

**Los Angeles County
Advisory Working Group
on Cannabis Regulation**

Meeting Four:
CANNABIS RETAILERS
AUGUST 3, 2017

PREPARATION PACKET

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SECTION 1:

The Current Cannabis Retail Landscape in Los Angeles County

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I. CANNABIS RETAILERS HAVE PROLIFERATED DESPITE PROHIBITION

In California and especially in the Los Angeles area, local governments have struggled to control the number and location of cannabis retailers (dispensaries).¹ Many cities and counties tightly regulate where cannabis retailers can locate, or prohibit them altogether. However, cannabis businesses continue to open despite limitations and prohibitions. This is because cannabis businesses can be very lucrative, and criminal and civil penalties are minimal under state law.²

Statistics from the City of Los Angeles (LA City) and Los Angeles County (LA County) are telling. In early 2017, only 135 cannabis retailers had “limited immunity” to operate within LA City.³ However, some reports placed the actual number of cannabis retailers operating in LA City at more than 1,700.⁴

LA County adopted an ordinance prohibiting cannabis retailers within unincorporated areas in 2010.⁵ Despite the prohibition and closure efforts, in April 2017 Los Angeles County Counsel reported approximately 75 known cannabis retailers operating within unincorporated County areas.⁶

II. ISSUES WITH UNREGULATED CANNABIS RETAILERS

A fundamental problem with unregulated cannabis retailers is that they are not likely to be in compliance with most rules applicable to other businesses. Often, these unregulated retailers:

- Are not located in areas where they are permitted to locate. This could mean that businesses are operating even though they are prohibited in the jurisdiction, and can result in businesses that are very close to schools.⁷
- Are less likely to be “good neighbors” and more likely to affect the well-being of surrounding communities.⁸
- Are not in compliance with building, fire, health or zoning code provisions.⁹ This means that businesses could have major safety issues on-site, such as

inadequate ingress or egress in the event of an emergency. Rules regarding lighting, ventilation, odor control, and occupancy are not applied.

- Do not pay taxes.¹⁰
- Tend to locate in low-income neighborhoods where there is frequently less organized opposition.¹¹

III. MOVING FROM AN UNREGULATED TO A REGULATED RETAIL CANNABIS INDUSTRY IN LA COUNTY

Following the passage of Proposition 64, many counties and cities are moving away from prohibiting cannabis retailers to licensing and regulating them. As counties and cities move toward allowing legal cannabis retailers in their jurisdictions, a key consideration is where these businesses should be allowed to locate. Among other things, regulators are concerned about cannabis retailers locating too close to places where youth congregate, such as schools, and an over-concentration of retailers in a single area. Regulators are also cognizant of the potential for cannabis retailers to cause friction with neighbors, in part because of community perceptions about these businesses resulting from many years of unregulated sales activity, and also because of moral opposition to cannabis legalization.¹²

In February 2017, the LA County Board of Supervisors adopted a motion directing the LA County Office of Cannabis Management to coordinate with other LA County departments to allow, license and regulate cannabis retailers and other businesses. Pursuant to the Board of Supervisors' motions, regulations must establish locational requirements for cannabis retailers and other businesses, including:

- Buffers from sensitive uses such as schools, daycare facilities, offsite alcohol sales (e.g., liquor stores), parks and recreational centers, and residential neighborhoods;
- Minimum spacing requirements between retailers, or numerical limitations to prevent overconcentration, excessive exposure and access to cannabis and cannabis advertising;
- Frontage requirements to maintain community character and maximize safety; and
- Development standards and licensing requirements designed to reduce opportunities for crime, such as minimum security requirements, mandatory hours of operation, and use of security cameras.¹³

The Board of Supervisors also directed that any limitations on the number of cannabis retailers and other businesses take into consideration tax revenue and regulatory cost estimates, to ensure that revenues are sufficient to cover regulatory costs.¹⁴

Discussed below are some of the available ways to address the considerations identified by the Board of Supervisors.

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Where Cannabis Retailers Can Locate

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I. ZONING, “BUFFERING,” AND MINIMUM DISTANCES BETWEEN CANNABIS RETAILERS

A. Zoning

1. Background

Zoning is the most common tool used by local governments to regulate where different types of businesses can operate. Zoning rules determine allowable “land uses” in certain areas and regulate the physical form of development, including minimum setbacks from property lines and building size.

In LA County’s unincorporated areas, zoning generally falls into four categories: residential, agricultural, commercial, and industrial.

- Residential zones are reserved for single-family and multifamily housing, and allow for limited home-based business activities.
- Agricultural zones allow for agricultural uses such as raising crops and animals and limited business activities (such as farm stands), as well as residential uses.
- Commercial zones are intended for retail stores, service providers, and professional offices, and limited residential uses.
- Industrial zones accommodate warehouses, storage yards, factories, and other high-impact land uses, as well as some commercial uses.¹⁵

Each general zoning category is further divided by the level of land use activity allowed in each zone. For example, LA County’s commercial zones are separated into C-1 (restricted business or “light commercial”), C-2 (neighborhood business or “medium commercial”), and C-3 (general or “heavy commercial”) zones, among others.¹⁶

2. LA County Board of Supervisors' motion regarding zoning for cannabis retailers

In February 2017, the LA County Board of Supervisors directed County departments to prepare commercial cannabis regulations that allow cannabis retailers in the following **commercial** and **industrial** zones:

- C-3 (general commercial);
- C-M (commercial manufacturing);
- C-MJ (major commercial);
- M-1 (light manufacturing);
- M-1.5 (restricted heavy manufacturing);
- M-2 (heavy manufacturing); and
- M-2.5 (aircraft and heavy manufacturing zone).¹⁷

These zones are generally associated with heavy commercial and industrial uses and do not include residential areas, although some residences may be located within these zones.

B. Buffering from “sensitive uses”

1. What is “buffering”?

In the zoning context, “buffering” means setting a minimum distance between a particular land use and land uses deemed “sensitive.” Whether a land use is “sensitive” depends on the type of people likely to be present on the site. Because children are present on school grounds, schools are frequently identified as a sensitive use, and incompatible land uses are required to locate a minimum distance away from schools.

For more on buffers between cannabis businesses and places where youth congregate, refer to the preparation packet for Week 2: Youth Access and Exposure, pages 4-6, available at http://bit.ly/AdvisoryGroup_Week2

By way of example, the LA County zoning code requires businesses that sell alcohol to locate at least 600 feet from places used exclusively for religious worship, schools, parks, playgrounds or similar uses, unless the owner can demonstrate that the business will not adversely affect those sensitive uses.¹⁸ Adult businesses are required to locate at least 250 feet from residences and residential and agricultural zones, and 500 feet from places of worship, schools, child care centers, and public parks.¹⁹

2. “Buffering” under state law

Proposition 64 established a default buffer of **600 feet** between cannabis businesses and schools (K-12), daycares (including preschools but excluding home daycares with fewer than 14 children), and youth centers (including youth membership clubs and video

arcades.²⁰) However, a city or county can specify a buffer that is greater or less than the default 600-foot buffer,²¹ and can require buffers for sensitive uses other than schools, daycares, and youth centers.²²

C. Establishing minimum distances between cannabis retailers

One way of controlling the location of cannabis retailers, and in particular to prevent too many retailers from locating in the same area, is to require that a cannabis business be located a minimum distance from another cannabis business.

State law does not establish minimum distances between cannabis retailers, but does not prevent local jurisdictions from doing so.²³

D. How buffers and minimum distances are measured

Buffers and minimum distances are typically measured in a straight line from property-line to property-line, which is consistent with the required measuring practice established under Proposition 64.²⁴ The figure below demonstrates how measurements are typically calculated.

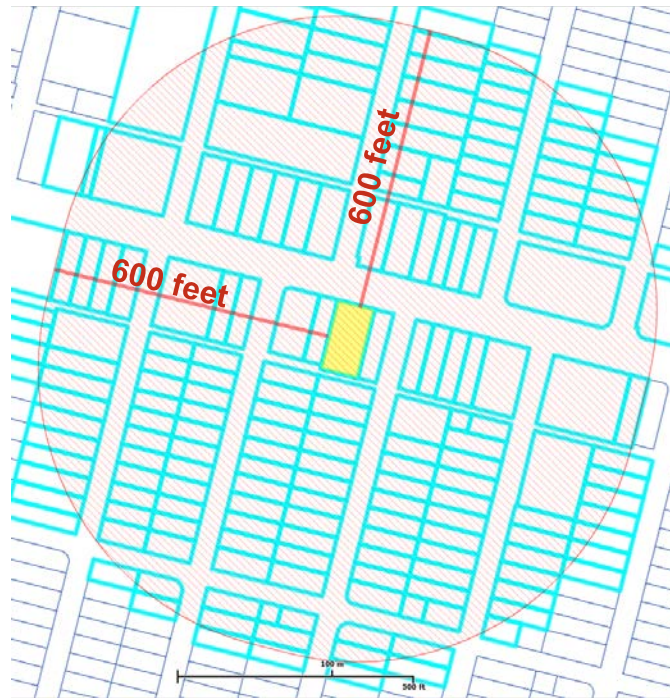


Diagram illustrating parcels, highlighted in blue, that fall within a 600-foot buffer from the parcel highlighted in yellow.

II. LIMITS ON THE NUMBER OF CANNABIS RETAILERS

A. Numerical limits

In addition to controlling where cannabis retailers can locate, local governments can limit the total number of retailers within their jurisdictions by placing a cap on the number of permits or licenses that will be issued for a cannabis retail business.²⁵ Caps may be calculated or applied in different ways. For example, the City of Long Beach caps the total number of medical cannabis dispensaries that can locate within city limits based on population.²⁶ The County of San Diego, on the other hand, limits the number of medical cannabis dispensary licenses that may be issued within each council district.²⁷

B. Concentration limits

Another way of controlling the number of cannabis businesses in a single location is to set a limit on the total concentration of businesses within a specific geographic area. Concentration limits can be based on the ratio of cannabis retailers to population size (e.g., one retailer per 10,000 people) or to the size of a particular area (e.g., one retailer per square mile or census tract). Other factors are sometimes considered as well, such as crime rates in the area where a cannabis retailer proposes to locate.²⁸

Under state law, a state licensing authority must consider whether granting a state license for a cannabis retailer would result in an “excessive concentration” in the area where the retailer will operate.²⁹ An “excessive concentration” exists when:

- The ratio of cannabis retailers to population in the census tract in which the retailer would be located exceeds the countywide ratio, unless denial of the state license application would unduly limit the development of the legal cannabis market so as to perpetuate the illegal market for cannabis or cannabis products; or
- The ratio of cannabis retailers to population exceeds any concentration limits placed by local ordinance.³⁰

Therefore, if LA County established a concentration limit, state licensing authorities may be required to deny a state cannabis retailer license if granting the license would violate LA County’s concentration limit.

III. APPROACHES IN OTHER JURISDICTIONS

A comparison of zoning, buffering, and distance requirements for cannabis retailers in the cities of Denver, Seattle, and Portland shows a number of similarities. All three cities require a minimum distance of 1000 feet between cannabis retailers, and between schools and cannabis retailers. Denver also applies the 1000-foot buffer to childcare

centers and drug/alcohol treatment facilities, and Seattle requires a 500-foot buffer around libraries, parks, and public transit centers.

The table below summarizes the zoning, buffering, and distance requirements for cannabis retailers in Denver, Seattle, and Portland.

Regulations for Cannabis Retailers in Other Jurisdictions				
City	Zoning	Buffering from Sensitive Uses	Distance Between Cannabis Retailers	Limits on Numbers of Licenses/Locations
Denver ³¹	Prohibited in residential, “main street,” and mixed-use zones; allowed in all other zones	1000 feet: schools, childcare establishments, and alcohol or drug treatment facilities	1000 feet	<i>Citywide:</i> Maximum 226 retail locations citywide, and 467 cultivation + retail locations <i>Local:</i> No licenses may be issued in the 5 “statistical neighborhoods” with the highest number of existing retailers in any given year
Seattle ³²	Prohibited in residential, neighborhood commercial, and mixed-use zones; allowed in all other zones	1000 feet: elementary and secondary schools, playgrounds 500 feet: child care centers, game arcades, libraries, public parks, public transit centers, and recreation centers or facilities	1000 feet	None
Portland ³³	Prohibited in residential zones, allowed in all other zones	1000 feet: elementary and secondary schools	1000 feet	None

IV. CONSIDERATIONS FOR CONTROLLING THE LOCATION AND NUMBER OF CANNABIS RETAILERS

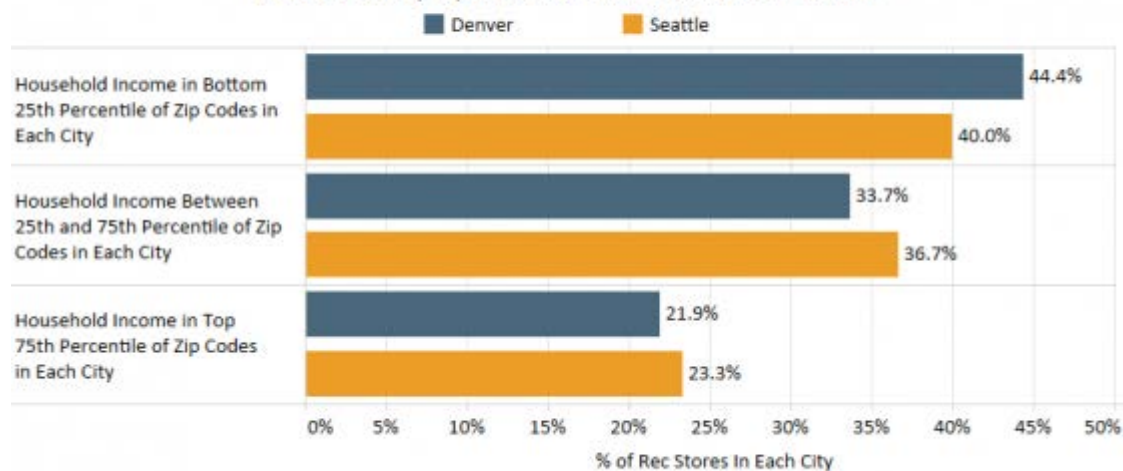
While zoning, “buffering,” minimum distances, and numerical limits are all effective to limit the number of certain land uses within a county or city, it is sometimes difficult to develop the right “formula” or combination of regulations that will achieve the desired results. Other jurisdictions have experienced unintended consequences resulting with good faith regulatory decisions about where cannabis retailers should be located.

For example, one challenge to determining which zoning districts will allow for cannabis storefronts is ensuring that storefronts can be evenly and equitably distributed among neighborhoods with varying socio-economic profiles throughout LA County. In Denver and Seattle, recent studies have found that restrictions on the locations where cannabis retailers can operate have resulted in a disproportionate share of retailers in less affluent areas. As illustrated in the chart below, nearly half of Denver’s adult-use cannabis retailers are located in the poorest 25 percent of neighborhoods.³⁴ While lower-income neighborhoods often have lower rents and less organized opposition, they also tend to be located near industrial-zoned areas, where cannabis retailers are encouraged to locate under Denver’s land use regulations.³⁵

Chart of the Week



**Location of Recreational Marijuana Stores in Denver & Seattle:
Breakdown By Zip Codes' Median Household Income**



Source: Colorado Department of Revenue, 2011-2015 American Community Survey 5-Year Estimates
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SOURCE: Eli McVey, “Chart: Recreational marijuana stores are clustered in low-income areas of Denver, Seattle,” *Marijuana Business Daily*, July 31, 2017, accessed at: <https://mjbizdaily.com/chart-recreational-marijuana-stores-clustered-low-income-areas-denver-seattle/>

Limits on the number and concentration of cannabis retailers also present several challenges. It is difficult to accurately predict the “correct” number of licenses needed to satisfy market demand, and demand for product is likely to fluctuate over time. If too few licenses are awarded then there could be product shortages and high prices that perpetuate the illegal market.

V. SUMMARY OF POTENTIAL COUNTY ACTIONS AND CONSIDERATIONS

Distancing from Other Retailers	
Potential County Actions	Considerations
<ul style="list-style-type: none"> Identify “sensitive uses” or other land uses that should be buffered from cannabis retailers 	<ul style="list-style-type: none"> Sound policy considerations should guide the identification of buffered land uses and appropriate distances Too many buffered uses could constrain where cannabis retailers can locate and potentially incentivize the continued operation of unregulated cannabis retailers Too many buffered uses could result in inequitable distribution of cannabis retailers Schools (K-12), day care centers (including preschools), and youth centers (including youth membership clubs) are already identified as “sensitive uses” requiring a 600-foot buffer under state law, but the County can set lower or higher buffer distances
<ul style="list-style-type: none"> Establish minimum distances between cannabis retailers 	<ul style="list-style-type: none"> Not required under state law Effective to reduce the concentration of cannabis businesses Minimum distances could result in inequitable distribution of cannabis businesses Minimum distances could result in the presence of dispensaries in more communities, as opposed to concentrated in a single area
<ul style="list-style-type: none"> Establish concentration limits 	<ul style="list-style-type: none"> State law requires state licensing authorities to respect local concentration limits Provides greater locational control within specific geographic areas Other factors, such as crime, can be taken into account

Discussion Questions

1. What “sensitive” or other land uses need to be buffered from cannabis retailers? What policy objectives will be achieved by establishing such buffers?
2. Should minimum distances be required between cannabis retailers? Why or why not?
3. How can concentration limits on cannabis retailers help minimize impacts in any one community?
4. What combination of locational standards and numerical limits can best ensure impacts from cannabis retailers are not inequitably distributed within the County?

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Operational Requirements

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I. SECURITY

A. Issue background

Because of the relatively high value of cannabis, and the fact that most purchases are conducted with cash, security is an important consideration for cannabis retailers. Measures are needed to protect the safety of customers and employees at the retailer's premises, and to prevent opportunities for crime that could impact surrounding communities.

For more on public safety and security, refer to the preparation packet for Week 3: Public Health and Safety, pages 1-8, available at:
http://bit.ly/AdvisoryGroup_Week3

A comprehensive security plan will typically include a combination of procedures, systems, and equipment. The following are some of the most common elements in a security plan:

- **Alarm systems.** Alarm systems are often required in order protect cannabis inventories when stores are closed. This often includes sensors to detect motion and breaking glass, with continuous monitoring by a third party company, and with a direct link to local law enforcement agencies.
- **Video surveillance systems.** Cameras can provide another layer of security for a cannabis retailer's premises. Regulations often address the number of cameras, required coverage areas, quality of the video, amount of time that footage must be archived, and the authority to review the video by regulatory agencies. Some video surveillance systems are accessible by law enforcement via a secure IP address.
- **Track-and-Trace.** Most states with legalized cannabis mandate the use of a system to track the movement of cannabis from "seed to sale," however local agencies often have limited access to these systems. Local regulations can

partially address this by adding reporting requirements, or by establishing a track-and-trace system at the local level.

- **Record-keeping and Reporting.** Regulations commonly address duties for cannabis retailers to document and report unusual or suspicious activity, including inventory discrepancies, and the results of any related investigations.³⁶

B. Summary of relevant state law provisions and potential County actions

Security		
State Law	Considerations	Potential County Actions
<p>All applicants for state licenses shall include a detailed description of security protocols and operating procedures</p> <p>[Cal. Bus. & Prof. Code § 26051.5(b)]</p>	<ul style="list-style-type: none"> • State and local requirements may differ 	<ul style="list-style-type: none"> • Consider additional security plan requirements with review by security experts or law enforcement • Consider requiring video surveillance accessible by local law enforcement via secure IP address • Consider additional security requirements to address issues unique to LA County
<p>Licensed retailers shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of same from premises. Security measures must include:</p> <ul style="list-style-type: none"> • Prohibiting people from staying on-site if they are not engaging in activity related to the operations of the retailer • Establishing areas accessible only to authorized personnel • Keeping cannabis and cannabis products in a secured and locked room, safe, or vault, except for minimal amounts on display <p>[Cal. Bus. & Prof. Code § 26070(j)]</p>	<ul style="list-style-type: none"> • State requirements do not address security measures that would assist law enforcement to recognize criminal conduct 	<ul style="list-style-type: none"> • Establish façade requirements that allow law enforcement to see inside cannabis retailers • Require that cannabis and cannabis products and paraphernalia not be visible from the exterior of the retailer • Consider whether certain physical improvements to the interior of retail businesses can increase safety and security and reduce crime
<p>A retailer shall notify the licensing authority and law enforcement within 24 hours after discovering significant inventory discrepancies, diversion, theft or loss, the loss or unauthorized alteration of records; and any other security breach.</p> <p>[Cal. Bus. & Prof. Code § 26070(k)]</p>	<ul style="list-style-type: none"> • The State Bureau of Cannabis Control is expected to issue detailed security regulations 	<ul style="list-style-type: none"> • Consider additional security requirements to address issues unique to LA County

II. HOURS OF OPERATION

A. Issue background

Many jurisdictions have debated over the appropriate operating hours for cannabis retailers. Some research has shown that in places where alcohol sales are allowed for longer periods of time each day, youth access to alcohol can increase.³⁷ However, in the context of cannabis, some argue that overly restricting hours of operation to the point of inconveniencing customers runs the risk of continuing or increased unregulated sales activity.³⁸ Additionally, if store hours are not relatively uniform between neighboring cities and counties, businesses and their customers may simply migrate to the least restrictive jurisdiction. In determining allowable hours of operation for cannabis retailers, most jurisdictions have sought to strike a balance between customer convenience, neighborhood needs and desires, and limiting youth access.

B. Other jurisdictions

Portland allows retail cannabis sales from 7:00am to 10:00pm.³⁹ Seattle allows cannabis stores to operate from 8:00am to 12:00am.⁴⁰ Denver previously allowed cannabis retailers to operate from 8:00am to 7:00pm, but the Denver City Council recently amended these rules to allow cannabis retailers to remain open until 10:00pm.⁴¹ One of the factors the city considered was restrictions on hours of operation in adjoining jurisdictions, some of which allow cannabis retailers to remain open until midnight (the latest time allowed under Colorado state law). The 10:00pm closing time was ultimately selected as the most reasonable compromise between the industry's request and community concerns.⁴²

C. Summary of relevant state law provisions and potential County actions

State law does not address hours of operation for cannabis retailers. Regulations prepared by the State Bureau of Cannabis Control (Bureau) (formerly Bureau of Marijuana Control) in April 2017 specific to cannabis retailers provided that cannabis retailers could sell cannabis from 6:00am to 9:00pm.⁴³

LA County could follow state regulations proscribing hours of operation. Alternatively, LA County could establish more restrictive hours of operation. Any decision regarding operating hours should take into account the hours of operation in neighboring jurisdictions, and the potential effect that different operating hours could have on businesses and consumer decisions within LA County.

III. ON-SITE SIGNAGE

A. Issue background

On-site business signage includes signs that direct attention to a particular business operating on the site where the sign is located. Such signage is often designed to be highly visible from public rights of way, including streets and sidewalks. Signage could include freestanding pole or monument signs, fixed signs attached to walls or rooftops, or lettering and images on walls or other structures, such as awnings.

With respect to cannabis retailers, many of the considerations that relate to advertising and marketing in general are also relevant in the context of on-site business signage. Primary concerns include the exposure of youth to cannabis-related signage. Concerns also include ensuring that cannabis businesses are compatible with existing development patterns and neighborhood characteristics.

While state law does not expressly limit on-site business signage for cannabis retailers, the LA County zoning code already heavily regulates the form of on-site business signage.⁴⁴ The LA County zoning code provides that a ground-floor business in a commercial or industrial zone is allowed a maximum of three square feet of wall sign area for each one linear foot of building frontage, unless other more specific rules apply.⁴⁵ In addition, the zoning code prohibits or strictly limits certain types of signs in all zones, including flashing or revolving signs, signs in the public-right-of-way, portable signs (“sandwich boards”), flags, banners, and balloons.⁴⁶

For more on advertising and marketing, refer to the preparation packet for Week 2: Youth Access and Exposure, pages 8-12, available at:
http://bit.ly/AdvisoryGroup_Week2

For cannabis retailers, the essential question is whether to apply stricter signage rules than for other businesses. Some examples of restrictive signage in other jurisdictions include:

- **Washington State:** allows a maximum of two signs that are each limited to 1,600 square inches (approximately 11 square feet) or less.⁴⁷
- **Connecticut:** allows one exterior sign no larger than 16 inches high by 18 inches wide, subject to some exceptions.⁴⁸
- **Hawaii:** allows a single sign no greater than 1,600 square inches bearing only the business or trade name without any pictures or illustrations.⁴⁹

IV. LOITERING AND CANNABIS CONSUMPTION NEAR RETAIL BUSINESSES

A. Issue background

Loitering around liquor stores has long been associated with illegal activity, public alcohol consumption, and urban blight, and can act as a destabilizing psychological force for those who live and work nearby.⁵⁰ For this reason, well-designed regulations for retail cannabis businesses must include provisions to prevent loitering and the consumption of cannabis in and around the retail business. Some strategies which could be included in regulations to prevent loitering include:

- Proactive enforcement of no-loitering rules by retail business operators;
- Posting “no loitering” signage;
- Posting and enforcing noise limits (e.g., prohibiting loud music from vehicles or posting “respect our neighbors” signage);
- Maintaining the business in good condition and free of graffiti and litter;
- Removing benches, chairs, or other areas to rest; and
- Removing protection from the weather, such as sunshades or shelters.⁵¹

Strategies for preventing consumption of cannabis in and around the retailer include:

- Precluding on-site cannabis consumption by employees as a condition of employment;
- Interior signage alerting customers that cannabis consumption in adjacent areas or in cars while parked nearby is prohibited; and
- Proactive enforcement by retail business operators, including establishing policies and sanctions against customers who violate established rules.

Regulations could also require that signage be posted with a contact number for anyone wishing to lodge a complaint with the retail operator. In this way, retailers can work with community members to identify and address problem activities near the site.

In addition, close cooperation between cannabis retailers and law enforcement programs designed to discourage neighborhood loitering can also help business owners, including cannabis retailers, enforce regulations against loitering.

Finally, fines and penalties against cannabis retailers may also be effective to encourage prompt attention to loitering and on-site consumption concerns. Such a strategy is in place for alcohol licensees, who are subject to license suspension and revocation by state authorities for failure to enforce anti-loitering regulations.⁵²

B. Summary of relevant state law provisions and potential County actions

State law prohibits the consumption of cannabis in any public place.⁵³ However, state law provides no rules specific to loitering or preventing the consumption of cannabis near retail businesses. Proposed regulations prepared by the Bureau specific to

cannabis retailers also did not address loitering or consumption near retail businesses.⁵⁴ While state agencies are expected to issue new regulations for cannabis retailers in the fall of 2017,⁵⁵ it appears possible that local jurisdictions will be primarily responsible for creating and enforcing anti-loitering provisions for licensed cannabis retailers.

V. DELIVERY

A. Issue Background

Under state law, the “delivery” of cannabis consists of the commercial transfer of cannabis or cannabis products to a customer.⁵⁶ Medical cannabis deliveries are already big business in California, with some investors expecting delivery sales in the hundreds of millions of dollars once adult-use cannabis deliveries become legal in 2018.⁵⁷

State law provides that only licensed cannabis retailers (or “micro-businesses” or certain licensed nonprofits not discussed herein) can deliver cannabis to consumers.⁵⁸ However, retailers can be “delivery only,” with their premises closed to the public.⁵⁹ This provides local jurisdictions with the option to license delivery-only cannabis retailers in areas where customer-serving dispensaries may be unwelcome.⁶⁰

However, regulators have some concerns about cannabis delivery. Because the delivery transaction takes place out of the licensed retail premises, usually at a person’s residence, security personnel, alarm systems, age-verification software, and other tools found in a brick-and-mortar store may not be available. In addition, some are concerned that delivery drivers, carrying both cannabis and cash, will become a target for crime.⁶¹

Another basic concern is how law enforcement or government officials will be able to verify whether a person carrying a large quantity of cannabis in a vehicle is a delivery driver or a person moving cannabis illegally for sale or diversion. State law requires that delivery employees carry a copy of the retailer’s current license and a government-issued photo ID.⁶² The employee must present the license and ID to local law enforcement and local government officials upon request.⁶³ Licensed retailers must also maintain a physical copy of the delivery request during delivery and make it available to law enforcement.⁶⁴

The State Bureau of Cannabis Control is required to establish minimum security and safety standards for cannabis delivery. Regulations previously issued by the Bureau, which will be withdrawn and reissued due to recent legislative changes,⁶⁵ included the following regulations for delivery:

- Limits on the total value of cannabis which may be delivered at any one time;
- Recordkeeping provisions, including the preparation of a mandatory delivery request receipt which must be signed by the delivery recipient; and
- Restrictions on deviations from delivery routes.⁶⁶

Finally, state law prohibits a county or city from preventing the delivery of cannabis or cannabis products on public roads by a licensed retailer acting in compliance with state and local law.⁶⁷ The League of California Cities has concluded based on this language that local governments can ban deliveries within their territorial limits, but cannot prevent the use of public roads for the delivery of cannabis.⁶⁸

B. Summary of relevant state law provisions and potential County actions

Delivery		
State Law	Considerations	Potential County Actions
<p>A cannabis retailer shall have licensed premises which is a physical location from which commercial cannabis activities are conducted. A retailer’s premises may be closed to the public. A retailer may conduct sales exclusively by delivery.</p> <p>[Bus. & Prof. Code § 26070(a)(1)]</p>	<p>Local jurisdictions should require applicants for retail licenses to disclose whether they will conduct delivery in addition to brick-and-mortar sales, or delivery only</p>	<p>Consider establishing delivery-only license types for areas where brick-and-mortar dispensaries will not be allowed</p>
<p>The Bureau of Cannabis Control shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of cannabis and cannabis products. Transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which cannabis and cannabis products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.</p> <p>[Bus. & Prof. Code § 26070(b)]</p>	<p>The Bureau of Cannabis Control is expected to publish draft recommendations in Fall 2017</p>	<p>Consider adopting additional safety and security requirements to supplement those provided under state regulation</p>
<p>Cannabis deliveries may only be made by a licensed retailer or microbusiness, or a licensed nonprofit.</p> <p>[Bus. & Prof. Code § 26090(a)]</p>	<p>Unlicensed cannabis deliveries may be difficult to control</p>	<p>Consider ways to ensure that consumers purchasing cannabis via delivery service can easily tell whether a retailer is appropriately licensed</p> <p>Work with other local jurisdictions to create consistent delivery rules across jurisdictional borders</p>
<p>All employees of a cannabis retailer, microbusiness, or nonprofit delivering cannabis shall carry a copy of the licensee’s current license and a government-issued identification with a photo of the employee, such as a driver’s license. The employee shall present that</p>	<p>The Bureau of Cannabis Control is expected to publish draft recommendations in Fall 2017</p>	<p>Consider adopting additional safety and security requirements to supplement those provided under state regulation</p> <p>Consider partnerships between law enforcement</p>

Delivery		
State Law	Considerations	Potential County Actions
<p>All employees of a cannabis retailer, microbusiness, or nonprofit delivering cannabis shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this division.</p> <p>[Bus. & Prof. Code § 26090(b)]</p>		<p>and licensed retailers to ensure that the unlicensed</p> <p>Consider adopting additional safety and security requirements to supplement those provided under state regulation</p> <p>Consider partnerships between law enforcement and licensed retailers to ensure that the unlicensed transportation of cannabis is not confused with licensed deliveries</p>
<p>During delivery, the cannabis retailer shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.</p> <p>[Bus. & Prof. Code § 26090(c)]</p>	<p>State law and previously-issued regulations do not provide for age-verification software or procedures at the delivery site, or the real-time electronic transfer of delivery receipts or manifests to state or local agencies</p>	<p>Consider regulations to require age-verification at the delivery site</p> <p>Evaluate whether real-time delivery receipts or manifests can be uploaded into track and trace software</p>
<p>A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by state licensing authorities and law enforcement officers.</p> <p>[Bus. & Prof. Code § 26090(d)]</p>	<p>May be impractical to enforce against consumers</p>	
<p>A local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.</p> <p>[Bus. & Prof. Code § 26090(e)]</p>		<p>Work with other local jurisdictions to create consistent delivery rules across jurisdictional borders</p>

Discussion Questions

1. What are the primary concerns that security regulations should address with respect to how cannabis retailers operate? What security measures would address those concerns?
2. Assuming state regulations require cannabis retailers to operate between 6:00am and 9:00pm, should LA County impose stricter operating hours? What concerns would stricter rules on operating hours address?
3. What rules should LA County adopt regarding on-site business signage? How do those rules balance concerns about the visibility and compatibility of cannabis retailers with the purpose of on-site business signage to identify the business?
4. What regulations could LA County adopt to address the potential problem of loitering and the consumption of cannabis near retail businesses? How can retailers help enforce anti-loitering restrictions?
5. Should LA County offer delivery-only license types in some communities? Will delivery-only retailers have the same neighborhood impacts as storefront retailers? What concerns unique to delivery should LA County address?

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