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9

Regulating Businesses and Personal Conduct

§9.47 18. Medical Marijuana

The possession, cultivation, transportation, and distribution of marijuana are governed by a number of laws: the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (Title II of which is the Controlled Substances Act (CSA) (21 USC §801 *et seq.*)); the Compassionate Use Act (CUA) (Health & S C §11362.5), which was approved by California voters as Proposition 215 in 1996; the Medical Marijuana Program Act (MMPA or SB 420) (Health & S C §11362.7 *et seq.*), which was adopted by the legislature in 2003; and other provisions of the California Uniform Controlled Substances Act (Health & S C §11000 *et seq.*).

The CUA and MMPA do not “legalize” marijuana, but provide limited defenses to certain categories of individuals with respect to certain conduct and certain state criminal offenses. *People v Mentch* (2008) 45 C4th 274. Nor does the CUA or MMPA preempt or limit local regulation of medical marijuana uses through land use authority. *City of Riverside v Inland Empire Patients Health & Wellness Ctr., Inc.* (2013) 56 C4th 729 (unanimously upholding local ban on medical marijuana dispensaries); *County of Los Angeles v Hill* (2011) 192 CA4th 861; *City of Claremont v Kruse* (2009) 177 CA4th 1153. Interpretation of the CUA and MMPA is continuing to evolve as cities and counties experiment with various land use approaches, including licensing schemes and outright bans, and as the courts react. *Gonzales v Raich* (2005) 545 US 1, 125 S Ct 2195; *People v Kelly* (2010) 47 C4th 1008; *People v Mentch* (2008) 45 C4th 274; *Ross v RagingWire Telecommunications, Inc.* (2008) 42 C4th 920; *County of Los Angeles v Hill* (2011) 192 CA4th 861; *Qualified Patients Ass’n v City of Anaheim* (2010) 187 CA4th 734; *City of Claremont v Kruse* (2009) 177 CA4th 1153; *County of San Diego v San Diego NORML* (2008) 165 CA4th 798; *People v Trippet* (1997) 56 CA4th 1532.



For further discussion, see [The California Municipal Law Handbook](#): Regulating Businesses and Personal Conduct, chap 9 (Cal CEB). Available in print and through [OnLaw](#).

This handbook gives you all the background, tools, and guidance you need in all the major areas of California municipal law. Known as the definitive work in its field, this work of over 300 municipal attorneys from the City Attorneys’ Department of the League of California Cities is published annually by CEB