



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 5/8/2017

Agenda Placement: 7D

## Napa County Legislative Subcommittee Board Agenda Letter

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**TO:** Napa County Legislative Subcommittee

**FROM:** Molly Rattigan for Leanne Link - County Executive Officer  
County Executive Office

**REPORT BY:** Michael Karath, Staff Assistant - BOS - 299-1477

**SUBJECT:** AB 1578 - Assisting Federal Authorities Concerning California Citizens with Medical Marijuana ID Cards

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### **RECOMMENDATION**

County Executive Officer requests discussion of and possible action on AB 1578 (Jones-Sawyer), a bill that prohibits a state or local agency, as defined, from using agency resources to assist a federal agency to investigate, detain, detect, report, or arrest a person for marijuana activity that is authorized by law in the State of California and transferring an individual to federal law enforcement authorities for purposes of marijuana enforcement, unless directed to do so by a court order.

### **EXECUTIVE SUMMARY**

According to the authors of AB 1578, the Obama Administration provided assurances to California that if it developed a robust State regulatory and enforcement system for medical or personal marijuana use by adults, California residents who complied with State laws and regulations would have a reasonable expectation that they would not be subject to harassment, arrest or incarceration by the federal government.

However, the authors say the Trump Administration is violating the agreement with the new federal Attorney General's suggested crackdown on the recreational use of marijuana, using State and local resources to assist Trump Administration's agenda. AB 1578's authors see this as an overreach that would undermine both the will of California voters and the laws approved by the California State Legislature.

Therefore, AB 1578 would prohibit a state or local agency from using agency resources to assist a federal agency to investigate, detain, detect, report, or arrest a person for marijuana activity that is authorized by law in the State of California and transferring an individual to federal law enforcement authorities for purposes of marijuana enforcement, unless directed to do so by a court order.

CSAC: Pending

RCRC: Pending

Known Opposition: California State Sheriff's Association, California Police Chiefs Association, League of California Cities.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

In 1996, California voters approved Proposition 215, the Compassionate Use Act, that legalized the use of medical marijuana.

In 2016, California voters approved Proposition 64, the Marijuana Legalization Statute, that legalized the recreational use of marijuana.

On February 23, 2017, White House Press Secretary Sean Spicer told reporters that the Trump Administration had no plans to continue the Obama administration's permissive approach in states that had legalized marijuana for recreational use, saying that there will be greater enforcement.

According to the author of AB 1578, the Obama Administration provided assurances to California that if it developed a robust State regulatory and enforcement system for medical or personal marijuana use by adults, California residents who complied with State laws and regulations would have a reasonable expectation that they would not be subject to harassment, arrest or incarceration by the federal government.

However, the authors say the Trump Administration is violating the agreement, since the new president and federal Attorney General suggested a crackdown on the recreational use of marijuana and using State and local resources to assist their efforts. AB 1578's authors see this as an overreach that would undermine both the will of California voters and the laws approved by the California State Legislature.

Therefore, AB 1578 would prohibit a state or local agency from using agency resources to assist a federal agency to investigate, detain, detect, report, or arrest a person for marijuana activity that is authorized by law in the State of California and transferring an individual to federal law enforcement authorities for purposes of marijuana enforcement, unless directed to do so by a court order.

Opponents to this bill have stated the following:

"This bill will have the impact of hamstringing law enforcement investigations. Ironically, its ultimate consequence would be to vitiate Proposition 64 in its entirety by resulting in the outright intervention by federal authorities in order to enforce federal marijuana laws across the board in California. In 2013, Deputy Attorney General James Cole

issued guidance with respect to the federal government's position on marijuana enforcement in states that had legalized marijuana in their jurisdictions. The Cole Memo, as it has come to be known, outlines eight federal enforcement priorities for issues relating to marijuana. Implicit in the Cole Memo is the proposition that there will be open communication between the state and federal government to assure that the state is in compliance with the federal priorities. Under AB 1578, however, the state would be prohibited from interaction with the federal government to ascertain compliance with the Cole Memo. For example, among the priorities of the Cole Memo are the prevention of distribution of marijuana to minors. Inasmuch as Proposition 64 permits audiences that receive marijuana advertising to be up to 28.4% children, this will be an issue of significance. Under AB 1578, however, the state would seem to be precluded from sharing any information about the percentage of children receiving marijuana advertising. Similarly, although Proposition 64 provides that conviction of a controlled substance trafficking felony may not be the sole reason for denying a marijuana license, the state could be precluded from even reaching out to the federal government to determine if there were any other factors in connection with that felony trafficking conviction. In like manner, a federal law enforcement discovery of California marijuana being illegally sold in another state could be impossible to trace to the California based trafficker under the provisions of AB 1578. "In other words, AB 1578 could have the unintended consequence of placing California in direct violation of the Cole Memo and inviting precisely the type of federal intervention the bill is intended to prevent."

CSAC: Pending

RCRC: Pending

Known Opposition: California State Sheriff's Association, California Police Chiefs Association, League of California Cities

#### **SUPPORTING DOCUMENTS**

A . AB 1578 - Marijuana Federal-State regulation

B . AB 1578 - Marijuana Federal-State regulation - Assembly Analysis

Recommendation: Approve

Reviewed By: Molly Rattigan