

Rights of Prop 215 Medical Users

California’s medical cannabis laws under Proposition 215 remain in effect under AUMA. Prop 215 gives patients and their designated primary caregivers the right to possess and cultivate as much cannabis as they need for their personal medical use with the recommendation or approval of a California-licensed physician.

There is no age limit on medical use. Minors under age 18 need permission from their parents/guardians to use medical cannabis. The parental rights of qualified Prop 215 patients are protected by AUMA in family and juvenile court proceedings [HSC 11362.84].

Patients who have state medical cannabis ID cards are exempt from the sales tax on medical cannabis and cannabis products [BPC 34011(g)]. ID cards are voluntary and are issued by county health departments: www.cdph.ca.gov/Programs/CHSI/Pages/MMICP.aspx

A 2022 Cal NORML-sponsored law (AB 1954; BPC 2228.5) protects the right of patients to medical treatment (e.g. pain medicine prescriptions) if they use medical cannabis. “Ryan’s Law,” [H&SC 1649] protects the right of terminally ill patients to use non-inhaled cannabis in hospital and hospice settings; a pending bill would extend those protections to seniors in chronic pain.

The California Supreme Court ruled in *People v. Kelly (2010) 47 Cal.4th 1008* that there can be no set limit in state law on the amount of cannabis patients may cultivate, however local ordinances tend to restrict all cultivation to six plants per parcel.

It is no longer legal for multiple patients to grow “collective gardens.” AUMA added Section 26033 to the Business and Professions Code, protecting patients and primary caregivers who cultivate for themselves or no more than five patients, if they receive compensation only under Subdivision (c) of Section 11362.765 of the Health and Safety Code. Doctors’ notes stating that patients can grow 99 (or any other number) of plants are not legally valid, unless it can be proved in court that a patient required that amount.

An appellate court decision, *Kirby v. County of Fresno* found that while a local government can regulate land use, the cultivation of medical marijuana cannot be criminalized by local ordinance.

How Can I Obtain Cannabis Legally?

Adults 21 and over and medical users or caregivers can buy cannabis at licensed retail dispensaries or delivery services. A list of licensed retailers can be found at: <https://www.canorml.org/cannabis-resource-directory/dispensaries-and-delivery/> or <https://search.cannabis.ca.gov/retailers>.

It is legal for any adult to buy or receive an ounce of cannabis from another, and to give away up to one ounce without compensation to other adults. Adults can also grow up to six plants at their residence and legally possess the results of their gardens at their homes.

Taxes

All retail sales of cannabis are subject to an additional 15% state excise tax. Retail sales of cannabis are also subject to the standard state sales and use tax of 7.5% – 9.25%. *Exception: Medical users with a state medical cannabis ID card are exempt from the sales and use tax.*

Many local governments assess additional taxes on cannabis businesses, ranging as high as 10-20% of total revenues. All of these high taxes have made it difficult for the legal cannabis industry to gain a foothold in California. Cal NORML supports cannabis tax reform.

Expungement of Past Marijuana Convictions

AUMA has a mechanism by which those convicted of past marijuana crimes can apply to have their records cleared or resentenced. CA has also taken steps to automatically expunge past marijuana offenses. For more info, see www.CaNORML.org.

How Can I Get Involved in Advocating for My Rights?

You can join Cal NORML, a membership-supported organization that advocates in Sacramento and across the state for the rights of cannabis consumers. You can also join or start a local chapter of NORML. Visit our website www.CaNORML.org and join to receive our newsletter and other member benefits, like discounts on products and events. Or use this QR code to sign up for our email alerts.



California Consumers Guide to State Marijuana Laws



 **California**
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To find a Cal NORML cannabis attorney, see www.canorml.org/cannabis-resource-directory/attorneys/