

**Proposition D**  
**Frequently Asked Questions**  
**(September 13, 2013)**

*The following is provided for informational purposes only and not for the purpose of providing legal advice. You should contact an attorney to obtain advice with respect to any particular issue or problem or to answer any questions you may have regarding Proposition D.*

**1. What is Proposition D?**

Proposition D was passed by the electorate in the May 21, 2013 Municipal Election. Proposition D prohibits the operation or establishment of Medical Marijuana Businesses, including renting to, working for, and using any vehicle in furtherance of such businesses.

Proposition D provides protection (i.e., limited immunity) from its prohibitions for Medical Marijuana Businesses that comply with **all of the following four** requirements: (1) were timely registered with the City Clerk under the City's 2007 Interim Control Ordinance 179027 (ICO); (2) timely applied for registration under the City's 2010 Medical Marijuana Ordinance 181069 as amended by the 2011 Temporary Urgency Ordinance 181530 (TUO); (3) registered under Measure M regarding taxation of medical marijuana in 2011 or 2012; and (4) comply with other operating and location restrictions. (Proposition D at Section 45.19.6.3)

**2. What is the effective date of Proposition D?**

Proposition D became effective by Ordinance 182580 upon publication on June 20, 2013.

**3. Does Proposition D provide any protection against prosecution under state or federal law?**

Proposition D does **not** provide **any** protection from prosecution for violations of state controlled substances laws.

Proposition D does **not** provide **any** protection from prosecution under the Federal Controlled Substances Act which, prohibits the possession, use and sale of marijuana for all purposes without any exception for medical marijuana.

**4. Where can I find the text of Proposition D?**

Proposition D is codified in the Los Angeles Municipal Code as Article 5.1 of Chapter 4, Sections 45.19.6 through 45.19.6.9.

Proposition D can be accessed at any one of the two following links:

[http://clkrep.lacity.org/onlinedocs/2013/13-1300\\_ord\\_182580.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1300_ord_182580.pdf)

<http://atty.lacity.org/FAQ/index.htm>

**5. What is the document entitled “Proposition D: Existing Medical Marijuana Businesses Timely Registered Under ICO, TUO and Measure M” (Proposition D Information List)?**

The Proposition D Information List (the “List”) was designed to provide the public with a summary of information available to the City regarding Medical Marijuana Businesses that timely registered with the City Clerk under the ICO, timely notified the City Clerk of an intention to register under the TUO, and registered under Measure M in 2011 or 2012.

The List does not grant or remove any rights or benefits, nor does it change the status of any business. It is not a determination of businesses entitled to protection under Proposition D. It does not prevent any business included on the List from being prosecuted for violating Proposition D. It does not prevent any business not on the List from raising the protection provided by Proposition D, if prosecuted.

**6. Where can I find the List?**

The List can be accessed at the City Attorney’s website, <http://www.atty.lacity.org/FAQ/index.htm>

**7. Can I appeal the fact that my business is not on the List?**

No. The City does not provide any appeal for not being on the List because the List does not provide any right or benefit to any business, but rather is only a summary of information available to the City.

**8. Why are businesses that I thought were closed still on the List?**

The information available to the City and used to create the List may not be up to date and may not reflect that a business has closed.

**9. How will the City enforce Proposition D?**

The Office of the City Attorney is responsible for enforcing Proposition D. Shortly prior to its effective date, the Office sent a notification letter to Medical Marijuana Businesses allowing them an opportunity to provide information to establish the protection provided by Proposition D. The Office will commence criminal and/or civil enforcement proceedings against all responsible entities and individuals if it has evidence that a Medical Marijuana Business is open and not entitled to the protection provided in Proposition D.

**10. Can I be prosecuted under Proposition D if I am employed by or rent to a Medical Marijuana Business that is not immunized?**

Yes. Proposition D makes it unlawful to participate as an employee, contractor, agent, volunteer, or in any other manner or capacity in a Medical Marijuana Business. This includes renting, leasing, or otherwise permitting a Medical Marijuana Business to occupy or use a location, vehicle or other mode of transportation in connection with such a business.

**11. What are the penalties for violating Proposition D?**

Violation of Proposition D are misdemeanors, punishable by a fine of \$1000 and six months imprisonment in county jail, per day, and also a nuisance for which injunctive relief and civil penalties of \$2500 per day may be imposed. (Proposition D at Section 45.19.6.7; Los Angeles Municipal Code Sections 11.00(l) and (m).)

**12. If I am a business that is on the List, what else must I do to comply with Proposition D's requirements?**

In order to be protected under Proposition D, a Medical Marijuana Business on the List **must not**:

- Have an unpaid tax obligation to the City that is not paid in full, including any assessed fines, penalties, interest or other costs, prior to the commencement of the following tax year;
- Open or operate between 8:00 p.m. and 10:00 a.m.;
- Have marijuana and/or alcohol consumed on the premises or parking area;
- Allow a minor unaccompanied by a parent or legal guardian to enter the premises;
- Have any marijuana visible from the exterior of the premises;
- During closure hours, illuminate the premises by any lighting visible from the exterior of the premises, except reasonable security lighting;
- Locate any access (other than an emergency exit) on any side of the location that abuts, is across the street (unless 80 feet wide), alley or walk from the location, or has a common corner with residentially zoned land. Any non-complaint business has until December 17, 2013 to move to a compliant location;
- Fail to: (1) identify the name and residence address of each of its managers to the City Clerk by October 31 of each year or (2) fail to have the managers successfully take and pass a Livescan by January 31 of each year;
- Have a manager who is also the manager of another medical marijuana business in the City;
- Locate within a 1000-foot radius of a school, or within a 600-foot radius of a public park, public library, religious institution, child care facility, youth center, alcoholism, drug abuse recovery or treatment facility, or other medical marijuana business. Any non-complaint business has until December 17, 2013 to move to a compliant location.

Note: The above is only a summary. Proposition D should be consulted for specific language pertaining to all of its requirements.

**13. Will the City approve my location if I move to comply with the site requirements of Proposition D?**

No. If you believe you are entitled to the protection in Proposition D, it is your responsibility to comply with all of its requirements to qualify for the protection. The City will not approve your specific location for a Medical Marijuana Business.

**14. How do I determine that the location of my Medical Marijuana Business complies with the site requirements of Proposition D?**

While the City will not approve your location, the following are definitions of sensitive sites listed in Proposition D, Los Angeles Municipal Code (LAMC) Section 45.19.6.3.O. These definitions do not address restrictions regarding proximity to land zoned for residential use. Please review LAMC Section 45.19.6.L for those requirements.

Alcoholism or Drug Abuse Recovery or Treatment Facility – Health and Safety Code Section 11834.02 (a)

As used in this chapter, "alcoholism or drug abuse recovery or treatment facility" or "facility" means any premises, place, or building that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.

Child Care Facility – LAMC Section 12.03

A facility in which non-residential care is provided for children, 16 years of age or under, when licensed as a day care facility for children by the State of California or other agency designated by the State, under the categories defined in Section 30019 of Title 22 of the State of California Administrative Code.

Medical Marijuana Business – LAMC Section 45.19.6.1A

Any location where marijuana is cultivated, processed, distributed, delivered, or given away to a qualified patient, a person with an identification card, or a primary caregiver.

(Please review section for exceptions and application to vehicles.)

Public Library – LAMC Section 45.19.5.B.4

A place in which literary, musical, artistic, or reference materials, such as books, manuscripts, newspapers, recordings, or films, are kept for use but not for sale, which is under the control, operation or management of the City Board of Library Commissioners.

Public Park – LAMC Section 45.19.5.B.5

A park, playground, swimming pool, beach, pier, reservoir, golf course or similar athletic field within the City of Los Angeles, which is under the control, operation or management of the City Board of Recreation and Park Commissioners or the County Department of Beaches.

Religious Institution – LAMC Section 45.19.5.B.6

A building that is used primarily for religious worship and related religious activities.

School - LAMC Section 45.19.5.B.7

An institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the California Education Code or which is maintained pursuant to standards set by the State Board of Education. This definition includes kindergarten, elementary, junior high, senior high or any special institution of learning under the jurisdiction of the State Department of Education, but it does not include a vocational or professional institution or an institution of higher education, including a community or junior college, college or university.

Youth Center – LAMC Section 45.19.6.1.A

Any indoor, public, private or parochial facility, other than a private residence or a multiple dwelling unit, which contains programs which provide on a regular basis, activities or services for persons who have not yet reached the age of 18 years, including, but not limited to, community-based programs, after-school programs, weekend programs, violence prevention programs, leadership development programs, vocational programs, substance abuse prevention programs, individual or group counseling, remedial, tutorial or other educational assistance or enrichment, music, art, dance and other recreational or cultural activities, physical fitness activities and sports programs.

**15. If a sensitive use (identified in Section 45.19.6.3 O) moves within the prohibited distance, must the Medical Marijuana Business move?**

No, but only if the Medical Marijuana Business obtained a business tax registration or tax exemption certificate for its location before the sensitive use moved to its location. (See, Section 45.19.6.3O of Proposition D.)

**16. Can a Medical Marijuana Business locate near a residential zone?**

See Section 45.19.6.3 L of Proposition D, which provides:

“Every medical marijuana business is prohibited that provides ingress or egress to its premises on any side of the location that (i) abuts, (ii) is across a street, alley or walk from, as measured at 90 degrees from the lot lines of the location, or (iii) has a common corner with any land zoned residential, except that an exit door required by this Code may be maintained for emergency egress only and must be locked from the exterior at all times. The above notwithstanding, this subsection shall not prohibit a medical marijuana business from locating across a street from, or having a common corner with, any land zoned residential if the medical marijuana business is separated from that residential zone by a public thoroughfare with a minimum roadway width of 80 feet. This subsection shall not apply to defeat the limited immunity claim of a medical marijuana business that is otherwise entitled to assert the limited immunity provided by this Article if it moves within one hundred eighty (180) days after the effective date of this Article to a location that does not violate this subsection.”

**17. What permits must be obtained by Medical Marijuana Businesses for improvements?**

All businesses in the City are required to obtain all applicable building permits to insure all construction and improvements at the site comply with all applicable building codes.

**18. Does a Medical Marijuana Business have to get a business tax registration certificate (BTRC)? Is a BTRC a permit?**

A Medical Marijuana Business must get a BTRC. The BTRC is not a license, permit or land use approval. It only authorizes the registered business to pay city tax.

**19. Does Proposition D address delivery of marijuana?**

Yes. Section 45.19.6.2 of Proposition D **prohibits** delivery services as the definition of “Medical Marijuana Business” includes: “Any vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, or give away marijuana to a qualified patient, a person with an identification card, or a primary caregiver.” (LAMC Section 45.19.6.1.)

The prohibition is subject to a limited immunity for “[a]ny vehicle during only that time reasonably required for its use by: (i) a qualified patient or person with an identification card to transport marijuana for his or her personal medical use, or (ii) a primary caregiver to transport, distribute, deliver, or give away marijuana to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, for the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.765.” (LAMC Section 45.19.6.1A.(3)(d).)

**20. What is the definition of a "primary caregiver?"**

Section 45.19.6.1B of Proposition D incorporates the following definition of “Primary caregiver” from Section 11362.5(e) of the Health and Safety Code:

“[T]he individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.”



**21. Can marijuana be smoked inside a Medical Marijuana Business?**

No. Under Section 45.19.6.3H of Proposition D, a Medical Marijuana Business “where marijuana and/or alcohol are consumed at the premises or in any area of the location used for parking any vehicle” is prohibited.

**22. Where should complaints regarding medical marijuana businesses be sent?**

A complaint should be made to the Los Angeles Police Area in which the Medical Marijuana Business is located. The report should include the name and address of the Medical Marijuana Business. If available, a photograph should be provided. An e-mail can also be sent to the City Attorney ([atty.medicalmarijuana@lacity.org](mailto:atty.medicalmarijuana@lacity.org)).

**23. Does the City Attorney's Office accept or certify documents or issue permits or licenses for any Medical Marijuana Business?**

**No.** It is your responsibility to comply with all of requirements of Proposition D to qualify for its limited immunity. The City Attorney’s Office will not accept or certify documents or issue permits or licenses for any Medical Marijuana Business.

**24. How can a Medical Marijuana Business that renewed its business tax registration for the current 2013 tax period prior to the effective date of Proposition D, renew its business tax registration within 90 days of the effective date of Proposition D to avoid being in violation of Proposition D, Section 45.19.3E(ii)?**

Any Medical Marijuana Business that renewed its business tax registration for the current 2013 tax period prior to the effective date of Proposition D, will be deemed to have renewed its business tax registration within 90 days of the effective date of Proposition D.