



Advancing Legal Medical Marijuana Therapeutics and Research

April 13, 2019

The Honorable Members of the Los Angeles City Council Budget Committee
Los Angeles City Hall
200 North Spring Street
Los Angeles, CA 90012

Re: **OPPOSE MOTION** CF 17-0768

April 15, 2019 Budget Committee Meeting Agenda Item No. 16 Relating to Forcing the Retail Cannabis Industry to Use A Cashless System

Dear Honorable Members of the Budget Committee:

We are writing today to oppose Agenda Item No. 16, a motion which would require every cannabis retailer in the City of Los Angeles (the City) to conduct all retail transactions without using cash. In terms of consumer and patient transactions, the only underlying scheme for accomplishing this would be debit cards. The motion which accompanies the proposed ordinance would revolve around using debit cards for retail transactions, most specifically a Linx Debit Card, rather than cash. Thus, though the ordinance mandates "cashless transactions" it is really just a mechanism for forcing consumers and patients to use specialized debit cards when purchasing cannabis.

These cards would be presumably sold at cannabis retail outlets to consumers and patients or force patients to visit an online portal where they would use a credit card to load the Linx Card.

BE ADVISED STATE LAW PROHIBITS SELLING ANYTHING IN A LICENSED CANNABIS RETAIL OUTLET BUT CANNABIS, CANNABIS PRODUCTS, BRANDED MERCHANDISE AND PROMOTIONAL MATERIALS. ¹

Thus, whether the retail outlet was selling a physical card, using a kiosk in the store to sell or load the cards, or merely selling the service and directing consumers to an online portal, retailers are forbidden by state law from doing so. Under state law cannabis retailers cannot sub-lease their spaces so "renting" space to the debit card company for a kiosk would not be feasible either. ²

On behalf of the ten thousand Americans for Safe Access (ASA) Members living in the City of Los Angeles, we urge you to reject and refuse to pass this motion which would inflict debit cards on patients and consumers.

In addition to our organization's opposition, I enclose a joint letter submitted to the Rules Committee by ASA, The Southern California Coalition and The California Minority Alliance dated December 3, 2017. The three largest cannabis organizations in Los Angeles oppose the use of debit cards and we hope that you will join them and oppose this motion when it comes before you.

If you had been present on the day that public comment was taken on this matter, December 4, 2017, in the Rules Committee, you would have seen stakeholder after stakeholder stand at the podium and oppose this motion. This opposition is well placed, debit cards are a dangerous manner in which to manage the City's tax payments, are particularly burdensome for the poor, and are unworkable for the Social Equity Program.

Typically, these debit cards offer incentives so large for promoting and selling the cards that it feels like a bribe. Americans for Safe Access was approached by one of these debit card companies and offered large "commissions" for convincing retail

¹§ 5407. Sale of Non-Cannabis Goods. In addition to cannabis goods, a licensed retailer may sell only cannabis accessories and licensee's branded merchandise. Licensed retailers may provide customers with promotional materials.

²§ 5028. Subletting of Premises. A licensee shall not sublet any area designated as the licensed premises for the licensee's commercial cannabis activity. Link to the regulations: https://bcc.ca.gov/law_regs/cannabis_order_of_adoption.pdf

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operators to use the cards in their businesses. Suspicious of such a rich deal, we investigated, and what we uncovered about debit cards and the burdens they would put on cannabis patients, particularly the poor, was so horrific that we rejected the proposed offer and now oppose all debit card schemes, particularly when they are pitched as a “cashless” solution to cannabis banking problems. We hope the Honorable Committee will do the same when this matter comes before them.

Debit cards are not really a “cashless” solution. You purchase and load the card by using either cash or a credit card. This may mean that the same amount of cash would be coming in to the retailers who are forced to sell the card, particularly in poor areas where credit cards are scarce. If your goal is to reduce the risk of cash in retail outlets, imposing a scheme where cash is traded for debit cards is not the solution.

Additionally, if cannabis retailers don’t have bank accounts, they don’t have merchant services and hence no credit cards to use to load debit cards with, so that they might pay city taxes.

Debit cards are a terrible burden on the poor, who often do not have bank accounts or credit cards. There is a transaction fee every time the card is swiped, which is often quite high. You must also keep a minimum balance on the card, often as high as \$100.00 an impossible task for people on limited incomes such as the elderly. When our organization asked the debit card company which had approached us WHY the minimum balance and transaction fees were so high the response was: “Well, that’s just the price the poor have to pay when they don’t have a bank account.”

The debit card company has a bank, through which it funnels payments made to purchase and manage debit card balances. Periodically, these companies lose their bank for the same reasons cannabis stakeholders do and this could be very problematic for the City. Without a bank the debit card company has no choice but to hold the City’s money until it can entice another bank to take its business as it has no other way to reimburse the City.

Another huge problem is the sheer number of debit cards that would have to be issued. Linx Cards and other debit cards offered to the cannabis community are a closed universe and only good for use at the one retailer where they are sold. You can’t take the card and use it at Target or Walmart as you would a Visa or Mastercard Debit or Gift Card.

Patients who need to use more than one dispensary to find the products they need, would have to purchase a debit card at each store, or an online portal, keep a minimum balance on each card and pay transaction fees each time they used the card. This is an unworkable system for the poor, and particularly impacts people of color, who frequently cannot obtain bank accounts or credit cards.

Social Equity candidates who have the debit card system mandated for their businesses may face a horrible economic backlash. Forcing these new business to use debit cards for all retail transactions will just enrich the unlicensed retailers operating in close proximity to the new business. Now, in addition to being offer products at steep discounts because they pay no taxes and have no regulatory costs, illegal operators can offer the incentive of a “debit card free” environment, something no licensed retailer would be able to do.

Moreover, the motion which accompanies the City Attorney’s Cashless Ordinance would require that all licenses and taxes be paid for using a cashless system, which may be a real problem, not just for Social Equity Candidates but for all licensees depending on whether they have bank accounts or merchant services.

It’s important to remember that all cashless systems, debit cards, management companies, etc. are largely unregulated by the government, the monies held are not federally insured as they would be in a bank and the use of such mechanisms, particularly debit cards, may be characterized as money laundering at the federal level.

If the Honorable Committee is seeking a solution to the cannabis cash problem, it need look no further than proposed state legislation. AB 717 would allow the City to contract with armored car companies, to count and transport tax monies from retailers directly to the City’s bank. The resulting contracts would be so large the City could negotiate substantial discounts on the service which the legislation allows the City to pass on to retailers. AB 1525 would remove longstanding resistance to armored cars servicing the cannabis industry by stating it would not be crime to transport cannabis monies. Another piece of state legislation, SB 51 would allow private charter banks and credit unions to offer banking services to the cannabis industry.

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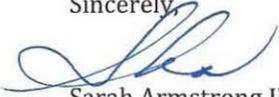
Beginning this July, cannabis city taxes are due every month, substantially reducing the risk at time of payment, as cannabis retailers are no longer making one lump payment annually or quarterly for all taxes.

Finally, there has been meaningful movement at the federal level, a banking bill has made it out of committee. The Secure And Fair Enforcement (SAFE) Banking Act, currently has 152 cosponsors—more than a third of the entire House.

For the reasons offered above, we urge the Honorable Committee to reject the motion imposing a “cashless system” which, will mean the compulsory use of specialized debit cards by cannabis consumers and patients.

Founded in 2002, Americans for Safe Access (ASA) is the largest national member-based organization of patients, medical professionals, scientists, and concerned citizens promoting safe and legal access to marijuana for therapeutic use and research. ASA works in partnership with state, local and national legislators to overcome barriers and create policies that improve access to marijuana for patients and researchers. ASA has more than 100,000 active members with chapters and affiliates in all 50 states. Our website is: www.safeaccessnow.org I can be reached at (805) 279-8229 or industry@safeaccessnow.org and would welcome the opportunity to discuss this matter with you.

Sincerely,



Sarah Armstrong JD
Director of Industry Affairs
Americans for Safe Access

Encl:

December 4, 2017 Joint ASA, SCC, CMA Letter to Council Member Bob Blumenfield

June 30, 2017 Motion re: Linx Debit Cards

Proposed Ordinance Imposing a “Cashless System” on the Los Angeles Cannabis Industry

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ORDINANCE NO. _____

An ordinance adding Subsection (n) to Section 104.11 of the Los Angeles Municipal Code to prohibit the sale of Cannabis for cash or currency.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Subsection (n) is added to Section 104.11 of the Los Angeles Municipal Code to read as follows:

(n) Effective upon the issuance of a License, a Licensee shall not accept paper or coin currency from a customer as payment for Cannabis. A Licensee shall not pay any taxes, fees, civil penalties, or criminal penalties with paper or coin currency. This subsection takes precedence over any other section in the Los Angeles Municipal Code providing or allowing for such payments in paper or coin currency.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

Date 11/30/17

File No. _____

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I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____



2

To: The Honorable Bob Blumenfield
From: The Southern California Coalition
The California Minority Alliance
Americans for Safe Access

Date: 12-4-17
Submitted in REIR Committee
Council File No: 17-0768
Item No: 2
Deputy: Public

Re: The Motion to Ban Non-Cash Transactions in Amended Motion 6A
CF: 17-0768

Date: December 3, 2017

Be advised that your proposal that cannabis businesses be barred from cash payments to the City of Los Angeles (the City) is a dangerous and untenable proposal, universally opposed by the above referenced entities for the following reasons:

- Todd Bouey, Assistant Director in the Department of Finance, has testified before a government committee convened by Treasurer John Chiang, that only 20% of the Los Angeles Cannabis Industry currently pays their City taxes in cash.
- To ban all cash transactions when only 1/5th of cannabis taxpayers remit in cash is a hasty, hysterical and thoughtless gesture which will hobble tax collection by the City and needlessly endanger the cannabis community's licensure.
- Per the terms of the proposed city ordinance, all licensees must be current in their tax payments. By banning cash payments you create a situation where a taxpayer who must pay in cash cannot do so and as a result loses their business license or the ability to obtain a license.
- You have previously put forward a motion which would force all cannabis taxpayers to use a system you've championed, the Linx System, which is basically a debit card which would be linked to kiosks in the Department of Finance.
- Your current insistence that cash payments be banned, forces cannabis businesses towards this uninsured, untested and federally illegal system of payment, which can easily be characterized as a form of money laundering by the federal government.
- It is inappropriate for an elected official to attempt to pass related legislation which would indirectly or directly force taxpayers to use a private company the elected official has previously attempted to benefit by proposing legislation favorable to that company.
- Banning all cash payments forces the cannabis industry to result to subterfuge to pay their taxes, either by patronizing "management companies" or using debit card systems which are uninsured, typically underfunded and have no meaningful track record in the marketplace.



- Forcing law abiding citizens to patronize these management companies or debit card systems in your capacity as an elected official, means that the City of Los Angeles could be implicated in any actions brought by the federal government relating to money laundering.
- Neither the City nor taxpayers would have enough information about these types of companies to ascertain if their other clients were compliant with finance laws or simply using these entities to launder money.
- The Board of Equalization welcomes cash payments and adjusted their operating systems to accept cash, passing a state law to accommodate this. They recognize that their taxpaying clients have no other way to pay.
- The City of Los Angeles should similarly recognize that the cannabis industry is forced to make cash payments due to federal law and should not put taxpayers in the position of defaulting on tax payments purely because the City refuses to accept cash.
- Banning cash payments when taxpayers have no other way to pay would force taxpayers to sue the City to obtain the right to pay with cash. Law abiding citizens, however much they may abhor such litigation would have no other choice if they wished to continue operating their businesses.

For the reasons stated above, our organizations urge you to abandon Motion 6A.

Cc: The Honorable REIR Committee

Encl: Blumenfield Motion Re: Linx Card System

MOTION

In March 2017, Los Angeles City voters approved Measure M, which would allow the City to license and regulate recreational marijuana businesses. Currently, there are approximately 130 medical marijuana dispensaries that comply with Proposition D and are required to pay applicable taxes to the City. These medical marijuana dispensaries will have the opportunity to be the first to apply for City recreational selling licenses once they become available for distribution.

A common problem with both medical and recreational dispensaries is that the business mainly deals with cash transactions. Major credit card companies do not allow their cards to be used to purchase cannabis because it is a Schedule I drug, and they do not want to risk legal action by the federal government. Cash businesses are themselves vulnerable to theft, and can be magnets for crime. For the City, the cash transactions make it difficult to determine whether businesses are correctly reporting their sales and paying their taxes. In addition, many dispensaries choose to pay their City-owed taxes with large amounts of cash which creates problems for the Office of Finance.

Linx Card, Inc. is a company that has created a purchasing card specifically for marijuana dispensaries. The company's stated goal is to enable licensed dispensaries to legally accept card payments and to help them minimize the risks associated with handling cash, thereby creating a safer and smarter environment for dispensary owners, employees and customers. Not only can customers load their Linx Card with their credit or debit card through an online system, but with the help of Linx kiosks, they can convert cash into a card or add to their existing card.

For the City, a Linx Card or a similar type of card can track sales and instantly determine the amount of taxes owed to the City. In addition, it can send tax payments directly to the City for each legally operated dispensary. Not only does that help make sales receipts accurate, but it obviates the need for the Office of Finance to accept large cash payments from these businesses.

The Linx Card or similar product should be considered as the City prepares to begin issuing licenses for the sale of medical and recreational marijuana. The Office of Finance should explore these systems and determine the pros and cons of either allowing, prioritizing, or requiring dispensaries to use such a system in order to operate legally within the City.

I THEREFORE MOVE that the Office of Finance (Finance) be instructed to report on the viability, benefits, and possible detriments of authorizing, prioritizing or requiring a Linx Card or similar product when issuing licenses for the sale of recreational or medical marijuana.

PRESENTED BY:


 BOB BLUMENFIELD
 Councilmember, 3rd District

SECONDED BY:



JUN 30 2017



