



October 14, 2018

President Herb J. Wesson, Jr
President of the Los Angeles City Council
The Honorable Members of the Rules Committee
Ms. Cat Packer
200 N. Main Street
Los Angeles, CA 90012

Re: Endorsement of Ms. Packer's Request for Cannabis Ordinance Amendments Dated September 17, 2018
Request for Additional Amendments CF 14-0366-S5

Dear President Wesson, Honorable Members of the Rules Committee and Ms. Packer:

On September 17, 2018, Ms. Packer submitted a letter outlining proposed changes to the City's Cannabis Ordinances.

The organizations signatory to this letter are writing to endorse Ms. Packer's proposed amendments. Our organizations are particularly enthusiastic about her suggestion that licensed shops display a distinct emblem which would let patients and consumers know that they are shopping in a compliant facility.

Rogue entities frequently go to great lengths to convince patients and consumers they are a licensed outlet. Issuing emblems to legal businesses would let patients and consumers know that they are in a regulated, safe environment. We urge you, in the strongest possible terms, to adopt this program.

In reviewing the current ordinances, our organizations identified a few additional technical adjustments that need to be made in the interests of clarity. We are hoping these corrections can be bundled with Ms. Packer's suggestions and passed by the Honorable Committee at the same time it acts on Ms. Packer's proposals.

The corrections which need to be made are:

Reconciling the Prop D's Alley Abutment Rule with New State Regulations

Applicable Law:

Prop D Section 45.19.6.3 (L): "... or (iii) has a common corner with any land zoned residential, except that an exit door required by this code may be maintained for emergency egress only and must be locked from the exterior at all times..."

State Regulations Section 5422 (c) "During business hours, shipments of cannabis goods shall not enter the licensed premises through an entrance or exit that is available for use by the public."

Problem:

Prop M Retail Licensees are still bound by Section 45.19.6.3 (L) of Proposition D, which prohibits the use of the doors which open on to an alley for delivery. Most cannabis retail locations have one public entrance at the front, and a back door facing an alley, intended for deliveries, which per Section 45.19.6.3 (L) of Prop D, must be kept locked and never used except for emergency evacuations.

Typically, these back doors fronting an ally were intended for deliveries with dedicated parking spaces in front of the back door, which are for the exclusive use of the business and delivery vehicles servicing the business.

Because the only other entrance at these shops is for the public's use, cannabis retailers now find themselves unable to accept deliveries, since the state regulations obviously contemplated that there would be at least two points of entry at each business, one for deliveries and one for use by the public. Because of the prohibition in Section 45.19.6.3 (L), most retail cannabis businesses only have one entrance/exit for both public use and deliveries.

It should be noted that in many cases the alley is so wide, and the residences abutting the alley are protected by such solid walls, that deliveries would cause no disruption. Alley deliveries currently take place all the time at businesses adjoining cannabis retailers.



Solution:

Prop M allows the City to amend its cannabis ordinances. Section 26200 of the Business and Professions Code gives localities broad permissions to deviate from state regulations.

We would suggest that effective immediately, ordinance language be drafted that allows cannabis deliveries through the front door of the business, as long as the entrance is not being used simultaneously for ingress and egress by the public.

Because delivering through the front door alerts anyone in the vicinity that product and cash are changing hands, we urge the City to allow retailers to receive deliveries through their back doors, providing there is adequate room to park the delivery vehicle without blocking the progress of other vehicles through the alley, adequate lighting and cameras are in place, and staff is on hand to receive the delivery.

Applicants would include the back area of their shops in their premise diagram, demonstrating that parking spaces or adequate room for delivery parking was available, and that adequate lighting and cameras were in place. Approval of the premises diagram would allow alley abutment doors to be used for deliveries.

Sample Language:

"Until such time as cannabis licensees are permitted by the City to receive deliveries through doors subject to the prohibition of use in Section 45.19.6.3 (L) of Proposition D, a cannabis business may allow the ingress and egress of deliveries and delivery personnel at the business's public entrance, providing there is no simultaneous use of the entrance by the public during the ingress and egress of deliveries and delivery personnel.

A cannabis business premise diagram which includes a diagram of the back area of the business and the door intended for deliveries, may use the designated door for delivery ingress and egress once the premise diagram has been approved."

Undue Concentration – Eliminating Confusion as to When a Written Finding is Required From the Council

Applicable Law:

Article 4 Section 104.03 (b) "If the applicant's business premise is located in a geographical area of undue concentration the then the applicant shall also file... a request that the City Council find that approval of the license application would serve public convenience or necessity ...**If the City Council does not act on the applicant's request within 90 days, then the City Council shall be deemed to have made the necessary findings to support the public convenience and necessity.**

This section conflicts with Section 104.06 (a) (1) (vii) which states:

"DCR may deny ... the issuance of a license...for any of the following reasons:

(vii) the Applicant's Business Premises is located in a geographical area of Undue Concentration, unless the City Council has adopted written findings that approval of the License application would serve public convenience or necessity, supported by evidence in the record."

Further conflict arises from Section 104.06 (a) (2) 3rd paragraph which states:

"... The Commission shall not approve the issuance of a License for an Applicant with a Business Premise located in a geographical area of undue concentration without a written finding by the City Council that approval of the application would serve public convenience or necessity, supported by evidence in the record."

Problem:

Here you have two code sections which contradict the global instruction that if the council chooses to remain silent on the matter for 90 days it shall be deemed to have approved a business location in an area of undue concentration. If uncorrected, this will lead to confusion and possible litigation.



Objection to the business presence can only be raised legitimately by the council member on behalf of his or her constituents. Allowing the entire Council to dictate what businesses each district may entertain is inappropriate and may lead to meddling by members opposed to the cannabis industry.

Per ordinance language the council district must be formally notified of the pending application, silence on the matter of the pending application would never be due to a lack of notice.

Allowing the Council to remain silent, rather than having to make a finding for every business location contemplated in an area of undue concentration allows each council member to approve such applications without impacting the Council with endless requests for votes.

Each time the Council has to vote on a matter, there is a substantial amount of staff, resources, time and money that is spent. During certain times of the year, Council agendas are already packed with urgent items (i.e. budget considerations) and the last thing that's needed is another, unnecessary agenda item.

If a Council Member determines that a business in his or her district would negatively impact an area of undue concentration or in the alternative is a desirable addition, he or she may still put a motion before the council. Because members would like similar support if they oppose or endorse an application in their area, such motions would most likely receive the votes needed.

The option to simply remain silent is an efficient and practical solution which will save the City substantial time, money, and resources. It should be an option during any considerations of undue concentration.

Solution:

Conform language in all sections addressing undue concentration to include the admonition that "If the City Council does not act on the applicant's request within 90 days of receipt, then the City Council shall be deemed to have made the necessary findings to support the public convenience and necessity of the application."

Ms. Packer's suggestions are an historic first. All previous cannabis ordinance revisions were out of the City's control as they were the result of litigation or voter initiatives. If the City embraces Ms. Packer's suggestions it will be the first time the City has been able to fulfill a promise made in 2013 to create "a living, breathing ordinance that would be revised from time to time". Our organizations are pleased to be part of this historic process and hopes that the Honorable Committee will embrace the suggestions outlined above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ad Sp", is written over the typed name.

Adam Spiker
Executive Director
The Southern California Coalition

A handwritten signature in blue ink, appearing to read "Sarah", is written over the typed name.

Sarah Armstrong JD
Director of Industry Affairs
Americans for Safe Access



October 14, 2018

President Herb J. Wesson, Jr
President of the Los Angeles City Council
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Ms. Cat Packer
200 N. Main Street
Los Angeles, CA 90012

Re: Endorsement of Enforcement Motions and Request for Targeted Enforcement
CF 14-0366-S24 – Utility Shut-Offs CF 14-0366-S25 - ACE Ticketing CF 14-0366-S26 – Building Lock-Down
CF 14-0366-S27- Cannabis Building Inspectors CF 14-0366-S5 – Cannabis

Dear President Wesson, Honorable Members of the Rules Committee and Ms. Packer:

On Friday, October 19th the Rules Committee will consider four motions to aid the City in its efforts to abate nuisances. **Our organization endorses these motions**, but would ask for the cannabis enforcement efforts these motions contemplate, to be targeted in a specific manner.

We are hopeful that these motions will be accompanied by an amendment directing all enforcement personnel and enforcement monies to prioritize closing illicit cannabis businesses located within sensitive use radiuses.

If left unaddressed these illegal establishments pose substantial dangers to children, consumers and patients, as well as the public. Additionally, lack of enforcement may substantially cripple the Social Equity Program. For the reasons stated below, we would ask that the Honorable Rules Committee direct enforcement personnel to focus on unlicensed establishments violating the City's Sensitive Use Regulations.

- Rogue entities violating sensitive use rules put children at risk. They cannot obtain banking services, frequently fail to employ licensed guard staff, and often do not have sufficient security cameras. This makes them a perfect target for violent robberies.
- Sensitive use radiuses were imposed to keep children well away from gunplay and other risks. Entities which violate these rules should be the first businesses the City closes.
- Illegal entities do not pay taxes, carry insurance or have regulatory costs. This means they create a massive and on-going amount of unfair competition.
- This has been going on for years, and those licensed by the City have been suffering from this unfair and illegal competition for so long that many are dangerously close to bankruptcy.
- Good actors who have suffered the longest, deserve the first relief. Closing rogue facilities operating too close to sensitive uses will provide that relief.



- Illicit actors cannot obtain Workmen's Compensation insurance, or liability insurance. As they do not pay payroll taxes employees cannot obtain unemployment benefits absent a state investigation. If an employee suffers a job related injury, the lack of workman's compensation insurance means a lengthy state investigation before benefits are paid.
- Labor unions, traditionally the great protectors of employee rights, cannot organize illegal businesses. This means employees in these shops have no protection from illegal or immoral employment practices and no mechanism to address grievances.
- Unlicensed facilities are not allowed, per state law, to test their products. They source from the underground, illegal market which incentivizes profits over safety, and would not hesitate to douse a grow with dangerous, illegal pesticides to save a crop. Pesticide residue can cause cancer, irreversible breathing problems and nerve damage, insanity and death.
- Patients with compromised immune systems (such as those with organ transplants) may die if they ingest or inhale cannabis containing pesticides, fungus or other contaminants.
- Social Equity candidates seeking to establish retail businesses may quickly fail. Rogue entities don't carry any of the business costs the social equity candidates will have to assume. Thus, illicit entities can offer deeply discounted products. The social equity businesses would not have an established client base as older legal businesses do, so there would be nothing to slow the slide towards insolvency.

For the reasons stated above, our organization respectfully asks that the Honorable Rules Committee recommend that enforcement efforts be concentrated on illegal entities located within sensitive use radiuses.

The City Attorney and his staff have closed over one thousand illicit entities using a clever formula which indicts landlords along with retail operators. They are to be commended for their efforts, the first sustained and successful effort the City has made. A motion directing their efforts towards the most dangerous elements remaining would be deeply appreciated by all those so deeply affected by on-going rogue activities. Entities violating laws meant to protect children, should always be at the top of the enforcement list.

Our Executive Director, Adam Spiker can be reached at (714) 654-1930 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Adam Spiker".

Adam Spiker
Executive Director
The Southern California Coalition