



# **Medical Use of Marijuana. Initiative Statute.**

## **Official Title and Summary Prepared by the Attorney General**

### **MEDICAL USE OF MARIJUANA. INITIATIVE STATUTE.**

- Exempts patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician from criminal laws which otherwise prohibit possession or cultivation of marijuana.
- Provides physicians who recommend use of marijuana for medical treatment shall not be punished or denied any right or privilege.
- Declares that measure not be construed to supersede prohibitions of conduct endangering others or to condone diversion of marijuana for non-medical purposes.
- Contains severability clause.

### **Summary of Legislative Analyst's**

#### **Estimate of Net State and Local Government Fiscal Impact:**

- Adoption of this measure would probably have no significant fiscal impact on state and local governments.

### **Analysis by the Legislative Analyst**

#### **BACKGROUND**

Under current state law, it is a crime to grow or possess marijuana, regardless of whether the marijuana is used to ease pain or other symptoms associated with illness. Criminal penalties vary, depending on the amount of marijuana involved. It is also a crime to transport, import into the state, sell, or give away marijuana.

Licensed physicians and certain other health care providers routinely prescribe drugs for medical purposes, including relieving pain and easing symptoms accompanying illness. These drugs are dispensed by pharmacists. Both the physician and pharmacist are required to keep written records of the prescriptions.

#### **PROPOSAL**

This measure amends state law to allow persons to grow or possess marijuana for medical use when recommended by a physician. The measure provides for the use of marijuana when a physician has determined that the person's health would benefit from its use in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or "any other illness for which marijuana provides relief." The physician's recommendation may be oral or written. No prescriptions or other record-keeping is required by the measure.

The measure also allows caregivers to grow and possess marijuana for a person for whom the marijuana is recommended.

The measure states that no physician shall be punished for having recommended marijuana for medical purposes. Furthermore, the measure specifies that it is not intended to overrule any law that prohibits the use of marijuana for nonmedical purposes.

## **FISCAL EFFECT**

Because the measure specifies that growing and possessing marijuana is restricted to medical uses when recommended by a physician, and does not change other legal prohibitions on marijuana, this measure would probably have no significant state or local fiscal effect.

## **215 Medical Use of Marijuana. Initiative Statute.**

### **Argument in Favor of Proposition 215**

#### **PROPOSITION 215 HELPS TERMINALLY ILL PATIENTS**

Proposition 215 will allow seriously and terminally ill patients to legally use marijuana, if, and only if, they have the approval of a licensed physician.

We are physicians and nurses who have witnessed firsthand the medical benefits of marijuana. Yet today in California, medical use of marijuana is illegal. Doctors cannot prescribe marijuana, and terminally ill patients must break the law to use it.

Marijuana is not a cure, but it can help cancer patients. Most have severe reactions to the disease and chemotherapy—commonly, severe nausea and vomiting. One in three patients discontinues treatment despite a 50% chance of improvement. When standard anti-nausea drugs fail, marijuana often eases patients' nausea and permits continued treatment. It can be either smoked or baked into foods.

#### **MARIJUANA DOESN'T JUST HELP CANCER PATIENTS**

University doctors and researchers have found that marijuana is also effective in: lowering internal eye pressure associated with glaucoma, slowing the onset of blindness; reducing the pain of AIDS patients, and stimulating the appetites of those suffering malnutrition because of AIDS 'wasting syndrome'; and alleviating muscle spasticity and chronic pain due to multiple sclerosis, epilepsy, and spinal cord injuries.

When one in five Americans will have cancer, and 20 million may develop glaucoma, shouldn't our government let physicians prescribe any medicine capable of relieving suffering?

The federal government stopped supplying marijuana to patients in 1991. Now it tells patients to take Marinol, a synthetic substitute for marijuana that can cost \$30,000 a year and is often less reliable and less effective.

Marijuana is not magic. But often it is the only way to get relief. A Harvard University survey found that almost one-half of cancer doctors surveyed would prescribe marijuana to some of their patients if it were legal.

#### **IF DOCTORS CAN PRESCRIBE MORPHINE, WHY NOT MARIJUANA?**

Today, physicians are allowed to prescribe powerful drugs like morphine and codeine. It doesn't make sense that they cannot prescribe marijuana, too.

Proposition 215 allows physicians to recommend marijuana in writing or verbally, but if the recommendation is verbal, the doctor can be required to verify it under oath. Proposition 215 would also protect patients from criminal penalties for marijuana, but ONLY if they have a doctor's recommendation for its use.

#### **MARIJUANA WILL STILL BE ILLEGAL FOR NON-MEDICAL USE**

Proposition 215 DOES NOT permit non-medical use of marijuana. Recreational use would still be against the law. Proposition 215 does: not permit anyone to drive under the influence of marijuana.

Proposition 215 allows patients to cultivate their own marijuana simply because federal laws prevent the sale of marijuana, and a state initiative cannot overrule those laws.

Proposition 215 is based on legislation passed twice by both houses of the California Legislature with support from Democrats and Republicans. Each time, the legislation was vetoed by Governor Wilson

Polls show that a majority of Californians support Proposition 215. Please join us to relieve suffering and protect your rights. VOTE YES ON PROPOSITION 215.

— RICHARD J. COHEN, M.D., Consulting Medical Oncologist (Cancer Specialist), California-Pacific Medical Center, San Francisco

— IVAN SILVERBERG, M.D., Medical Oncologist (Cancer Specialist), San Francisco

— ANNA T. BOYCE. Registered Nurse, Orange County

## **Rebuttal to Argument in Favor of Proposition 215**

AMERICAN CANCER SOCIETY SAYS: "... Marijuana is not a substitute for appropriate anti-nausea drugs for cancer chemotherapy and vomiting. [We] see no reason to support the legalization of marijuana for medical use." Thousands of scientific studies document the harmful physical and psychological effects of smoking marijuana. It is not compassionate to give sick people a drug that will make them sicker.

### **SMOKING MARIJUANA IS NOT APPROVED BY THE FDA FOR ANY ILLNESS**

Morphine and codeine are FDA approved drugs. The FDA has not approved smoking marijuana as a treatment for any illness.

Prescriptions for easily abused drugs such as morphine and codeine must be in writing, and in triplicate, with a copy sent to the Department of Justice so these dangerous drugs can be tracked and kept off the streets. Proposition 215 requires absolutely no written documentation of any kind to grow or smoke marijuana. It will create legal loopholes that would protect drug dealers and growers from prosecution.

## **Argument Against Proposition 215**

### **READ PROPOSITION 215 CAREFULLY • IT IS A CRUEL HOAX**

The proponents of this deceptive and poorly written initiative want to exploit public compassion for the sick in order to legalize and legitimize the widespread use of marijuana in California.

Proposition 215 DOES NOT restrict the use of marijuana to AIDS, cancer, glaucoma and other serious illnesses.

READ THE FINE PRINT. Proposition 215 legalizes marijuana use for "any other illness for which marijuana provides relief." This could include stress, headaches, upset stomach, insomnia, a stiff neck . . . or just about anything.

### **NO WRITTEN PRESCRIPTION REQUIRED • EVEN CHILDREN COULD SMOKE POT LEGALLY!**

Proposition 215 does not require a written prescription. Anyone with the oral recommendation or approval by a physician" can grow, possess or smoke marijuana. No medical examination is required.

### **PROPOSITION 215 IS MARIJUANA LEGALIZATION—NOT MEDICINE**

- Federal laws prohibit the possession and cultivation of marijuana Proposition 215 would encourage people to break federal law.

- Proposition 215 will make it legal for people to smoke marijuana in the workplace ... or in public places ... next to your children.

NOT ONE MAJOR DOCTOR'S ORGANIZATION, LAW ENFORCEMENT ASSOCIATION OR DRUG EDUCATION GROUP SUPPORTS PROPOSITION 215.

IT'S A SCAM CONCOCTED AND FINANCED BY DRUG LEGALIZATION ADVOCATES! PLEASE VOTE NO.

— SHERIFF BRAD GATES, Past President, California State Sheriffs' Association

— ERIC A. VOTH, M.D., F.L.C.P., Chairman, The International Drug Strategy Institute

— GLENN LEVANT Executive Director, DARE America

THERE IS NO AGE RESTRICTION. Even children can be legally permitted to grow, possess and use marijuana ... without parental consent.

NO FDA APPROVAL • NO CONSUMER PROTECTION Consumers are protected from unsafe and impure drugs by the Food and Drug Administration (FDA). This initiative makes marijuana available to the public without FDA approval or regulation. Quality, purity and strength of the drug would be unregulated. There are no rules restricting the amount a person can smoke or how often they can smoke it.

THC, the active ingredient in marijuana, is already available by prescription as the FDA approved drug Marinol.

Responsible medical doctors wishing to treat AIDS patients, cancer patients and other sick people can prescribe Marinol right now. They don't need this initiative.

### **NATIONAL INSTITUTE OF HEALTH, MAJOR MEDICAL GROUPS SAY NO TO SMOKING MARIJUANA FOR MEDICINAL PURPOSES**

The National Institute of Health conducted an extensive study on the medical use of marijuana in 1992 and concluded that smoking marijuana is not a safe or more

effective treatment than Marinol or other FDA approved drugs for people with AIDS, cancer or glaucoma. .

The American Medical Association, the American Cancer Society, the National Multiple Sclerosis Society, the American Glaucoma Society and other top medical groups have not accepted smoking marijuana for medical purposes.

**LAW ENFORCEMENT AND DRUG PREVENTION  
LEADERS SAY NO TO PROPOSITION 215**

The California State Sheriffs Association, The California District Attorneys Association The California Police Chiefs Association, The California Narcotic Officers Association, The California Peace Officers Association Attorney General Dan Lungren say that Proposition 215 will provide new legal loopholes for drug dealers to avoid arrest and prosecution. Californians for Drug-Free Youth The California DARE Officers Association Drug Use Is Life Abuse, Community Anti-Drug Coalition of America, Drug Watch International say that Proposition

215 will damage their efforts to convince young people to remain drug free. It sends our children the false message that marijuana is safe and healthy.

**HOME GROWN POT • HAND ROLLED “JOINTS”  
• DOES THIS SOUND LIKE MEDICINE?**

This initiative allows unlimited quantities of marijuana to be grown anywhere ... in backyards or near schoolyards without any regulation or restrictions. This is not responsible medicine. It is marijuana legalization.

**VOTE NO ON PROPOSITION 215**

— JAMES P. FOX, President, California District Attorneys Association

— MICHAEL J. MEYERS, M.D., Medical Director, Drug and Alcohol Treatment Program Brotman Medical Center, CA

— SHARON ROSE Red Ribbon Coordinator, Californians for Drug-Free Youth, Inc.

**Rebuttal to Argument Against Proposition 215**

SAN FRANCISCO DISTRICT ATTORNEY TERENCE HALLINAN SAYS ... “Opponents aren’t telling you that law enforcement officers are on both sides of Proposition 215. I support it because I don’t want to send cancer patients to jail for using marijuana. Proposition 215 does not allow “unlimited quantities of marijuana to be grown anywhere.” It only allows marijuana to be grown for a patient’s personal use. Police officers can still arrest anyone who grows too much, or tries to sell it. Proposition 215 doesn’t give kids the okay to use marijuana, either. Police officers can still arrest anyone for marijuana offenses. Proposition 215 simply gives those arrested a defense in court, if they can prove they used marijuana with a doctor’s approval.”

ASSEMBLYMAN JOHN VASCONCELLOS SAYS ... “Proposition 215 is based on a bill I sponsored in the California Legislature. It passed both houses with support from both parties, but was vetoed by Governor

Wilson. If it were the kind of irresponsible legislation that opponents claim it was, it would not have received such widespread support.”

CANCER SURVIVOR JAMES CANTER SAYS ... “Doctors and patients should decide what medicines are best. Ten years ago, I nearly died from testicular cancer that spread into my lungs. Chemotherapy made me sick and nauseous. The standard drugs, like Marinol, didn’t help. Marijuana blocked the nausea. As a result, I was able to continue the chemotherapy treatments. Today I’ve beaten the cancer, and no longer smoke marijuana. I credit marijuana as part of the treatment that saved my life.”

— TERENCE HALLINAN, San Francisco District Attorney

— JOHN VASCONCELLOS, Assemblyman, 22nd District, Author 1995 Medical Marijuana Bill

— JAMES CANTER, Cancer Survivor