



COALITION TO
ABOLISH SLAVERY
& TRAFFICKING

5042 Wilshire Blvd #586, Los Angeles, CA 90036

August 4, 2017

Los Angeles City Clerk's Office
Richard Williams - Legislative Assistant
200 N. Spring Street, Room 360
Los Angeles, CA 90012

RE: Draft of Proposed Commercial Cannabis Regulations; Council File No. 14-0366-S5

The Coalition to Abolish Slavery & Trafficking (CAST) is a statewide nonprofit that provides transformative services to survivors of human trafficking. CAST provides an intensive case management program, shelter, and legal services for trafficking survivors, and training programs to law enforcement, service providers, government agencies, law firms, corporations, faith-based organizations, and community groups to create a network that impacts public policy. Because CAST works directly with survivors, it is able to lend its expertise to local and national dialogues about preventing human trafficking.

CAST is writing to urge the Los Angeles City Council to consider the historic and continuing impact of the marijuana industry on the victims of human trafficking. Human trafficking is a form of modern slavery in which victims are deceived and coerced into providing forced labor or sexual services for the benefit of their traffickers. Within the United States, human trafficking has had a particularly dramatic impact on the state of California.¹ According to the National Human Trafficking Resource Center (NHTRC), California has consistently ranked at the top of the NHTRC hotline calls from 2012 through 2016.² California is particularly vulnerable to human trafficking because of factors such as large runaway and homeless youth populations, proximity to international borders, the number of ports and airports, a significant immigrant population, and a large economy including industries that attract forced labor and sex trafficking.³

¹ See, e.g., *The State of Human Trafficking in California*, CALIFORNIA DEPT. OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL (2012), available at <http://oag.ca.gov/sites/all/files/agweb/pdfs/ht/human-trafficking-2012.pdf> (reporting that the majority of sex trafficking victims identified in California are U.S. citizens); see also *Most L.A. County Youths Held for Prostitution Come from Foster Care*, L.A. TIMES, <http://articles.latimes.com/2012/nov/27/local/la-me-1128-sex-trafficking-20121128>.

² *Hotline Statistics*, NATIONAL HUMAN TRAFFICKING RESOURCE CENTER, <http://www.traffickingresourcecenter.org/states>.

³ *What is Human Trafficking*, CALIFORNIANS AGAINST SEXUAL EXPLOITATION, <http://www.caseact.org/learn/humantrafficking/>.

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The use of human trafficked labor to cultivate commercial cannabis and distribute drugs is a pervasive practice across Europe and the United States.⁴ One consequence of the legalization of marijuana in California is the influx of individuals into the state who are attracted by low-skill jobs available in the marijuana industry, including individuals from highly vulnerable populations that are at a risk for exploitation. Journalists from The Center for Investigating Reporting have unearthed numerous accounts of sexual exploitation, physical abuse, and human trafficking in California's marijuana industry.⁵ This exploitation is particularly endemic among young women, who are sometimes held against their will on California marijuana farms and sexually abused after being lured to the farms by cannabis trimming jobs. One particularly horrific instance of this phenomenon occurred in 2013, when a runaway Los Angeles teenager was taken by two marijuana growers to their farm in Lake County, sexually assaulted her, locked in a metal box, and forced to process the marijuana grown on their farm.⁶ As marijuana becomes legal for recreational use, legislators and policy-makers must be vigilant in combatting the unintended consequences of this booming industry to victims of human trafficking.

In light of the clear link between the marijuana industry and human trafficking, and Los Angeles's ongoing commitment to combat this human rights abuse, we request that the Los Angeles City Council include a requirement for commercial cannabis businesses to conspicuously post the public notice regarding human trafficking required for certain establishments under Cal. Civ. Code § 52.6 in order to obtain a Certificate of Compliance from the City of Los Angeles Cannabis Commission. Cal. Civ. Code § 52.6 requires covered establishments to post a notice informing the public of hotline numbers to seek assistance or report human trafficking activity in English, Spanish and in one other language that is the most widely spoken language in the business's location. Requiring the posting of this signage will help proprietors, employees, and customers of commercial cannabis retailers, microbusinesses, indoor cultivators, manufacturers, distributors, and transporters to understand, identify, and report human trafficking. We also request that Item 7 of the "Manufacture Commercial Cannabis Activity Requirements" on Page 38 of the proposed requirements be amended to include at least one hour of training on identifying victims of human trafficking.

Additionally, we request that a portion of revenue from taxes and any fees generated by cannabis production and sales should be allocated to comprehensive, specialized human trafficking victims'

⁴ *Trafficking for Forced Criminal Activities and Begging in Europe*, ANTI-SLAVERY INTERNATIONAL, http://www.antislavery.org/wp-content/uploads/2017/01/trafficking_for_forced_criminal_activities_and_begging_in_europe.pdf; *Labor and Sex Trafficking Among Homeless Youth*, LOYOLA UNIVERSITY, <https://covenanthousestudy.org/landing/trafficking/docs/Loyola-Research-Results.pdf>.

⁵ *In secretive marijuana industry, whispers of abuse and trafficking*, REVEAL FROM THE CENTER FOR INVESTIGATIVE REPORTING, <https://www.revealnews.org/article/in-secretive-marijuana-industry-whispers-of-abuse-and-trafficking/>.

⁶ Joseph Serna, L.A. Girl Kept in Metal Box on Pot Farm for Sex, L.A. TIMES, July 26, 2013 <http://articles.latimes.com/2013/jul/26/local/la-me-ln-lake-county-pot-farm-arrest-20130726>.

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services, a prevalence study to determine the number of trafficking victims enslaved in LA, and trafficking prevention and outreach efforts. With this additional funding, the city of LA and organizations will have a greater capacity to develop programs designed specifically for trafficking victims, hire and train specialized staff, provide legal services to victims, and create and/or expand the number of shelter beds dedicated to victims of human trafficking. By using tax revenue to fight and address the pervasive, horrific practice of modern day slavery, this funding allocation will establish Los Angeles as an exemplar for other cities and communities regulating marijuana.

Please let me know if we can provide any further information regarding this request.

Very truly yours,



Kay Buck
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Coalition to Abolish Slavery & Trafficking
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CALCANN SPECIAL REPORT

Position Paper—City of Los Angeles Draft Cannabis Ordinance & Regulations

By Aaron Herzberg, General Counsel at Calcann Holdings

CalCann has completed more cannabis transactions and obtained more licenses than any other local developer. CalCann successfully completed eight cannabis facilities, and is now working closely with its government relations team to ensure that local policy and regulations are crafted in a way that benefits both the market participants and the surrounding communities.

CalCann provides the following comments regarding the City of Los Angeles' proposed ordinance replacing Proposition D with Article 5.2.1 ("Ordinance") and Proposed Requirements for Commercial Cannabis Activity in the City of Los Angeles ("Regulations").

1) There is No Basis for Grandfathering non-Proposition D Compliant Cultivators & Manufacturers

The proposed Regulations reward illegitimate operators by providing them with Phase 2 priority, regardless of their standing under Proposition D. This is problematic because the impossibility in adequately verifying that these illegitimate businesses have been in existence since 1/1/2016, as well as the establishment of the precedent where industries can flout the law and be rewarded rather than punished.

CalCann endorses the policy of grandfathering Proposition D-compliant operations. In addition, it is Calcann's position that City should also consider grandfathering cultivation and manufacturing operations who pursued compliance while exclusively supplying Proposition D-compliant dispensaries. We cannot lose sight of the fact that these operators were an essential part of providing the medicine to the patients patronizing the Proposition D-compliant dispensaries.

For all other instances, it is best to use a merit-based system. A merit-based system will best shield the City from any accusations of favoritism and create a level playing field, freeing the City from potential liability. It is important to keep in mind that illegitimate cannabis businesses are part of the informal market, most of whom do not pay taxes. The City's draft policy sends a strong signal that rules can be flouted with no consequences. Introducing such a moral hazard into the already beleaguered narrative of grey-market operations is ill-advised.

The City's policy is doubly problematic in that it rewards what we estimate to be over ten thousand illegitimate operators, while simultaneously repelling the most highly qualified investors and operators. Only by refusing the call to grant priority to bad actors can the City not reward illegal activity. Only by allowing capital to flow to the cannabis industry can the City enjoy the full economic fruits of legitimizing, regulating, and taxing this billion-dollar industry. The City's policy will stifle investment, diminishing the potential economic benefits that legitimate cannabis operations will yield for residents and businesses.

2) The City Should Use an Independent Consulting Firm to Evaluate Applicants Using a Merit-Based Selection System

The City should consider limiting the total number of retail dispensaries in the City based on population and patient need, and implementing a merit-based points system to determine which businesses should be selected for non-Proposition D dispensaries. The criteria should be comprehensive and objective to enable the City to select the best applicants.

The points system should be scalable, allowing for evaluations of merit based on location-specific factors. Some general factors that should be considered by the city in granting licenses should include:

- Fire Safety Plans & Assessment
- Security Plans & Assessment
- Expertise & Experience in the Industry
- Qualification of Principals
- City's Equity Program
- Community Contributions
- Neighborhood Impact Studies
- Detailed Proformas and Proof of Capitalization



The City should consider retaining an independent consulting firm to score applications, in part to shelter the process from political influence and any perception of favoritism or malfeasance. Reputable consulting firms are taking on this work for many cities across California.

Attached is “Exhibit A”, a proposed template with merit rubric for the City’s consideration.

3) Impossible to Assess the “Substantial Compliance” Standard

The Regulations require that non-Proposition D operators show “substantial compliance” with Proposition D, which is different from “compliance.” Requiring technical compliance with the law would put all applicants on an equal playing field, and provide certainty that the law would be enforced in an even-handed manner. Requiring substantial compliance, on the other hand, renders Proposition D more of a guideline than a law. This will lead to decision makers excusing unlawful activities of some but not all applicants, which in turn will lead to litigation brought by applicants denied because of their unexcused acts. For instance, many illegitimate cultivation and manufacturing operations are not built to code and, therefore, cannot show “compliance”. Regardless of the hazard to public safety, the City’s policy provides a subjective standard in its “substantial compliance” language, which may subject the City to litigation

4) The City Should Provide Transferrable Permits or Licenses

By approving Measure M, City voters demonstrated their desire to implement an affirmative licensing system for cannabis businesses. The certificates of compliance are a step in the right direction, but if the City wants to attract qualified, committed investors, it should provide a license or permit that is transferrable upon the City’s consent. The non-transferability of certificates of compliance creates barriers to investment as no reputable, qualified investor will put money into a business that has no resale value. The City will see more of what it has seen in the past decade: pre-ICO operators illegally selling their businesses and inviting myriad black-market actors.



5) The City Should Amend the Zoning Code to Affirmatively Authorize Cannabis Uses in the Designated Zones

CalCann hopes the City will finalize sensitive use boundaries for dispensaries and non-retail uses as soon as possible. There is currently widespread speculation on real estate to meet these needs. As soon as the City establishes zoning restrictions, investors will have the certainty and security needed to purchase property. CalCann also cautions against expanding sensitive use restrictions. The inclusion of youth-oriented facilities and churches will create an unnecessary burden that will hinder the nascent industry. Expanding sensitive use restrictions will both lower the City's appeal to investors and diminish the economic well-being of the City.

It is improbable that the State would issue licenses to operators if the City does not affirmatively authorize such use. The City provides limited criminal immunity, but that is different from establishing cannabis activity as an enumerated use. The people of Los Angeles are overwhelmingly supportive of a regulated market for marijuana, as reflected by Los Angeles residents voting YES by a 2-to-1 margin for Proposition 64.

6) The City's Equity Program

CalCann supports equity programs for cannabis licensing to help right the wrongs of the federal war on drugs, which disproportionately harms minorities and others. The policy promotes equitable ownership and employment opportunities in the cannabis industry to decrease disparities in life outcomes for marginalized communities and to address the disproportionate impacts of the war on drugs in those communities.

7) Foreign Corporation Restriction Should Not Hinder Investment from Outside California

CalCann wants to ensure that the City's foreign corporation restrictions are consistent with the state law, which specifically allows for out-of-state investors. The City should avoid restricting investment from outside of California to attract sophisticated investors and world class operators.



8) The City Should Allow Volatile Manufacturing

The City's policy of only permitting Type 6 - Manufacturing 1 licenses is a mistake. Under the trailer bill (MAUCSRA), the state explicitly allows for Type 7 – Manufacturing 2 licenses for volatile extracts. Many states that have implemented highly regulated marijuana laws permit volatile extraction and we are unaware of any incidents that have taken place at licensed facilities. These states include Oregon, Washington, Colorado, Nevada. Regulated, closed-loop system, volatile cannabis manufacturing is the industry standard, safely used by licensed operators by the cities surrounding Los Angeles. Sixty percent of cannabis sales are made in concentrates. By not permitting Manufacturing Level 2 licenses, the City eliminates a valuable revenue stream, with strong growth projections as cannabis consumption becomes more mainstream.



Aaron Herzberg is general counsel and partner at CalCann Holdings, LLC., a medical marijuana real estate company with a portfolio of licensed medical marijuana businesses and properties in California. Herzberg is also a strategist, corporate lawyer, cannabis policy expert, and entrepreneur, specializing in California’s nascent legal cannabis industry. These projects include two licensed dispensaries in Santa Ana, CA known as “OC3” and “Bud and Bloom”, ownership in several warehouses, municipally licensed cultivation and manufacturing facilities, including a 46,500-sq. ft. cultivation facility in Lynwood. Herzberg’s served on the City of Long Beach’s Medical Marijuana Task Force and is a founding member of the Nevada Cannabis Industry Association. Herzberg is the recipient of an AV Preeminent® rating from Martindale-Hubbell. In 2015, Herzberg was selected as a Super Lawyer, a distinction that is limited to the top five percent of lawyers nationwide.



Yami Bolanos is Calcann’s policy consultant for LA. Bolanos opened the 7th dispensary in LA (PureLife Alternative Wellness Center), which she continues to own and operate. Bolanos is the Founder and former President of the Greater Los Angeles Collective Alliance (GLACA), the oldest and most respected medical marijuana trade organization in the country. GLACA serves over a hundred medical marijuana dispensaries in the city. For over ten years, Bolanos has fought for her and other patients’ access to medical marijuana. Through GLACA, Bolanos and others spearheaded the effort for Proposition D and Measure M. Bolanos worked closely with the Americans for Safe Access to pass AB258 (transplant discrimination) so that medical marijuana-using transplant patients remain on the transplant list. Bolanos herself is a transplant recipient.



Chris Francy is a partner at CalCann Holdings, LLC. Francy’s company Xoxide, Inc. was acknowledged by Inc. Magazine and ranked #104 in its list of the top 500 fastest-growing companies. Francy was honored by President Obama in the White House in 2012 when he was awarded a "Young Entrepreneur" award during a White House ceremony from the U.S. Small Business Administration. Francy's award-winning corporation was later renamed Turn 5, Inc. and was an early mover in E-commerce retail in 2001. As a result of Francy's management, Turn 5, Inc. reached a milestone of 100 million dollars of annual sales before his exit from the business. At Calcann, Francy’s primary projects include the purchase, construction, and operation of two warehouses used for marijuana cultivation and processing, and construction and management of dispensaries. Francy owns and manages “OC3” and “Bud and Bloom” alongside Aaron.



Chris McCarthy the compliance manager for CalCann Holdings, LLC. McCarthy studied econometrics, political economy, and monetary economics from Colorado State University where he earned his master’s degree in 2013. McCarthy anticipates publishing his doctoral thesis in the fall. McCarthy’s past roles in public and private institutions include: Director of Nebraska Center for Economic Education, Assistant Professor of Economics & Finance, Research Analyst, Graduate Editor, Data Analyst, & Project Coordinator.





EXHIBIT A: EVALUATION & SELECTION PROCESS

Position Paper—City of Los Angeles Draft Cannabis Ordinance & Regulations

The evaluation and selection process shall consist of the following four phases:

Phase 1: Determination of Eligibility and Application

- Each principal must undergo a criminal history check demonstrating compliance with the eligibility requirements of the Ordinance.
- Applications must be complete to be considered. Applications will be considered complete only if they include all information required for Phases 1, 2 and 3.
- Proposed location of business.

Phase 2: Initial Rating (1,500 Points)

- Applications will be evaluated based on the following criteria:
 - Proposed Location of business (200 Points)
 - Business Plan (400 Points)
 - Neighborhood Compatibility Plan (300 Points)
 - Safety and Security Plan (300 Points)
 - Air Quality Plan (100 Points)
 - Labor and Employment Plan (200 Points)
- Those applicants who scored a minimum of 80% in Phase 2 will move on to Phase 3.

Phase 3: Second Rating (2,500 Points)

- All applications who score at least 80% in Phase 2, will be interviewed and evaluated by the Selection Committee based on the criteria listed below.
- Prior to the scheduling of the interviews in Phase 3 each of the applicants will be required to have their proposed site inspected by the assigned City designee to ascertain current conditions of the facility.
- The second rating will be scored based on the following criteria:
 - Final Location [proof of ownership or a signed and notarized statement from the Property Owner] (200 Points)
 - Business Plan (300 Points)

- Community Benefits (300 Points)
- Enhanced Product Safety (200 Points)
- Environmental Benefits (200 Points)
- Labor & Employment (200 Points)
- Local Enterprise (200 Points)
- Neighborhood Compatibility Plan (200 Points)
- Qualifications of Principals (300)
- Safety and Security Plan (200 Points)
- Air Quality Plan (200 Points)
- Equity Plan (200 points)
- After all the applicants from Phase 3 scores have been tabulated they will be combined with Phase 2 to establish a new rating of the top applicants. All the applicants who continued to maintain a score of at least 80% will move onto Phase 4 of the selection process.

Phase 4: City Administrator's Recommendations and City Council's Final Approval

- Selection Committee's final review and evaluation.
- City Administrator presents final ratings and recommendation report to City Council.

City Council Approves Final Recommendations. Upon the completion of the final review process, the Selection Committee will tabulate its final scores of the all applicants who were interviewed in Phase 3. The City Administrator will present to the City Council the final rating along with his/her recommendation in which the City Council may award up to the amount permitted by the Ordinance or Council Resolution pursuant to the Ordinance. Only those applicants on the final list will be eligible to be issued a permit from the initial permit process. The top Applicants which are being recommended by the City Administrator for consideration to the City Council should be prepared to attend a City Council meeting in to provide a public presentation before the Mayor and City Council introducing their team and providing an overview of their proposal if requested by the City Administrator.



DESCRIPTION OF EVALUATION CRITERIA

Proposed Location. Your application must include the address and a detailed description of the proposed location. This section should also describe all sensitive uses within six hundred (600) feet of the proposed location from the property line of a State Accredited K-12 school. The business must be in the appropriate zoning and meet all the locational requirements as described in the Ordinance.

Business Plan. With as much detail as possible, the Business Plan should describe:

- Description of day-to-day operations which meet industry best practices for the specific type of permit in which they will be applying for in the City.
- How the business will conform to local and state law.
- How medical or retail cannabis will be tracked and monitored to prevent diversion.
- A schedule for beginning operation, including a narrative outlining any proposed construction and improvements and a timeline for completion.

The Business Plan should include:

- A **budget** for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation costs. The budget must demonstrate sufficient capital in place to pay startup costs and at least three months of operating costs, as well as a description of the sources and uses of funds.
- **Proof of capitalization**, in the form of documentation of cash or other liquid assets on hand, Letters of Credit or other equivalent assets.
- A **pro forma** for at least three years of operation.
- **Neighborhood Compatibility Plan.** For the proposed location, your application should address how the business, including its exterior areas and surrounding public areas, will be managed, to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community. Furthermore, a site plan (accurate, dimensioned and to-scale

[minimum scale of 1/4"] should be included for each potential location.

- **Safety and Security Plan.** For each proposed location, your application should include:
 - A **detailed safety plan.** This plan should describe the fire prevention, suppression, HVAC and alarm systems the facility will have in place. **It should include an assessment of the facility's fire safety by a qualified fire prevention and suppression consultant.** An appropriate plan will have considered all possible fire, hazardous material, and inhalation issues/threats and will have both 5 written and physical mechanisms in place to deal with each specific situation.
 - A **detailed security plan.** This plan should include a description and detailed schematic of the overall facility security. It should have details on operational security, including but not limited to general security policies for the facility, employee specific policies, training, sample written policies, transactional security, visitor security, 3rd party contractor security, and delivery security. In particular, applications should address ingress and egress access, perimeter security, product security (at all hours), internal security measures for access (area specific), types of security systems (alarms and cameras), and security personnel to be employed. **The security plan shall also include an assessment of site security by a qualified security consultant.** Security plans will not be made public.
 - A **floor plan** showing existing conditions. If changes are proposed as part of the project, then a proposed floor plan should also be submitted. The floor plan(s) should be accurate, dimensioned and to-scale (minimum scale of 1/4").
- **Community Benefits.** The application should describe benefits that the business would provide to the local community, such as employment for residents of the City, community contributions, or economic incentives to the City.



- **Enhanced Product Safety.** The application should state how the business will ensure enhanced consumer safety as required by State or local law.
- **Environmental Benefits.** The application should describe any proposed “green” business practices relating to energy and climate, water conservation, and materials and waste management.
- **Labor & Employment.** The application should describe to what extent the business will adhere to heightened pay and benefits standards and practices, including recognition of the collective bargaining rights of employees. Specific practices that are subject to consideration include the following:
 - Providing compensation to and opportunities for continuing education and training of employees/staff (applications should provide proof of the business’ policy and regulations to employees);
 - Providing a “living wage” to facility staff and employees. Wage scale should be provided in writing for all levels of employment. “Living Wage” shall mean 150% of the minimum wage mandated by California or Federal law, whichever is greater.
- **Local Enterprise.** The application should state the extent to which the business will be a locally managed enterprise whose principals reside within the City and/or County of LA.
- **Qualifications of Principals.** The application should include information concerning any special business or professional qualifications or licenses of principals that would add to the number or quality of services that the business would provide, especially in areas related to medical cannabis, such as scientific or healthcare fields.
- **Air Quality Plan.** Must demonstrate the air circulation does not impact the employee's’ health and welfare nor the surrounding businesses.
- **Equity Plan.** Must demonstrate compliance with Social Equity Program approved by the City Council.