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Driving With Medical Marijuana

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Often times, clients ask me how to safely and legally travel with their medical cannabis. While I warn them that traveling with cannabis is always illegal under federal law, the reality is there are smarter ways to travel with medicine under state law, so as to avoid unnecessary litigation and arrest.

First, the best way for a California medical patient to avoid arrest is to obtain and carry a state issued medical marijuana card—a ‘club’ card will not work. Under California state law, no person in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, of medical marijuana in an amount less than eight ounces of dried marijuana. (See Health and Safety Code §§ 11362.71 (e) and 11362.77 (a).)

However, an officer may still arrest a card-carrying patient if “there is reasonable cause to believe that the information contained in the card is false or falsified, or the card has been obtained by means of fraud.” Furthermore, an officer may arrest a card-carrying patient if he believes that the patient was driving while under the influence of marijuana. In order to avoid both of these scenarios, never drive within a few hours after medicating. Don’t even allow any passengers medicate while driving, because an officer may use this as an excuse to accuse the driver of medicating also.

Never have any roaches or used pipes anywhere inside the car (put them in an air tight sealed container in the trunk), so that an officer will not have any reason to believe that any recent medicating occurred in the car. These precautions are mandatory because they will make it more difficult for a cop to accuse a medical patient of breaking the law.

With respect to the validity of the card, never answer any questions regarding your illness, medical use (the amounts you use) and where you got your cannabis. Let your lawyer answer these questions. A cop may twist your answers, or outright lie about them, in an effort to show that your medical status was a fraud. Now I will turn to the precautions that everyone should exercise to avoid any confrontations with the police. This is not to be taken as advice to travel

with cannabis. My first word of advice is not to travel with cannabis at all. When this is not possible there are legal precautions one can take in order to be as safe as possible.

In the past I've seen people arrested for stupidity. Don't be stupid. Here are some things I've seen people do in the past that have resulted in their arrest:

1. Tail Light Is Out

Always check your car for equipment violations. Make sure all of the lights work, and are not damaged. Make sure the tires are not worn or oversized. Police officer will often use equipment violations as an excuse to pull over a person, while having a motive to search the car.

2. Speeding

Obey all traffic laws, no speeding. In other words, do not give an officer an excuse to pull you over.

3. Profiling (your car)

Do not be conspicuous, blend in. Drive a local non-flashy vehicle that does not draw attention to you. No stickers on the car. Cops often "hippy profile" drivers. Also, avoid rental cars or cars with paper plates. The more generic the car is the better.

4. Profiling (your appearance)

Be cautious of the clothing you wear, and how you look. Remember, the key is to blend in. There is a war against cannabis users, legal or not; a cop is more likely to pull over a person with dreadlocks than a person who looks like an office worker.

5. No License

Or driving on a suspended license. Make sure your license is current, or do not drive.

6. Riding Dirty

Not cleaning out your car and having large amounts of cash, cannabis, or unnecessary paper work in your car. Don't travel with cannabis and large amounts of cash or paper work, which will lead an officer to your legal garden or legal assets, bank accounts etc.

The cops will use information they gather from your car to perform what is called a roll back warrant. So if they find a power bill in your car, they will then possibly go to your house to look for your medical garden and any leads to your bank accounts, all of which they intend to seize, regardless of your legal status and compliance with the law.

7. Bad Passengers

Know who is in your car with and what they have on them. Don't pick up hitchhikers. In other words, make sure that none of the passengers have illegal contraband, or warrants for their arrest.

8. Yapping Syndrome

Don't talk to the police, they are not your friends. The only exception to this rule is to be polite when giving your registration and insurance. Never, never, never ever discuss anything with a police officer, especially once they have decided to arrest you. When they say they intend to use your statements against you, they mean it. They may even lie about what you said.

The other exception to this rule of thumb in California is when the state police find less than 8 ounces of cannabis in your possession. If this happens you may tell the cop, "here is my state issued medical marijuana card." Nothing more.

Again, do not answer any cannabis related questions, not to the amounts you use, not your illness, and not where you got your cannabis. Let your lawyer answer these questions. If the police have not found any marijuana, do not volunteer your card. The second you tell a cop that you are a medical marijuana patient or that you have marijuana, you will be searched.

You are not required to talk to a police officer. The only response you should ever give is, "I want my lawyer present for all questioning." Article written by: Edie Lerman

Providing legal advisement and consultations for individuals, doctors, collectives and dispensaries for the establishment and maintenance of compliancy with state and county laws and criminal defense for California and Federal cases.

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