12-0002-S90

RULES, ELECTIONS & INTER[illegible]ERNMENTAL RELA[illegible]

SEP 28 2012

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the Compassionate Use Act (CUA), adopted by the voters in 1996, and the Medical Marijuana Program Act (MMPA), enacted by the State Legislature in 2003, provided California's qualified patients and their primary caregivers with limited immunities from specified criminal prosecutions under state law for purposes that included ensuring personal access, consistent with those limited criminal immunities, to marijuana for those with medical needs;

WHEREAS, commencing in 2007, more than 850 medical marijuana businesses opened storefront shops and commercial growing operations in the City without any land use approval under the Los Angeles Municipal Code and, since that time, an unknown number of these businesses continue to open, close, and reopen seemingly at will in Los Angeles, each without City regulatory authorization;

WHEREAS, the Los Angeles Police Department has reported that, as the number of marijuana dispensaries and commercial growing operations continue to proliferate without legal oversight, the City and its neighborhoods have experienced an increase in crime and the negative secondary harms associated with unregulated marijuana businesses, including but not limited to, murders, robberies, the distribution of tainted marijuana, and the diversion of marijuana for non-medical and recreational uses;

WHEREAS, the City's efforts to foster compassionate patient access to medical marijuana by capping the number of collectives through priority registration opportunities for earlier existing collectives, a drawing, and mandatory geographic dispersal, resulted in an explosion of civil lawsuits filed by medical marijuana businesses against the city challenging the validity of the City's legislative efforts;

WHEREAS, these lawsuits against the City remain unresolved and have been accompanied by a proliferation of marijuana litigation involving other local governments, conflicting judicial rulings between the courts, the continued operation of unpermitted businesses in the City that draw unending neighborhood complaints, and an inappropriate and excessive drain upon civic legal and law enforcement resources;

WHEREAS, in December 2011, California Attorney General Kamala Harris advised the State Legislature that new legislation is required in order to resolve questions of law regarding medical marijuana that are currently left unanswered by existing state law; and

WHEREAS, the City similarly continues to believe that there is a pressing need for reform of the existing California medical marijuana framework, which fails to respond to fundamental issues and which has been inappropriately used as a legal shield to stymie local governments from solving many resulting problems.

NOW, THEREFORE, BE IT RESOLVED, that by the adoption of this Resolution, the City calls upon the State Legislature to take action (but only in a manner that is consistent with the federal Controlled Substances Act and does not expose local jurisdictions to liability for violation of federal law) to address the inadequacies of State law regarding the cultivation, recommendation, and distribution of medical marijuana, including, among other measures, by:

1. Defining the conduct that is immunized from State law criminal prosecution by the phrase "collectively or cooperatively to cultivate medical marijuana." *See* Health and Safety Code Section 11362.775.

2. Confirming that "dispensaries" are not immunized from State law criminal prosecution but that they and all other medical marijuana establishments are prohibited from locating within a 600-foot radius of a school in all jurisdictions, as more particularly set forth in State law. *See* Health and Safety Code Section 11362.768.

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3. Confirming that financial transactions are not immunized from State law criminal prosecution given the phrase "nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit." *See* Health and Safety Code Section 11362.765.

4. Confirming that medical marijuana cooperatives and collectives may not open or operate without local government authorization and are bound by local regulations, most especially in Charter cities, given the provision "Nothing in this article shall prevent a city or other local governing body from adopting and enforcing any of the following: (a) Adopting local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective." *See* Health and Safety Code Section 11362.83.

5. Imposing stricter regulations on physicians who provide medical marijuana recommendations, including by requiring that all doctors' recommendations given to qualified patients be renewed on a quarterly basis and by requiring all recommending physicians to provide a specified level of ongoing health care to their patients in addition to issuing a medical marijuana recommendation;

6. Identifying a lawful source for qualified persons to obtain marijuana plants and seeds and imposing regulations similar to the California Department of Food and Agriculture's Organic Program and California's Sherman Food, Drug and Cosmetic Law to govern the tracking, handling, and labeling of medical marijuana products; and

7. Creating a system of public health regulations controlling the quality and testing of medical marijuana products similar to those that apply to traditional food and drug manufacturers, wholesalers and retailers.

8. Creating a State Medical Marijuana Health board of licensed medical professionals to determine through research, medical and scientific studies, what medical conditions provide relief through medical marijuana treatment, besides "cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis or migraine," per the Compassionate Use Act's "or any other illness for which marijuana provides relief" clause. Licensed medical doctors providing recommendations would then be required to use the Board's approved uses as a barometer for treatment, as they do with other legitimate medicines.

9. Requiring, as in the case in the State of Oregon, which has a finite list of approved conditions and requires medical history under its medical marijuana laws, licensed medical physicians in the State of California to ascertain a minimum of six-months of medical history of qualified patients before distributing a recommendation for medical marijuana for any of the recognized uses as defined by the above-described State Medical Marijuana Health Board and the pre-defined recognized uses listed in the Compassionate Use Act.

PRESENTED BY:

HERB J. WESSON, JR.
Councilmember, 10th District

JOSÉ HUIZAR
Councilmember, 14th District

MITCHELL ENGLANDER
Councilmember, 12th District

SECONDED BY:

ORIGINAL