

ASSEMBLY BILL

No. 2743

Introduced by Assembly Member Saldana

February 22, 2008

An act to add Section 11362.84 to the Health and Safety Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

AB 2743, as introduced, Saldana. Medical marijuana: nonassistance with federal raids.

Existing law creates a legal defense for a patient and a patient's primary caregiver against criminal charges of possession or cultivation of marijuana, as specified. Existing law also establishes a medical marijuana program, which exempts persons with an identification card and the person's designated primary caregiver from arrest for possession, transportation, delivery, or cultivation of medical marijuana, as specified.

This bill would declare that it is the policy of the state that its agencies and agents shall not cooperate in federal raids or prosecutions for marijuana-related offenses if the target is a qualified patient, a designated caregiver, or other person covered under state medical marijuana laws, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

1 (a) California voters enacted and overwhelmingly support laws
2 to decriminalize under state law the medical use, possession, and
3 distribution of marijuana to qualified patients.

4 (b) Federal criminal law permits under the federal compassionate
5 use program the use of marijuana by patients remaining in that
6 program, but does not provide any exception whatsoever for the
7 doctor-recommended use of marijuana by California patients, as
8 decriminalized under California law.

9 (c) Federal agents have repeatedly raided, arrested, and
10 prosecuted marijuana providers of medical marijuana patients, and
11 arrested and seized medicine from patients.

12 (d) The proper operation of California’s medical marijuana laws
13 depends on preserving patients’ and providers’ confidentiality and
14 conducting any necessary investigations under state law.

15 (e) The Medical Marijuana Program prohibits agents of the state
16 of California and its political subdivisions from arresting, housing,
17 or otherwise detaining any medical marijuana patient who
18 possesses a valid medical marijuana identification card.

19 (f) State and local officials sometimes mistakenly believe their
20 duties include enforcing the federal prohibition on medical
21 marijuana against patients and caregivers.

22 (g) The California Fourth Circuit Court of Appeals, in *City of*
23 *Garden Grove v. Superior Court* (2007) 157 Cal.App.4th 355, 391,
24 noted that “it is not the job of the local police to enforce the federal
25 drug laws”

26 (h) Although the State of California recognizes the right of the
27 federal government to enforce its own laws, the state is not required
28 to use its resources to enforce federal law.

29 SEC. 2. Section 11362.84 is added to the Health and Safety
30 Code, to read:

31 11362.84. It is the policy of the state that its agencies and agents
32 shall not cooperate in federal raids or prosecutions for
33 marijuana-related offenses if the target is a qualified patient, a
34 designated caregiver, or other person described in Section
35 11362.775.