

Proposition Number 2

Ballot Title

Shall a law be enacted to:

- establish a state-controlled process that allows persons with certain illnesses to acquire and use medical cannabis and, in certain limited circumstances, to grow up to six cannabis plants for personal medical use;
- authorize the establishment of facilities that grow, process, test, or sell medical cannabis and require those facilities to be licensed by the state; and
- establish state controls on those licensed facilities, including:
 - electronic systems that track cannabis inventory and purchases; and
 - requirements and limitations on the packaging and advertising of cannabis and on the types of products allowed?

Impartial Analysis

Proposition Number 2 adds to current Utah law related to medical cannabis, also known as medical marijuana, in two main ways. First, it authorizes the establishment of private facilities that grow, process, test, and sell medical cannabis and requires the state to regulate those facilities. Second, the Proposition establishes a state-controlled process for people with certain conditions to receive approval to acquire, use, and, in certain limited circumstances, grow medical cannabis.

Current Law

Current Utah law requires the state, by January 1, 2019, to ensure that cannabis is grown in the state and can be processed into medicinal form and to establish a state facility to sell the cannabis that has been processed into a medicinal form.

Under current Utah law, cannabis can be grown, processed, or sold only by the state. The state may sell cannabis only to a qualified research institution or a person who is terminally ill with less than six months to live.

Under current federal law, it is illegal to distribute, possess, or use cannabis. The federal law is enforceable throughout the country, regardless of whether a state law authorizes the distribution, possession, or use of cannabis in some manner. To the extent a state law prevents the federal government from executing the federal law, the federal law controls and a court could find that the state law is invalid.

Effect of Proposition 2

Proposition 2 does not eliminate or change Utah's existing cannabis-related law but adds to it in two main ways. First, the Proposition adds a parallel path for cannabis production and distribution by authorizing the establishment of private facilities that grow, process, test, and sell medical cannabis.

Second, the Proposition establishes a parallel process for people to receive approval to use medical cannabis, expanding the group of people eligible to use medical cannabis.

Licensed and regulated facilities

Proposition 2 authorizes the establishment of four types of private cannabis facilities:

- cultivation facilities, which grow cannabis to sell to other cannabis facilities;
- processing facilities, which acquire unprocessed cannabis from cultivation facilities, process it into cannabis products, and sell those products to dispensaries;
- testing facilities, which test samples of all cannabis and cannabis products to be sold by dispensaries; and
- dispensaries, which acquire cannabis and cannabis products from cultivation facilities and processing facilities to sell to people who have been approved to use medical cannabis.

Proposition 2 also requires the state to license and regulate cannabis facilities and establishes requirements for and limitations on the facilities, including requirements and limitations relating to:

- the advertising, packaging, labeling, processing, testing, and transporting of medical cannabis;
- the types of products that may be processed or sold;
- the quantities of medical cannabis that may be sold; and
- the number of facilities that may be licensed to grow or sell medical cannabis.

Proposition 2 requires each licensed cannabis facility to maintain an inventory control system that:

- tracks cannabis in real time, using a unique identifier;
- stores in real time a record of the facility's cannabis inventory;
- includes a video recording system to track cannabis handling and processing;
- maintains compatibility with the state's electronic system identifying people approved to use medical cannabis; and
- is accessible to the state during inspections, which can occur at any time.

Medical cannabis use

Proposition 2 establishes a state-controlled process to allow, beginning March 1, 2020, certain people to receive approval to use medical cannabis, expanding the group of people eligible to use medical cannabis. To receive approval to use medical cannabis under Proposition 2, a person must have one of the conditions listed as a "qualifying illness" and receive a physician's recommendation.

Proposition 2 also establishes a process for a person whose condition is not included on the list of qualifying illnesses to receive approval to use medical cannabis. To receive approval, a person must provide satisfactory evidence to a five-member board of physicians that the person has a condition that is hard to control or deal with and substantially impairs the person's quality of life, and the board must determine that medical cannabis use is in the person's best interest.

Under Proposition 2, a person approved to use medical cannabis is:

- prohibited from using medical cannabis in public, except in a medical emergency;

- prohibited from smoking cannabis;
- prohibited from using medical cannabis while operating a motor vehicle;
- required to carry proof, when possessing medical cannabis outside the person's residence, that the person is approved to use medical cannabis;
- required to carry cannabis, when outside the person's residence, only in limited quantities and with labeling that indicates its source;
- allowed to grow up to six cannabis plants for personal medical use, if, after January 1, 2021, there is no licensed dispensary selling medical cannabis within 100 miles of the person's residence; and
- allowed to designate up to two persons to help, without compensation, the person acquire or grow medical cannabis, if a physician determines that the person needs assistance.

Proposition 2 requires the state to maintain an electronic system, operational by March 1, 2020, that, among other things, allows:

- a physician to submit a recommendation for medical cannabis treatment;
- a person to apply from a physician's office for approval to use medical cannabis;
- the state to track and archive, for no more than 60 days, cannabis purchases; and
- law enforcement to determine during a traffic stop whether a person is approved to use medical cannabis.

Fiscal Impact

Proposition 2 exempts medical cannabis sales from state and local sales tax and requires the state to impose fees, including licensing and registration fees paid by cannabis facilities, to cover the ongoing costs of implementing the Proposition. In the first year, Proposition 2 may cost the state \$3.6 million, an amount that includes one-time setup costs. Some of the first year's initial setup costs will have to be paid before the state begins collecting fees, requiring the state to pay \$1.3 million from state tax revenue. After the first year, the annual revenue from fees is expected to cover the Proposition's estimated annual cost of \$2.1 million.