are more adversely impacted by law enforcement and War on Drug policies, as evidenced by the fact that nearly 80 percent of people in federal prison for drug offenses are African-American or Latino. This trend also holds true at the state level, where the report found that nearly 60 percent of the state prison population arrested and convicted for drug offenses are African-American or Latino.²²⁹

This broader narrative also applies within the narrower context of cannabis. In a 2013 report, the American Civil Liberties Union (ACLU) analyzed the racial impact of the war on drugs from 2001 to 2010, focusing its study on cannabis.²³⁰ The report found that over that time period, the vast majority of cannabis arrests in the United States were for possession offenses (~88 percent), rather than sales. With respect to these possession arrests, the report also found racial disparities to exist across the United States, and that these disparities had increased over time. The cannabis possession arrest rate nationwide remained relatively constant for Caucasians (~192 per 100,000 individuals), while that of African-Americans had increased 33 percent between 2001 and 2010 (537 per 100,000 individuals in 2001 to 716 per 100,000 in 2010). To counter the view that African-Americans are more likely to use or possess cannabis as a possible explanation for the disparity, the report found similar cannabis use rates among Caucasians and African-Americans in the United States.²³¹

In a more recent 2016 report on cannabis-related offenses in California, the ACLU of California, in collaboration with the Drug Policy Alliance, found that in the two years after the reclassification of cannabis possession from a misdemeanor to an infraction, misdemeanor arrests went down significantly. But, the report also concluded that “the enforcement of cannabis possession laws—and the economic burden it entails—falls disproportionately on [African-American] and Latino people.” Data was gathered from Los Angeles and Fresno, and, according to the report, data from those two cities may speak to a broader Statewide trend. African-Americans residing in Los Angeles and Fresno were cited for cannabis possession infractions 4.0 and 3.6 times, respectively, more often than Caucasians. Further, the same study found that African-American Californians were 2.2 times more likely than Caucasian Californians to be arrested for cannabis possession.²³²

Secondary Effects of Arrest and Incarceration

According to various commentaries on the issue, arrest and incarceration have effects on the individual, their families and their communities. For example, following a drug-related arrest and/or incarceration, a person may find it difficult to obtain and sustain employment, housing, and public assistance. Evidence of arrest may also affect that person’s ability to secure loans and financial aid, reducing opportunities to begin or complete an education.²³³ And, in places with high arrest and imprisonment rates, whole social and community networks are also disrupted, “damaging the human and social capital of disadvantaged neighborhoods...and diminishing opportunities for social and economic mobility.”²³⁴

For youth, the disadvantages of arrest and conviction can be particularly devastating. A report from California’s Blue Ribbon Commission on Marijuana Policy discourages unduly punitive actions for youth due to their secondary effects, including:

- Youth who are arrested become defined and treated as criminals, often permanently;
- Ineligibility for federal school loans reduces educational opportunities;
- Pre-employment screening of legal problems reduces job opportunities;
- Fines and attorney’s fees place disproportionate burdens on the poor; and
- Immigration/naturalization problems are increased.²³⁵

The Connection between Cannabis Legalization and Social Justice

The California Blue Ribbon Commission on Marijuana Policy is supportive of cannabis legalization structures that consider racial equity in their design.

According to the Commission, an over-reliance on past criminal records as a barrier to cannabis market entry would perpetuate the existing racial disparities created by previous drug policies. Tax revenue from the cannabis industry could be used to support legalization goals, including social justice.

Barriers to Entry into the Cannabis Industry

The Blue Ribbon Commission report notes the racial disparities within the criminal justice system with respect to cannabis-related offenses and further asserts that racial and ethnic disparities in the State, “from who has access to the legal market to how to communicate public health messages,” must be considered within any plan to legalize cannabis in California.²³⁶

Within that context, the Commission views the decisions of who may be employed and obtain licenses within the cannabis industry post-legalization and whether previous criminal records may serve as barriers to such opportunities as critical. It asserts that market entry requirements that rely too much on past criminal records would exacerbate existing racial disparities because of the disproportionate effect of drug policies on communities of color. If, as the report puts it, “a goal of legalization is to further some sense of racial equity, then a mechanism to expunge some criminal records might be an appealing option.”²³⁷ This presents a direct connection between the war on drugs and social justice in the implementation of a legalization plan.

Using Tax Revenue to Support Social Justice Goals

The Blue Ribbon Commission’s report also recommends that the tax revenue from legalization be allocated towards goals and priorities identified by the public and policymakers. If the public and policymakers identify social justice as a priority and legalization goal, tax revenue allocations could be structured to reflect that goal. The Blue Ribbon Commission suggests youth protection programs, public health education campaigns, public safety, enforcement, and workforce development as possible tax revenue investment areas. With regard to workforce development, the Commission states that legal employment opportunities would be important for reducing the illicit market in places where individuals have limited educational, employment and economic mobility options. Revenue could be used to develop training programs and employment options for individuals seeking to enter the cannabis industry and/or to support communities with high drug arrest, unemployment and crime rates in a transition to employment in other sectors.²³⁸

Approaches to Social Justice in Legalization

The City of Oakland has recently established equity licensing programs for its medical cannabis industry that prioritize Oakland residents that have been disproportionately affected by the war on drugs.

Oakland – Priority Licensing as a Mechanism for Reducing Barriers to Entry

As part of its preparation for implementation under the Medical Cannabis Regulation and Safety Act (MCRSA), proponents of recently passed ordinances in Oakland, California, are using the licensing process as a mechanism for promoting equity. The ordinances state that cannabis law enforcement policies have had disproportionate effects on communities of color, and that individuals arrested or previously incarcerated for cannabis-related offenses find it difficult to secure employment, financial aid and other benefits. To address these concerns, the ordinances establish the Dispensary Equity Permit Program and the Cultivation, Manufacturing, Distribution, Testing and Transporting Equity Permit Program to “provide equity in ownership in the cannabis industry” in all aspects of the supply chain.²³⁹

At their core, these programs require that that fifty percent of all permits issued be reserved for individuals who meet the following qualifications:

- reside for at least two years prior to the date of application along a set of six Oakland Police beats that, according to the ordinance, have been disproportionately impacted by cannabis enforcement laws OR have, within the last ten years, been incarcerated for a cannabis-related offense arising in Oakland; AND
- maintain not less than 50 percent ownership in the permit application entity.²⁴⁰

The ordinances also state that prior cannabis convictions will not bar one from obtaining a permit in the equity programs.²⁴¹

Oakland Equity Program Concerns

According to media reports, there is a concern that the equity programs’ eligibility requirements are too narrow and would exclude people of color that already have access to the medical cannabis industry but would not meet the ordinance’s qualifications. Since, under the MCRSA regulations, an entity seeking to enter the industry would need a local permit to do so, media also reports that critics of the ordinance are also concerned that the equity programs may stifle genuine efforts to expand the cannabis industry by encouraging individuals who do not meet the criteria to target those who do in order to obtain a license.²⁴²

Media reports that on November 14, 2016, and after deliberation over amendments to the equity permit program, the Oakland City Council voted to direct the City Administrator to revise the laws governing the program. They also requested a comprehensive analysis from Oakland’s Department of Race and Equity before the revised laws come back for a vote in January 2017.²⁴³

Though the equity program focuses exclusively on the medical cannabis industry, the aforementioned considerations and desired outcomes of the programs may be useful to take into account for adult use legalization as well.

The Social Justice Approach under Proposition 64

Proposition 64 includes two main provisions that promote social justice: (1) resentencing and criminal record dismissal options for those convicted of cannabis-related offenses and; (2) a Community Reinvestment Grant program to fund social and economic mobility efforts for communities disproportionately affected by the war on drugs.

Resentencing and Criminal Record Expungement

Proposition 64 includes provisions that promote social justice and racial equity. First, it authorizes courts to resentence individuals convicted of cannabis-related offenses whose sentences would be reduced under the Act and allows for such offenses to be expunged from their criminal records. The Act also removes incarceration as an option for minors who commit cannabis-related offenses – they may only be charged with infractions. To the extent that racial disparities exist among youth and adults that are arrested for cannabis-related offenses and exposed to the secondary effects associated with arrest and conviction, these provisions would address those concerns.

Community Reinvestment Grants

Proposition 64 also establishes a Community Reinvestment Grant with the following objectives:

support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by federal and state drug policies.²⁴⁴

The California Governor's Office of Business and Economic Development, along with the Labor and Workforce Development Agency and Department of Social Services as consultants, would administer the program. In developing the grant program, the Office of Business and Economic Development is also required to solicit input from a variety of experts and stakeholders, including legal service and job placement providers. The program would be funded at \$10 million in fiscal year 2019 and increase by that amount each fiscal year until fiscal year 2023, when the program funding will be \$50 million per year. The funds would be distributed to local health departments and qualified community-based non-profit organizations to achieve program goals.²⁴⁵

In providing opportunities for criminal resentencing and expungement for cannabis-related crimes and using tax revenue from adult use legalization to support social justice goals, Proposition 64 is aligned with the Blue Ribbon Commission's approach.

LAND USE

Adult use legalization in California may result in expansion of the cannabis industry in San Francisco beyond the existing medical cannabis program. According to Proposition 64, the State adult use licensing system would include all levels of the cannabis supply chain, from cultivation to retail sale. To implement such a licensing structure and prepare for possible expansion, the City may choose to develop new zoning controls (which may or may not build upon the existing medical cannabis program) and take into account the effects of location requirements on neighborhood character, access, and well-being. This section therefore provides background on the medical cannabis dispensary zoning process in San Francisco and the relevant Proposition 64 adult use zoning provisions that would impact the City if implemented.

City Planning and Land Use in San Francisco

The General Plan and Planning Code are San Francisco’s governing land use documents. They outline land use goals and divide the City into various Zoning Districts, depending on the types of uses permitted within those Districts.

The San Francisco Planning Commission and Planning Department are the lead implementing entities for land use issues in San Francisco.

San Francisco’s General Plan and Planning Code

In general, land use considerations are those involving how particular types of land are used within a geographic location or locations. These considerations lead to decisions about where hospitals, shops, schools, businesses, parks, and other buildings are located. San Francisco’s General Plan is the City’s long-term land use planning tool created with the goal, among others, of

improvement of the city as a place for commerce and industry by making it more efficient, orderly, and satisfactory for the production, exchange and distribution of goods and services, with adequate space for each type of economic activity and improved facilities for the loading and movement of goods.²⁴⁶

San Francisco’s Planning Code implements the goals outlined in the General Plan and divides the City into various Zoning Districts. The Planning Code defines a “use” as “[t]he purpose for which land or a structure, or both, are designed, constructed, arranged or intended, or for which they are legally occupied or maintained, let or leased.”²⁴⁷ For example, certain areas of the City are zoned for residential use, which would include homes and apartments, while others are zoned for commercial use and include retail and shopping areas, and others for public use, meaning the land is owned by a government agency. Still other Districts allow for a range of different uses and are generally referred to as “mixed use” districts. The Planning Code includes zoning maps illustrating these Districts throughout the City.²⁴⁸

Depending on the Zoning District, uses typically fall into one of three categories: (1) permitted; (2) conditionally permitted, meaning it requires the Planning Commission's granting of a Conditional Use authorization; (3) not permitted. Under the "conditional use" category, property owners must file a conditional use authorization application and a public Planning Commission hearing is held to determine whether the proposed use is "necessary or desirable to the neighborhood, has a potential negative impact on the surrounding neighborhood, and complies with the San Francisco General Plan."²⁴⁹ This hearing may result in certain conditions being applied to the use in question to mitigate any public concerns and ensure compliance with the Planning Code and Planning Department regulations.²⁵⁰

The Planning Code is amended from time to time. Such amendments most typically are initiated by a member of the Board of Supervisors or the Mayor, while others are initiated by the Planning Department. While members of the general public may also apply to amend the Planning Code, such applications are very rare. Regardless of the party initiating amendments, public hearings must be conducted at both the Planning Commission and Board of Supervisors, at which changes to the proposed amendments can be made, before being ultimately considered for adoption by the Board and Mayor.

San Francisco Planning Commission and Planning Department

The Planning Department is the lead agency overseeing the implementation of the Planning Code, meaning it regulates the type and scale of land use activities across the City. To do this, the Department uses various tools to regulate elements such as building height, dwelling unit density, and commercial uses.²⁵¹ The Planning Commission is the Department's governing body, consisting of seven members appointed by the Mayor and President of the Board of Supervisors. The Commission's task is to "advise the Mayor, Board of Supervisors and City departments on San Francisco's long-range goals, policies and programs on a broad array of issues related to land use, transportation, and current planning"²⁵² and to render decisions on a range of development and land use applications.

In achieving its goals, the Planning Department works closely with other City agencies. For example, the Department of Building Inspection is the lead agency overseeing building permits for new construction, demolition, building alterations and renovations, and the Planning Department reviews many such permits to ensure that the building's intended use and physicality complies with land use and building form requirements.²⁵³ The Planning Department also works closely with the San Francisco Department of Public Health in many aspects, including managing the City's medical cannabis program, as outlined below.

Zoning and Cannabis in San Francisco

The current areas of the City in which new medical cannabis dispensaries can open have become known as “Green Zones.” The Planning Code includes three main zoning requirements for dispensaries: they may not be within 1,000 feet of schools or of certain recreation buildings and they must be located within a range of specific Zoning Districts.

Led by the Planning Department and Commission, the zoning process for dispensaries involves a technical assessment of whether a proposed location meets land use requirements under the Planning Code and opportunities for public engagement.

San Francisco’s “Green Zone”

San Francisco’s medical cannabis program has been in existence since 2005, with the enactment of the Medical Cannabis Act. The Act outlines the permitting guidelines for medical cannabis dispensaries (MCDs), which all currently operate as collectives/cooperatives as required by Article 33 of the Public Health Code. In order to legally obtain medical cannabis from such a dispensary, a patient or qualified caregiver must obtain a physician’s recommendation for medical cannabis and join a collective/cooperative. This essentially establishes a closed system of cannabis activity, where a group of qualified patients/caregivers is responsible for all aspects of cannabis cultivation and sale.²⁵⁴

As of September 30, 2016, there were 34 licensed medical cannabis dispensaries in the City/County of San Francisco, which includes 2 delivery-only dispensaries.²⁵⁵ The Department of Public Health is responsible for the medical cannabis dispensary permitting process and overall management of the medical cannabis program. As part of the permitting process, the Planning Department must first determine whether a proposed medical cannabis dispensary meets the zoning requirements for a proposed location, since only certain areas in San Francisco are zoned to allow for a medical cannabis dispensary. These areas have become known as “Green Zones.”

Medical Cannabis Dispensary Requirements under the Planning Code

The San Francisco Planning Code classifies medical cannabis dispensaries as an “Institutional Healthcare Use,” which also includes hospitals and residential care facilities.²⁵⁶ Medical Cannabis Dispensary zoning requirements are noted in Article 2, where the Code establishes the following medical cannabis dispensary location and operating requirements²⁵⁷ (zoning requirements in bold):

1. Medical Cannabis Dispensaries must apply for a permit from the San Francisco Department of Public Health prior to submitting an MCD application to the Planning Department;
2. **Medical Cannabis Dispensaries may not be located less than 1,000 feet from an elementary or secondary school (public or private) or facility that caters to persons under eighteen years of age.**

3. Medical Cannabis Dispensaries that allow smoking on-site must provide adequate ventilation such that doors and/or windows are not left open for such purposes, resulting in odor emission from the premises;
4. Alcohol may not be sold or distributed on the premises for on or off-site consumption;
5. **Medical Cannabis Dispensaries may not be located on the same property as one providing substance abuse services licensed by the State of California or funded by the Department of Public Health;**
6. Each permit issued must include the following language: “Issuance of this permit by the City and County of San Francisco is not intended to and does not authorize the violation of State or Federal law.”

Public Engagement Forms Part of MCD Zoning and Permitting Process

The zoning process for MCDs in San Francisco involves both technical aspects, i.e. the aforementioned location requirements under the Planning Code, and opportunities for public engagement. After accepting a complete MCD application and determining that it meets the minimum zoning requirements, the Planning Department must notify nearby property owners and neighbors of its potential location. This notification usually includes information about the project and copies of the plans. An MCD application to the Planning Department includes an MCD building permit application, which is subject to a thirty day public notice to allow sufficient public review.

After the thirty-day public review period, the Planning Code requires the Planning Commission to hold a public hearing to decide whether to exercise its Discretionary Review (DR) powers over the MCD building permit.²⁵⁸ In general, the Planning Commission has Discretionary Review over all building permit applications. This discretionary authority is implemented by the Planning Department except in cases where the Planning Code (as in the case of MCDs), Commission Policy, Department Staff, or concerned members of the public bring the matter to the Commission at a public hearing in order for it to find “exceptional and extraordinary circumstances associated with the proposed project . . . where no resolution is achieved by neighbors or with the help of [Planning] Department staff or Community Board mediation services.” In such cases, and after deliberation, the Commission will take one of four actions on the project: (1) approve; (2) approve with certain conditions or modifications; (3) disapprove; (4) continue the case to a later date.²⁵⁹

Medical Cannabis Dispensary Program Concerns and Possible Adjustments

In 2014, the San Francisco Planning Department made a series of recommendations for the medical cannabis dispensary program that may be helpful within the adult use context, including suggestions for modifying the Green Zone and addressing neighborhood concerns about cannabis businesses.

In 2014, the Planning Department made medical cannabis program recommendations in response to a request from the San Francisco Board of Supervisors to evaluate the Planning Code's medical cannabis dispensary provisions. In its request, the Board noted that "current laws governing the location of MCDs have led to a concentration of MCDs in a relatively small portion of the City," which may have various effects on San Francisco residents.²⁶⁰

In its response, the Planning Department noted that the location requirements put in place for the medical cannabis program would have an impact on location considerations for adult use cannabis businesses, as well. After consulting with various stakeholders, including City agencies, medical cannabis dispensary owners, advocates and patients, the Planning Department put forth eight recommendations²⁶¹:

1. Maintain the Discretionary Review process and enhance it by adding Planning Commission findings for MCD Discretionary Review applications. These findings would provide the Commission with a standard set of criteria to evaluate each application, e.g. whether the proposed MCD had engaged the community and/or is providing unique services within that community.
2. Expand the Green Zone, and consider three options to do so:
 - a. reducing the 1000-foot school buffer to 600 feet to more evenly distribute MCDs across the City;
 - b. allowing MCDs in more Zoning Districts and;
 - c. permitting the MCD use on the second floor of a building.

The Department estimated that this would expand the Green Zone by five times its current size.

3. Remove the 1000-foot buffer around Recreational Facilities that cater to individuals under the age of 18 because it is difficult to identify which facilities fall into that category. In its place, Discretionary Review findings (*see* Recommendation #1) could also consider whether sensitive uses (e.g. child-friendly facilities) are located near a proposed MCD.
4. In the event that the existing Green Zone is expanded, it would be appropriate to institute a buffer around MCDs on the ground floor in Neighborhood Commercial Districts to prevent overconcentration.

5. Require a pre-application meeting for proposed MCDs to allow for a community engagement process early on in the permitting process. The Planning Department already requires pre-application meetings for other types of projects.
6. To better integrate MCDs into the community and address misconceptions that MCDs are illicit businesses, clarify that MCDs located on the ground floor are subject to the Transparency Requirements in the Planning Code.
7. Add double parking and diversion monitoring policies to the Health Code to address neighborhood concerns about illicit sales and parking violations around MCDs.
8. Provide a dedicated source of information and platform for discussion regarding the MCD process in San Francisco to inform the public and gather feedback about the MCD approval process.

At a public hearing to review the Planning Department's analysis and recommendations, the Planning Commission voted to forward them to the Board for consideration.²⁶² Though the analysis and recommendations focus only on the medical cannabis program, they may also be useful for adult use legalization zoning considerations.

Proposition 64 Zoning Provisions

Proposition 64 gives localities the authority to regulate adult use cannabis businesses through local zoning and land use requirements.

Proposition 64 includes three main zoning provisions: (1) adult use licensees may not be located with 600 feet of schools; (2) advertising signs may not be located with 1,000 feet of schools and; (3) licensing authorities may consider "excessive concentration" in making their licensing determinations.

Proposition 64's local control provision gives local governments the authority to regulate adult use cannabis businesses, including local zoning and land use requirements.²⁶³ Within that context, the ballot initiative contains two main zoning provisions. First, it prohibits cannabis licensees under the Act from locating within 600 feet from a school (kindergarten or grades 1-12), day care center, or youth center that is in existence at the time the license is issued, unless a State licensing authority or locality specifies a different radius.²⁶⁴ This would seem to allow localities to either increase or decrease this radius as they see fit.^{xvi} Second, it prohibits

^{xvi} It is important to note that the Medical Cannabis Regulation and Safety Act (MMRSA) maintains the existing State requirement that medical cannabis cultivation sites and medical cannabis dispensaries be located at least 600 feet from schools. Because Proposition 64 creates an adult use legalization system that will run parallel to that of

advertising or marketing (on a sign) within 1,000 feet of schools, day care centers, schools (kindergarten or grades 1 – 12), playgrounds, or youth centers.²⁶⁵

Finally, Proposition 64 provides policy considerations that State licensing authorities may take into account in granting, denying or renewing a cannabis license, including whether granting a retail, microbusiness or qualified nonprofit license would result in “excessive concentration of licensees in a given city, county, or both.” It defines “excessive concentration” as an area where either of the following conditions exists:

1. The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products;
2. The ratio of retail, microbusiness, or nonprofit licenses to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under the [Proposition 64 local control provision Section 26200].²⁶⁶

These provisions give State licensing authorities and local governments tools to avoid clustering of retail locations in a particular area.

San Francisco Tobacco Density Ordinance

To the extent that adult use cannabis retail locations may also sell tobacco products, they may be impacted by San Francisco’s Tobacco Density Ordinance.

In December 2014, the San Francisco Board of Supervisors amended Article 19H of the San Francisco Health Code to cap the number of tobacco sale permits at forty-five per supervisorial district, and the law was enacted on January 18, 2015 (“Tobacco Density Ordinance”). The legislation was established to curb illegal tobacco and tobacco product sales to minors in San Francisco, noting that “more aggressive policies are needed to keep San Francisco’s youth from gaining access to Tobacco Products.”²⁶⁷

According to the legislation’s accompanying rules and regulations, no new tobacco sales permits will be issued for a location meeting the following requirements:^{xvii}

- in a supervisorial district with forty-five or more establishments holding valid tobacco sales permits;
- within 500 feet of a school;
- within 500 feet of another business with a valid tobacco sales permit;

medical cannabis, State and local medical cannabis dispensary zoning provisions may need to be considered along with any zoning plan for adult use. CAL S. B. 643, Chapter 719 (Cal. Stat. 2015).

^{xvii} See San Francisco Health Code Article 19H.6 for grounds of denial of a permit under the Tobacco Density Ordinance.

- any establishment whose main purpose is offering food, beverage, or alcoholic beverage for sale for consumption on the premises (including restaurants and bars), tobacco shop, or any establishment without an existing tobacco sales permit;
- in a site not previously occupied by a business with a valid tobacco sales permit.²⁶⁸

As of September 30, 2016, the only San Francisco district with tobacco sales permits that fall below the cap is District 7, which has 30 such permits.²⁶⁹

The San Francisco Health Code defines “tobacco product” as

(1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed . . . or ingested by any means . . . ; (2) any device or component, part, or accessory that delivers nicotine alone or combined with other substances to the person using the device. . . .²⁷⁰

Recent developments at the State and federal levels may have an impact on the application of the Tobacco Density Ordinance to cannabis adult use retail sites. California Governor Jerry Brown recently signed tobacco-related legislation into law that aligns with the San Francisco Health Code definition of “tobacco product.”²⁷¹ At the federal level, the Food and Drug Administration (FDA) recently published its final rules expanding the definition of “tobacco products” and broadening FDA’s authority over these products to include their components and parts but not accessories. Previously, the FDA regulated cigarettes, cigarette tobacco, roll-your-own tobacco and smokeless tobacco. Effective August 8, 2016, FDA’s authority includes regulation of electronic nicotine delivery systems (such as e-cigarettes and vape pens), all cigars, hookah (waterpipe) tobacco, pipe tobacco and nicotine gels, among other items.²⁷² Aligning the San Francisco, California, and FDA definitions of tobacco product may mean that, to the extent that adult use cannabis retail businesses in San Francisco would also be selling tobacco products, which now include items such as e-cigarettes, vape pens, and hookah pipes, they may require a tobacco sales permit and be subject to San Francisco’s Tobacco Density Ordinance. The San Francisco Department of Public Health is currently analyzing the applicability of the Tobacco Density Ordinance in these and other cases.

Delivery Services as Emerging Area within Cannabis Industry

Cannabis delivery services may provide an alternative in areas where residents are uncomfortable with traditional retail storefronts in their neighborhoods, but may also present safety concerns in localities where it is permitted.

Traditionally, cannabis sales have taken place in brick-and-mortar, or storefront, locations, where travel to that particular location was necessary. Cannabis delivery services have emerged as an alternative way of providing cannabis to consumers, especially for individuals that may not be physically able to travel to a medical cannabis dispensary. In some places, delivery services can be offered by storefront locations as an additional service, or may function as mobile retail outlets without a storefront presence at all. In Los Angeles, California, media reports that

delivery services increased partly in response to a reduction in the number of storefront medical cannabis dispensaries—owners of closed storefronts turned to mobile delivery services as a way of continuing the business.²⁷³

Media also reports that, according to one drug policy expert, cannabis delivery services could also alleviate the concerns of neighborhood residents that are uncomfortable with a storefront in their vicinity.²⁷⁴ In this way, mobile medical cannabis dispensaries and adult use retailers could be an alternative to storefronts and zoning challenges for storefront locations.

This alternative may need to be balanced against safety concerns associated with cannabis delivery. Media reports that the city of Las Vegas, Nevada, recently allowed one medical cannabis storefront dispensary to begin offering delivery services to residents and noted concerns about product theft.²⁷⁵ In Oceanside, California, media also reports that the City Council voted to allow delivery services from outside the City to medical cannabis patients against the wishes of Mayor Jim Wood, who cited safety concerns as a reason he could not support the measure.²⁷⁶

Other States' Experiences – Delivery Services

As of November 2016, Washington and Alaska do not allow adult use cannabis delivery services.²⁷⁷ In Oregon, the Liquor Commission recently finalized regulations that allow for adult use cannabis delivery services. Deliveries may only be made in response to a “bona fide order” received from an individual 21 years of age or older before a certain time on the request date. A delivery retailer may only carry \$100 worth of cannabis or cannabis products at any one time. The regulations also include delivery operating times and documentation requirements.²⁷⁸

Proposition 64 Delivery Service Provisions

Proposition 64 allows for delivery services from licensed retailers, and localities may not prevent licensees from making deliveries on public roads if acting in compliance with Proposition 64 and local law.

Proposition 64 defines “delivery” as the commercial transfer of cannabis or cannabis products to a customer and the use by a retailer of any technology platform that enables customers to arrange for that commercial transfer.²⁷⁹ Under the Act, only licensed retailers, microbusinesses and nonprofits (licensed under Section 26070.5 of Proposition 64) can make cannabis deliveries, and local jurisdictions may not prevent cannabis delivery on public roads by licensees acting in compliance with Proposition 64 and local law. Delivery customers are required to maintain a physical or electronic copy of the delivery request and make it available to license authorities and law enforcement if requested.²⁸⁰

The Bureau of Marijuana Control, i.e. the State entity responsible for regulating cannabis under Proposition 64, is required to establish additional security and transportation safety requirements, including minimum qualifications for delivery personnel and vehicle type.²⁸¹

5. REGULATION AND CITY AGENCY FRAMEWORK

The information in section 5 addresses the following questions:

1. How could the adult use licensing process provide a framework for regulators to achieve legalization goals?
2. What are the key considerations for agency regulation and oversight of the adult use cannabis industry?
3. How could taxation support adult use legalization policy goals?
4. What data collection tools and processes will be important for monitoring regulatory outcomes?
5. How have other legalization states addressed these issues?
6. How does Proposition 64 address these issues?

ADULT USE LICENSING

Adult Use Licensing Considerations

The licensing process can provide a framework for regulators to effectively monitor the adult use cannabis market and achieve broader legalization goals.

Legalization and Regulatory Goals

The legalization of cannabis for adult use purposes would require a regulatory structure to monitor the process and its effects. According to the 2015 report by the Blue Ribbon Commission on Marijuana Policy, any legalization effort should outline legalization and regulatory goals, suggesting the following:²⁸²

- 1) **Promote the health, safety and well-being of California's youth:** limit youth access, provide prevention, education, and treatment measures, and keep youth out of the criminal justice system.
- 2) **Public Safety:** ensure that our streets, schools, and communities are safe.
- 3) **Equity:** address racial and economic disparities and meet the needs of a diverse population.
- 4) **Public Health:** protect public health, strengthen treatment programs, and educate about public health issues associated with cannabis use.
- 5) **Environment:** protect land, habitats, and watersheds and reduce the environmental harms of production.

- 6) **Medicine:** ensure continued access to cannabis for medical purposes for patients.
- 7) **Consumer protection:** provide protections, such as testing and labeling of cannabis products, to help consumers make informed decisions.
- 8) **Workforce:** provide for legal employment and economic activity, and protect workers.
- 9) **Market Access:** ensure that responsible entities and small- and mid-sized businesses have access to the licensed market.

State and Local Licensing and Fees

The Blue Ribbon Commission recommends that legalization consist of a “coordinated regulatory scheme that is clearly defined, with a unified state system of licensing and oversight, as well as local regulation.”²⁸³ Along these lines, the adult use licensing process can provide a framework for regulators to effectively monitor the cannabis market to achieve the aforementioned and/or other goals. The Commission suggests that business entities participating in any aspect of the cannabis industry be required to hold both state and local operating licenses, similar to other industries. This structure allows the State to set minimum uniform standards, while enabling local governments to adopt measures that are responsive to local needs.²⁸⁴ Requiring businesses to maintain licenses can also be a tool for civil enforcement, allowing local governments to collect fees and taxes and revoke licenses if a business fails to comply with regulations.²⁸⁵

According to the Commission, license fees should be set at reasonable levels that cover administrative and regulatory costs, as high license fees may limit entry for those without the necessary capital and/or encourage actors to remain in the illicit market.²⁸⁶ The licensing framework could also examine whether current actors with a history of responsible behavior should be considered for new licenses.²⁸⁷

Possible Workforce Licensing Requirements

The Commission notes that the cannabis agricultural industry will be different than other agricultural industries in that it “must establish public trust in its operation, handle a high-value crop, and ensure that its harvest is not diverted to the illicit market.”²⁸⁸ The retail cannabis industry will also be unique given the need to educate consumers about the health impacts of cannabis use and the priority of limiting youth cannabis access. Given these characteristics, the Commission suggests that policymakers consider licensing requirements for the cannabis industry’s workforce. This could include a training component, such as an educational or apprenticeship program.²⁸⁹

Other States' Experiences

Colorado and Washington operate dual state-local licensing processes.

In Denver, rapid cannabis industry growth in recent years led the locality to establish caps on the number of licenses available for retailers and cultivators.

In Seattle, an initial cap on retail licenses was later raised to respond to the needs of medical patients as the medical and adult use markets merged into a single regulatory scheme.

Cannabis Licensing in Colorado

Individuals who wish to open a medical or adult use cannabis business in Colorado must first obtain a license from the State's Marijuana Enforcement Division within the Department of Revenue. For adult use cannabis, there are four available license types^{xviii} at the State and local levels: retail store, cultivation facility, infused products manufacturer, and testing facility.²⁹⁰ Colorado also requires employees at licensed cannabis businesses to obtain individual occupational licenses, which include a background check.²⁹¹

Local Licensing in Denver

Upon approval of a license at the State level, license information is then sent to the City of Denver, where the City's Department of Excise and Licenses administers and coordinates the local cannabis licensing process. Denver applicants pay a one-time application fee and an annual licensing fee. Application and license fees differ depending on whether the applicant is applying as a medical cannabis^{xix} or adult use cannabis business. For adult use cannabis businesses, the annual licensing fee is uniform regardless of license type. The initial application fee varies by license type and is also relatively lower for existing medical cannabis businesses adding an adult use license. Final license approval requires authorization by all city agencies involved in regulation, including the Building Inspections and Zoning Divisions within the Community Planning and Development Department, the Environmental Health Department, the Fire Department, and the Department of Excise and Licenses.²⁹²

In April 2016, the Denver City Council passed Bill 16-0291, which caps the total number of medical and adult use cannabis sales and cultivation locations depending on the number of approved and pending license applications, and creates a lottery system for future adult use license opportunities.²⁹³ According to the bill, Denver experienced a rapid expansion in the number of licensed cannabis businesses since 2010 and had "the largest number of licensed marijuana businesses in comparison to any other local jurisdiction in the state." The City Council proposed the cap in response to this rapid growth and in the interest of "public health, safety and the general welfare."²⁹⁴

^{xviii} In Colorado, all adult use licenses are referred to as "retail marijuana" licenses.

^{xix} For more specific information on the medical cannabis licensing process, see Denver's Business Licensing Center – Medical Marijuana at <https://www.denvergov.org/content/denvergov/en/denver-business-licensing-center/marijuana-licenses/medical-marijuana.html>.

Bill 16-0291 also requires applicants for a new or renewal license of any type to complete a community engagement plan and requires that new cultivation locations be 1,000 feet from residential zone districts and schools.^{295,296} According to media reports, the bill will constrain rapid cannabis industry expansion, provide new protections for saturated neighborhoods, and give the City additional time to plan for responsible industry growth.^{297,298}

Cannabis Licensing in Washington

In 2015, Washington State consolidated its medical and adult use regulatory structures via the adoption of Senate Bill 5052.²⁹⁹ In this new regulatory scheme, certain adult use retail locations have an endorsement to serve medical cannabis patients. Individuals who wish to open an adult use cannabis business, with or without a medical endorsement, must first obtain two separate state licenses: a business license and a cannabis license. Washington State's Department of Revenue (DOR) receives both license applications, processing the business license and transferring the cannabis license to the Washington State Liquor and Cannabis Board (WSLCB).³⁰⁰ There are five available license types at the State and local levels: producer (3), processor (1), and retailer (1).³⁰¹

Per Initiative 502 which legalized adult use cannabis in Washington in 2012, the WSLCB established initial county-based cannabis retail license caps, taking into consideration population distribution, security and safety, and adequate access to discourage illicit sales.³⁰² Senate Bill 5052 added the requirement that, in determining the cap, the WSLCB should also consider the number of retail outlets with medical cannabis endorsements that were necessary to meet medical needs of qualified patients and directed the Board to increase them.³⁰³ As a result, in January 2016, the WSLCB raised the retail license cap and prioritized early applicants with an existing legally-compliant medical cannabis license in order to expand the number of medical cannabis-endorsed sites and ensure continued access for medical cannabis patients within the consolidated regulatory structure.³⁰⁴ The WSLCB is not accepting retail license applications at this time, as the expanded license cap has since been met.

Local Licensing in Seattle

As the WSLCB processes the aforementioned state cannabis license, it gives localities, including Seattle, 20 days to respond to each application with a recommendation to approve or object.³⁰⁵ Upon approval by the State, the license information is sent to the City of Seattle where the Department of Finance and Administrative Services (FAS) oversees cannabis licensing. Any cannabis business located or doing business in Seattle must obtain a local Marijuana Business License and a Business License Tax Certificate.³⁰⁶ Businesses must pay a license fee, which is higher for businesses physically located in Seattle than those not located in the City.³⁰⁷

Seattle's license application review process requires City agency coordination through FAS, with the City Attorney and Police Departments reviewing each application.³⁰⁸ There are building and zoning requirements for cannabis businesses physically located within city limits, and the Department of Construction and Inspections monitors these requirements.³⁰⁹ Producers and processors must also have an air quality permit managed by the Puget Sound Clean Air Agency and may need a permit from the Fire Department if performing hazardous extraction processes.³¹⁰

The Adult Use Licensing under Proposition 64

Proposition 64 provides a framework for state-level adult use licensing across the industry spectrum, from cultivation to sale.

Proposition 64 does not require a local permit to operate a cannabis business, but allows localities to develop business license and permitting requirements.

Proposition 64 provides the framework for state-level licensing and provides additional guidance that could inform local practice. Proposition 64 outlines the following 19 license types based on business activity and size:³¹¹

- Type I = Cultivation; Specialty outdoor; Small.
- Type IA = Cultivation; Specialty indoor; Small.
- Type IB = Cultivation; Specialty mixed-light; Small.
- Type 2 = Cultivation; Outdoor; Small.
- Type 2A = Cultivation; Indoor; Small.
- Type 2B = Cultivation; Mixed-light; Small.
- Type 3 = Cultivation; Outdoor; Medium.
- Type 3A = Cultivation; Indoor; Medium.
- Type 4 = Cultivation; Nursery.
- Type 3B = Cultivation; Mixed-light; Medium.
- Type 5 = Cultivation; Outdoor; Large.
- Type 5A = Cultivation; Indoor; Large.
- Type 5B = Cultivation; Mixed-light; Large.
- Type 6 = Manufacturer 1.
- Type 7 = Manufacturer 2.
- Type 8 = Testing.
- Type 10 = Retailer.
- Type 11 = Distributor.
- Type 12 = Microbusiness [i.e. licensed to cultivate in area <10,000sqft and act as distributor, manufacturer and retailer]

General Licensing Provisions

Licenses in the aforementioned categories would be valid for one year. Proposition 64 generally allows licensees to hold multiple licenses across the various licensing categories, with two exceptions. First, entities holding testing licenses may not hold any other license.³¹² Second, large cultivation licenses (Types 5, 5A, and 5B) are delayed for the first five years that Proposition 64 is in effect. After such time, state regulators may issue those licenses, but only in accordance with a vertical integration prohibition under which the large cultivator–distributor license combination is prohibited.³¹³ Adult use licensees may not hold tobacco or alcohol retail licenses.³¹⁴

Proposition 64 also requires all license applicants to establish continuous California residency from or before January 1, 2015.^{xx} It gives licensing priority to medical cannabis actors who are in compliance with the Compassionate Use Act prior to September 1, 2016, or currently operate per the Medical Cannabis Regulation and Safety Act (MCRSA).³¹⁵

Nonprofit Licenses

Proposition 64 directs the Bureau of Marijuana Control (BMC), i.e. the State entity responsible for regulating cannabis in California under Proposition 64, to investigate the feasibility of creating one or more license types for nonprofits. The BMC may consider whether such nonprofit licenses should be exempt from certain taxes, fees, and regulations, and how these businesses would interact with other licensees. Until the BMC makes a determination, local jurisdictions may issue temporary local licenses to nonprofit entities that are providing whole-plant cannabis and cannabis products to low income persons, so long as they do not generate annual gross revenues in excess of two million dollars. Participating nonprofits must be registered with the CA Attorney General's Registry of Charitable Trusts and be in good standing. Local jurisdictions that issue such temporary licenses must license and regulate nonprofit businesses to protect public health and safety and notify the Bureau with details about local nonprofit licenses issued.³¹⁶

Cannabis Delivery Services

Proposition 64 defines “delivery” as the commercial transfer of cannabis or cannabis products to a customer and the use by a retailer of any technology platform that enables customers to arrange for that commercial transfer.³¹⁷ Under the Proposition, only licensed retailers, microbusinesses and nonprofits can make cannabis deliveries, and local jurisdictions may not prevent cannabis delivery on public roads by licensees acting in compliance with Proposition 64 and local law. Delivery customers are required to maintain a physical or electronic copy of the delivery request and make it available to license authorities and law enforcement if requested.³¹⁸ The Bureau of Marijuana Control is required to establish additional security and transportation safety requirements, including minimum qualifications for delivery personnel and vehicle type.³¹⁹

State Licensing Agencies and Licensing Policy Considerations

Three regulatory agencies would each administer certain types of licenses under Proposition 64:

- Department of Consumer Affairs – retailers, distributors, and microbusiness licenses
- Department of Public Health – manufacturing and testing facility licenses
- Department of Food and Agriculture – cultivation licenses

Proposition 64 asserts that each regulatory authority would establish its own procedures for issuing the licenses under its purview. It further requires that license fees be scaled according to business size and that all application, licensing, and renewal fees not exceed reasonable regulatory costs.³²⁰

In determining whether to grant, deny, or renew a State license, Proposition 64 provides policy guidance for licensing authorities, suggesting consideration of the following factors:³²¹

^{xx} This provision expires on 12/31/2019 unless reenacted by the State Legislature.

- Restraints on competition or creation of unlawful monopoly powers
- Underage access and use
- Perpetuation of the illicit market
- Violation of environmental laws
- Excessive concentration of licenses in a given locality

Local Licensing Authority

Proposition 64 does not establish a dual state-local licensing system. It does allow local jurisdictions to develop local business license and permitting requirements in addition to the required State license.^{322, xxi}

AGENCY REGULATION AND OVERSIGHT

Regulatory Framework Considerations for Adult Use Legalization

The Blue Ribbon Commission recommends that a cannabis regulatory scheme be organized, consistent, and flexible, with input from a variety of stakeholders, including law enforcement, youth, parents, researchers and the public.

The Commission also suggests that the regulatory scheme also consider the relationship between the medical and adult use markets and the need to track products from cultivation to sale to ensure regulatory compliance.

At the State level, the Blue Ribbon Commission highlights that an organized, consistent, and flexible regulatory structure can promote public health and safety by providing for successful and realistic implementation and compliance. To achieve this, the Commission provides some suggestions. First, that there be one central coordinating entity overseeing the activities of various agency partners in the regulatory process. This structure would ensure adequate oversight, harmonization, and accountability, while also leveraging the expertise of multiple contributing agencies. The regulatory scheme should also provide for ongoing flexibility and input from a variety of stakeholders, including law enforcement, youth, parents, researchers and the public. Additionally, the Commission notes that it will be important to consider the interaction of the medical and adult use industries and develop policy goals regarding their simultaneous regulation to achieve desired outcomes.³²³

The Commission also recommends a track and trace program to monitor cannabis as it travels through the supply chain, from cultivation to sale. Such a program would be an important tool to help minimize diversion to the illicit market, allow the testing of products for consumer safety purposes, and enable regulators to measure product amount, type, and potency.³²⁴

^{xxi} Note that, in contrast, the Medical Cannabis Regulation and Safety Act (MCRSA) does establish a dual State and local cannabis licensing system, requiring that licenses obtain approval to operate at both the State and local levels.

Other States' Experiences

Colorado and Washington have similar structures that feature a primary regulatory oversight entity and multiple contributing agencies, as well as track and trace systems.

Cannabis Agency Oversight in Colorado

Colorado's Marijuana Enforcement Division (MED) within the Department of Revenue oversees cannabis regulation. Multiple agencies are collaboratively involved in the regulatory process, including the Governor's Office of Marijuana Coordination, and the Departments of Public Health and Environment, Transportation, Education, Human Services, and Agriculture.³²⁵ The MED oversees both the medical and adult use regulatory systems, and the regulations, licensing procedures, fees, and tax rates vary between systems. Localities may choose whether to allow medical and/or adult use cannabis facilities within their jurisdictions.³²⁶

Colorado operates the Marijuana Inventory Tracking System, which is used by both state regulators and individual business participants for cannabis tracking purposes. Under this tracking system, each cannabis plant and/or product has an identification tag, allowing regulators to monitor it as it moves through the supply chain.^{327,xxii}

Local Agency Structure in Denver

In Denver, the overarching cannabis regulatory framework is similar to the State system. Denver's Office of Marijuana Policy (OMP) is responsible for administering and implementing policies, overseeing and coordinating multiple agencies' regulatory and enforcement efforts, and serving as the liaison between the City and other stakeholders. OMP oversees both medical and adult use cannabis, with different licensing procedures, fees, and taxes for the medical cannabis sector.³²⁸ As referenced in the previous section, the agencies involved in the local licensing and regulatory process are the Building Inspections and Zoning Divisions within the Community Planning and Development Department, the Environmental Health Department, the Fire Department, and the Department of Excise and Licenses.³²⁹

Cannabis Agency Oversight in Washington

The Liquor and Cannabis Board (WSLCB) is the primary regulatory authority for adult use and medical cannabis in Washington State. Other agencies closely involved in different aspects of the regulatory process include the Departments of Revenue, Public Health, Agriculture, Ecology, and regional clean air agencies.³³⁰ As referenced earlier, the State merged the medical and adult use cannabis regulatory systems as of July 1, 2016 via the passage of Senate Bill 5052. According to the Bill, significantly higher regulatory safety standards for the adult use market as compared to that of medical put medical cannabis patients at risk of consuming products that could endanger their health, thereby necessitating regulatory standardization between the two markets.³³¹ According to media reports, the new framework may reduce medical cannabis access and result in increased taxes for medical patients.^{332,333}

^{xxii} Alaska and Oregon have a similar tracking system.

Washington monitors cannabis throughout the supply chain using a track and trace system. Licensees must submit specific information to the WSLCB through this system, which ensures compliance with state regulations and assists with data analysis, auditing operations, and enforcement efforts.³³⁴

Local Agency Structure in Seattle

In Seattle, the Department of Finance and Administrative Services' (FAS) Regulatory Compliance & Consumer Protection Division oversees cannabis regulation. FAS provides general cannabis information to the public and also administers local licenses, which, as noted previously, requires additional review from the City Attorney and the Seattle Police Department.³³⁵ The Department of Construction and Inspections regulates permitting and zoning for physical locations, the Fire Department regulates hazardous extraction processes, and the Puget Sound Clean Air Agency regulates air quality for producers and processors.^{336,337} The Seattle-King County Department of Public Health provides cannabis health education and tracks cannabis usage data.³³⁸

The Approach to Agency Oversight under Proposition 64

Proposition 64 provides a framework for State-level regulation that creates a primary regulatory agency, involves multiple other contributing agencies, and establishes a track and trace system.

Under Proposition 64, the State establishes minimum regulatory standards in certain areas, and allows local jurisdictions to develop and enforce additional regulations and standards.

Proposition 64 notes that one of its purposes is to “strictly control [the cannabis industry supply chain] through a system of state licensing, regulation, and enforcement.”³³⁹ A newly formed Bureau of Marijuana Control (BMC), housed within the Department of Consumer Affairs (DCA), will oversee and coordinate medical and adult use cannabis regulation at the State level.³⁴⁰ In addition to general administration, the Bureau will establish security and transportation safety requirements for cannabis distribution and delivery.³⁴¹ The Bureau will also work in conjunction with other agencies to develop various guidelines and standards, such as protocols to ensure compliance with state environmental laws, a process for certified organic designations, and appellation of origin standards.³⁴²

Adult use legalization implementation will involve multiple departments. For example, each State licensing authority will create, regulate, and enforce licensing provisions as necessary and described previously.³⁴³ This State regulatory structure goes beyond licensing, with the Department of Food and Agriculture also overseeing cannabis cultivation processes in collaboration with other agencies such as the Departments of Pesticide Regulation, Fish and Wildlife and the State Water Resources Control Board to monitor pesticide and water use as well as environmental impacts.³⁴⁴ The Department of Public Health, along with its manufacturing and testing licensing responsibilities, may also regulate cannabis and cannabis product warning labels.³⁴⁵ Proposition 64 establishes a Marijuana Control Appeals Panel to manage licensing

decision appeal requests.³⁴⁶ The adult use regulatory structure also includes the State Board of Equalization to collect taxes and the Controller to manage revenue allocation processes.³⁴⁷

Local Regulation under Proposition 64

Under Proposition 64, local jurisdictions may adopt and enforce local cannabis-related ordinances, including business license requirements, as well as requirements that would reduce secondhand smoke exposure or prohibit the operation of a type of cannabis business within that locality.³⁴⁸ The State would establish minimum standards with respect to health and safety, environmental protection, testing, security, food safety, and worker protections, and allows local jurisdictions to establish additional standards and requirements in these areas.³⁴⁹

Track and Trace System

Proposition 64 also requires a “seed to sale” track and trace system to monitor cannabis and cannabis products at every step in the cannabis supply chain. The Medical Cannabis Regulation and Safety Act of 2015 (MCRSA) created this track and trace system for medical cannabis, and Proposition 64 would authorize the Department of Food and Agriculture, the Bureau of Marijuana Control and the Board of Equalization to expand the program to include adult use cannabis. Under the track and trace system, each cannabis plant would possess a unique identifier to enable regulatory agencies to monitor its movement within the supply chain.³⁵⁰

TAXATION AND REVENUE

Cannabis Taxation and Adult Use Legalization Policy Goals

Cannabis taxation will have an effect on the overarching policy and regulatory goals of adult use legalization and an effective taxation structure will reflect these goals in its design.

Taxation is a tool that can be used to generate revenue for a particular purpose and encourage broader policy goals.³⁵¹ With respect to cannabis, there are taxation considerations that would have an impact on the policy goals of legalization. For example, over-taxation of the cannabis industry could discourage legal compliance and may maintain or bolster the illicit market.³⁵² According to California's Blue Ribbon Commission on Marijuana Policy, revenue should not be the main goal of cannabis legalization. Rather, the Commission advises the protection of youth and the promotion of public safety and health goals as guiding principles. It further states that an effective taxation scheme should be one that can be both enforced and administered by the appropriate parties. The Commission suggests an approach that continuously monitors the effects of taxation and allows for the flexibility to make adjustments that can adequately respond to the evolving legalization environment.³⁵³

With these guiding principles in mind, the main cannabis taxation questions are when, how, and how much to tax cannabis. Consideration should be given to how state and local taxation structures and revenue streams may overlap or complement one another. Taxation methods have different advantages and disadvantages,^{xxiii} and identifying the purpose or goals of taxation will allow local policymakers to make decisions about the appropriate method and level of taxation for cannabis.

Cannabis Taxation Revenue

Cannabis taxes and fees at the state and local levels will generate streams of revenue that can be used to cover administrative and regulatory costs and also support targeted policies and programs. The Commission suggests that the use of revenue should be aligned with the priorities of voters and policymakers. Policymakers should consider whether these funds would be earmarked for a specific purpose or support the general fund and flow towards evolving priorities such as youth education, prevention, and treatment, public health campaigns and programs, public safety, regulatory enforcement, workforce and entrepreneur training and development, environmental protection and restoration, and/or research and data collection.³⁵⁴

^{xxiii} Documents from Blue Ribbon Commission on Marijuana Policy, the Institute on Taxation and Economic Policy and other sources have in-depth information on the advantages and disadvantages of various taxation structures.

Other States' Experiences

Colorado and Washington have used a combination of cannabis sales, excise, and gross receipts taxes at the state and local levels.

In both Denver and Seattle, cannabis tax revenues support the general fund and can be used to support evolving cannabis policy priority areas.

Although taxation structures vary by state and locality, experiences from states that have legalized cannabis for adult use may provide information for consideration. Colorado, Washington, and Oregon have reduced initial cannabis taxation rates for the adult use market as a way of competing with the illicit market more effectively. These three states also tax medical cannabis at lower rates than adult use cannabis.³⁵⁵

Colorado's Cannabis Taxation Scheme

In addition to the standard 2.9 percent sales tax, Colorado established a 10 percent sales tax on retail sales of cannabis for adult use. There is a 15 percent state excise tax on adult use cannabis cultivation, depending on the average market rate of wholesale cannabis.³⁵⁶ Effective July 2017 and via Colorado General Assembly House Bill 15-1367, the 10 percent sales tax rate will be reduced to 8 percent amidst stakeholder concerns that the tax rate was too high to effectively compete with the illicit market.^{357,358}

In Denver, there is a special sales tax of 3.5 percent for all retail cannabis and cannabis products, in addition to the standard sales tax and special district taxes.³⁵⁹ Denver's cannabis-related tax revenue flows to the city's general fund, and the city then allocates these funds across the 13 city departments and agencies collaborating on cannabis issues in the priority areas of regulation, enforcement, education, and public health.^{360,xxiv}

Washington's Cannabis Taxation Scheme

In addition to the business and occupation tax on gross receipts applied to all businesses and a retail sales tax of 6.5 percent, Washington established a 37 percent excise tax on cannabis at the retail level, altering the previous structure that taxed cannabis at various levels.³⁶¹ As of July 1, 2016, and via House Bill 2136, medical cannabis is exempt from the sales tax. A proposed 2016 bill that would have reduced the excise tax to 25 percent did not move through the legislative process successfully.³⁶² Media reports that, according to the bill's proponents, the bill would have lowered the retail price of cannabis, reduced the appeal of cheaper illicit market cannabis products, and made Washington more competitive with Oregon's cannabis markets, where taxes are lower.³⁶³

In Seattle, a local business and occupation tax on gross receipts is applied to all businesses, including cannabis businesses. This tax rate varies by business type and does not apply to businesses with under \$100,000 in annual taxable gross revenue.³⁶⁴ Seattle also has a 3.1 percent

^{xxiv} See the Denver 2016 Annual Report for details on revenue allocation, specific programs, and metrics. Available at https://www.denvergov.org/content/dam/denvergov/Portals/782/documents/Annual%20Report_Reader.pdf.

sales tax in addition to the State sales tax.^{xxv,365} In Seattle, revenue generated from business and occupation and sales taxes (including those applied to cannabis businesses) flows to the general fund and the city can allocate these funds to priority areas as needed.³⁶⁶

Proposition 64 Taxation Approach

Proposition 64 institutes State cannabis taxes at the cultivation and retail levels, while also allowing for local taxation schemes.

Among other purposes noted within Proposition 64, the initiative seeks to “tax the growth and sale of marijuana in a way that drives out the illicit market for marijuana and discourages use by minors, and abuse by adults.”³⁶⁷ To achieve these goals, Proposition 64 requires the Bureau of Marijuana Control, i.e. the agency with primary responsibility for regulating the adult use system at the State level, to establish an advisory group that ensures that the regulatory environment does not lead to an enhanced illicit market.³⁶⁸ It also requires the California Legislative Analyst’s Office to submit a report to the Legislature with recommendations for cannabis tax rate adjustments that undermine the illicit market.³⁶⁹

At the State level, Proposition 64 institutes a weight-based cultivation tax—\$9.25 per dry weight ounce of flower and \$2.75 per dry weight ounce of leaves. Cultivators would pay this tax based on the amount harvested. Proposition 64 also establishes a 15 percent retail excise tax, which would apply to both medical and adult use cannabis.³⁷⁰ The California Legislature may adjust these taxation rates by a two-thirds majority vote, and any such adjustments must align with the Initiative’s original intent.³⁷¹

Local Taxation and Revenue Allocation Authority under Proposition 64

The Initiative allows localities to establish their own taxation and fee structures,³⁷² and local jurisdictions would have control over the use of revenue generated from these sources. In considering possible local taxation schemes for San Francisco, the impacts of adult use and medical cannabis taxation options on the overarching policy goals of legalization will be important to consider. For example, an adult use taxation structure that is perceived to make cannabis too expensive may push some to the medical cannabis market inappropriately, and it would be essential to monitor such effects.

Proposition 64 Tax Revenue Allocations

Proposition 64 also directs the distribution of State tax revenue. It establishes the California Marijuana Tax Fund in the State Treasury where State revenues will be deposited. Funds will be allocated for:³⁷³

- Proposition 64 administration and implementation
- Developing and implementing public health and safety measures
- Research and evaluation

^{xxv} The 3.1 percent sales tax includes a 2.7 percent tax which goes to the City of Seattle and 0.4 percent tax which goes to the Regional Transit Authority.

- Community Reinvestment Grants
- Youth drug prevention, education, and treatment
- Environmental restoration and protection
- State and local law enforcement

Recent Developments

Two 2016 state bills, SB 987 and AB 2243, which would have applied a sales and excise tax, respectively, to medical cannabis did not move through the legislative process successfully.^{374,375} Media reports suggested that the medical cannabis tax discussion may have been premature, given that Proposition 64's taxation structure also applies to medical cannabis and the initiative had not passed at the time that the bills were introduced.³⁷⁶

Taxation Process in San Francisco

Existing local gross receipts and sales taxes would apply to adult use cannabis.

In considering local taxation options for cannabis, local governments may not establish, extend, or increase any general tax unless approved by majority ballot initiative vote, and earmarked taxes require two-thirds majority vote.

As a result of a 2012 ballot initiative, San Francisco is currently transitioning from a payroll expense tax to a gross receipts tax on business activities conducted in San Francisco. Under the new structure, tax rates vary depending on the type of business activity (retail, manufacturing, etc.) and rates increase as gross receipts increase. Businesses with annual gross receipts of \$1,000,000 or less are exempt from the gross receipts tax. All businesses, regardless of size, pay an annual business registration fee.³⁷⁷ This tax structure already applies to medical cannabis businesses, and would apply to adult use cannabis businesses.

San Francisco has an 8.75 percent retail sales tax, which includes the statewide retail sales tax of 7.5 percent and a local sales tax of 1.25 percent.³⁷⁸ According to State law, local sales taxes may not generally exceed 2 percent.³⁷⁹ Sales tax is collected by the State Board of Equalization and managed locally by the San Francisco Controller's Office. Sales tax revenue is divided between the general fund and earmarked funds for specific programs.³⁸⁰ Sales taxes do currently apply to medical cannabis businesses, and would apply to adult use cannabis businesses. Under Proposition 64, medical cannabis would be exempt from State sales tax.³⁸¹

State Law Taxation Rules for Localities

Per State law, local governments may not establish, extend, or increase any tax for general governmental purposes unless approved by majority vote via ballot initiative, and earmarked tax approval requires a two-thirds majority vote.³⁸² A ballot initiative can be put forth by a member of the public obtaining the necessary number of signatures, or by receiving support from four Members of the Board of Supervisors.³⁸³ Any local cannabis taxation scheme for San Francisco would need to follow this process.

DATA COLLECTION AND MONITORING

Data Monitoring for Regulatory Success

Collecting data on different aspects of the cannabis industry and legalization outcomes will be necessary to evaluate the impact of cannabis policies and regulations. A variety of research tools could be used to collect the necessary information, and funding could be set aside specifically for this purpose.

As the Blue Ribbon Commission highlights, collecting data on different aspects of the cannabis industry and the outcomes of legalization will be necessary to evaluate the impact of policies and regulations. This information can be used to guide both state and local policymakers as they adjust and amend future regulations to ensure that policy goals are achieved. The Commission suggests that a variety of research tools be used to collect data, and that funding be set aside specifically for this purpose.³⁸⁴

The Commission recommends collecting data on variety of topics including: demographic characteristics, cannabis usage, amount and types of products produced, workforce characteristics, licensing, health and safety outcomes, enforcement, legalization's impact on the illicit market, and fiscal outcomes.³⁸⁵ The Commission also calls specifically for data collection on types of criminal justice sanctions used and the racial disparity in those sanctions.³⁸⁶

Other States' Experiences

Though state and local data collection processes differ, common data indicators include number, types, and locations of licensees, crime statistics, usage rates, especially among youth, sales information, and tax revenue.

Data Collection in Denver

The Denver Marijuana Information Center, operated by the Office of Marijuana Policy, is a resource for cannabis-related data and statistics.³⁸⁷ The Information Center issues an annual report and publishes data in the areas of revenue and sales, crime, licensing and locations, and public health. Some statistics compare adult use cannabis to medical cannabis and other drugs and alcohol. The State of Colorado collects similar data, and, according to a 2016 Colorado Department of Public Safety Report, data challenges include: limited or no data on some topics, limited or short-term trend data, lack of a central data repository, and for some topics, inability to separate cannabis data from data on other drugs.³⁸⁸

Data Collection in Seattle

Seattle does not appear to have a centralized resource for cannabis-related data reporting. For example, the Police Department monitors fines for smoking in public, specifically to ensure equitable enforcement, and in the past has tracked cannabis-related crime incidents.³⁸⁹ The Public Health Department of Seattle/King County reports cannabis usage rates and Seattle Public

Schools monitors student cannabis violations and disciplinary actions.³⁹⁰ At the State level, the Washington State Liquor and Cannabis Board tracks number and location of licensees, production levels, sales, tax revenue, and license violations, which it shares weekly via an online report.³⁹¹

Proposition 64 Approach to Data Collection

Proposition 64 allocates revenue for research and evaluation on the impacts of adult use legalization, including data collection in the areas suggested by the Blue Ribbon Commission.

Proposition 64, in its revenue allocation provision, provides funding to public universities to research, evaluate and publish reports on the Initiative's impact. Data will be collected on a variety of topics, such as: impacts on public health and health care costs, drug usage and treatment, effectiveness of public safety measures, and revenues/costs.³⁹² Proposition 64 also requires the State Legislative Analyst's Office to specifically monitor and provide recommendations on future tax rate adjustments.³⁹³

Recommendations

As discussed in the Project Design section of this report, San Francisco's State Cannabis Legalization Task Force developed the following Year I recommendations in three categories: (1) Public Safety and Social Environment (PSSE); (2) Land Use and Social Justice (LUSJ); (3) Regulatory and City Agency Framework (RCAF). Each main category consists of several sub-categories, and the recommendations, presented below in table form, are organized as such. In some areas, the discussion topics and recommendations across the three main categories reflect a similar theme or position, and where there is such alignment, that is also noted as part of the recommendation tables.

The recommendations were developed utilizing information from a variety of sources, including but not limited to, issue briefs, spotlight panel presentations from Task Force Members, and small and large group Task Force discussions. In addition, Task Force Coordinators provided recommendation drafting tools to guide Task Force members in crafting recommendations. Two of these tools are included in the report. First, the Recommendation Framework Documents (Appendix F) were meant to organize discussion within each recommendation category and included brainstorming questions to aid Task Force Members in developing recommendations in key areas. Second, the Proposition 64 Provision Tables outlined the main provisions within the ballot initiative that corresponded to each recommendation category (Appendix E).

Over the course of Year I, Task Force Members developed 84 recommendations of one or more types which are outlined as follows and noted in the tables:

- **Local Policy and Legal**—new law or changes to existing laws policies, protocols, guidelines, etc.
- **Programmatic**—new or changes to existing programs, programmatic structures, funding streams and/or levels
- **Future Research Needed**—research needed to develop effective cannabis policies, guidelines or protocols
- **Future Collaborations**—identifies agencies, groups and/ stakeholders in San Francisco or elsewhere that would be helpful to policymakers in further developing this issue
- **Future Considerations**—possible areas of realignment needed within Proposition 64 to tailor law to San Francisco culture, climate and current practice

Recommendation Category 1: Public Safety and Social Environment (PSSE)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Recommendation Sub-Category: Public Safety								
Driving Under the Influence (DUI)	1	Local policy guidelines for driving under the influence should be developed that are based on behavior testing until science-based testing exists.		x		x		x
	2	San Francisco should provide technical assistance to California Highway Patrol (CHP) as they develop DUI protocols and standards. As part of this technical assistance, San Francisco should explore the use of cannabidiol (CBD) as an antidote to manage overconsumption, with the current naloxone program as a potential model.					x	x
	3	San Francisco should develop and implement a city-wide DUI public awareness campaign.	PSSE 12		x			
Neighborhood Safety	4	San Francisco should develop cannabis business operating standards to form part of the business permitting process. These standards would ensure that cannabis businesses are “good neighbors” to the communities in which they are located.	LUSJ 12	x				
	5	Cannabis businesses should be like any other business in San Francisco in appearance and manner: well-lit, clean, appropriate hours of operation, guidelines for security, etc.	LUSJ 12	x				

Recommendation Category 1: Public Safety and Social Environment (PSSE)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
San Francisco Police Department (SFPD) Enforcement and Training Priorities	6	<p>Three top considerations for the San Francisco Police Department (SFPD) when it is developing its criminal enforcement and training strategies are:</p> <ul style="list-style-type: none"> a) Strategies must represent community sensitivities and be developed together with parents or an agent of family representation; b) Strategies should be informed by subject matter experts in all areas of the cannabis industry, and not simply police officers training and/or educating other police officers; c) The SFPD should collaborate with Child Protective Services to establish guidelines for determining the safety of a juvenile in the custody of an impaired adult. 		x			x	
Recommendation Sub Category: Public Consumption								
Meaning of the Word “public”	7	San Francisco should allow and create policy pathways for smoking cannabis in public places that become privatized. These pathways should follow rules set by the San Francisco Department of Public Health for tobacco use.	RCAF 2, 4	x				
	8	The smoking of cannabis should be allowed anywhere that tobacco smoking is allowed. Indoor venues must provide proper ventilation that addresses odor and smoke if smoking is allowed indoors.	RCAF 2, 4	x				
	9	The San Francisco City Attorney should provide further legal guidance regarding consumption in public-private spaces, i.e. where, when and how it could be done in the City.	RCAF 2, 4				x	

Recommendation Category 1: Public Safety and Social Environment (PSSE)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
On-site Consumption per Proposition 64	10	San Francisco should allow on-site consumption at cannabis retail locations.	PSSE 28	x				
	11	San Francisco’s on-site consumption requirements should not be stricter than those outlined in Proposition 64.	PSSE 28; RCAF 1	x				
Overconsumption and Encouraging Safe and Responsible use Across the City	12	San Francisco and the Department of Public Health should collaborate with the cannabis industry and the community to develop a health promotion strategy for preventing overconsumption and youth access.	PSSE 3, 13, 14, 26, 29, 30	x			x	
Recommendation Sub-Category: Youth Access and Exposure								
Education	13	The San Francisco Unified School District (SFUSD) should be involved in developing age-appropriate cannabis education for San Francisco schools’ health education program.	PSSE 12		x		x	
	14	The SFUSD has an existing educational model focusing on wellness centers and health-based classroom education that should be used as the foundational framework for age-appropriate cannabis education. This framework should be analyzed (via data review) to identify gaps and revitalize the curriculum to effectively educate schoolchildren about cannabis use.	PSSE 12		x		x	

Recommendation Category 1: Public Safety and Social Environment (PSSE)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Education (cont.)	15	Proposition 64 funding for student-focused cannabis education programs should also capture children outside of the SFUSD system.			X		X	
	16	Proposition 64 funding for student-focused cannabis education programs should be distributed in a collaborative way across a variety of organizations, especially those that are already engaged in these issues. To ensure this, San Francisco should develop funding criteria for making grants.			X		X	
	17	The State should vest decisions regarding student education implementation and funding criteria solely in the counties.			X			
Preventing Sales to Minors	18	San Francisco should conduct research regarding access for minors in the illicit market after the passage of Proposition 215 and in other states that have legalized cannabis for adult use in order to better understand how minors may access cannabis after adult use is legalized in California.				X		
Advertising	19	The regulation of other industries, such as alcohol and tobacco industries, should serve as a model for monitoring the effect of advertising on minors.						X
	20	The San Francisco City Attorney should conduct research regarding the free speech limits to regulating cannabis advertising at the local level.		X		X		

Recommendation Category 1: Public Safety and Social Environment (PSSE)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Advertising (cont.)	21	San Francisco should conduct research to learn more about the strategies other adult use legalization states have used to regulate advertising to protect youth.				X		
	22	San Francisco’s advertising regulating bodies must do continuous forecasting to appropriately guard against “too much cannabis advertising” and be agile in adapting to rapidly emerging social trends that could increase exposure to youth.						X
Criminal Diversion and Decriminalization Options for Youth	23	It is unlikely that, even with the most robust cannabis education programs for youth, there will be a zero percent usage rate among minors in San Francisco - they may continue to consume and/or sell in schools and other places. In light of that, San Francisco schools should take a reality and science-based disciplinary approach and rely on harm reduction principles to manage such situations. For example, for minors who commit cannabis-related offenses while at school, suspension and expulsion should not be the default tools used by schools to discipline students.		X				
Youth Protection	24	San Francisco Unified School District should identify and collaborate with key stakeholders to explore alternatives to expulsion for youth facing disciplinary action for cannabis.		X	X		X	
	25	San Francisco should develop policies to protect youth, e.g. develop clearly labeled packaging requirements to prevent accidental cannabis consumption by youth.		X	X		X	

Recommendation Category 1: Public Safety and Social Environment (PSSE)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Recommendation Sub-Category: Tourism/Hospitality								
San Francisco Cannabis Culture	26	<p>San Francisco should collaborate with stakeholders to develop policies that achieve an appropriate balance between discretion and visibility of adult use cannabis culture. Along these lines, the City should create pathways that allow tourists to access adult use cannabis products and legal consumption spaces while preventing undesired exposure for those who prefer limited interaction with the cannabis industry. Strategies could include the following:</p> <ul style="list-style-type: none"> a) Allow cannabis consumption indoors to prevent unintended exposure b) Limit visibility of consumption in adult use retail storefront locations to prevent exposure from the street c) Collaborate with tourism/hospitality stakeholders to provide tourists with educational materials and information about safe access and consumption of adult use cannabis. 	PSSE 12	x	x		x	
	27	<p>San Francisco should collaborate with key stakeholders within the hospitality and tourism industry to develop pathways for lodging establishments to become “cannabis-friendly,” thereby providing a legal consumption space for tourists without access to a private residence.</p>	RCAF 2	x	x		x	

Recommendation Category 1: Public Safety and Social Environment (PSSE)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
San Francisco Cannabis Culture (cont.)	28	<p>There is a notable desire within the culinary community to incorporate adult use cannabis in dining options/opportunities, including the use of cannabis as a meal ingredient and the establishment of food/cannabis pairing options. San Francisco should collaborate with key stakeholders, such as culinary and hospitality organizations, to develop strategies for increasing these opportunities for restaurants and other food establishments. Strategies could include:</p> <ul style="list-style-type: none"> a) Developing, proposing and pursuing a state legislative approach that would create an exemption for these types of culinary experiences. b) Development of a patron notification process for any food establishment offering these opportunities c) Development of mechanisms to determine the appropriate distribution of cannabis-friendly dining venues throughout the City. 	PSSE 10-11; RCAF 2				X	X
Tourist and Resident Experiences	29	<p>San Francisco should collaborate with key stakeholders, such as the Department of Public Health and tourism/hospitality organizations, to develop educational materials for tourists and residents that:</p> <ul style="list-style-type: none"> a) promote safe cannabis consumption b) provide information on different product types and their physiological effects, and c) outline strategies to identify and manage overconsumption. <p>The educational materials should be made available in various languages and formats (e.g. websites, brochures, signage, mobile applications, etc.), and distributed where adult use cannabis is allowed to be consumed and/or purchased, such as cannabis retail locations.</p>	PSSE 12	X	X		X	

Recommendation Category 1: Public Safety and Social Environment (PSSE)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Tourist and Resident Experiences (cont.)	30	San Francisco, in collaboration with key City Agencies and stakeholders, should develop educational materials and trainings for cannabis retail licensees, their employees, and cannabis business license applicants on serving cannabis and cannabis products safely, responsibly, and legally. The Licensee Education on Alcohol and Drugs (LEAD) Program could serve as a model for this.	PSSE 12	x	x		x	
TOTAL				17	12	4	15	5

-END-

Recommendation Category 2: Land Use and Social Justice (LUSJ)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Recommendation Sub-Category: Land Use								
Non-Retail Uses	1	San Francisco should allow non-retail adult use cannabis uses (i.e. cultivation, manufacturing, distribution) and utilize the existing Planning Code framework to establish land use controls for those uses.	RCAF 5, 8	x				
	2	The existing Planning Code framework already addresses distance to sensitive uses for non-retail businesses. Consistent with current regulations for non-retail medical cannabis uses, non- retail adult use cannabis uses should therefore be exempt from distance requirements for sensitive uses (e.g. schools, youth centers, etc.).		x				
Retail Uses	3	San Francisco should develop meaningful qualitative findings for the Planning Commission and/or other commission(s) to use when reviewing adult use retail applications.		x			x	
	4	San Francisco should reduce the distance new cannabis retailers can operate in proximity to sensitive uses to one that is less than the State- required 600 feet. San Francisco should also measure this distance with a "path of travel" approach rather than a straight line, parcel to parcel measurement.		x			x	

Recommendation Category 2: Land Use and Social Justice (LUSJ)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Retail Uses (cont.)	5	San Francisco should develop reasonable quantitative standards to regulate the location of, and permitting process for, adult use retail locations in San Francisco. These standards should include, but are not limited to: a) Strategies to facilitate meetings between the applicant and neighboring community prior to the Planning Commission hearing and/or application process to address neighborhood concerns b) Strategies to prevent clustering (as discussed below) c) Considerations for proximity to sensitive uses (as discussed below)		X			X	
	6	San Francisco should further define and/or refine definitions of “sensitive uses” and expand locations in which new cannabis retailers could operate, where appropriate.		X			X	
	7	San Francisco should consider varying approval processes (e.g. neighborhood notice only; notice plus mandatory Discretionary Review hearing; notice plus Conditional Use Authorization; etc.) for different zoning districts, with more rigorous review processes in Neighborhood Commercial Districts or other locations which present potential land use conflicts and less rigorous processes in other districts, such as Downtown or industrial districts.		X				

Recommendation Category 2: Land Use and Social Justice (LUSJ)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Retail Uses (cont.)	8	San Francisco should develop policies to prevent clustering of adult use cannabis retailers. Strategies may include: <ul style="list-style-type: none"> a) Use of “buffer zones” around other adult use retail locations. The distance of these buffer zones should balance both community concerns and business interests, with the aim of preventing too high a concentration of retail locations in a given district while also encouraging healthy competition. b) Stricter clustering provisions in Neighborhood Commercial Districts to balance neighborhood concerns, and less strict clustering requirements in other districts, such as Downtown or Industrial districts. 		X			X	
	9	San Francisco should include adult use cannabis retail businesses in existing Formula Retail rules. Note: Formula retail rules state that if an establishment has eleven or more retail locations worldwide, it is subject to a more stringent review and authorization process.		X				
	10	San Francisco should allow retail locations in areas other than the ground floor, such as spaces located at basement level, second floor or higher.		X				
	11	San Francisco should develop a mechanism to prioritize the re-permitting of medical cannabis business operators who were shut down by the federal government or lost their original permit due to sale of building and loss of lease.		X			X	X

Recommendation Category 2: Land Use and Social Justice (LUSJ)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Retail Uses (cont.)	12	San Francisco should align regulations for adult use cannabis retail signage on store fronts with regulations for other retail businesses.	PSSE 4-5	x				x
MCD and Adult Use Retail Zoning Approval Processes	13	Medical cannabis dispensaries have more stringent ADA requirements to increase access for patients, which may not be necessary for adult use retailers. Therefore, adult use cannabis retailers, as distinct from medical use cannabis retailers, should not be subject to the heightened ADA requirements that currently apply to MCDs.		x			x	
	14	San Francisco should craft a reasonable process for current medical cannabis dispensaries to transition into the adult use market. A “transition” would include a medical dispensary adding adult use products or a medical dispensary switching to an adult use business model. Such “grandfathered” medical cannabis businesses should be exempt from any new, more restrictive land use provisions that may be applicable to adult use retail businesses.	RCAF 12-14	x			x	
Recommendation Sub-Category: Social Justice/Workforce Development								
Successful Workforce	15	San Francisco should collaborate with San Francisco City College, San Francisco Unified School District, and other workforce development organizations and key stakeholders, to develop new or build upon existing training and apprenticeship programs as workforce pathways for individuals to participate in all aspects of the cannabis industry (i.e. cultivation, laboratory testing, manufacturing, retail, etc.). These programs should increase opportunities for individuals to enter the cannabis industry, but also be part of a broader workforce strategy to increase job opportunities in other sectors, such as IT, human resources, and finance.	RCAF 6	x	x		x	

Recommendation Category 2: Land Use and Social Justice (LUSJ)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Successful Workforce (cont.)	16	San Francisco should ensure that those with a criminal justice history are not automatically barred from job opportunities within the cannabis industry, and that license holders are incentivized to hire people with a criminal justice history to the extent possible.		X				
	17	San Francisco should create incentives (rather than mandates) for cannabis businesses to hire local residents and individuals from communities affected by mass incarceration. The City should also create hiring preference policies for residents who have moved out of the City due to the high cost of living.		X	X		X	
	18	San Francisco should lower financial barriers to enter the cannabis industry by collaborating with workforce development organizations to provide high quality, free or low-cost cannabis workforce trainings, which should include both online and in-person modalities.	RCAF 6	X	X		X	
	19	The cannabis industry is a dynamic field, and as such, San Francisco should collaborate with workforce development organizations to provide continuing education to maintain a well-trained, competent workforce and assure patient/consumer safety as new technologies and products emerge.	RCAF 6, 11		X		X	
	20	San Francisco should create job opportunities and mechanisms to educate, train, and hire formerly incarcerated persons, transitional age youth (age 18-21), and young adults (age 21-26). The City's current process for hiring formerly incarcerated persons could serve as a model.			X		X	

Recommendation Category 2: Land Use and Social Justice (LUSJ)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Successful Workforce (cont.)	21	San Francisco should work with key stakeholders to develop mechanisms to publicize job opportunities and draw diverse candidates to the cannabis workforce, such as job fairs, public education campaigns, or other pipelines.			x		x	
	22	San Francisco should ensure that existing workforce policies and protections for wage and benefit rights are extended to the cannabis industry workforce, such as connecting worker rights protections to the permitting process.	RCAF 1	x	x		x	
	23	Post-legalization, there will be a need for lab technicians with the capacity for testing cannabis products, and San Francisco should invest in this capability.			x		x	

Recommendation Category 2: Land Use and Social Justice (LUSJ)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Entrepreneurship Opportunities	24	<p>San Francisco should engage workforce development organizations, community-based organizations, community members, and other key stakeholders to develop strategies to reduce economic barriers for people of color, women, and formerly incarcerated persons to enter the cannabis industry as entrepreneurs. Strategies could include:</p> <ul style="list-style-type: none"> a) Consider a prioritized permitting process to help operators reduce initial start-up costs (e.g. subsidized rent while undergoing permitting process) b) Creation of grants or other funding opportunities to assist people of color, women, and formerly incarcerated persons in achieving business ownership c) Equity licensing d) Subsidized permitting and licensing fees e) Use of existing small business support structures and programs as models, such as the Mission Economic Development Agency (MEDA), Minority-owned Business Enterprise (MBE), Women-owned Business Enterprise (WBE) programs, and others. 		X	X			
	25	<p>Due to federal cannabis prohibition, cannabis business owners cannot easily access banking services, and therefore, must operate on a largely cash-only basis. Thus, business ownership is limited to entrepreneurs with access to capital. San Francisco should therefore advocate for a change in federal prohibition policy and explore opportunities to use City funding and/or local credit unions to provide banking services, such as small business loans, to cannabis businesses.</p>	RCAF 17	X	X	X		X

Recommendation Category 2: Land Use and Social Justice (LUSJ)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Proposition 64 Community Reinvestment Grants	26	<p>San Francisco should apply for Proposition 64 Community Reinvestment Grants and collaborate with key stakeholders to allocate funding to programs that benefit the communities targeted by the Proposition 64 grant funding. Program priority areas could include:</p> <ul style="list-style-type: none"> • the educational system • childcare subsidies • services for formerly incarcerated persons and other communities affected by cannabis prohibition • housing • job creation • behavioral health services • criminal record expungement 	RCAF 15, 18	x	x		x	
	27	San Francisco should encourage cannabis businesses to invest in community benefit agreements that allocate resources to community.	RCAF 18	x	x		x	
Social Justice	28	San Francisco should include cultural competency trainings as part of the cannabis workforce development strategy.	RCAF 6	x	x		x	
	29	San Francisco should develop pathways, such as an amnesty program, to encourage existing businesses to transition from the illicit to legal market.		x	x		x	

Recommendation Category 2: Land Use and Social Justice (LUSJ)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Social Justice (cont.)	30	San Francisco and the San Francisco Police Department should collaborate with community policing and diversion programs to educate businesses on the transition from the illicit to legal market.			x		x	
	31	The San Francisco District Attorney and Public Defenders Offices should work to streamline the record expungement and resentencing process for individuals with eligible previous convictions as outlined in the Proposition 64.		x				
TOTAL				26	15	1	21	3

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Recommendation Category 3: Regulation and City Agency Framework (RCAF)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Recommendation Sub-Category: Licensing								
Licensing - Local Industry Licenses	1	San Francisco should develop a local adult use cannabis licensing system that aligns and builds upon the State license types and structure.	LUSJ 22; PSSE 11	x	x			x
	2	<p>San Francisco should consider creation of new license types, in addition to the State-defined license types, to accommodate the diverse businesses within the adult use cannabis industry in the City. Any newly created local license types should be shared with the State and may include the following:</p> <ul style="list-style-type: none"> • New category: Manufacturing 6B Special baking/cooking license • New category: Consumption lounge • New category: Events (e.g. commercial events and farmers’ markets, etc.) <p>The City should also explore the possibility for one-day event permits.</p>	PSSE 7-11, 28; RCAF 8	x	x			x
	3	San Francisco should support opportunities for existing businesses to participate in the cannabis industry by allowing for dual (i.e. the ability to sell both non-cannabis & cannabis products) licensing opportunities.		x	x			
	4	In order to provide a consumption space, San Francisco should consider waiving licensing requirements for smoking tents at special events where there is no cannabis distribution.	PSSE 7-9; LUSJ 27-28	x	x			x

Recommendation Category 3: Regulation and City Agency Framework (RCAF)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Licensing - Local Industry Licenses (cont.)	5	Proposition 64 includes a Type 7 = Manufacture 2 license for sites that manufacture cannabis products using volatile solvents. In planning for these uses, San Francisco should use the Planning Department’s zoning map for volatile manufacturing and only issue Type 7 = Manufacturer 2 licenses in these permitted areas.	LUSJ 1	x	x			
Licensing - Local Workforce Licensing	6	<p>San Francisco should consider workforce licensing requirements that create uniform standards across businesses. The City should work with relevant stakeholders to identify appropriate training requirements that achieve a balance between creating minimum standards that do not also create a barrier to entering the industry. The City should consider various job training formats (e.g. on-the-job training, apprenticeship certification, continuing education, shadow programs at dispensaries, etc.) and leverage existing programs to develop and implement adult use cannabis workforce education and training. The following entities could be involved in this effort:</p> <ul style="list-style-type: none"> • Office of Small Business • City College of San Francisco and other community colleges • San Francisco Unified School District • Charter or private schools • Unions • Oaksterdam University • Patient Focused Certification Program – Americans for Safe Access 	LUSJ 15, 18, 19, 28	x	x		x	
Licensing - Non-Profit Licenses	7	San Francisco should encourage the non-profit model and make non-profit licenses available for cannabis organizations that provide compassion programs and supportive services.		x	x			

Recommendation Category 3: Regulation and City Agency Framework (RCAF)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Deliveries	8	San Francisco should consider a local license that would allow for adult use mobile delivery/retail services without the brick and mortar retail requirement. Adult use cannabis retailers that possess a delivery-only license should have a hub, or centralized location, to process orders. In-home cannabis businesses could have impacts on residential neighborhoods, so these hubs should be in non-residential or live/work commercial zoning locations.	RCAF 2; LUSJ 1	x	x			x
	9	Delivery drivers will need proof of authority to fill delivery orders. The driver should possess an order manifest that includes patient name, order date, delivery date, business name, items ordered, and order time. However, delivery address should not be included, as inclusion of this information may pose a safety risk to consumers.		x	x			
	10	San Francisco should allow permitted medical cannabis dispensaries that currently operate delivery services to continue to provide deliveries.		x	x			
	11	Delivery drivers should receive appropriate training to minimize potential safety risks.	LUSJ 19	x	x			
MCDs and Adult Use Market Participation	12	San Francisco should allow cannabis retailers to participate in both the medical cannabis and adult use cannabis markets.	LUSJ 14	x	x			

Recommendation Category 3: Regulation and City Agency Framework (RCAF)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
MCDs and Adult Use Market Participation (cont.)	13	The licensing process for medical cannabis dispensaries should not be more restrictive than that for adult use retail licensees.	LUSJ 14	x	x			
	14	San Francisco should consider creating a licensing priority for current medical cannabis dispensary operators in operation as of, or prior to, September 1, 2016, to apply for adult use cannabis licenses. This aligns with Proposition 64's existing licensing priority provision.	LUSJ 14	x	x			
Recommendation Sub-Category: Taxation and Revenue								
Taxation	15	Proposition 64 establishes State adult use cannabis taxes. To complement the State's taxation system, San Francisco should consider establishing local cannabis taxes to generate revenue that may be allocated to local cannabis legalization priorities not already funded through state taxes or other funding mechanisms.	LUSJ 26	x	x			
	16	If San Francisco decides to implement local adult use cannabis taxes, the City should consider up to a 1% excise tax or gross receipt tax. The State will impose a 15% excise tax on adult use cannabis. Therefore, the local excise tax should not exceed 1%, to prevent consumers from purchasing from the illicit market due to taxes that are perceived to be too high.		x	x		x	
	17	Given that the cannabis industry currently operates primarily on a cash-only basis, San Francisco's Office of the Treasurer should create a mechanism to collect local adult use cannabis taxes.	LUSJ 25	x	x		x	

Recommendation Category 3: Regulation and City Agency Framework (RCAF)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Revenue Allocation Priorities	18	<p>San Francisco should consider allocating some potential State and local adult use cannabis tax revenue towards the City’s local regulatory, policy, and programmatic goals with respect to cannabis legalization. Allocation priorities include, but are not limited to:</p> <ul style="list-style-type: none"> • Workforce development • Entrepreneurial opportunity fund • Education for students and youth • Education and training for formerly incarcerated persons • Community-identified priorities (e.g. community benefit agreements) 	LUSJ 26-27	x	x			
Data Collection	19	San Francisco should use an evidence-based approach to inform future adult use cannabis policies and legislation. The City should engage key stakeholders to identify and collect appropriate data points to assess the impact of cannabis legalization.		x	x	x	x	

Recommendation Category 3: Regulation and City Agency Framework (RCAF)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Recommendation Sub-Category: Agency Oversight								
Local Regulatory and Regulatory Oversight Structure	20	<p>In developing an appropriate local regulatory and regulatory oversight structure for adult use cannabis, San Francisco should consider the following characteristics to ensure success for the entities responsible for regulation:</p> <ul style="list-style-type: none"> • Responsive • Timely • Accountable • Strong leadership • Transparent • Promote certainty in process • Multi-agency collaborative model <p>The entities responsible for regulation should not play an advocacy role.</p>		X	X		X	
	21	<p>San Francisco should consider new and/or existing regulatory and regulatory oversight structures for adult use cannabis regulation. Options would include the following:</p> <ul style="list-style-type: none"> • Option 1: Standalone agency with its own staff and commission • Option 2: Standalone agency with its own staff, no commission • Option 3: Part of an existing agency or agencies 		X	X		X	

Recommendation Category 3: Regulation and City Agency Framework (RCAF)								
	#	Recommendation	Areas of Alignment	Local Policy and Legal	Programmatic	Future Research Needed	Future Collaborations	Future Considerations
Local Agency Collaboration	22	San Francisco should anticipate that numerous City agencies will have a role in adult use cannabis regulation. City agencies that may play a role in adult use cannabis regulation include, but are not limited to the: Department of Public Health, Police Department, Planning Department, Fire Department, Tax Collector’s Office, Department of Building Inspection, San Francisco Municipal Transportation Authority, and Department of Public Works. The cannabis regulatory role of each agency should be distinct and not overlap.		x	x		x	
Track and Trace	23	Proposition 64 establishes a State-level track and trace monitoring system to track cannabis from seed to sale. This State system is sufficient for local cannabis tracking within San Francisco.		x	x			
TOTAL				23	23	1	7	4

-END-

Conclusion

From public safety to social environment and land use, the cannabis legalization issues outlined in this report have important, and at times, overlapping effects that will have an impact on Proposition 64 implementation in San Francisco. This research and the following recommendations reflect these complexities, and as the Proposition takes hold across the State, the San Francisco State Cannabis Legalization Task Force will continue to monitor these impacts and advise policymakers on how best to address them.

Appendices

Appendix A: Current San Francisco State Legalization Task Force Seats and Members

Number	Description	Name
Seat 1	San Francisco Department of Public Health	Aragon, Tomas
Seat 2	Fire Department	Russell, Lourdes
Seat 3	Police Department	Falzon, Dave
Seat 4	Department of Building Inspection	McCarthy, Liam
Seat 5	Planning Department	Sider, Daniel
Seat 6	Entertainment Commission	Kane, Jocelyn
Seat 7	California Board of Equalization	Morland, Tim
Seat 8	San Francisco Unified School District	Pak, Quarry
1-yr Term - Public Seats		
Seat 9	Cannabis Industry (2 years' experience)	Stout, Jesse
Seat 10	Owner/Operator MCD	Pearson, Erich
Seat 11	Individual who uses cannabis for medicinal purposes	Reed, Kevin Note: Michelle Aldrich served in this role from January – September 2016
Seat 12	Individual who uses cannabis with at least 2 years cannabis legislation advocacy experience	Payan, Sara
Seat 13	Small business owner	Ley, Duncan Talento

Seat 14	Individual with experience working for on behalf of business interests	Selby, Thea
Seat 15	Individual working to advance tourism or hospitality industry	Ballesteros, Jon
Seat 16	Neighborhood association	Fugate, Barbara
Seat 17	Neighborhood association	McElroy, Tom
Seat 18	Individual with experience in public health advocacy re: drug policy	Thomas, Laura
Seat 19	Individual working in entertainment or nightlife industry	Alan, Terrance
Seat 20	Labor union representatives for cannabis industry	Garcia, Jennifer
Seat 21	Public policy expert working for organization focused on good public policy	Shrader, Sarah
Seat 22	Individual between ages of 21 and 30 at time of appointment	Ozim, Daisy

Appendix B: Proposition 64 General Summary³⁹⁴

Timeline	<p>-Licenses to be issued by 1/1/2018</p> <p>-\$30M advance from State General Fund established to cover initial regulatory costs and sets aside an additional \$5M for public information campaign before retail sales begin.</p>
State Oversight Body	<p>- State regulatory structure mimics MMRSA</p> <p>BMC - State Bureau of Marijuana Control (replaces Bureau of Medical Cannabis Regulation under MCRSA)</p> <ul style="list-style-type: none"> • provides overall oversight over medical and nonmedical cannabis regulations • resides under State Department of Consumer Affairs (lead agency) • licensing authority for retailers, distributors, microbusinesses • must establish appellation of origin standards for cannabis grown in a particular CA area • Bureau of State Audits to being annual BMC audits in 2019 <p>Dept. of Food and Agriculture: regulatory authority over cultivation</p> <ul style="list-style-type: none"> • must develop identification system for all cannabis plants • regulates industrial hemp (as an agricultural product) <p>Department of Public Health: regulatory authority over manufacturing and testing</p> <p>Board of Equalization: tax collection</p> <p>Controller: allocation of revenue for intended purposes</p> <p>Note: also establishes a multi-sectorial (including representation from Department of Alcoholic Beverage Control) advisory committee appointed by BMC director to advise BMC and other agencies on standards and regulations. Advisory committee required to publish annual reports accessible to the public</p>

Personal Cultivation	-Six plants and the cannabis each plant produces, but must be out of public view and non-accessible to youth
Personal Possession	-One ounce of nonmedical cannabis; eight grams of nonmedical cannabis concentrates
Relationship to Medical Cannabis System	<p>-Medical and nonmedical regulatory systems are separate. Act is modeled on many MMRSA provisions.</p> <ul style="list-style-type: none"> • All medical cannabis patients required to obtain new recommendations from physicians by 1/1/2018 that meet MMRSA standards- county health departments must develop protocols for ensuring compliance • ID card fees capped at \$100. Act also contains other fee reduction requirements for Medical patients (50% reduction) and County Medical Services program participants (fee waived) • Medical cannabis patients with valid ID cards exempt from State cannabis sales tax • Patient privacy protections to comply with Confidentiality of Medical Information Act (CMIA) – counties must use unique identifiers (rather than names) to identify/track patients • If medical cannabis use is legalized at federal level, authorizes State legislature to amend medical cannabis laws to align with federal law
Licensing	<p>19 Licensing Categories</p> <p>(1) Type I = Cultivation; Specialty outdoor; Small. (2) Type IA = Cultivation; Specialty indoor; Small. (3) Type IB = Cultivation; Specialty mixed-light; Small. (4) Type 2 = Cultivation; Outdoor; Small. (5) Type 2A = Cultivation; Indoor; Small. (6) Type 2B = Cultivation; Mixed-light; Small. (7) Type 3 = Cultivation; Outdoor; Medium. (8) Type 3A = Cultivation; Indoor; Medium. (9) Type 3B = Cultivation; Mixed-light; Medium. (10) Type 4 = Cultivation; Nursery. (11) Type 5 = Cultivation; Outdoor; Large. (12) Type 5A = Cultivation; Indoor; Large.</p>

	<p>(13) Type 5B = Cultivation; Mixed-light; Large. (14) Type 6 = Manufacturer 1. (15) Type 7 = Manufacturer 2. (16) Type 8 = Testing. (17) Type 10 = Retailer. (18) Type 11 = Distributor. (19) Type 12 = Microbusiness [i.e. licensed to cultivate in area <10,000ft and act as distributor, manufacturer and retailer]</p> <ul style="list-style-type: none"> • Licenses must have clear designation as non-medical • Licenses denied for certain felony convictions and offenses related to the cannabis industry, unless licensing authority decides to issue the license • Valid for 1 year – State may issue temporary licenses valid for 1 year until 1/1/2019 • CA residency requirement: continuous residency from or before 1/1/2015 (provision expires on 12/31/2019 unless reenacted by State Legislature) • Provides for scaled State licensing fees according to business size – such fees may not exceed reasonable regulatory costs • Licensing priority for medical cannabis actors in compliance with State and applicable local law before 9/1/2016 • Provides policy considerations for licensing process, e.g. to discourage unlawful monopoly power and underage access/use, and prevent “excessive concentration of licenses in a given city, county, or both” [Sec. 26051] • Large cultivation licenses ($\geq 20,000$ sq. ft.) delayed for first five years that Proposition 64 is in effect. After such time, State regulators may issue those licenses, but only in accordance with MMRSA vertical integration prohibitions, meaning cultivator – distributor license combination is prohibited
Vertical and Horizontal Integration	<p>-Adopts the following vertical integration prohibitions:</p> <ul style="list-style-type: none"> • entity with testing license may not hold any other license type • large cultivator – distributor license prohibited (<i>see</i> Licensing section)

	<p>-Also allows licensing authorities to consider whether issuing a license would, among other policy considerations (<i>see</i> Licensing section above), “allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power.” [Sec. 26051 to be added to Business and Professions Code].</p> <p>-Prohibits horizontal integration with alcohol or tobacco businesses</p>
State Authority	<p>-State regulatory authorities sets all minimum protections</p> <p>-State legislature may, by majority vote, enact laws to amend regulations, protect workers and/or reduce criminal penalties, but all such amendments must be aligned with Act’s original intent. Other amendments require two-thirds majority vote and must also be aligned with Act’s original intent</p>
Local Authority	<p>- Act gives local government broad control – “Nothing in this [Act] shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under [the Act], including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.” [Chapter 20, Sec. 26200 to be added to Business and Professions Code]</p> <p>-May impose additional taxes and fees on commercial cannabis activity</p> <p>-If delegated the power to do so (via MOU), locality may enforce State regulations</p> <p>-May prohibit outdoor home cultivation, but not indoor. This and all other local regulations regarding home cultivation are dissolved if CA Attorney General determines that cannabis use is legal under federal law</p> <p>-Consumption in public prohibited, but local governments may allow on-site ingestion, smoking and vaping at retail locations or microbusiness if:</p> <ul style="list-style-type: none"> • no alcohol or tobacco sale/consumption on the premises • no access to area for persons under 21

	<ul style="list-style-type: none"> • not visible to the public or non-age restricted area <p>-May not ban delivery services by licensed retailers and microbusinesses acting in compliance with State and local law.</p>
State Taxation and Revenue	<p>Effective 1/1/2018:</p> <p>-Cultivation: \$9.25/dry wgt. oz. (flower); \$2.75 dry wgt oz. (leaves)</p> <p>-Retail sale: 15% excise tax (medical and nonmedical) – patients with valid ID cards exempt from sales tax for medical cannabis and products.</p> <p>-Board of Equalization empowered to adjust cannabis leaves tax in response to price fluctuations between flowers and leaves</p> <p>Revenue: Act establishes California Marijuana Tax Fund to capture revenue and direct it towards the following revenue allocation priorities:</p> <ul style="list-style-type: none"> • Administrative cost shortfall after accounting for fees • \$10M annually to UC university to study and evaluate Proposition 64 (FY 2019 – 2028) • \$3M five-year annual disbursement to California Highway Patrol for development of DUI standards • Governor’s Office of Business and Economic Development to administer economic development and job placement-focused grant program for communities disproportionately affected by previous federal and State drug policies (\$10M in years 1-5, and \$50M thereafter). • \$2M annually to USCD Center for Medical Cannabis Research for further medical cannabis study. • After the above allocations, remaining funds to be allocated 60% to youth education and substance abuse prevention, 20% to State and local law enforcement training and grants to local governments to fund regulatory efforts, and 20% to environmental protection efforts

Youth Exposure and Access Protections	<ul style="list-style-type: none"> -Prohibition on cannabis businesses within 600 ft. of schools and other child-friendly areas (State or local licensing authorities may set different radius) -No advertising or marketing to persons under 21 or near schools or other child-friendly areas -Licensees must check IDs to ensure that consumer is a medical cannabis patient or age 21 and over -Licensees required to package nonmedical cannabis in child-resistant containers and labeled with respect to potency and effects of ingestion -10 mg THC/serving dosage for cannabis products. They may not be made appealing to children or easily confused with child-friendly products, e.g. candy. Must be separated into serving sizes
Public Safety	<ul style="list-style-type: none"> -Maintains existing laws criminalizing the operation of a vehicle under the influence -Prescribes warning and other labeling requirements for cannabis and cannabis products (<i>see</i> Chapter 12, Sec. 26120 to be added to Business and Professions Code) -Manufacture with volatile solvents e.g. butane, without a license is prohibited -Licensees prohibited from giving away cannabis or cannabis products as part of business promotion -Establishes “seed to sale” supply chain tracking program (similar to MMRSA) to prevent diversion and allows third party vendors to assist DCA with complying with this requirement
Civil Sanctions	<ul style="list-style-type: none"> -Engaging in commercial cannabis activity without a license: civil penalties up to 3x the licensing fee for each violation, and court may order destruction of the plant/products. Each day counts as a separate violation -Establishes a State Marijuana Control Appeals Panel (3 members appointed by the CA Governor and confirmed by Senate) to review all State licensing appeals and develop appeal standards, which must be similar to those in the Business and Professions Code (Chap. 1.5, Division 9). Provides specific questions for the panel’s review when making determinations

Criminal Sanctions	<ul style="list-style-type: none"> -Felonies limited to the most serious of offenses, including cultivation on public lands, drug trafficking across state lines and providing cannabis to minors -Some adult offenses are classified as wobblers (<i>i.e.</i> can be tried as felonies depending on particular aggravating circumstances) -Provides for expungement or penalty reduction for individuals convicted of offenses that have been decriminalized under the Act
Workplace Protections	<ul style="list-style-type: none"> -Act does not interfere with rights of public and private employers to require a drug-free workplace -Puts nonmedical cannabis industry under all existing worker protection standards. State required to study the need for additional protections and authorizes State legislature to enact such protections. Mirrors MMRSA labor peace requirement
Environmental Protections	<ul style="list-style-type: none"> -Licensed businesses must follow environmental and product safety standards -Makes permanent the Department of Fish and Wildlife and State Water Resources Control Board and expands its cannabis (medical and nonmedical) mandate to Statewide.
Advertising	<ul style="list-style-type: none"> -Must be tailored for exposure to mostly adult audience (71.6% of audience over 21 years of age) -Advertisements may not contain misleading health information

Appendix B: State Nonmedical Cannabis Comparison³⁹⁵

 = areas of state similarities

	Colorado ³⁹⁶	Washington ³⁹⁷	Oregon ³⁹⁸	Alaska ³⁹⁹	California ⁴⁰⁰
Legislative Mechanism	2012: Amendment 64	2012: Initiative 502	2014: Initiative 91	2015: Measure 2	2016: Proposition 64
Enactment Timeline	1/1/2014 (retail sales began)	7/8/2014 (retail sales began)	10/1/2015 (limited sales began) 10/1/2016 (retail stores opened)	10/29/2016 (retail sales began)	1/1/2018 (licenses to be issued)
Age	21+	21+	21+	21+	21+
Personal Cultivation	Six plants -including no more than three mature plants -no more than twelve plants per residence	Prohibited	Four plants	Six plants -including no more than three mature plants	Six plants

	Colorado ³⁹⁶	Washington ³⁹⁷	Oregon ³⁹⁸	Alaska ³⁹⁹	California ⁴⁰⁰
Personal Possession	1 oz.	1 oz. useable 16 oz. cannabis-infused product (solid) 72 oz. cannabis-infused product (liquid)	1 oz.	1 oz.	1 oz. 8g concentrates
Public Consumption	Prohibited	Prohibited	Prohibited	Localities may permit on-site consumption	Localities may permit on-site consumption
Relationship to Medical Cannabis System	Separate medical and nonmedical market and regulations	Combined medical and nonmedical market and regulations	Separate medical and nonmedical market and regulations	Combined medical and nonmedical market and regulations Note: Though AK did permit personal cultivation and use of medical cannabis, it did not previously make any provisions allowing for its sale.	Separate medical and nonmedical market and regulations

	Colorado³⁹⁶	Washington³⁹⁷	Oregon³⁹⁸	Alaska³⁹⁹	California⁴⁰⁰
Licensing	<p>No cap on number of licenses, but initially only allowed existing medical cannabis businesses to enter the nonmedical market (provision expired in Oct. 2014)</p> <p>-License types: cultivation, manufacturing, testing, retail</p>	<p>Number of licenses capped at 556</p> <p>-License types: production, processing, retail, independent testing license</p>	<p>No cap on number of licenses</p> <p>-License types: production, testing, processing, research, retail, marijuana handler (for retailers only)</p>	<p>No cap on number of licenses</p> <p>-License types: cultivation, manufacture, retail, testing</p>	<p>No cap on number of licenses</p> <p>-License types: cultivation, manufacture, testing, retail, distributor, microbusiness</p>
Vertical Integration	<p>-Initially adopted vertical integration rule, requiring that retailers grow 70% of what was sold (provision expired in Oct. 2014)</p>	<p>-Adopted vertical integration prohibitions</p>	<p>-Allows vertical integration</p>	<p>-Allows vertical integration</p>	<p>-Adopted some vertical integration provisions</p>
Local Authority	<p>-Localities can ban nonmedical businesses via ordinance or popular vote in general</p>	<p>-Localities can ban nonmedical businesses via ordinance</p>	<p>-Localities can issue time, manner and place regulations, but a ban on nonmedical</p>	<p>-Localities can issue time, manner and place regulations and ban nonmedical</p>	<p>-Localities have broad authority to regulate local businesses and can ban them via</p>

	Colorado³⁹⁶	Washington³⁹⁷	Oregon³⁹⁸	Alaska³⁹⁹	California⁴⁰⁰
	election		businesses via popular vote only	businesses via ordinance or popular vote	ordinance.
State Taxation and Revenue	<p>-15% wholesale excise tax</p> <p>-10% special retail tax</p> <p>Revenue: public schools, health education, substance abuse prevention and treatment, law enforcement</p>	<p>-37% retail tax</p> <p>Revenue: education, healthcare, research and substance abuse prevention</p>	<p>-\$35/oz. flower</p> <p>-\$10/oz. leaves</p> <p>-\$5/immature plant</p> <p>Revenue: schools, behavioral health services, State police</p>	<p>-\$50/oz. wholesale excise tax</p> <p>Revenue: recidivism reduction, substance abuse treatment, behavioral health, domestic violence and sexual assault programs</p>	<p>-Cultivation: \$9.25/dry wgt. oz. (flower)</p> <p>\$2.75 dry wgt oz. (leaves)</p> <p>-Retail sale: 15% excise tax (medical and nonmedical)</p> <p>Revenue: public health and safety; youth drug prevention, education, and treatment; environmental protection; law enforcement</p>

	Colorado ³⁹⁶	Washington ³⁹⁷	Oregon ³⁹⁸	Alaska ³⁹⁹	California ⁴⁰⁰
Local Government Funding	15% of revenues from the 10% special retail tax to local governments (only to localities where retail sales occur)	None provided at this time.	10% to localities for enforcement efforts	Beginning in 2017: 10% for local law enforcement efforts	Allocates funds to localities for law enforcement training and regulatory efforts
Public Safety	-Rebuttable permissive inference (of impairment) at levels above 5ng/ML for DUI	-Establishes a 5ng/mL <i>per se</i> DUI standard, meaning levels above that limit are automatic evidence of impairment	-Maintains existing prohibitions on driving under the influence of controlled substances (including cannabis) -Requires Oregon Liquor Control Commission to review (and possibly conduct) research into the effects of cannabis on driving ability	-Maintains existing prohibitions on driving under the influence of controlled substances (including cannabis)	-Maintains existing prohibitions on driving under the influence of controlled substances

Appendix C: Proposition 64 Provisions Table: Public Safety and Social Environment

General

Cross-cutting Issues	Proposition 64 – Related Provisions
General	<ul style="list-style-type: none">• \$10 million annual disbursement (FY 2019 – FY 2029) to California public university (or universities) to research and evaluate the effects of the Proposition and make recommendations to the Governor and Legislature regarding possible amendments. Universities required to publish reports on their findings every two years (at minimum). Research topics include:<ul style="list-style-type: none">○ impacts on public health○ effectiveness of labeling requirements and advertising and marketing restrictions on preventing underage access and use○ health-related effects among users of varying potency levels of cannabis and cannabis products (pgs. 46 – 47 - Tax and Revenue Sec. 34019)

Note 1: Proposition 64 Amendment Provision

Under Proposition 64, the State Legislature may amend Sections 5 (“Use of Marijuana for Medical Purposes”) and 6 (“Marijuana Regulation and Safety”) and further reduce criminal penalties by a majority vote, but the amendments must be consistent with the purposes of the Proposition. Other amendments may be made with a two-third vote of the Legislature, under the condition that they further the Act’s purposes and intent. (pg. 61 – Section 10 “Amendment”).

Note 2: Proposition 64 Provision regarding State Standards and Local Standards

Proposition 64 pg. 39 – Business and Professions Code, Sec. 26201 states:

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.

Public Safety

Public Safety Issues	Proposition 64 – Related Provisions
1. Driving Under the Influence (DUI)	<ul style="list-style-type: none"> • Maintains existing laws criminalizing the operation of a vehicle under the influence (pg. 8 - Health and Safety Code Sec. 11362.45) • From tax revenue, \$3 million annual disbursement (FY 2019 – FY 2023) to California Highway Patrol for development of DUI protocols. CHP may also make grants to public and private research institutions for the purpose of developing technology for determining whether DUI has occurred. (pg. 47 - Revenue and Tax Code Sec. 34019) • After disbursement to specific areas, 20% of remaining tax revenue funds allocated to State and Local Government Law Enforcement Account. As part of the disbursement plan: <ul style="list-style-type: none"> ○ Internal California Highway Patrol programs and grants to local governments and non-profits to provide education, prevention and enforcement of DUI laws and programs to help to enforce traffic laws, traffic safety education for the public, the purchase of equipment related to enforcement of DUI laws. (pg. 50 - Revenue and Tax Code Sec. 34019) ○ Grants (via Board of State and Community Corrections) to local governments to help with law enforcement and other local programs related to public health and safety. (pg. 50 - Revenue and Tax Code Sec. 34019)²⁶
2. Neighborhood Safety	<ul style="list-style-type: none"> • Licensed retailers, microbusiness and nonprofits must implement security measures to prevent unauthorized entry and theft, including but not limited to: <ol style="list-style-type: none"> (1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the dispensary (2) Establishing limited access areas accessible only to authorized personnel. (3) Other than limited amounts of marijuana 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. (pg. 28 – Business and Professions Code Sec. 26070) • Bureau of Marijuana Control to establish minimum security and transportation safety requirements for distribution and delivery. Safety standards will include vehicle type standards and minimum

²⁶ Grants are not available for localities that prohibit cannabis cultivation (including personal cultivation) or retail sale.

Public Safety Issues	Proposition 64 – Related Provisions
	qualifications for vehicle operators. (pg. 28 – Business and Professions Code Sec. 26070)
3. Enforcement and Training Priorities	<ul style="list-style-type: none"> • See the Driving Under the Influence section above • Part of State and Local Government Law Enforcement Account allocated to Department of California Highway Patrol to conduct training programs for detecting, testing, and enforcing DUI laws. (pg. 50 - Revenue and Tax Code Sec. 34019)

Youth Access and Exposure

Youth Access and Exposure Issues	Proposition 64 - Related Provisions
1. Education	<ul style="list-style-type: none"> • After disbursement to specific areas, 60% of remaining tax revenue funds allocated to Youth Education, Prevention, Early Intervention and Treatment Account. Disbursement is through the California Department of Health Care Services (which with then partner with the California Department of Public Health and Education and may also contract with county behavioral health programs) to establish, implement and administer youth programs that educate youth and prevent substance use disorders and harm from substance abuse, including: <ul style="list-style-type: none"> ○ prevention and early intervention services ○ grants to schools to develop and support Student Assistance Programs ○ grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders ○ access and linkage to care provided by county behavioral health programs for youth, their families and caregivers with a substance use disorder or who are at risk for developing such a disorder ○ youth-focused substance use disorder programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care ○ to the extent permitted by law, interventions shall utilize a two-generation approach with the capacity to treat youth and adults together, including family-based interventions ○ programs to assist individuals, as well as family and friends of drug using young people, to reduce the stigma associated with substance use, including peer-run outreach and education to reduce stigma ○ workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use experience and expertise ○ construction of community-based youth treatment facilities ○ Notes: <ul style="list-style-type: none"> ▪ California Departments may contract with county-based behavioral health programs to deliver the programs, and funds will be allocated to counties based on demonstrated need ▪ In administering grants for programs, the Departments will consult with various stakeholders, including volunteer health organizations, physicians, and treatment researchers. ▪ California departments should periodically evaluate programs ▪ If the California Department of Finance determines that funding for such programs exceeds demand, the Departments responsible for the programs will provide a plan for the

Youth Access and Exposure Issues	Proposition 64 - Related Provisions
	<p>Department of Finance to provide treatment services to adults as well as children with funds from the Account. (pgs. 48-49 - Revenue and Tax Code Sec. 34019)</p>
<p>2. Preventing Sales to Minors</p>	<ul style="list-style-type: none"> • Licensees prohibited from: <ul style="list-style-type: none"> ○ selling cannabis or cannabis products to anyone under 21 years of age ○ allowing anyone under 21 access to the premises ○ employing any persons under 21 years of age ○ selling or transferring cannabis unless first verifying via government-issued identification that the consumer is over 21 years of age ○ Note: <ul style="list-style-type: none"> ▪ Persons under 21 may be used by peace officers in the enforcement of the aforementioned provisions and is immune for prosecution ▪ An adult use licensee that also qualifies as a dispensary may allow access and sale to a person 18 years of age and older with valid government-issued identification and a medical cannabis identification card (pg. 33- 34 – Business and Professions Code Sec. 26140) • Prohibition on cannabis businesses within 600 ft. of schools, day care centers or youth centers that are in existence at the time the license is issued. Licensing authorities or local jurisdiction may set a different radius. (pg. 21 - Business and Professions Code Sec. 26054)
<p>3. Advertising</p>	<ul style="list-style-type: none"> • Per Proposition 64, “Advertisement” includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media • Per Proposition 64, “market” or “marketing” means any act or process of promoting or selling cannabis or cannabis products, including but not limited to, sponsorship of sporting events, point of sale advertising, development of products specifically designed to appeal to certain demographic etc. • Advertising provisions do not apply to noncommercial speech. pg. 35 - Business and Professions Code Sec. 26152)

Youth Access and Exposure Issues	Proposition 64 - Related Provisions
	<ul style="list-style-type: none"> • Advertising (broadcast, cable, radio, print and digital communications) may only be displayed where at least 71.6% of the audience is reasonably expected to be over 21 years of age as determined by reliable, up-to-date audience composition data. (pg. 34 – Business and Professions Code Sec. 26151) • Advertising targeting individuals directly that is controlled by the licensee must have way of affirming age. (pg. 35 – Business and Professions Code Sec. 26151) • No advertising or marketing (on a sign) within 1,000 feet schools, day care center, school providing instruction in kindergarten or any grades 1 – 12, playground, or youth center. (pg. 35 - Business and Professions Code Sec. 26152) <ul style="list-style-type: none"> ○ Does not apply to signs inside licensed premises which are not visible by normal unaided vision from a public place, provided that such advertising signs to not intend to encourage underage use. (Sec. 26155). • Advertising and marketing must not be made appealing to persons under 21 or encourage their consumption (pg. 35 - Business and Professions Code Sec. 26152)
4. Criminal Diversion and Decriminalization Options for Youth	<ul style="list-style-type: none"> • Minors who commit cannabis-related offenses may only be charged with infractions – no incarceration for youth. Proposition 64 relies on drug prevention, education, counseling and community service. (pgs. 52- 55, Health and Safety Code Sec. 11357 – 11361.1). • See above section for youth substance abuse and education programs.
Other Youth Access and Exposure-Related Provisions	<ul style="list-style-type: none"> • Cannabis products may not be made appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis. (pg. 33 – Business and Professions Code Sec. 26130) • Licensees required to package cannabis and cannabis products in child-resistant containers. Packages and labels may not be made appealing to children. (pg. 32 – Business and Professions Code Sec. 26120)

Public Consumption

Public Consumption Issues	Proposition 64 - Related Provisions
1. Meaning of the word “public”	<ul style="list-style-type: none"> Smoking or ingesting cannabis or cannabis products in a public place is prohibited, except where allowed under Section 26200 of Business and Professions Code, i.e. Local Control provisions permitting localities to establish on-site consumption retail locations. (pg. 7 – Health and Safety Code 11362.3)
2. On-site consumption per Proposition 64	<ul style="list-style-type: none"> 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 if: <ul style="list-style-type: none"> (1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older; (2) Cannabis consumption is not visible from any public place or non-age restricted area; (3) Sale or consumption of alcohol or tobacco is not allowed on the premises. <p>(pgs. 38- 39 – Business and Professions Code Sec. 26200)</p>
3. Overconsumption and encouraging safe and responsible use across the City	<ul style="list-style-type: none"> All cannabis and cannabis product label and inserts must include specific information prescribed by the Bureau of Marijuana Control or the California Department of Public Health: <ul style="list-style-type: none"> Manufacture date and source Government warning statements - (see pg. 31 for text) For packages containing dried flower only – net weight of cannabis in the package Source and date of cultivation, the type of cannabis or cannabis product and the manufacture and packaging date Appellation of origin, if applicable List of pharmacologically active ingredients For cannabis products, a list of all ingredients and nutritional information in the same manner as federal nutritional labeling requirements in 21 C.F.R. section 101.9 List of any solvents, nonorganic pesticides, herbicides and fertilizers used A warning if nuts or other known allergens are used Information associated with the unique identifier issued by Dept. of Food and Agriculture Any other requirement set by Bureau of Marijuana Control or Dept. of Public Health (pgs. 32-33 – Business and Professions Code 26120) Other requirements for cannabis products: <ul style="list-style-type: none"> Only generic food names may be used to describe the ingredients in edible cannabis products

Public Consumption Issues	Proposition 64 - Related Provisions
	<ul style="list-style-type: none"> ○ 10 mg THC/serving dosage limit ○ must be scored into serving sizes if product contains more than one and is an edible cannabis product in solid form ○ must be homogenized to ensure uniform disbursement of cannabinoids throughout the product ○ manufactured and sold under sanitation standards established by the Dept. of Public Health, in consultation with the Bureau of Marijuana Control, for preparation, storage, handling and sale of food products ○ Must be provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary. ○ Note: cannabis, including concentrated cannabis, included in a cannabis product manufactured in compliance with law is not considered an adulterant under state law. (pgs. 32-33 – Business and Professions Code Sec. 26130) ● Licensees prohibited from giving away cannabis or cannabis products as part of business promotion or other commercial activity (pg. 35 – Business and Professions Code Sec. 26153) ● Licensees prohibited from publishing or disseminating advertising or marketing materials containing any untrue health-related statements or that tend to create a misleading impression as to health effects of cannabis consumption. (pg. 35 – Business and Professions Code Sec. 26154)
Other Related Public Consumption Provisions	<ul style="list-style-type: none"> ● Licensees prohibited from also obtaining alcohol beverage or tobacco product retail licenses (pg. 21 – Business and Professions Code Sec. 26054)

Tourism/Hospitality

Tourism/Hospitality Issues	Proposition 64 – Related Provisions
1. San Francisco Cannabis Culture	<p>Proposition 64 does not specifically address this issue, but Task Force may consider the following provision to guide development of recommendations:</p> <ul style="list-style-type: none"> • Nothing in this division shall 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 second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (pg. 38 Business and Professions Code – 26200)²⁷
2. Tourists and Residents <ul style="list-style-type: none"> a. Safety (health and personal) b. Public Consumption c. Immigration Status and Legal Implications 	<p>Safety</p> <ul style="list-style-type: none"> • All cannabis and cannabis product label and inserts must include specific information prescribed by the Bureau of Marijuana Control or the California Department of Public Health: <ul style="list-style-type: none"> ○ Manufacture date and source ○ Government warning statements - (see pg. 32 for text) ○ For packages containing dried flower only – net weight of cannabis in the package ○ Source and date of cultivation, the type of cannabis or cannabis product and the manufacture and packaging date ○ Appellation of origin, if applicable ○ List of pharmacologically active ingredients ○ For cannabis products, a list of all ingredients and nutritional information in the same manner as federal nutritional labeling requirements in 21 C.F.R. section 101.9 ○ List of any solvents, nonorganic pesticides, herbicides and fertilizers used ○ A warning if nuts or other known allergens are used ○ Information associated with the unique identifier issued by Dept. of Food and Agriculture ○ Any other requirement set by Bureau of Marijuana Control or Dept. of Public Health (pgs. 32-33 – Business and Professions Code 26120) • Other requirements for cannabis products: <ul style="list-style-type: none"> ○ Only generic food names may be used to describe the ingredients in edible cannabis products

²⁷ Hereafter referred to as “Local control provision.”

Tourism/Hospitality Issues	Proposition 64 – Related Provisions
	<ul style="list-style-type: none"> ○ 10 mg THC/serving dosage limit ○ must be scored into serving sizes if product contains more than one and is an edible cannabis product in solid form ○ must be homogenized to ensure uniform disbursement of cannabinoids throughout the product ○ manufactured and sold under sanitation standards established by the Dept. of Public Health, in consultation with the Bureau of Marijuana Control, for preparation, storage, handling and sale of food products ○ Must be provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary. ○ Note: cannabis, including concentrated cannabis, included in a cannabis product manufactured in compliance with law is not considered an adulterant under state law. (pgs. 32-33 – Business and Professions Code Sec. 26130) <ul style="list-style-type: none"> • Licensed retailers, microbusiness and nonprofits must implement security measures to prevent unauthorized entry and theft, including but not limited to: <ul style="list-style-type: none"> ○ Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the dispensary ○ Establishing limited access areas accessible only to authorized personnel. ○ Other than limited amounts of marijuana 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. (pg. 28 – Business and Professions Code Sec. 26070) <p>Public Consumption</p> <ul style="list-style-type: none"> • Cannabis consumption not permitted “in any public place, except in accordance with Section 26200 [see on-site consumption provision below] of the Business and Professions Code” or “in a location where smoking tobacco is prohibited.” (pg. 7 – Health and Safety Code Section 11362.3) • Prohibits smoking cannabis and cannabis products within 1,000 feet of a school, day care center, or youth center while children are present at such locations, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code or Chapter 3.5 of Division 8 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such locations while children are present. (pg. 7 – Health and Safety Code Sec.

Tourism/Hospitality Issues	Proposition 64 – Related Provisions
	<p>11362.3)</p> <ul style="list-style-type: none"> • Maintains existing laws criminalizing the operation of a vehicle under the influence. (pg. 8 - Health and Safety Code Sec. 11362.45) • Prohibits possession of an open container or open package of cannabis or cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation. (pg. 7 – Health and Safety Code Section 11362.3) • Prohibits the smoking and ingestion of cannabis or cannabis products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on such vehicles that are operated in accordance with Section 26200 of the Business and Professions Code [i.e. local control provision] and while no persons under the age of 21 years are present. (pg. 7 – Health and Safety Code Section 11362.3) • 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 if: <ul style="list-style-type: none"> (1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older; (2) Cannabis consumption is not visible from any public place or non-age restricted area; (3) Sale or consumption of alcohol or tobacco is not allowed on the premises. (pgs. 38- 39 – Business and Professions Code Sec. 26200) • Except as authorized by law, criminal sanctions for possession of cannabis upon school grounds (kindergarten or grades 1-12). (pg. 53 – Health and Safety Code Sec. 11357)

Appendix D: Proposition 64 Provisions Table: Land Use and Social Justice

Land Use

Land Use Issues	Proposition 64 - Related Provisions
1. Non-Retail Uses	<p>Local Control provision</p> <ul style="list-style-type: none"> • Nothing in this division shall 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 second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (pg. 38 Business and Professions Code – Sec. 26200)
2. Retail Uses	<p>Clustering</p> <ul style="list-style-type: none"> • Proposition 64 provides policy considerations that State licensing authorities may take into account in granting, denying or renewing a cannabis license, including whether granting a retail, microbusiness or qualified nonprofit license would result in “excessive concentration of licensees in a given city, county, or both.” It defines “excessive concentration” as an area where either of the following conditions exists: <ul style="list-style-type: none"> ○ The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products. ○ The ratio of retail licenses, micro business licenses, or licenses under Section 26070. 5 to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200 [local control provision]. <p>(pgs. 20 – Business and Professions Code Sec. 26051)</p> <p>Proximity to child-friendly locations</p> <ul style="list-style-type: none"> • Prohibition of cannabis licensees within 600 ft. of schools, day care centers or youth centers that are in existence at the time the license is issued. Licensing authorities or local jurisdiction may set a different radius. (pg. 21 - Business and Professions Code Sec. 26054) • Prohibits advertising or marketing of marijuana or marijuana products within 1,000 feet of a day care

Land Use Issues	Proposition 64 - Related Provisions
	center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center (pg. 35 – Health and Safety Code Sec. 26152)
3. Medical Cannabis Dispensaries vs. Adult Use Zoning Approval Processes	<p>Proposition 64 does not specifically address this issue, but Task Force may consider the following to guide development of recommendations:</p> <ul style="list-style-type: none"> • Local Control Provision (pg. 38 Business and Professions Code – Sec. 26200)

Social Justice/Workforce Development

Social Justice/Workforce Development Issues	Proposition 64 - Related Provisions
1. Characteristics of a Successful Workforce	<p>Proposition 64 does not specifically address this issue, but Task Force may consider the following local control provisions to guide development of recommendations:</p> <ul style="list-style-type: none"> • Local control provision (pg. 38 - Business and Professions Code Sec. 26200) • 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. (pg. 39 - Business and Professions Code Sec. 26201)
2. Entrepreneurship Opportunities	<p>Proposition 64 does not specifically address this issue, but Task Force may consider the following to guide development of recommendations:</p> <ul style="list-style-type: none"> • Local control provision (pg. 38 Business and Professions Code – Sec. 26200) • Residency requirement- No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015. This provision will cease to be operable on December 31, 2019 unless reenacted prior thereto by the Legislature. (pg. 21 - Business and Professions Code Sec. 26054.1)
3. Community Reinvestment Grants	<ul style="list-style-type: none"> • The State shall administer Community Reinvestments grants program to local health departments and at least fifty-percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The [State] shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the Office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than four percent (4%) for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020 (pg. 48 – Revenue and Taxation Code Sec. 34109).
4. Social Justice	<ul style="list-style-type: none"> • Removes incarceration as an option for minors who commit cannabis-related offenses – they may only

Social Justice/Workforce Development Issues	Proposition 64 - Related Provisions
	<p>be charged with infractions. Proposition 64 instead relies upon community service, drug education and counseling.</p> <p>Except as authorized by law, possession of not more than 28.5 grams of cannabis or not more than four grams of concentrated cannabis, or both:</p> <ul style="list-style-type: none"> • Persons under the age of 18 shall be guilty of an infraction and be required to: <ul style="list-style-type: none"> ○ Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days. ○ Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days. • Persons at least 18 years of age but less than 21 years of age: guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100). (pg. 52 – Health and Safety Code 11357) <p>Except as authorized by law, possessing more than 28.5 grams of cannabis or more than four grams of concentrated cannabis:</p> <ul style="list-style-type: none"> • Persons under the age of 18 shall be guilty of an infraction and be required to: <ul style="list-style-type: none"> ○ Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days. ○ Upon a finding that a second offense or subsequent offense has been committed, complete ten hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days. • Persons age 18 and older: imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment. (pg. 53 – Health and Safety Code 11357) <p>Note:</p> <ul style="list-style-type: none"> • Proposition 64 includes other provisions for illegal planting, harvesting and processing, possession for sale, etc. (pgs. 53-54 Health and Safety Code Sec. 11358-60). • Proposition 64 also allows for some adult offenses to be classified as wobblers (i.e. can be tried as felonies depending on particular aggravating circumstances). <p>Resentencing and Expungement</p> <ul style="list-style-type: none"> • A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under

Social Justice/Workforce Development Issues	Proposition 64 - Related Provisions
	<p>the Control, Regulate and Tax Adult Use of Marijuana Act had that Act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal. (pg. 56 – Health and Safety Code Sec. 11361.8)</p> <ul style="list-style-type: none"> • A person who has completed his or her sentence for a conviction under Sections 11357-60, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that Act been in effect at the time of the offense may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or re-designated as a misdemeanor or infraction in accordance with [certain Proposition 64 provisions] as those sections have been amended or added by this Act. (pg. 57 – Health and Safety Code Sec. 11361.8)

Appendix E: Proposition 64 Provisions Table: Regulation and City Agency Framework

Licensing

Licensing	Proposition 64 – related provisions
<p>1. Licensing</p> <ul style="list-style-type: none"> Local Industry Licenses Local Workforce Licensing Non-Profit Licenses 	<ul style="list-style-type: none"> Proposition 64 does not establish a dual state-local licensing system. It does allow local jurisdictions to develop local business license and permitting requirements in addition to the required State license via the local control provision²⁸ on pg. 38, Section 26200 of the Business and Professions Code. <p>License Types and General Licensing Provisions</p> <ul style="list-style-type: none"> Proposition 64 provides the following framework for state-level licensing and provides additional guidance that could inform local practice. <ul style="list-style-type: none"> (a) The [State] license classification shall, at a minimum, be as follows: <ul style="list-style-type: none"> (a) Type I = Cultivation; Specialty outdoor; Small. (b) Type IA = Cultivation; Specialty indoor; Small. (c) Type IB = Cultivation; Specialty mixed-light; Small. (d) Type 2 = Cultivation; Outdoor; Small. (e) Type 2A = Cultivation; Indoor; Small. (f) Type 2B = Cultivation; Mixed-light; Small. (g) Type 3 = Cultivation; Outdoor; Medium. (h) Type 3A = Cultivation; Indoor; Medium. (i) Type 3B = Cultivation; Mixed-light; Medium. (j) Type 4 = Cultivation; Nursery. (k) Type 5 = Cultivation; Outdoor; Large. (l) Type 5A = Cultivation; Indoor; Large. (m) Type 5B = Cultivation; Mixed-light; Large. (n) Type 6 = Manufacturer 1. (o) Type 7 = Manufacturer 2. (p) Type 8 = Testing. (q) Type 10 = Retailer. (r) Type 11 = Distributor.

²⁸ Hereafter referred to as “local control provision.”

Licensing	Proposition 64 – related provisions
	<p>(s) Type 12 =Microbusiness. [i.e. licensed to cultivate in area <10,000sqft and act as distributor, manufacturer and retailer]</p> <p>(b) All [State-issued licenses] shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act]. Examples of such a designation include, but are not limited to, "Type 1 -Nonmedical," or "Type INM"</p> <p>(c) A [State-issued license] shall be valid for 12 months from the date of issuance. The license may be renewed annually.</p> <p>(d) Each [State] licensing authority shall establish procedures for the issuance and renewal of licenses.</p> <ul style="list-style-type: none"> • Department of Consumer Affairs – retailer, distributor, and microbusiness licenses • Department of Public Health – manufacturing and testing facility licenses • Department of Food and Agriculture – cultivation licenses <p>(e) Notwithstanding subdivision (c), a State licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operable on January 1, 2019. (See licensing provisions starting on pg. 19 Business and Professions Code Sec. 26050).</p> <ul style="list-style-type: none"> • [State] licensing authorities shall begin issuing [State] licenses by January 1, 2018. (pg. 14, Business and Professions Code Sec. 26012) <p>Vertical and Horizontal Integration</p> <ul style="list-style-type: none"> • Testing: A person or entity that holds a state testing license for [medical cannabis or nonmedical cannabis] is prohibited from licensure for any other activity, except testing. Except as [provided above], a person or entity may apply for and be issued more than one [type of nonmedical cannabis] license. (pg. 21 Business and Professions Code Sec. 26053) • Cultivation: <ul style="list-style-type: none"> (a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law. (b) Except as otherwise provided by law, Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B; Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis. (c) Except as otherwise provided by law:

Licensing	Proposition 64 – related provisions
	<ol style="list-style-type: none"> 1. Type 5, or "outdoor," means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premise. 2. Type 5A, or "indoor," means for indoor cultivation using exclusively artificial lighting greater than 22, 000 square feet, inclusive, of total canopy size on one premises. 3. Type 5B, or "mixed-light," means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premise. <p>(d) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.</p> <p>(e) Commencing on January 1, 2023, A Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not eligible to apply for or hold a Type 8, Type 11, or Type 12 license.</p> <ul style="list-style-type: none"> • A licensee shall not also be licensed as a retailer of alcoholic beverages . . . or of tobacco products (pg. 21 Business and Professions Code Sec. 26054). <p>Marijuana Control Appeals Panel</p> <ul style="list-style-type: none"> • There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all the members elected to the Senate. . . . When any person aggrieved thereby appeals from a decision of the bureau or any State licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license, the panel shall review the decision subject to limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the [Bureau of Marijuana Control] or the licensing authority. (pgs. 17-18, Business and Professions Code Sections 26040 – 45). <p>State Licensing Fees</p> <ul style="list-style-type: none"> • Each [State] licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows: <ol style="list-style-type: none"> (a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26170, but shall not exceed the reasonable regulatory costs

Licensing	Proposition 64 – related provisions
	<p>to the licensing authority.</p> <p>(b) The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.</p> <p>(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.</p> <p>(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Marijuana Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division. (pg. 37 Revenue and Taxation Code Sec. 26180)</p> <p>Licensing Policy Considerations</p> <ul style="list-style-type: none"> • In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could: <ol style="list-style-type: none"> (1) allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power; (2) perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state; (3) encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state; (4) result in an excessive concentration of licensees in a given city, county, or both; (5) present an unreasonable risk of minors being exposed to marijuana or marijuana products; or (6) result in violations of any environmental protection laws. (pgs. 19-20 Business and Professions Code Sec. 26051) <p>Licensing Priority</p> <p>(a) A [State] licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority’s satisfaction that the applicant operated in compliance with the Compassionate Use Act and its implementing laws before September 1, 2016, or currently operates in compliance with the [Medical Cannabis Regulation and Safety Act].</p> <p>(b) The [Bureau of Marijuana Control] shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants’ prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, and any</p>

Licensing	Proposition 64 – related provisions
	<p>applicable local laws. The bureau shall make the requested information available to licensing authorities.</p> <p>(c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence to demonstrate operation in compliance with the Compassionate Use Act or the [Medical Cannabis Regulation and Safety Act]. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a)</p> <p>(d) This section shall cease to be operable on December 31, 2019 unless otherwise provided by law. (pg. 21 Business and Professions Code Sec. 26054.2)</p> <p>Residency Requirement</p> <p>(a) No [State] licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.</p> <p>(b) [This section] shall cease to be operable on December 31, 2019 unless reenacted prior thereto by the Legislature. (pg. 21 Business and Professions Code Sec. 26054.1)</p> <p>Local Workforce Licensing</p> <p>Proposition 64 does not specifically address this issue, but Task Force may consider the following local control provision to guide development of recommendations:</p> <ul style="list-style-type: none"> • Nothing in this division shall 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 second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (pg. 38 Business and Professions Code – 26200) <p>Non-Profit Licenses</p> <p>(a) The Bureau of Marijuana Control shall, by January 1, 2018, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:</p>

Licensing	Proposition 64 – related provisions
	<ul style="list-style-type: none"> • Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division? • Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees? • Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons? <p>(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons so long as the local jurisdiction:</p> <ul style="list-style-type: none"> • confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities; • licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division; • provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and; • certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000). <p>(c) Temporary local licenses authorized under subdivision (b) shall expire after twelve months unless renewed by the local jurisdiction.</p> <p>(d) The [Bureau of Marijuana Control] may impose reasonable additional requirements on the local licenses authorized under subdivision (b).</p> <p>(e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses. (2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses. (3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b). (pg. 28-29 Business and Professions Code Sec.</p>

Licensing	Proposition 64 – related provisions
	26070.5)
2. Deliveries	<ul style="list-style-type: none"> • Proposition 64 defines “delivery” as the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products. (pg. 11 Sec. 26001 - General Provisions and Definitions) <ul style="list-style-type: none"> i. Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5 ii. A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers. iii. A local jurisdiction shall not prevent delivery of marijuana or marijuana products on public roads by a licensee acting in compliance with this division and local law as adopted under [local control provision]. (pg. 29 Business and Professions Code Sec. 26090) • Bureau of Marijuana Control to establish minimum security and transportation safety requirements for distribution and delivery. Safety standards will include vehicle type standards and minimum qualifications for vehicle operators. (pg. 28 – Business and Professions Code Sec. 26070)
3. Medical Cannabis Dispensaries (MCDs) and Adult Use Market Participation	<p>Proposition 64 does not specifically address this issue, but Task Force may consider the following local control provision to guide development of recommendations:</p> <ul style="list-style-type: none"> • Nothing in this division shall 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 second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (pg. 38 Business and Professions Code Sec. 26200)

Taxation and Revenue

Taxation and Revenue Issues	Proposition 64 – Related Provisions
1. Taxation	<p>State Cannabis Excise Tax</p> <ul style="list-style-type: none"> (a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of fifteen percent (15%) of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act] of the Business and Professions Code or a retailer, microbusiness, 41 nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code [Proposition 64] to sell marijuana and marijuana products directly to a purchaser. (b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if non-itemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services. (c) A dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act] of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to [Proposition 64] shall be responsible for collecting this tax and remitting it to the [Board of Equalization] in accordance with rules and procedures established under law and any regulations adopted by the [Board of Equalization]. (d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments. (e) Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section. (f) No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale. (g) The sales and use tax imposed by Part 1 of this division shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act] of the Business and Professions Code when a qualified patient (or primary caregiver for a qualified patient) provides his or her card issued under Section 11362. 71 of the Health and Safety Code and a valid government issued identification card. (pg. 41-42 Revenue and Taxation Sec. 34011).

Taxation and Revenue Issues	Proposition 64 – Related Provisions
	<p>State Cannabis Cultivation Tax</p> <p>(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 [the Medical Cannabis Regulation and Safety Act] or [Proposition 64]. The tax shall be due after the marijuana is harvested.</p> <p>(1) The tax for marijuana flowers shall be nine dollars and twenty five cents (\$9.25) per dry weight ounce.</p> <p>(2) The tax for marijuana leaves shall be set at two dollars and seventy five cents (\$2.75) per dry-weight ounce.</p> <p>(b) The [Board of Equalization] may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.</p> <p>(c) The [Board of Equalization] may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.</p> <p>(d) The [Board of Equalization] may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.</p> <p>(e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the [Board of Equalization] and may be purchased by any licensee under Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act] of the Business and Professions Code or under Division 10 of the Business and Professions Code [Proposition 64].</p> <p>(f) Subsequent to the establishment of a tax stamp program, the [Board of Equalization] may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.</p> <p>(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.</p> <p>(h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3. 5 of Division 8 of the Business and Professions Code [Medical Cannabis Regulation and Safety Act] or Division 10 of the Business and Professions Code [Proposition 64] shall be responsible for payment of the tax pursuant to regulations adopted by the [Board of Equalization]. No marijuana may be sold unless the tax has been paid as provided in this part.</p>

Taxation and Revenue Issues	Proposition 64 – Related Provisions
	<p>(i) All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.</p> <p>(j) The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the [Board of Equalization], but shall not apply to marijuana cultivated for personal use under Section 113 62.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.</p> <p>(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the [Board of Equalization] annually thereafter for inflation. (pg. 42-43 Revenue and Taxation Sec. 34012).</p> <ul style="list-style-type: none"> • The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019. (pg. 45 Revenue and Taxation Code Sec. 34017) <p>Local Taxation Authority The taxes imposed by [the State] shall be in addition to any other tax imposed by a city, county, or city and county. (pg. 51 Revenue and Taxation Sec. 24021)</p> <p>(a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3. 5 of Division 8 of the Business and Professions Code [Medical Cannabis Regulation and Safety Act] or Division 10 of the Business and Professions Code [Proposition 64]. (2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors. (3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county. (4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken 51 individually, collectively, or</p>

Taxation and Revenue Issues	Proposition 64 – Related Provisions
	<p>cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.</p> <p>(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.</p> <p>(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.</p> <p>(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code [Bradley-Burns Uniform Local Sales and Use Tax Law]. (pg. 51-52 Revenue and Taxation Sec. 24021.5)</p>
2. Revenue Allocation	<ul style="list-style-type: none"> • Revenues collected from any marijuana excise tax, as well as certain fines imposed on businesses or individuals who violate regulations established under Proposition 64, would be deposited in a new special fund, the California Marijuana Tax Fund. Monies deposited in the fund would first be used to reimburse certain state agencies, such as the Bureau of Marijuana Control, for any costs of regulating the commercial marijuana industry not covered by license fees. After reimbursing state agencies for implementation costs, Proposition 64 would allocate a portion of the remaining revenues for the following purposes (in order of priority): <ul style="list-style-type: none"> ○ \$10 million annually from 2018-19 through 2028-29 to public universities in California to research and evaluate the implementation of Proposition 64 ○ \$3 million annually from 2018-19 through 2022-23 to the California Highway Patrol (CHP) to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including by marijuana. ○ \$10 million in 2018-19, increasing by \$10 million annually until 2022-23, and \$50 million each year thereafter, to the Governor's Office of Business and Economic Development for a grant program to provide services (such as mental health and substance use treatment) in communities disproportionately affected by past federal and state drug policies (Community Reinvestment Grants). ○ \$2 million annually to the University of California San Diego Center for Medicinal Cannabis Research to study the efficacy and adverse effects of the use of marijuana for medicinal purposes. • Any funds remaining after the above allocations would be annually allocated as follows: <ol style="list-style-type: none"> (1) 60 percent deposited in the Youth Education, Prevention, Early Intervention and Treatment Account

Taxation and Revenue Issues	Proposition 64 – Related Provisions
	<p>and allocated to the state Department of Health Care Services for substance use disorder education and prevention programs for youth.</p> <ul style="list-style-type: none"> Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments or submitted reports prepared by the applicable county to demonstrate and validate need. (pg. 48 Revenue and Taxation Sec. 34019) <p>(2) 20 percent deposited into the Environmental Restoration and Protection Account and allocated to the state Department of Fish and Wildlife (DFW) and the state Department of Parks and Recreation (DPR) for environmental programs designed to clean up and prevent environmental damage resulting from the illegal cultivation of marijuana</p> <ul style="list-style-type: none"> Proposition 64 requires that funding provided to DFW and DPR from the Marijuana Tax Fund not be used to replace other funds currently used by the departments for the purposes described above. As such, it requires that General Fund appropriations to DFW and DPR not be reduced below the levels provided in the 2014-15 Budget Act. <p>(3) 20 percent deposited into the State and Local Government Law Enforcement Account and allocated to CHP for programs designed to reduce driving under the influence of alcohol, marijuana, and other drugs and to the Board of State and Community Corrections for a grant program designed to mitigate any potential negative impacts on public health or safety resulting from the implementation of Proposition 64. Local governments could receive a portion of these funds through grant programs established by the Board and/or CHP.</p> <ul style="list-style-type: none"> Beginning July 2028, the Legislature could change the above allocations to further the purpose of Proposition 64, subject to certain limitations (such as a requirement that any changes further the purpose of Proposition 64). <p>(California Legislative Analyst’s Office - Fiscal Impact Assessment Report, pgs. 3-4; <i>see also</i> Proposition 64 pgs. 45-52, Revenue and Tax Code Sections 34018 – 34021.5)²⁹</p>
3. Data Collection	<p>Research and Evaluation of the Implementation of Proposition 64</p> <ul style="list-style-type: none"> The [State] shall disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018-2019 until fiscal year 2028-2029 to research and

²⁹ Revenue allocation language excerpted from California Legislative Analyst’s Office Fiscal Impact Assessment Report, available at <https://www.oag.ca.gov/system/files/initiatives/pdfs/fiscal-impact-estimate-report%2815-0103%29.pdf?>

Taxation and Revenue Issues	Proposition 64 – Related Provisions
	<p>evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:</p> <ol style="list-style-type: none"> (1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs. (2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs. (3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the Act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products. (4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders. (5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses. (6) Whether additional protections are needed to prevent unlawful monopolies or anticompetitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior. (7) The economic impacts in the private and public sectors, including but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue. (8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the Act, and whether different agencies might do so more effectively. (9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production. (10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders. (11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate, and Tax

Taxation and Revenue Issues	Proposition 64 – Related Provisions
	<p>Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of upcharging illegal possession of marijuana or marijuana products to a more serious offense. (pg. 47-48 Revenue and Taxation Sec. 34019)</p>

Agency Oversight

Agency Oversight	Proposition 64 - Related Provisions
1. Local Regulatory Structure	<p>State to Set Minimum Regulatory Standards</p> <ul style="list-style-type: none"> • 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. (pg. 39 Business and Professions Code Sec. 26201). • Adds Division 10 “Marijuana” to the Business and Professions Code, which covers, licensing, regulatory enforcement, etc. <ul style="list-style-type: none"> (a) The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for adults 21 years of age and over. (b) In the furtherance of subdivision (a), this division expands the power and duties of the existing state agencies responsible for controlling and regulating the medical cannabis industry under Chapter 3.5 of Division 8 [Medical Cannabis Regulation and Safety Act] to include the power and duty to control and regulate the commercial nonmedical marijuana industry. (c) The Legislature may, by majority vote, enact laws to implement this division, provided such laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act. (pg. 11 Business and Professions Code Sec. 26000). <p>It may be useful to consider Proposition 64’s State-level regulatory framework below:</p> <p>State Regulatory Structure</p> <ul style="list-style-type: none"> • Proposition 64 creates a comprehensive regulatory structure in which every marijuana business is overseen by a specialized agency with relevant expertise³⁰. <ul style="list-style-type: none"> ○ The Bureau of Marijuana Control, housed in the Department of Consumer Affairs, will oversee the whole system and ensure a smooth transition to the legal market, with licenses issued beginning in 2018.

³⁰ Proposition 64 implementation will involve multiple departments, with the agencies referenced in this document playing larger roles within the regulatory structure.

Agency Oversight	Proposition 64 - Related Provisions
	<ul style="list-style-type: none"> ○ The Department of Consumer Affairs will also license and oversee marijuana retailers, distributors, and microbusinesses. ○ The Department of Food and Agriculture will license and oversee marijuana cultivation, ensuring it is environmentally safe. ○ The Department of Public Health will license and oversee manufacturing and testing, ensuring consumers receive a safe product. ○ The State [Board of Equalization] of Equalization will collect the special marijuana taxes, and ○ The Controller will allocate the revenue to administer the new law and provide the funds to critical investments. <p>(pg. 2 Findings and Declarations).</p> <p>Local Control Provision</p> <ul style="list-style-type: none"> ● Nothing in this division shall 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 second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (pg. 38 Business and Professions Code – Sec. 26200)
2. Local Regulatory Oversight Structure	Proposition 64 does not specifically address this issue, but the Task Force may consider the above proposed State regulatory structure and local control provision to guide development of recommendations.
3. Local Agency Collaboration	Proposition 64 does not specifically address this issue, but the Task Force may consider the above proposed State regulatory structure and local control provision to guide development of recommendations.
4. Track and Trace System	<ul style="list-style-type: none"> ● Proposition 64 requires the State to develop track and trace management procedures to track nonmedical marijuana from cultivation to sale. <ul style="list-style-type: none"> a. The Department of Food and Agriculture, in consultation with the [Bureau of Marijuana Control] and the State [Board of Equalization] of Equalization, shall expand the track and trace program to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis products, and in addition, the amount of the cultivation tax due pursuant to Part 14.5 of the Revenue and

Agency Oversight	Proposition 64 - Related Provisions
	<p>Taxation Code. The expanded track and trace program shall include an electronic seed to sale software tracing system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.</p> <p>b. The Department of Food and Agriculture, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of marijuana and marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.</p> <p>Any software, database or other information technology system utilized by the Department of Food and Agriculture to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third party applications to access that mirrors the production environment. (pg. 36-37 Business and Professions Code Sec. 26710)</p>

Appendix F: Recommendations Framework Documents

Public Safety and Social Environment		
Public Safety	Public Consumption	Youth Access and Exposure
<p>1. Driving Under the Influence</p> <ul style="list-style-type: none"> a. Is there a need for further policy guidance on this at the local level? b. If so, what is the purpose and outcome of such guidance? c. Who is the audience? d. What stakeholders should be involved in developing this guidance? <p>2. Neighborhood Safety</p> <ul style="list-style-type: none"> a. What does it mean for a cannabis business to be a “good neighbor”? b. What tools would ensure this “good neighbor” standard? e.g. policy, guidelines, protocols c. What are 3-5 important considerations and/or topic areas that these tools should include? <ul style="list-style-type: none"> i. For example, standards relating to security, lighting, signage, windows, cash-only operations <p>3. SFPD Enforcement and Training Priorities</p> <ul style="list-style-type: none"> a. What are 3-5 top considerations for the San Francisco Police Department when it is developing its criminal enforcement and training strategies? 	<p>1. Meaning of the word “public”</p> <ul style="list-style-type: none"> a. When does a “public” space become privatized? b. What would we call such spaces? c. Should there be policy pathways created for consumption in such places? d. In developing recommendations, note these overarching considerations: <ul style="list-style-type: none"> i. Reducing secondhand smoke exposure ii. Existing public consumption laws <p>2. On-site consumption per Proposition 64</p> <ul style="list-style-type: none"> a. Should the City allow on-site consumption at retail locations? <ul style="list-style-type: none"> i. As part of the recommendation for or against, state the advantages and concerns associated with this Proposition 64 provision. b. If so, consider the three minimum Proposition 64 requirements for on-site consumption at retail locations. If the City does allow on-site consumption, should there be additional requirements or considerations at the local level? 	<p>1. Education</p> <ul style="list-style-type: none"> a. Should the Task Force consider the City’s education system as a participant in developing cannabis education for schools? b. Are there new or existing models and principles that would be helpful in developing an educational curriculum? c. In developing a curriculum and educational tools, should there be varying approaches for different age groups? Should there be a parental or family-based component to these educational tools? d. What stakeholders should be involved in developing these educational tools? <p>2. Preventing Sales to Minors</p> <ul style="list-style-type: none"> a. Should the City have additional guidelines, rules or requirements designed to prevent sales to minors? <p>3. Advertising</p> <ul style="list-style-type: none"> a. Should the City have additional guidelines, rules or requirements for cannabis-related advertising on public transit or within printed materials?

	<p>3. Overconsumption and encouraging safe and responsible use across the City</p> <ul style="list-style-type: none"> a. Should the City design an approach towards managing overconsumption? b. What are 3 public health tools that would encourage safe and responsible cannabis use across the City? e.g. education, sobering centers c. With regard to edibles, are there additional safety, dosage and labeling requirements not addressed in Proposition 64 that the City should consider? d. Should there be special considerations for first-time users? For example, are there parallels with respect to advice or tools given to first time users of a particular medicine that might be applicable? 	<p>4. Criminal diversion and decriminalization options for youth</p> <ul style="list-style-type: none"> a. Should the City have additional criminal diversion and decriminalization options beyond those noted in Proposition 64?
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Land Use, Social Justice and Tourism/Hospitality³¹		
Tourism/Hospitality	Social Justice/Workforce Development	Land Use
<p>1. San Francisco Cannabis Culture</p> <ul style="list-style-type: none"> a. How should the City think about cannabis within the tourism/hospitality industry? b. What types of tourists should San Francisco expect to have with regard to adult cannabis use? c. What expectations might these different types of tourists have with respect to cannabis culture? d. What strategies should the City consider in order to address these expectations and achieve the right balance of discretion and visibility of cannabis culture in San Francisco? e. What stakeholders should be involved to ensure that the City achieves the appropriate balance? <p>2. Tourist and Resident Experiences</p> <ul style="list-style-type: none"> a. Safety (health and personal) <ul style="list-style-type: none"> i. What does “safe cannabis use” mean for tourists? Would this definition be different for residents? If so, how? ii. What kind of safe use/access education is needed for tourists? Would this education be different for residents? If so, how? iii. How might the look and feel of a 	<p>1. Successful Workforce</p> <ul style="list-style-type: none"> a. What are the characteristics of a successful cannabis workforce, from both the employee and employer points of view? b. What types of programs are needed to ensure these outcomes? c. What data should the City collect to monitor success of these programs? d. What entities/collaborations (existing or newly created) are needed to develop and maintain these programs and data? e. Is there a need for the City to create policies aimed at keeping workers informed as the industry moves from prohibition to legalization? What information and City support will be needed for that transition? <p>2. Entrepreneurship Opportunities</p> <ul style="list-style-type: none"> a. What barriers to cannabis business ownership currently exist or may develop post-legalization? b. What strategies and new/existing models would reduce these barriers? c. What collaborations are needed to ensure that cannabis entrepreneurship opportunities exist and are accessible to everyone? 	<p>1. Non-Retail Uses</p> <ul style="list-style-type: none"> a. Should the City allow non-retail cannabis uses (such as cultivation, manufacturing, and distribution)? b. Should the Task Force move forward in formally recommending that the existing Planning Code be used as a basis to establish land use guidelines for non-retail uses? <p>2. Retail Uses</p> <ul style="list-style-type: none"> a. Should the City develop findings that the Planning Department and/or other departments could use to make adult use retail location decisions? b. If so, what should these findings include? Some examples from previous discussion/presentation: <ul style="list-style-type: none"> ○ Balancing community and business interests ○ Balancing neighborhood input and citywide objectives ○ Youth access and exposure issues: <ul style="list-style-type: none"> ▪ What should the City consider in thinking about a cannabis business’ proximity to schools? ▪ How should the City define / think about sensitive uses? ○ Clustering: <ul style="list-style-type: none"> ▪ How should the City think

³¹ Tourism was discussed at the Task Force meetings that covered the Land Use and Social Justice category. As a topic area, it falls under the Social Environment category and it is therefore included in the Social Environment section in the research and recommendations sections of this report.

<p>cannabis business make tourists feel more or less safe when engaging with the cannabis industry?</p> <p>b. Public Consumption</p> <ol style="list-style-type: none"> How and where might tourists want to consume cannabis in San Francisco? How might tourist consumption and engagement with the cannabis industry and culture different from resident consumption/engagement? What strategies/policies could the City establish to ensure a positive experience for all types of visitors if adult use is legalized? <p>c. Immigration Status and Legal Implications</p> <ol style="list-style-type: none"> Should the City develop local policy protections for non-citizens who wish to consume cannabis (both tourists and residents)? Should the City develop education about the legal ramifications of cannabis use and transport within California and to other states/countries? Where should these educational materials be distributed to achieve the desired effect? What would be the purpose of these actions? 	<p>3. Proposition 64 Community Reinvestment Grants</p> <ol style="list-style-type: none"> Consider Proposition 64's establishment of Community Reinvestment Grants. Should the City pursue these grants? If so, why? What principles should be considered in allocating these funds in San Francisco? What kind of stakeholder engagement is needed to ensure the desired distribution of funds? What data should the City collect to evaluate the success of programs funded by the grants? <p>4. Social Justice</p> <ol style="list-style-type: none"> Are there other strategies or opportunities (not already discussed) that the City should consider that would advance a social justice agenda within the context of cannabis legalization? 	<p>about and/or define clustering?</p> <ul style="list-style-type: none"> ▪ Is clustering now, or likely to become, an issue of concern in San Francisco? ▪ If yes, should the City consider buffer zones as a tool to address clustering? What are the challenges and considerations for creating buffer zones around existing MCDs and/or new adult use retail locations? <p>c. What other factors/criteria are important for the City to consider as it develops land use planning policies for retail locations?</p> <p>3. MCD vs Adult Use Retail Zoning Approval Processes</p> <ol style="list-style-type: none"> Consider the current MCD zoning approval process i.e. mandatory discretionary review, hearing before Planning Commission, etc. What would the ideal approval process for adult use retail be? <ul style="list-style-type: none"> • What barriers or challenges would prevent this ideal process from being realized? • What strategies should the City could consider to address these barriers/challenges? Should the Task Force recommend that the City differentiate existing MCDs from adult use retail owners who apply after new zoning regulations are in place? Why or why not?
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Regulation and City Agency Framework

Licensing	Taxation and Revenue	Agency Oversight
<p>1. Licensing</p> <ul style="list-style-type: none"> a. Local Industry Licenses <ul style="list-style-type: none"> i. Should San Francisco have a licensing system at the local level? If so, what license types should the City have and why? ii. How should this system align with State license types and structure? How should local licensing agencies plan to interact with those at the State level? b. Local workforce licensing <ul style="list-style-type: none"> i. Should San Francisco consider licensing requirements for the cannabis industry's workforce that provide uniform performance and service standards across businesses? If so, which segments of the cannabis workforce should be licensed to serve this purpose? What elements of training would lead to these uniform standards? c. Non-profit licenses: Should the City pursue/issue non-profit licenses? If so, what would be the purpose and desired outcome of such an action in San Francisco? [See Proposition 64 table provided and issue brief for non-profit licensing provisions] 	<p>1. Taxation</p> <ul style="list-style-type: none"> a. Should San Francisco consider establishing local cannabis taxes and fees? b. What are the advantages and disadvantages of local taxation? <p>2. Revenue Allocation Priorities NOTE: Work group should review all previous recommendations and discuss how existing/new funding streams may support these recommendations.</p> <ul style="list-style-type: none"> a. What are San Francisco's regulatory, policy and programmatic goals with respect to cannabis legalization? b. How should revenue generated from state and local taxes be used to support these goals? How should revenue from local taxes and fees complement the State's tax revenue allocations? <p>3. Data Collection NOTE: Work group should review all previous recommendations and identify where the Task Force has made data collection recommendations.</p> <ul style="list-style-type: none"> a. What other data categories should be collected across the City to ensure success? Why? How? By whom? 	<p>1. Local Regulatory Structure</p> <ul style="list-style-type: none"> a. What are the characteristics of a successful local cannabis regulatory structure under Proposition 64? What are the factors that will determine success for the agency charged with cannabis regulation? b. Should the City consider a new or existing regulatory structure? <p>2. Local Regulatory Oversight Structure</p> <ul style="list-style-type: none"> a. What are the characteristics of a successful regulatory oversight structure under Proposition 64? b. Should the City consider a new or existing regulatory oversight structure? <p>3. Local Agency Collaboration</p> <ul style="list-style-type: none"> a. Regulation: Which local agencies, newly created or existing, should have a role in the adult use regulatory process? How should agency roles be defined? Consider the following areas (and others that may come up) for possible local agency involvement: <ul style="list-style-type: none"> • cultivation • manufacturing • testing • distribution • environmental issues: volatile

<p>2. Deliveries</p> <p>a. Proposition 64 currently requires that deliveries only be made from licensed brick and mortar retail locations. In light of this, should San Francisco consider an additional local license that would allow for mobile delivery/retail services without the in-person, brick and mortar retail requirement?</p> <p>b. Brick and mortar vs. mobile delivery/retail - what are the differences with respect to the licensing and regulatory processes that would be important for the City to consider?</p> <p>3. Medical Cannabis Dispensaries (MCDs) and Adult Use Market Participation</p> <p>a. Should San Francisco allow current MCDs to participate in both the medical cannabis and adult use market? If so, should current MCDs have a different licensing process in order to participate in the adult use market?</p> <p>b. Moving forward, should there be differences in the regulatory process for the following models:</p> <ul style="list-style-type: none"> • MCD only business • Adult use only business • Combined adult use and MCD business 		<p>solvents, pesticides, water use, etc.</p> <ul style="list-style-type: none"> • labor • data collection • track and trace system • criminal justice • social justice • taxation and revenue <p>b. Licensing: The current licensing process for MCDs requires that other agencies, e.g. Fire Department, Department of Building Inspection, approve a dispensary application before it can begin operation. What agencies should be involved in the licensing/permitting process for adult use cannabis businesses in this way and why?</p> <p>4. Track and Trace</p> <p>a. What is San Francisco's role/responsibility with respect to the established State-level track and trace mechanism? Is the State system sufficient for local monitoring of cannabis?</p>
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References

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