Dealing with Unlicensed Cannabis Business Operators

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- UCLA Luskin School of Public Affairs, Department of Public Policy
- MuniServices/Avenu, Cannabis Support Services

Industry funding to the investigator in the last 5 years
- None

Off-label medication uses discussed in presentation
- None
Methodology

- Expert interviews
- Licensing and Regulation framework design
- Research agenda design
- Data and survey analysis
What is the problem with unlicensed operators?
What’s legal? And what’s at stake?

- Over 21 years: carry or grow; over 18 with recommendation
- Reclassification
- State and local licensing
- Generate taxes to cover monitoring, inspections and enforcement
Unlicensed cannabis market remains active

- History of thriving illicit market
- Evidence of persistence in California
- Illicit businesses unlawful; Medicinal collectives exempted
Protecting regulated industry requires clarity

- Disparity: Illicit vs regulated
- Compliant operation is costly
- Get squeezed on all sides
Step one is to set up a licensing regime" - Big City Administrator

- Protect tax paying entity
- Create an onramp to legitimate business
- Create an offramp from illicit market
Toolbelt for reducing unlicensed activity

CARROTS
- Assistance
- Reasonable taxes and fees
- Stigma reduction and normalization
- Fairness (real / perceived)
- Market signals / signage

STICKS
- Post notice of revocation
- Letters Padlock ordinances
- Utility shutdown
- Civil penalties
- Criminal misdemeanor
Help consumer make informed choices

Geolocated listing of Locally Authorized Businesses (City of Los Angeles)

2019 North American Cannabis Summit
What are the disparities in social justice?

Add text here if needed.
## Recategorization

### Proposition 64

**Age 21 and up • Retroactive**

(Reminder: Your Prop 215 CUA medical marijuana defenses still apply.)

<table>
<thead>
<tr>
<th>California adult cannabis activity</th>
<th>Prop 64 penalty reductions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Possess</strong> up to 1 ounce marijuana and 8 grams concentrate. Transport or give away cannabis in those same amounts.</td>
<td>Legal</td>
</tr>
<tr>
<td><strong>Homegrow</strong> up to 6 plants. Process and keep entire harvest.</td>
<td>Legal</td>
</tr>
<tr>
<td>Smoking in public, open container.</td>
<td>Ticket $100</td>
</tr>
<tr>
<td>Smoking where tobacco is banned.</td>
<td>Ticket $250</td>
</tr>
<tr>
<td><strong>Age 18 - 20:</strong> One ounce marijuana, 4 grams concentrate or 6 plants.</td>
<td>Ticket $100</td>
</tr>
<tr>
<td><strong>Age 18 and up:</strong> Possess, transport or give away over 1 ounce, excess concentrate, more than 6 plants, illicit sales or intent to sell.</td>
<td>Misdemeanor Penalties up to 6 months, $500 or both</td>
</tr>
<tr>
<td><strong>Third time or aggravated</strong> offense of more than 6 plants, illicit sales or intent to sell.</td>
<td>Wobbler Misdemeanor or Felony 16 months to 4 years</td>
</tr>
<tr>
<td>Sales involving minors under age 18</td>
<td>Felony Up to 7 years</td>
</tr>
<tr>
<td><strong>Minors up to age 18:</strong> All offenses. Records cleared at age 18.</td>
<td>Counseling, community service, drug education</td>
</tr>
</tbody>
</table>

* *Involves minors, transport out of state for sale, gross negligence, environmental / watershed damage, toxic / hazardous substances, prior super strike, registered sex offender.
Law Enforcement

City Attorney coordinates with police

Action triggered

Employees arrested

Criminal code action is expensive and disruptive

Arrest makes employment, housing and public benefits more difficult to obtain
• Businesses respond to shut downs more than fines
• Utility shut down authorized in some communities
A note on asset forfeiture

- Asset forfeiture actions do not require anyone actually be charged with a crime
- The value of a forfeited asset does not automatically go into the general public treasury

80% of those who have assets seized aren’t charged with a crime
California has highest rates of recidivism in country

- In part from violations of the terms of community supervision.
- Most people on probation are not allowed to use cannabis.
Laws traditionally enforced unequally by race / location throughout history

Equal rates of cannabis use, different criminal justice outcomes.

Support for legalization driven by justice movement.
Great Expectations for licensees

- Set up new business for success
- Share merit criteria for licensing early and often
- Ex-ante active inspection protocols shared
  - Verify inputs are acceptable before the process is executed rather than judgement inspection after inputs transformed into products (Borkowski, 2016)

Fig. 4. The operational model of source inspection [2].
Front end planning leads to fairness

- Enforcement equitably?
- Social equity programs working?
- Community benefit working?
Cities dealing with unlicensed

San Francisco transitioned 100 unlicensed businesses over to the licensed regime

Sacramento has same 30 retail operators since 2012

Santa Ana put all unlicensed operators out in one year

Oakland drawing small operators with cannabis convictions to licensed market through incubation (space and security) and a “dating” website to connect general and equity applicants
Encourage licensees to absorb labor previously in unlicensed market

City and county tax credits

Preferential licensing merit criteria

Notify local employment agencies and CBOs of labor pool

Training programs transition minimum wage to management, extractor, technicians
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