

FULL TEXT OF MEASURE JJ

THE PATIENTS ACCESS TO MEDICAL CANNABIS ACT OF 2008

The People of the City of Berkeley do hereby enact as follows:

THE PATIENTS ACCESS TO MEDICAL CANNABIS ACT OF 2008

SECTION 1 TITLE

This initiative shall be known and may be cited as the Patients Access to Medical Cannabis Act of 2008.

SECTION 2 FINDINGS AND DECLARATIONS

The People of the City of Berkeley find all of the following to be true:

A. We strongly support the right of seriously ill patients to use medical cannabis in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraines, or any other serious illness or condition for which cannabis provides relief.

B. We strongly oppose the arrest, prosecution, and incarceration of persons legally-qualified under the Compassionate Use Act of 1996 (Proposition 215) by local, state, or federal law enforcement.

C. There is a need in our community for safe and affordable access to medical cannabis.

D. In the absence of meaningful state regulation, it is necessary for local governments to adopt policies and guidelines for the purpose of facilitating safe access and protecting patients.

E. The provision of medical cannabis should occur in a safe and orderly manner in order to protect patients and the community. In the absence of clear guidelines, there has been a lack of consistency in the permitting and regulation of medical cannabis dispensing.

F. There is a need for specific instructions for City officials and staff in order to eliminate this inconsistency.

G. There are no scientifically valid studies that determine the yield of medicine based on specific numbers of plants or the quantity of medication necessary for a patient. Berkeley's arbitrarily-low cultivation limits place undue burdens on local patients, and therefore require revision based on patient's needs.

H. The People of the City of Berkeley further find and declare that we enact this initiative pursuant to the powers reserved to the State of California, the City of Berkeley, and its people under the Tenth Amendment to the United States Constitution.

SECTION 3 AMENDMENTS TO BERKELEY MUNICIPAL CODE CHAPTER 12.26

Chapter 12.26 of the Berkeley Municipal Code is hereby amended to read:

Section 12.26.010 Purposes.

The purpose of this chapter is to implement California Health and Safety Code Section 11362.5, known as the Compassionate Use Act of 1996 and to regulate the location of facilities lawfully used for the storage, dispensing and use of medical cannabis, other than the cultivation or possession of medical cannabis by an individual patient or

caregiver at the patient or caregiver's home, lawfully incident to the residential use of that home. The Compassionate Use Act is the state law removing state law penalties for qualified patients, and primary caregivers to those patients, for possession and cultivation of a personal amount of medical cannabis for qualified patients. This chapter is intended:

A. To help ensure that seriously ill Berkeley residents can obtain and use cannabis for medical purposes where that medical use has been deemed appropriate and recommended or approved by a physician who has determined that the patient's health would benefit from the use of cannabis in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraines, or any other serious illness or condition for which cannabis provides relief.

B. To help ensure that qualified patients and their primary caregivers who obtain or cultivate cannabis solely for the qualified patient's medical treatment with the recommendation or approval of a physician are not subject to criminal prosecution or sanction.

C. To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of medical cannabis to patients whose medical doctors approve or recommend medical cannabis to treat a serious illness or condition.

D. To protect citizens from the adverse impacts of irresponsible medical cannabis distribution, storage and use practices. (Ord. 6826-NS § 1 (part), 2004; Ord. 6620-NS § 1, 2001)

Section 12.26.030 Definitions.

A. "Cannabis" shall have the same meaning as the definition of "Marijuana" provided in California Health and Safety Code Section 11018 at this time, but if that definition is amended by state law in the future, as amended. Currently, under Health and Safety Code Section 11018, "marijuana means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination."

B. "Qualified patient" shall mean a person who has a written or oral recommendation or approval from a licensed medical doctor to use cannabis for medical purposes.

C. "Primary caregiver" shall mean the individual person or persons designated by a qualified patient, provided that said individual person or persons has consistently assumed responsibility for the housing, health, or safety of the qualified patient.

D. "Medical cannabis collective" shall mean a cooperative, affiliation, association, or collective of persons comprised exclusively and entirely of qualified patients and the primary