

MEDICAL MARIJUANA CULTIVATION

Local Preemption. Many RCRC member counties have enacted cultivation ordinances to address issues surrounding medical marijuana grows. While each ordinance varies, most address the size, scale, and conditions whereby grows can occur. Enforcement is conducted primarily by code enforcement officers with accompanying law enforcement. The courts have upheld counties' authority to enact these ordinances, noting that Proposition 215 and subsequent medical marijuana legislation are not comprehensive and do not preclude local land use authority.

RCRC opposes efforts in the Legislature or through the statewide initiative process to weaken or eliminate the ability of counties to set regulatory standards associated with a county's land use authority. Regulatory standards afforded counties must include:

- The ability to regulate including ban, grows, and/or dispensaries;
- The ability to impose stricter local standards than what is afforded in State law/regulation/permit;
- Assurance that no new "rights" are enshrined in law as the State permits medical marijuana activities;
- The preservation of local enforcement tools (e.g. nuisance abatement);
- The ability to have policies restricting the use of marijuana by employees, to address legitimate employer concerns such as the Federal Drug Free Workplace Act;
- Explicit provisions of law, in the absence of comprehensive State standards, which provide the ability of counties to impose pre-retail transportation standards; and,
- The power to tax and/or exact fees associated with local medical marijuana activities.

State Regulatory Program. RCRC supports a State regulatory scheme, consistent with the local control principles outlined above for medical marijuana provided an empowered state agency requires:

- Licenses to grow, transport, distribute and sell medical marijuana products;
- As a condition of issuing a state license, an applicant must demonstrate a local jurisdiction's approval – via a certified copy of documents - to operate within the local jurisdiction's borders;
- The establishment of uniform standards for the potency of medical marijuana products;
- Proper labeling of medical marijuana products and other products used for cultivation in accordance with uniform potency standards;
- Maximum standards in the potency of medical marijuana products;
- Proper labeling of THC levels and other products used for cultivation;
- The allowance of appellation verification statements to be permitted ("branding");

- The prohibition of mobile deliveries and online sales;
- The imposition of security requirements upon grows and dispensaries;
- The restriction of all types of licensees for previous criminal convictions (other than minor crimes associated with marijuana) and a strong revocation process for violations of corresponding state medical marijuana laws;
- Addresses the issue of tax compliance and minimizes the use of cash transactions;
- Authorizes the State to impose taxes and/or fees upon medical marijuana. The State should give priority for the use of these funds to localities for the costs of regulation or enforcement;
- State agencies' ability to apply current permit requirements and other regulations relating to water quality and usage, land conversion, pesticide/herbicide usage, and other environmentally-sensitive activities associated with cultivation;
- Statewide enforceable standard of what constitutes driving while impaired; and,
- Proper state enforcement of worker and worker safety standards.

State Oversight Board. Any State medical marijuana oversight board must include in its composition several rural county supervisors and/or rural county representatives in order to reflect the unique issues that occur in the cultivation of marijuana in rural areas.

The “Collective Model.” The current legal structure for growing and using medical marijuana involves the collective model whereby individuals band together to cultivate medical marijuana. RCRC believes that this model does not exist in current ‘real world’ medical marijuana practices. A complete restructuring must occur and RCRC encourages the State to craft a multi-tiered model for those who collectively cultivate, transport/distribute, sell, and use marijuana.

Environmental Enforcement. Despite the best efforts of counties to utilize their operational and/or land use authority, counties lack the tools, resources, or legal authority to fully address the environmental degradation that is occurring with unregulated grows – the negative impact on water quality and water supply, the destruction of habitat, and the improper use of pesticides/fertilizers, among others is rampant. RCRC believes that environmental damage must be addressed by a variety of state agencies including, but not limited to the Board of Forestry, the California Department of Fish and Wildlife, Regional Water Quality Control Boards as well as other traditional state law enforcement agencies (i.e. California Highway Patrol, Department of Justice). RCRC supports a requirement that state environmental agencies coordinate with local government to ensure uniform application in enforcement efforts.

Federal Lands. Addressing all of the regulatory, public safety, and environmental issues on lands managed by the United States Forest Service, the National Park Service, and the Bureau of Land Management presents a set of challenges that exceed those found on state/private lands. Failure to adequately address cultivation on federal public lands will marginalize the work on state and private lands. RCRC supports efforts by federal land management agencies to properly manage and eradicate the illegal growing of marijuana on public lands and encourages federal agencies to actively work with state and local enforcement entities to achieve this objective.