

LETTER REQUESTING PREPARATION OF TITLE AND SUMMARY

Please prepare a title and summary for the attached proposed initiative.

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RECEIVED

SEP 29 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Proponent: Charles Jacobs

Dated this 29th day of September, 2009

JACK HERER CANNABIS HEMP INITIATIVE

09 - 0044

AN ACT TO AMEND THE HEALTH AND SAFETY CODE OF CALIFORNIA

1. Add Section 11362.6 to the Health and Safety Code of California, any laws or policies to the contrary notwithstanding:

1. No person, individual, or corporate entity shall be arrested or prosecuted, be denied any right or privilege, nor be subject to any criminal or civil penalties for the possession, cultivation, transportation, distribution, or consumption of cannabis hemp marijuana, including:

(a) Cannabis hemp industrial products.

(b) Cannabis hemp medicinal preparations.

(c) Cannabis hemp nutritional products.

(d) Cannabis hemp religious and spiritual products.

(e) Cannabis hemp recreational and euphoric use and products.

2. Definition of terms.

(a) The terms "cannabis hemp" and "cannabis hemp marijuana" mean the natural, non-genetically modified plant hemp, cannabis, marihuana, marijuana, cannabis sativa L., cannabis Americana, cannabis chinensis, cannabis indica, cannabis ruderalis, cannabis sativa, or any variety of cannabis, including any derivative, concentrate, extract, flower, leaf, particle, preparation, resin, root, salt, seed, stalk, stem, or any product thereof.

(b) The term "cannabis hemp industrial products" means all products made from cannabis hemp that are not designed or intended for human consumption, including, but not limited to: clothing, building materials, paper, fiber, fuel, lubricants, plastics, paint, seed for cultivation, animal feed, veterinary medicine, oil, or any other product that is not designed for internal human consumption; as well as cannabis hemp plants used for crop rotation, erosion control, pest control, weed control, or any other horticultural or environmental purposes, for example, the reversal of the Greenhouse Effect and toxic soil reclamation.

(c) The term "cannabis hemp medicinal preparations" means all products made from cannabis hemp that are designed, intended, or used for human consumption for the treatment of any human disease or condition, for pain relief, or for any healing purpose, including but not limited to the treatment or relief of: Alzheimer's and pre-Alzheimer's disease, stroke,

arthritis, asthma, cramps, epilepsy, glaucoma, migraine, multiple sclerosis, nausea, premenstrual syndrome, side effects of cancer chemotherapy, fibromyalgia, sickle cell anemia, spasticity, spinal injury, stress, easement of post-traumatic stress disorder, Tourette syndrome, attention deficit disorder, immunodeficiency, wasting syndrome from AIDS or anorexia; use as an antibiotic, antibacterial, anti-viral, or anti-emetic; as a healing agent, or as an adjunct to any medical or herbal treatment. Mental conditions not limited to bipolar, depression, attention deficit disorder, or attention deficit hyperactivity disorder, shall be conditions considered for medical use.

(d) The term "cannabis hemp nutritional products" means cannabis hemp for consumption by humans and animals as food, including but not limited to: seed, seed protein, seed oil, essential fatty acids, seed cake, dietary fiber, or any preparation or extract thereof.

(e) The term "cannabis hemp euphoric products" means cannabis hemp intended for personal recreational or religious use, other than cannabis hemp industrial products, cannabis hemp medicinal preparations, or cannabis hemp nutritional products.

(f) The term "personal use" means the internal consumption of cannabis hemp by people 21 years of age or older for any relaxational, meditative, religious, spiritual, recreational, or other purpose other than sale.

(g) The term "commercial production" means the production of cannabis hemp products for sale or profit under the conditions of these provisions.

3. Industrial cannabis hemp farmers, manufacturers, processors, and distributors shall not be subject to any special zoning requirement, licensing fee, or tax that is excessive, discriminatory, or prohibitive.

4. Cannabis hemp medicinal preparations are hereby restored to the list of available medicines in California. Licensed physicians shall not be penalized for, nor restricted from, prescribing or recommending cannabis hemp for medical purposes to any patient, regardless of age. No tax shall be applied to prescribed cannabis hemp medicinal preparations. Medical research shall be encouraged. No recommending physician shall be subject to any professional licensing review or hearing as a result of recommending or approving medical use of cannabis hemp marijuana.

5. Personal use of cannabis hemp euphoric products.

(a) No permit, license, or tax shall be required for the non-commercial cultivation, transportation, distribution, or consumption of cannabis hemp.

(b) Testing for inactive and/or inert residual cannabis metabolites shall not be required for employment or insurance, nor be considered in determining employment, other impairment, or intoxication.

(c) When a person falls within the conditions of these exceptions, the offense laws do not apply and only the exception laws apply.

6. Use of cannabis hemp products for religious or spiritual purposes shall be considered an inalienable right and shall be protected by the full force of the State and Federal Constitutions.

7. Commerce in cannabis hemp euphoric products shall be limited to adults, 21 years of age and older, and shall be regulated in a manner analogous to California's wine industry model. For the purpose of distinguishing personal from commercial production, 99 flowering female plants and 12 pounds of dried, cured cannabis hemp flowers, bud, not leaf, produced per adult, 21 years of age and older, per year shall be considered as being for personal use.

8. The manufacture, marketing, distribution, or sales between adults of equipment or accessories designed to assist in the planting, cultivation, harvesting, curing, processing, packaging, storage, analysis, consumption, or transportation of cannabis hemp plants, industrial cannabis hemp products, cannabis hemp medicinal preparations, cannabis hemp nutritional products, cannabis hemp euphoric products, or any cannabis hemp product shall not be prohibited.

9. No California law enforcement personnel or funds shall be used to assist or aid and abet in the enforcement of Federal cannabis hemp marijuana laws involving acts which are hereby no longer illegal in the State of California.

10. Any person who threatens the enjoyment of these provisions is guilty of a misdemeanor. The maximum penalties and fines of a misdemeanor may be imposed.

11. Repeal, delete, and expunge any and all existing statutory laws that conflict with the provisions of this initiative.

1. Enactment of this initiative shall include: amnesty, immediate release from prison, jail, parole, and probation, and clearing, expungement, and deletion of all criminal records for all persons currently charged with, or convicted of any non-violent cannabis hemp marijuana offenses included in this initiative which are hereby no longer illegal in the State of California. People who fall within this category that triggered an original sentence are included within this provision.

2. Within 60 days of the passage of this Act, the Attorney General shall develop and distribute a one-page application, providing for the destruction of all cannabis hemp marijuana criminal records in California for any such offense covered by this Act. Such forms shall be distributed to district and city attorneys and made available at all police departments in the State to persons hereby affected. Upon filing such form with any Superior Court and a payment of a fee of \$10.00, the Court shall liberally construe these provisions to benefit the defendant in furtherance of the amnesty and dismissal provision of this section. Upon the Court's ruling under this provision the arrest record shall be set aside and be destroyed. Such persons may then truthfully state that they have never been arrested or convicted of any cannabis hemp marijuana related offense which is hereby no longer illegal in the State of California. This shall be deemed to be a finding of factual innocence under California Penal Code Section 851.8 et seq

III. The legislature is authorized upon thorough investigation, to enact legislation using reasonable standards to:

1. License concessionary establishments to distribute cannabis hemp euphoric products in a manner analogous to California's wine industry model. Sufficient community outlets shall be licensed to provide reasonable commercial access to persons of legal age, so as to discourage and prevent the misuse of, and illicit traffic in, such products. Any license or permit fee required by the State for commercial production, distribution or use shall not exceed \$1,000.00.

2. Place an excise tax on commercial sale of cannabis hemp euphoric products, analogous to California's wine industry model, so long as no excise tax or combination of excise taxes shall exceed \$10.00 per ounce.

3. Determine an acceptable and uniform standard of impairment based on performance testing, to restrict persons impaired by cannabis hemp euphoric products from operating a motor vehicle or heavy machinery, or otherwise engaging in conduct that may affect public safety.

4. Regulate the personal use of cannabis hemp euphoric products in enclosed and/or restricted public places

IV. Pursuant to the Ninth and Tenth Amendments to the Constitution of the United States, the people of California hereby repudiate and challenge Federal cannabis hemp marijuana prohibitions that conflict with this Act.

V. Severability: If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid by any court, the remainder of this Act, to the extent it can be given effect, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Act are severable.

VI. Construction: If any rival or conflicting initiative regulating any matter addressed by this act receives the higher affirmative vote, then all non-conflicting parts shall become operative.

VII Purpose of Act: This Act is an exercise of the police powers of the State for the protection of the safety, welfare, health, and peace of the people and the environment of the State, to protect the industrial and medicinal uses of cannabis hemp, to eliminate the unlicensed and unlawful cultivation, selling, and dispensing of cannabis hemp; and to encourage temperance in the consumption of cannabis hemp euphoric products. It is hereby declared that the subject matter of this Act involves, in the highest degree, the ecological, economic, social, and moral well-being and safety of the State and of all its people. All provisions of this Act shall be liberally construed for the accomplishment of these purposes to respect human rights, to promote tolerance, and to end cannabis hemp prohibition.