

Homestead Valley Community Council
50567B Quailbush Rd. Johnson Valley, California 92285
www.hvccsite.org

Illegal Marijuana Cultivation Action Packet

Prop 64 “Adult Use of Marijuana Act” Frequently Asked Questions (FAQ)

What is Prop 64?

On November 8, 2016, California voters approved ballot initiative Prop 64 “The Control, Regulate and Tax Adult Use of Marijuana Act” by a margin of 57% yes to 43% no. After it passed, “Control, Regulate, and Tax” was dropped and it became better known as the “*Adult Use of Marijuana Act*” or AUMA.

Prop 64 went into effect in January 2018. It legalized adult possession, consumption, and small cultivation for personal use. It also established a system of oversight to regulate and tax the legal production and sale of marijuana.

Didn’t Prop 64 promise to end illicit marijuana growing and selling and generate millions of dollars in tax revenues while protecting the environment?

Yes, it did and if you voted yes on Prop 64, you likely voted for it because you expected these results. Unfortunately Prop 64 has failed to deliver.

Prop 64 is about 72 pages long, depending on the version you read (source: <https://www.cdfa.ca.gov>). Section 3 of Prop 64, like other voter initiatives historically, establishes a “Purpose and Intent”. This section is very conveniently found in the first few pages of the initiative so you would be sure to see it if you were taking a brief look at the initiative. Some of the promises made in Prop 64’s Purpose and Intent are:

Take nonmedical marijuana production and sales out of the hands of the illegal market and bring them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.

Strictly control the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana through a system of state licensing, regulation, and enforcement.

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.

Generate hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.

Prevent illegal production or distribution of marijuana.

Prevent the illegal diversion of marijuana from California to other states or countries or to the illegal market.

Preserve scarce law enforcement resources to prevent and prosecute violent crime.

Please note: The above statements are the exact wording contained in Prop 64 Section 3 - Purpose and Intent - pages 2, 3, and 4 as submitted to the voters.
(source: <https://www.cdfa.ca.gov>)

The Homestead Valley Community Council claims Prop 64 has failed and is THE cause of the proliferation of illegal marijuana farms in our desert. How?

Prior to Prop 64 the penalties and fines for illegal cultivation and distribution were felony status of 2 yr jail and \$100,000 fine. CA Health and Safety Code section 11358 covered cultivation and 11359 covered distribution. Under these penalties and fines we did not have this illegal cultivation proliferation problem.

Prop 64 downgraded the penalties and fines in HSC 11358 and HSC 11359 from a felony to a minor misdemeanor with maximum \$500 fine and up to 6 months jail (Note the writers of this initiative buried this on pages 61 and 62 of the 72-page proposal). Unless other more serious crimes are involved, violators caught growing and/or distributing are issued a ticket to appear in court, and in some cases, they walk out of court with no penalties or fines imposed. Many go right back to growing, even at the same farm (as reported recently in the L.A. Times). Whether someone is caught growing, distributing, or processing and selling 10 plants, or 10,000 plants, it now makes no difference in CA under Prop 64. It establishes the same minor misdemeanor charge regardless of quantity. This is insane and is why most of these farms are

operating in residential areas in plain sight, destroying entire communities and terrorizing law-abiding citizens. They have nothing to lose and millions of tax-free dollars to gain.

Seven western states now have laws legalizing adult use of marijuana – Oregon, Washington, Nevada, California, Arizona, Colorado, and Montana. California is the only one of the seven states that downgraded penalties for illicit growth and sale of marijuana from felony to misdemeanor. It is no coincidence California is the only state with illegal farms operating in plain site in the middle of communities at the unimaginable magnitude we are experiencing.

Members of law enforcement, the San Bernardino County Board of Supervisors, the CA State legislature, and U.S. Congress have publicly stated they believe this is **THE** cause of the explosion of illicit pot farms across California and now in our communities. Homestead Valley Community Council agrees!

Since Prop 64 is a voter initiative, what can be done to fix it?

Ballot initiatives approved by the voters carry a lot of legal weight and are difficult to amend. Fortunately, our lawmakers in Sacramento are authorized to address the consequences of a voter initiative if the results do not align with the initiative's Purpose and Intent. Prop 64 has failed to achieve its Purpose and Intent and has instead caused the very problems it promised to solve. If there ever was a voter initiative in desperate need of legislative intervention, Prop 64 is it!

Furthermore Prop 64 authorizes amendment in Section 10 of its own pages.

Section 10 Amendment (selected relevant parts)

This Act shall be broadly construed to accomplish its purposes and intent as stated in Section 3.

Except as otherwise provided, the provisions of the Act may be amended by a two-thirds vote of the Legislature to further the purposes and intent of the Act.

(source: <https://www.cdfa.ca.gov>)

Homestead Valley Community Council believes we cannot wait until the 2022 legislative session for help from Sacramento, and unfortunately the 2021 session is

closed to any new legislation. Our only chance for timely legislative intervention on this matter is for Governor Newsom to call for a special “extraordinary session” that will convene the legislature to specifically address the failures of Prop 64.

What can you do to help?

You can send a letter to Governor Newsom explaining the gravity of the horrible problem we are facing with these illegal marijuana farms and ask him to immediately call for a special session of the legislature to use their authority to address and amend Prop 64 that has failed to achieve its Purpose and Intent.

You can send letters to your state assemblyman and state senator explaining the gravity of the horrible problem we are facing with these illegal marijuana farms and ask them to use their position as an elected member of the CA state legislature to request that the governor call for a special extraordinary session to address the matter, and for them to help advance a bill in the session that restores felony penalties to illegal marijuana growing and selling. Tell the senator and assemblyman you live in their district and include your name and address in all letters.

Governor Gavin Newsom

1303 10th Street, Suite 1173

Sacramento, CA 95814

Phone: (916) 445-2841

Fax: (916) 558-3160

Online contact form: <https://govapps.gov.ca.gov/gov40mail/>

Senate

If you live in the Morongo Basin or Lucerne Valley, you will be writing:

Senator Shannon Grove

16th Senate District

State Capitol, Room 305

Sacramento, CA 95814

Online contact form: <https://grove.cssrc.us/e-mail-senator>

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Assembly

If you live in the Morongo Basin except for Johnson Valley, you will be writing:

Assemblyman Chad Mayes

42nd Assembly District

P.O. Box 942849

Sacramento, CA 94249-0042

Online contact form:

<https://lcmspubcontact.lc.ca.gov/PublicLCMS/ContactPopup.php?district=AD42>

If you live in Johnson Valley or Lucerne Valley, you will be writing:

Assemblyman Thurston Smith

33rd Assembly District

P.O. Box 942849

Sacramento, CA 94249-0033

Online contact form:

<https://lcmspubcontact.lc.ca.gov/PublicLCMS/ContactPopup.php?district=AD33>

Suggestions for your letters

(Remember to be respectful. We need these lawmakers now more than ever.

The illegal growers are our enemies – not them.)

Tell them about what you are experiencing living with these farms in your community. (fear, intimidation, lights, generator noise, water trucks, criminal element, smells, trash, etc. etc.)

Thank Governor Newsom for his concern over the drought and its impact on desert water resources, then remind him that the water being used by these illegal farms is often obtained illegally, millions of gallons of water are being used daily, and that these farms are detrimental to our fragile water reserves.

Mention how disappointed you are that Prop 64 did not meet its intent and purpose to rid our communities of illegal black-market production and sale, and in fact has made the problem exponentially worse by downgrading felony penalties and fines to misdemeanor.

Mention how disappointed you are that Prop 64 promised millions of dollars in tax revenue and environmental protections through regulations, but the illegal farms

generate no tax dollars and are destroying the environment through illegal grading, use of dangerous pesticides, and the trash and human waste deliberately left recklessly on the ground at these sites.

Mention how you have been a hard-working taxpayer all your life. Tell them how disturbing it is to see people engage in illegal activity that earns them hundreds of thousands to millions of dollars per crop without paying any state or federal income tax or collecting sales tax. Then they avoid all the cultivation taxes and ignore critical regulations that protect the environment.

Calls To Action

Ask Governor Newsom to call for a special session of the state legislature to address Prop 64 and its failure to fulfill its purpose and intent to eliminate the influence the underground black market and violent drug cartels have on this industry.

Ask our legislators in the senate and assembly to contact Governor Newsom and formally request that he convene a special extraordinary session of the legislature to immediately address the epic problem of illegal marijuana cultivation and distribution. Ask them to promote legislation in that session that restores felony penalties and fines for illegal cultivation and distribution. Remind them that Prop 64 has failed in its stated Purpose and Intent (cite one or more of the examples we give in the Prop 64 FAQ) and remind them that the legislature has the authority to amend Prop 64 both through their own rules, and by declaration in Section 10 of Prop 64 itself.

Tell the Governor and our legislators that this problem is getting worse by the day and time is of the essence. We cannot wait until 2022. The damage already done is immense but the further damage that will be caused by delaying action on this critical matter will be unthinkable and widespread. We need their help now.