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Mich. appeals court: Sale of medical marijuana through dispensaries is illegal

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By Associated Press, Published: August 24

DETROIT — Medical marijuana cannot be sold through private shops, the Michigan appeals court said Wednesday in a major decision that strikes at businesses trying to cash in on pot and cuts off a source for people with chronic ailments.

A three-judge panel said the 2008 medical marijuana law, as well as the state's public health code, does not allow people to sell pot to each other, even if they're among the 99,500 who have state-issued marijuana cards.

1

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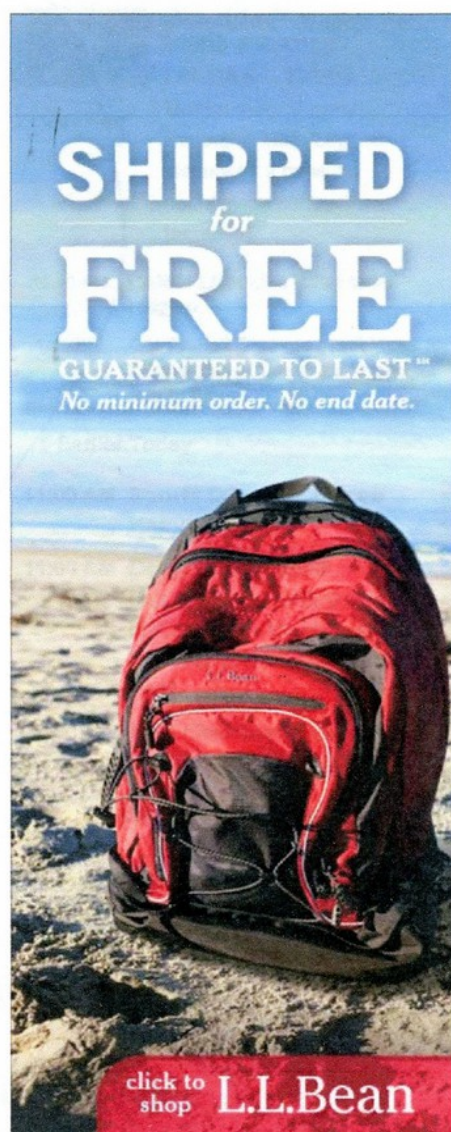
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The court said Compassionate Apothecary in Mount Pleasant, Mich., can be immediately shut down as a "public nuisance." The 3-0 decision means local authorities can pursue similar businesses, estimated at 200 to 300, in their communities.

It was not immediately clear whether they would, but state Attorney General Bill Schuette said he's notifying all 83 county prosecutors.

"This ruling is a huge victory for



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(Paul Sancya / Associated Press) - Big Daddy's Hydro store is shown closed in Detroit, Wednesday, Aug. 24, 2011. Medical marijuana cannot be sold through private shops, the Michigan appeals court

public safety and Michigan communities struggling with an invasion of pot shops near their schools, homes and churches," Schuette said in a statement. "The court echoed the concerns of law enforcement, clarifying that this law is narrowly focused to help the seriously ill, not the creation of a marijuana free-for-all."

Of course, not everyone shares that view. Chuck Ream, president of an Ann Arbor shop, called the ruling an "assault on democracy" nearly three years after voters

approved marijuana as a way to relieve pain or other medical problems. He estimates that one-third of people with marijuana cards get pot through dispensaries, with others growing their own or getting it through a registered caregiver.

"If they want wheelchairs chained to every door at the Capitol, if they want to fight about this — oh, boy, they'll have a fight," said Ream of A2 Compassionate Healthcare. "There are a lot of people who don't want to be drooling idiots on Oxycontin. They've found a medicine that relieves their pain and makes them happy."

There is no dispute that the marijuana law makes no mention of dispensaries; it doesn't even indicate how people should get their dope. It says people can possess up to 2.5 ounces of "usable" pot and keep up to 12 plants in a locked place. A caregiver also can provide marijuana.

Compassionate Apothecary, and owners of the mid-Michigan company, claimed they weren't doing anything illegal because the law allows the "delivery" and "transfer" of marijuana. The business allows its 345 members to sell marijuana to each other, with the owners taking as much as a 20 percent cut. In less than three months, Compassionate Apothecary earned \$21,000 before expenses after opening in May 2010.

"The 'medical use' of marijuana does not include patient-to-patient 'sales' of marijuana. Defendants, therefore, have no authority under the (law) to operate a marijuana dispensary that actively engages in and carries out patient-to-patient sales," said appeals court judges Joel Hoekstra, Christopher Murray and Cynthia Diane Stephens.

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