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Would big corporations seize California pot industry? Here are the facts

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In the weeks before a ballot measure to legalize recreational marijuana in California lost six years ago with 53.5 percent voting no, influential cannabis operators were outspoken in their opposition, warning that it would allow Big Tobacco to snub out small business in the industry.

Now, amid favorable polling for Proposition 64 to legalize recreational pot statewide, such fears are less pronounced, industry insiders say.

But in some corners, they still persist.

The measure “ guts and repeals the small business protections. The campaign just doesn’t know how to tell the truth,” said Hezekiah Allen, executive director of the California Growers Association, a cannabis growers group.

The association has no position on Proposition 64, but has expressed concern that the measure would replace a law approved last year that capped individual cultivation operations for medical marijuana to a single acre of growing space.

About 80 percent of existing growing operations cover less than a quarter-acre, said Allen, and the association would prefer to retain the limits currently in law.

“We don’t think big farms are inevitable. Our measure of success is how many independent farms exist,” Allen said. “This crop can be a lifeline for middle-class family farms.”

To help small growers establish themselves in the market, Proposition 64 would prohibit growing over an acre of commercial cannabis through 2022. The following year, large-scale growers could apply for state licenses. But in an attempt to maintain competition across the supply chain, the measure was drafted to prohibit those big cultivators from also becoming distributors. They could, however, become retailers.

State regulators could also deny licenses to companies using criteria to prevent “unlawful monopoly power” or “anti-competitive behavior,” said Richard Miadich, who drafted the ballot measure language.



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Some in the cannabis industry have been concerned that Proposition 64 would allow Big Tobacco to dominate the recreational marijuana business.

Also, regulators would have the power to withhold licenses to all growers if the state determined that California had an adequate supply of cannabis. Freezing supply would prevent a glut in the market that could cause prices to sharply drop and lead to over-consumption , said Miadich, managing partner at Olson Hagel & Fishburn LLP.

“ It’s a way to regulate supply and demand,” he said.

The law would give licensing priority to existing medical marijuana businesses, and would force non-California residents or businesses to wait two years to become licensed.

Small businesses could grow, distribute and sell the product if they kept their growing operation under 10,000 square feet. With approval from local government, a shop could even offer Amsterdam-style, on-site consumption.

Proposition 64 is supported by the California Cannabis Industry Association, a trade group that believes the measure gives an adequate head start for small businesses.

The association represents 250 different cannabis businesses and about 600 cannabis farmers, and the overwhelming majority of them “are ready to compete” with big business, said Nate Bradley, the association’s executive director.

“This is the cannabis regulation act, it’s not the small farmer protection act,” Bradley said. “A lot of people welcome the open market.”

Allen Young

Staff Writer

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