


CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

Date: October 24, 2016

To: Rules, Elections, Intergovernmental Relations, and Neighborhoods Committee

From: Sharon M. Tso, Chief Legislative Analyst 

Subject: **MARIJUANA REPORT BACK #5 – PENALTIES TO DISCOURAGE ILLEGAL ACTIVITIES (C.F. 14-0366-S5)**

During its consideration of a joint report from the Offices of the City Administrative Officer (CAO) and the Chief Legislative Analyst (CLA) regarding options to regulate marijuana-related businesses within the City (C.F. 14-0366-S5), the Rules, Elections, Intergovernmental Relations, and Neighborhoods Committee requested the CAO and CLA to report with an analysis of best practices regarding the use of penalties to discourage illegal activity.

A mix of administrative, civil and criminal penalties will likely be most effective in discouraging illegal activity by marijuana-related businesses. A mix of options would enable the Police Department and City Attorney's Office to tailor enforcement to most effectively address individual violations. Administrative penalties in particular are effective, as they can be levied quickly, and affect the income of a business. The California Department of Alcoholic Beverage Control (ABC), which issues liquor licenses in the state, has the ability to suspend and revoke licenses for alcohol sales, which serves as an effective deterrent against illegal activities, and this administrative model could be effective if applied to marijuana-related businesses in the City. However, best practices would also include the ability to use civil and criminal penalties, which will enable the City Attorney to abate problem establishments and allow for criminal charges to be brought against individuals involved in the legal marijuana business who are also involved in criminal activities.

In addition to penalties, businesses should be subject to specific requirements to operate that would discourage illegal activities. These requirements can be codified in an ordinance regulating marijuana-related businesses, or placed on businesses as a condition of their operating permit. Police Officers have the legal right to visit and inspect any ABC-licensed premises at any time during business hours without a search warrant. This includes inspecting the bar and back bar, store room, office, closed or locked cabinets, safes, kitchen, or any other area within the licensed premises. Marijuana businesses licensed to operate by the state and the City in similar fashion should be required to allow access by Police without a warrant, including access to areas not normally accessible to the public. This would ensure that Police would be able to inspect for criminal activity, such as the manufacture of Butane Honey Oil (BHO), a potent marijuana concentrate. Further, the State of Colorado requires its legal marijuana businesses to have video surveillance systems installed. These systems are required in an effort to prevent diversion of legal marijuana products into the black or gray markets, as well as enable police departments to investigate theft or other crimes at these facilities. The City may wish to require video surveillance systems be a mandatory component of a security plan for a marijuana business.

While these penalties would likely be effective at deterring illegal activity by marijuana-related businesses, the most common crime associated with these is robbery or theft by non-employees. Because of federal rules, most marijuana-related businesses have a significant amount of cash on hand. Without updating banking rules, it is very likely that these businesses will remain targets for criminals and these businesses will increase the risk of crime occurring where they are located. However, in an effort to mitigate this issue as well as ensure compliance with tax laws, some cities that regulate marijuana-related business are requiring businesses to utilize third-party cash management services.

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