



Advancing Legal Medical Marijuana Therapeutics and Research

October 3, 2018

The Honorable Members of the Rules Committee  
Ms. Cat Packer  
Executive Director and General Manager  
Department of Cannabis Regulation  
Los Angeles City Hall  
200 N. Spring Street  
Los Angeles CA 90012

Re: Proposed Enforcement Motion – Shut-off of Utilities - CF 14-0366-S24

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

Measure M proposed that the City of Los Angeles (the City) explore the possibility of shutting off the utilities at cannabis business sites which were unlicensed. Americans for Safe Access (ASA) understands the utility of such a proposal, but we would like to make you aware of some concerns.

Chief among our concerns is that at this time, enforcement be limited to unlicensed retail establishments open to the public, which are located too close to sensitive uses where children congregate. We hope that the honorable committee and Ms. Packer will support this position and that the other concerns raised below will be addressed in amendments the Rules Committee submits on this motion.

**Concern No. 1: At this time, Enforcement Should be Restricted to Unlicensed Retail Businesses Open to the Public and Located too Close to Sensitive Uses Where Children Congregate.**

**Currently, ASA supports enforcement via utilities shut-off or otherwise, but only for unlicensed retail operators open to the public and located too close to sensitive uses where children congregate.** For the reasons stated below, we are hopeful that the City will restrict its enforcement to this category of business at this time. Of the original 182 on the 2007 Pre-ICO List, as well as the few entities subsequently added to the list bringing it to 185 entries, 166 of these entities now have their city licenses, leaving only 19 businesses unaccounted for.

It is of the utmost importance that the City focus on shuttering the remaining unlicensed retail outlets open to the public and located too close to sensitive uses where children congregate. An unlicensed entity which is too close to a sensitive use, either under Proposition D or current ordinance language would not be eligible for licensure, so even if the unlicensed business had submitted an application it would have been rejected, thus there is little risk in pursuing this category of unlicensed business.

Unlicensed entities pose grave risks to those who are chronically ill as they are currently estopped from testing their products. Per state law, a lab can only test licensed entities as licensed entities may only deal with other licensed entities. This means unlicensed entities open to the public cannot test their products, nor can they receive tested products from licensed wholesalers/distributors. Patients with compromised immune systems, such as those with organ transplants, may die if they ingest/inhale cannabis with impurities. Cannabis contaminated with pesticides or other impurities is an equal opportunity destroyer. Consumers as well as patients may suffer terrible injuries.

Insurance companies are reluctant to insure businesses operating outside the licensing framework. Insurance companies approved at the state level for cannabis businesses may only offer insurance to licensed entities. This means unregulated shops may not be carrying workman's compensation insurance, liability insurance or other types of insurance necessary for the protections of workers and patrons.

Unions, traditionally the great champions of employee rights, cannot organize an unlicensed business. Since most cannabis workers are medical cannabis patients, this lack of employee protections is a matter of particular concern to our organization.

---

**Headquarters**

1300 Clay Street, Suite 600, Oakland CA 94612  
PHONE: 510.251.1856

**National Office**

1806 Vernon St. NW, Suite 100, Washington DC 20009  
PHONE: 202.857.4272 FAX: 202.857.4273

**General Information**

WEB: [www.AmericansForSafeAccess.org](http://www.AmericansForSafeAccess.org)  
TOLL FREE: 1.888.939.4367

An unlicensed entity may be unwilling to pay any of the seven sets of taxes they owe lest they risk exposure (i.e. federal, state, state sales taxes, state excise tax, local sales tax, corporate taxes, payroll taxes). The failure to pay payroll taxes means employees have no way to receive unemployment benefits, absent a state investigation. Other taxes ensure that city and state emergency services have sufficient operating monies. Unlicensed entities use just as many city services as licensed entities as well as place the additional burden of enforcement costs on the City.

If the unlicensed businesses are not paying taxes, the City is carrying the economic burden entailed in the unlicensed entity's existence. The determining factor in whether you owe city taxes is whether your business engages in sales, not whether you are licensed. An unlicensed entity is just as obligated to pay taxes as any other business.

**Concern No. 2: Absent a Preliminary Investigation, Utilities May Be Shut-Off At An Inappropriate Location.**

The City is in the midst of creating what will be the largest cannabis industry in the country. The licensing of this industry is being done in stages and as each window for submitting applications closes, many will have submitted valid applications and would be waiting for licenses.

In the case of the licensing phase which just closed, Phase II, the satisfaction of certain criteria allows for continuous operation.

To ensure that such businesses are not the targets of utility shutdowns we would ask that no shutdowns occur without the knowledge and approval of Ms. Packer or her designated employee. The Department of Cannabis Regulation (the DCR) oversees all cannabis applications and is in a better position than enforcement authorities to judge how far along the path to licensure an applicant may be. There may be events within the licensing universe, such as an appeal, which would argue against a utilities shutdown.

Moreover, Ms. Packer and her department have been thoughtful and judicious in their regulation. The DCR are the City's cannabis industry experts. We would hope that all City Departments and Council Districts would consult her department before implementing changes in cannabis department policies or putting forward council cannabis motions so that the City does not waste time moving forward if an idea is unworkable or might be improved by the DCR's input before it becomes city policy.

**Concern No. 3: There Should Be An Emergency Path For Asserting Legitimacy If Utilities Are Shut Down.**

In a scenario where utilities have been mistakenly shut down at a cultivation site, just a few hours without power can kill an entire crop materially injuring if not destroying a business that may have been seeking licensure or had already been issued a temporary license.

To prevent this from happening we'd like to see designated entities both within the DCR and at the Utilities who upon being informed that utilities were mistakenly shut down can investigate whether the shut-down was appropriate and on an expedited and emergency basis, restore power.

Currently, when a mistake is made, it's a round robin of panicked calls and urgent pleas to enforcement, the utilities companies, council district offices and the DCR to recognize the legitimacy of the business and restore power. Our organization feels a streamlined approach with designated representatives would be more effective.

**Concern No. 4: Patients May Suffer Injuries if Utility Shutdowns Take Place During Operating Hours.**

Many retail cannabis establishments open to the public rely on artificial light instead of natural light. If the utilities are abruptly shut-off during business hours, panicked patrons and patients may injure themselves or others trying to find the exits in sudden darkness. Patients, particularly seniors<sup>1</sup> may be dependent on wheelchairs or walkers and have a difficult time maneuvering in the dark. Further problems may occur if shutting off the utilities in the evening extinguishes parking lot lights.

<sup>1</sup> According to a new federal government report, the elderly now consume as much cannabis as teenagers.

See: [https://www.washingtonpost.com/business/2018/09/20/marijuana-use-is-now-common-among-baby-boomers-it-is-among-teens-federal-data-show/?utm\\_term=.e28a2f4aab6b&wpisrc=nl\\_rainbow&wpmm=1](https://www.washingtonpost.com/business/2018/09/20/marijuana-use-is-now-common-among-baby-boomers-it-is-among-teens-federal-data-show/?utm_term=.e28a2f4aab6b&wpisrc=nl_rainbow&wpmm=1)

**Headquarters**

1300 Clay Street, Suite 600, Oakland CA 94612  
PHONE: 510.251.1856

**National Office**

1806 Vernon St. NW, Suite 100, Washington DC 20009  
PHONE: 202.857.4272 FAX: 202.857.4273

**General Information**

WEB: [www.AmericansForSafeAccess.org](http://www.AmericansForSafeAccess.org)  
TOLL FREE: 1.888.939.4367

To avoid injuries due to light deprivation, our organization suggests that utilities shut-offs at retail establishments open to the public occur 30 minutes before management arrives to open the business in the morning. Few employees would be present and no patrons. Management would know utilities had been shut-off as soon as they opened the door and could not turn on the lights.

Our organization feels that the shut-off of utilities is a specialized manner of enforcement and thus should have a few implementation rules to ensure everyone's safety. Americans for Safe Access would like the City to concentrate exclusively on enforcement related to unlicensed retail outlets open to the public and located too close to sensitive uses where children congregate. Sensitive uses were enacted to protect children and both the City and the cannabis industry should honor that commitment.

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](http://www.safeaccessnow.org)

Thank you for the consideration of these matters. As always, I can be reached at (805) 279-8229.

Sincerely,



Sarah Armstrong JD  
Director of Industry Affairs  
Americans for Safe Access

Cc: The Honorable Michael Feuer  
Don Duncan  
Andrew Westall

---

**Headquarters**

1300 Clay Street, Suite 600, Oakland CA 94612  
PHONE: 510.251.1856

**National Office**

1806 Vernon St. NW, Suite 100, Washington DC 20009  
PHONE: 202.857.4272 FAX: 202.857.4273

**General Information**

WEB: [www.AmericansForSafeAccess.org](http://www.AmericansForSafeAccess.org)  
TOLL FREE: 1.888.939.4367