

Court: California cities can ban pot shops

May 6 2013, by Lisa Leff

(AP)—The California Supreme Court ruled Monday that cities and counties can ban medical marijuana dispensaries, a ruling likely to further diminish the state's once-extravagant network of storefront pot shops and fuel efforts to bring greater oversight to the quasi-legal industry.

In a unanimous opinion, the court held that California's medical marijuana laws—the nation's first and most liberal—neither prevent [local governments](#) from using their land-use powers to zone dispensaries out of existence nor grant authorized users convenient access to the drug.

"While some counties and cities might consider themselves well-suited to accommodating medical marijuana dispensaries, conditions in other communities might lead to the reasonable decision that such facilities within their borders, even if carefully sited, well managed, and closely monitored, would present unacceptable local risks and burdens," Justice Marvin Baxter wrote for the seven-member court.

The ruling came in a [legal challenge](#) to a ban enacted by the city of Riverside in 2010, but another 200 jurisdictions have similar [prohibitions](#) on retail pot sales, the [advocacy group](#) Americans for Safe Access estimates. Many were enacted in the past five years as the number of dispensaries swelled and amid concerns that many shops were thinly veiled outlets for illegal drug sales.

Of the 18 states that allow the medical use of marijuana, California is

the only one where residents can obtain a doctor's recommendation to consume it for any ailment the physician sees fit as opposed to for only conditions such as AIDS and [glaucoma](#). The state also is alone in not having a system for regulating growers and sellers.

Marijuana advocates had argued that allowing local governments to bar dispensaries thwarts the intent of the medical marijuana law that voter's passed nearly 17 years ago. On Monday, they blamed the absence of state oversight and the failure of [local authorities](#) to adopt operating guidelines that fall short of banning dispensaries for the court's decision.

"Today's decision allowing localities to ban will likely lead to reduced patient access in California unless the state finally steps up to provide regulatory oversight and guidance," said Tamar Todd, senior staff attorney for the Drug Policy Alliance. "Localities will stop enacting bans once the state has stepped up and assumed its responsibility to regulate."

Two bills are pending in the California Legislature that seek to establish a new statewide system for regulating and licensing the medical marijuana industry, and to clarify the role of dispensaries in it. Advocates hope to see language that would make it harder for local governments to outlaw dispensaries by requiring voter approval for any bans, Drug Policy Alliance Policy Manager Amanda Reiman said.

Activists also are in the early stages of planning a ballot initiative that would legalize the recreational use of marijuana and regulate it like alcohol, as voters in Washington and Colorado did last year.

Although the number of dispensaries in California is estimated to have totaled well over 1,000 a few years ago, the local bans and a coordinated crackdown that the state's four federal prosecutors launched in October 2011 have cut their numbers significantly.

Marijuana remains illegal under federal law, and the U.S. attorneys have threatened to seize the property of landlords who lease space to the shops. Hundreds of dispensary operators have since been evicted or closed voluntarily.

Riverside city lawmakers used their zoning authority to declare storefront pot shops as public nuisances and ban the operations in 2010. The Inland Empire Patient's Health and Wellness Center, part of the explosion of retail [medical marijuana](#) outlets, sued to stop the city from shutting it down.

A number of counties and cities were awaiting the Supreme Court ruling before moving forward with bans of their own.

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