



25TH ANNIVERSARY
MCLE SPECTACULAR!
Friday, November 22, 2019



The CCCBA Criminal and Tax Law Sections proudly present...

#2 "HIGH" CRIMES & MISDEMEANORS

Ashley Bargenquast - Tully & Weiss Attorneys at Law

Lisa Mendes - Mendes Weed, LLP.

Joseph M. Tully - Tully & Weiss Attorneys at Law

AGENDA

1. Introduction of Speakers
2. Federal Status of Cannabis
3. California Law
 - a. Basics
 - b. Prop 64 changes in the law
 - c. Current status of the law
 - d. Potential future outcome
 - e. Redesignation/Resentencing
4. Cannabis industry
 - a. Licensing overview
 - b. Cannabis Events
 - c. Distribution
 - d. Retail
 - e. Testing
 - f. Microbusinesses
 - g. Cultivation
 - h. Manufacturing
 - i. *McIntosh*
5. Taxation
 - a. Federal Taxation
 - i. Controlled Substances Act
 - ii. IRC §280E
 - b. California Taxation
 - i. CA taxation
 - ii. Prop 64
 - c. Consideration for Attorneys
 - d. Banking Issues
 - e. Political Climate
6. Questions for speakers



Joseph Tully

Founding Partner, Criminal Law Specialist

Our founding attorney, Joseph Tully, is sought out for his expert legal advice throughout California. With over 20 years of experience as a criminal lawyer, in 1000+ felony and other cases, Tully served as felony trial counsel as a public defender before launching Tully & Weiss in 2001.

Joseph Tully is a Certified Criminal Law Specialist, an elite certification awarded to less than 1% of California lawyers by the California Board of

Legal Specialization and Joseph Tully has been listed among National Trial Lawyers' "Top 100 Trial Lawyers" multiple years.

Joseph Tully has an extraordinary record of victories in high profile cannabis trials from Redding to Contra Costa County and a precedent-setting win in a hotly contested Stand Your Ground murder trial. His diligence and meticulous preparation has resulted in scores of great outcomes for cases others declared impossible.

Joseph's new non-fiction book, [*California: State of Collusion*](#), reports on Tully's first-hand observations of massive and frequent misconduct by law enforcement, prosecution, and government officials.



Ashley Bargaquast

Criminal Defense and Cannabis Compliance Attorney

Ashley Bargaquast has been at Tully & Weiss Attorneys at Law since 2015 and is proud to be a member of such an amazing team. She practices both criminal defense and legal cannabis compliance. Her dual role has allowed her to work hands-on with the new industry regulations and take that knowledge into the courtroom where she has used it to defend cannabis patients and entrepreneurs alike. Her undergrad was at UC Davis, and her JD is from King Hall School of Law at UC Davis.

When she isn't in the court room or preparing applications at her desk, she can usually be found catching some live theatre or participating in a live action roleplay game.



Lisa Mendes, Partner

Lisa is also known for her aggressive defense of her clients as well as her knowledge of the law and how it pertains to their situation. She advocates for the rights and well-being of her clients and that of their children and the elderly. She has a reputation for being a very fair negotiator and communicator with other lawyers and judges, which streamlines and expedites the process.

Lisa acts with compassion and understanding, while detailing in great depth the reality of the legal process and true expectations of the court process. She hopes that by being open and honest and communicative, her clients can move past this often difficult and emotional process efficiently to live the life they were meant to lead.

Lisa is a licensed attorney, with a Master's Degree in Business Administration (MBA), and a Bachelor's Degree in Spanish Language and Literature. She has litigated multiple bench and jury trials in civil and criminal court for the Mendes Weed law firm of San Francisco. Lisa is an active member of the Contra Costa County Bar Association (CCCBA), specifically in the Family Law, Women's, Tax and Estate Planning Sections. Lisa has written multiple articles for the Contra Costa Lawyer Magazine. She is a member of the Robert G. McGrath Inn of Court. Lisa advocates for proposed legislation and new laws as a member of the Contra Costa County Delegation of the California Conference of Bar Associations.

High Times and Misdemeanors
California Cannabis Law Post Prop 64 and MAUCRSA Legalization

1

Federal Law - Illegal for Any Purpose!

- ▶ Marijuana, including medical cannabis, is still wholly illegal under federal law.
- ▶ Marijuana is a Schedule I drug under the Controlled Substances Act (CSA).
- ▶ Schedule I drugs are drugs with no currently accepted medical use and a high potential for abuse

2

Controlled Substance Act

- ▶ Other Schedule I drugs: Opiates, opium derivatives (e.g., heroin and morphine), hallucinogenic substances (e.g., LSD, marijuana, mescaline, and peyote), and MDMA (a.k.a., "Ecstasy")
- ▶ Schedule II drugs include: Cocaine, Oxycodone, Fentanyl, Methamphetamine, Methadone, and others

3

CA Cannabis Law - The Basics

- ▶ Prop 215 “Compassionate Use Act” (1996)
 - ▶ Gave individuals medical protection
- ▶ SB 420 “Medical Marijuana Program Act” (2003)
 - ▶ Gave groups, “collectives,” medical protection
- ▶ MMRSA (2015)
- ▶ Prop 64 (2016)
- ▶ MCRSA → MAUCRSA (2017-Present)

4

Effects of New Laws

- ▶ “Marijuana” is now called “Cannabis”
- ▶ SB 420 “Medical Marijuana Program Act” ONLY place where cannabis is now referred to as “Marijuana” in the law
 - ▶ Other than jury instructions

5

Effects of Prop 64

Health & Safety Code	Prior Punishment	Current Punishment
Simple possession HS 11357		
Non-Concentrate	Infraction Misdemeanor	Legal Misdemeanor
Concentrate	Misdemeanor	Misdemeanor
Cultivation/Processing HS 11358	Felony	Legal if 6 plants w/n local limits Misdemeanor Felony
Possession for sales HS 11359	Felony	Misdemeanor Felony
Sales/Transportation HS 11360	Misdemeanor Felony	Misdemeanor Felony

6

Felonies still charged

Health & Safety Code	Felony if:
Cultivation/Processing HS 11358	<ul style="list-style-type: none"> - Priors PC 667(e) or 290 registration - 2 or more priors for this - Violation of Water Code, Fish and Game Code, Penal Code about hazardous substances or hazardous waste, Migratory Bird Treaty Act - Intentionally or with gross negligence caused substantial harm to public lands or other public resources
Possession for sales HS 11359	<ul style="list-style-type: none"> - Priors PC 667(e) or 290 registration - 2 or more priors for this - Sale to a person under 18 - Used a person under 21 years old
Sales/Transportation HS 11360	<ul style="list-style-type: none"> - Priors PC 667(e) or 290 registration - 2 or more priors for this - To a person under 18 - Import into or out of the state

7

Felonies still charged

Health & Safety Code	Current Punishment
Opening or maintaining drug house HS 11366	Misdemeanor Felony (CDC)
Managing or controlling drug house HS 11366.5	Misdemeanor Felony (County)
Manufacturing HS 11379.6	Felony *Ethanol is now "non-volatile"
Conspiracy PC 182	Misdemeanor Felony Conspiracy to commit misdemeanors, can be charged as felony

8

Not Affected by Prop 64

- ▶ Prop 215 - Compassionate Use Act - HS 11362.5
- ▶ A qualified patient can always possess amount reasonably related to medical needs

9

Medical Marijuana Program Act

- ▶ Kept intact
 - ▶ 11362.72, 11362.735, 11362.74, 11362.745, 11362.76, 11362.82
- ▶ Added, Amended, or Removed
 - ▶ Prop 64
 - ▶ 11362.712, 11362.713, 11362.755,
 - ▶ SB 837
 - ▶ 11362.769, ~~.775~~
 - ▶ SB 94
 - ▶ 11362.71, .715, ~~.765~~, .768, .77, ~~.775~~, 78, .785, .79, .795, .8, .81, .83, .84, .85,

10

No More Collectives or Cooperatives

- ▶ All protections are now for the individual or limited primary caregiver.
- ▶ A TOUGH standard: the individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient.
 - ▶ Includes owner/operator and/or no more than 3 employees from a medical care of supportive services from certain clinics, health care facilities, residential care facilities, or home health agency.
- ▶ If more than one patient, they all need to reside in the same city or county that the primary caregiver resides in.

11

New allowances!

- ▶ Cultivation of 6 plants or fruits - subject to local requirements
 - ▶ People v. Ahmed
- ▶ Possession of 28.5 grams cannabis not concentrate
- ▶ Possession of 8 grams of concentrate (may be in larger weight of product, such as an edible)
- ▶ Processing
- ▶ Transporting
- ▶ Gifting
- ▶ Smoke or ingest

12

People v. Ahmed, 25 Cal.App.5th 136 (2018)

- ▶ Local ban on medical marijuana dispensaries did not abrogate medical marijuana defense in prosecution under state criminal law.
- ▶ Medicinal cannabis defenses are still available for the individual, just not collective or cooperative action*

* Any action prior to January 9, 2019, is still protected by Medical Marijuana Program Act protections.

13

What about Adult Use?

- ▶ Would an administrative failure stop an adult user's protections under the law?
 "Personal cultivation of cannabis under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:
 (1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b). ...
 (b)(1) A city, county, or city and county may enact and enforce reasonable regulations to regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.
 (2) Notwithstanding paragraph (1), a city, county, or city and county shall not completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

14

AMAZING Language in Prop 64

- ▶ "Cannabis and cannabis products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest."

BUT!

- Has not been enforced as such.
- Distinguish burnt cannabis vs. whole cannabis. People v. Fewes (2018)

15

New Crimes

- ▶ 11362.2 - Cultivation limits (HS 11358)
- ▶ 11362.3 - Limits on location of ingestion
 - ▶ Smoking/Ingesting in public
 - ▶ Infraction, \$100
 - ▶ Smoking where tobacco is prohibited
 - ▶ Detectably within 1,000 feet of a school, day care center, or youth center while children are present (not at a private residence)
 - ▶ Open container while driving, operating, or riding in a motor vehicle, boat, vessel, aircraft, or vehicle.
 - ▶ Infraction, \$250
 - ▶ On the grounds of a school, day care center, or youth center while children are present
 - ▶ Misdemeanor, \$250

16

Prop 64 Redesignation Petition

- ▶ CR - 400 : Petition/Application
- ▶ CR - 401 : Proof of Service
- ▶ CR - 402 : Prosecuting Agency's Response
- ▶ CR - 403 : Order After Petition/Application

For Either:
Resentencing or Dismissal OR Redesignation or Dismissal/Sealing
Includes sealing of the conviction

Misdemeanor FOR ALL PURPOSES

17

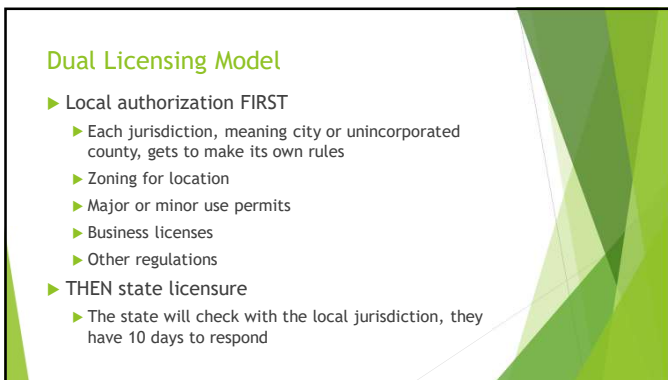
No More Drug Registration!

- ▶ AB 1261 (October 8, 2019) killed HS 11590!
 - ▶ People convicted of drug offenses had to register with law enforcement as a narcotic offender
 - ▶ All persons previously having to register are relieved and registration records are sealed from public!

18



19



20



21

Cannabis Events

- ▶ Licenses vary in price depending on the number of events thrown annually
 - ▶ 0-5: \$3,000
 - ▶ 6-10: \$5,000
 - ▶ 11-20: \$9,000
 - ▶ > 20: \$20,000
- ▶ Does not automatically allow cannabis events
 - ▶ Allows an individual to apply for a temporary cannabis event license

22

Distribution

- ▶ Three types
 - ▶ Full Distribution
 - ▶ Quality-assurance review
 - ▶ Testing facilitation
 - ▶ Storage
 - ▶ Transportation to other licensee
 - ▶ Packaging and labeling
 - ▶ Creation of pre-rolls
 - ▶ Self-Distribution
 - ▶ All of the above, but only for the licensee's own products
 - ▶ Transport Only
 - ▶ Only transport from licensee to licensee

23

Retail

- ▶ Storefront
 - ▶ With or without delivery
- ▶ Delivery Only
- ▶ The controversial at local level
 - ▶ Commonly capped
 - ▶ Locations are often limited
 - ▶ Lots of neighbor push back

24

Testing

- ▶ Testing laboratory
 - ▶ Cannabinoids;
 - ▶ Heavy metals;
 - ▶ Microbial impurities;
 - ▶ Mycotoxins;
 - ▶ Residual pesticides;
 - ▶ Residual solvents and processing chemicals; and
 - ▶ If tested, terpenoids
- ▶ The only license that cannot be paired with any other license
 - ▶ Need to be a neutral third party with no other motivations or incentives

25

Microbusinesses

- ▶ Must have 3 of 4 possible uses:
 - ▶ Retail
 - ▶ Cultivation - up to 10,000 square feet
 - ▶ Non-volatile Manufacturing
 - ▶ Distribution
- ▶ Difficult for zoning because all uses must be allowed there
 - ▶ Must all be the same premises
- ▶ State microbusiness license even if not a microbusiness at the local level
 - ▶ Just need the three activities

26

Cultivation

Type	Light Source	Size
Specialty Cottage	Outdoor	25 plants
	Indoor	500 square feet
	Mixed-Light	2,500 square feet
Specialty	Outdoor	5,000 square feet 50 mature on noncontiguous plots
	Indoor	501 - 5,000 square feet
Small	Mixed-Light	2,501 - 5,000 square feet
	Outdoor	5,001 - 10,000 square feet
	Indoor	5,001 - 10,000 square feet
Medium	Mixed-Light	5,001 - 10,000 square feet
	Outdoor	10,000 square feet - 1 acre
	Indoor	10,001 - 22,000 square feet
	Mixed-Light	10,001 - 22,000 square feet

27

Cultivation

- ▶ Nursery
 - ▶ Clones
 - ▶ Immature plants
 - ▶ Seeds
 - ▶ Other agricultural products used specifically for the propagation of cultivation of cannabis
- ▶ Processor
 - ▶ Trimming, drying, curing, grading, packaging, or labeling cannabis and nonmanufactured cannabis products.
 - ▶ All cultivation licenses can do this.

28

Manufacturing

- ▶ Volatile
 - ▶ Solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.
- ▶ Non-volatile
 - ▶ Any solvent used in the extraction process that is not a volatile solvent. For purpose of this chapter, “nonvolatile solvents” include carbon dioxide and ethanol.

29

Manufacturing

- ▶ Infusion
 - ▶ Process by which cannabis, cannabinoids, or cannabis concentrates are directly incorporated into a product formulation to produce a cannabis product.
- ▶ Packaging/Labeling
 - ▶ Providing packaging and labeling services
 - ▶ While cultivators can do this for pre-rolls and flower, they cannot do it for manufactured products

30

Manufacturing

- ▶ Shared Facilities
 - ▶ Allows for an already licensed "Primary Licensee" to host a secondary licensee within their facility.
 - ▶ Only infusion, packaging and labeling, extractions with butter or food-grade oils, provided the resulting extract or concentrate shall be used solely in the manufacture of their infused products, and shall not be sold to any other licensee
 - ▶ Requires permission from the local jurisdiction
 - ▶ Allows for sharing of certain facilities and the separation of other facilities
 - ▶ The "Primary Licensee" maintains liability for many actions of the "Type S" shared licensee
 - ▶ This prevents many manufacturers from wanting to do so.

31

McIntosh "Protections"

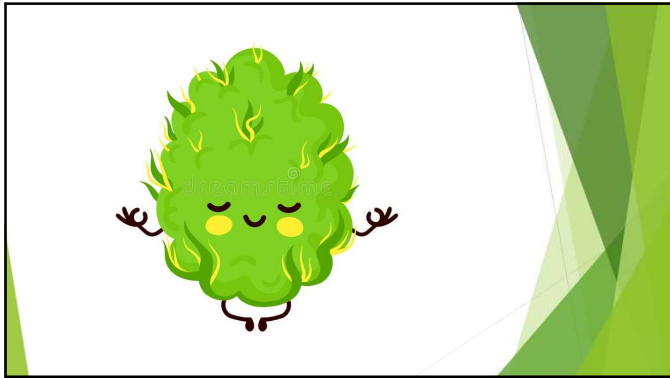
- ▶ Since 2014, Congress has included a rider to the appropriations law prohibiting the DOJ from using congressional funds to interfere with state medical marijuana laws.
- ▶ Relevant current language:
 - ▶ None of the funds made available under this Act to the Department of Justice may be used, with respect to any of the States of . . . California, . . . to prevent any of them from implementing their own laws that authorize the use, distribution, possession, or cultivation of medical marijuana.
- ▶ Was the Rohrabacher - Farr amendment
- ▶ Now the Rohrabacher - Blumenauer amendment

32

McIntosh "Protections"

- ▶ Not on Federal Land
 - ▶ Look out for Highways
 - ▶ State Highway 299
- ▶ *United States v. McIntosh*, 833 F.3d 1163 (9th Cir. 2016)
 - ▶ Strict Compliance
 - ▶ "determine whether their conduct was completely authorized by state law, by which we mean that they strictly complied with all relevant conditions imposed by state law on the use, distribution, possession, and cultivation of medical marijuana."
 - ▶ They mean COMPLETELY authorized by ALL relevant conditions

33




34



35

Did you know?

- ▶ The California Department of Tax and Fee Administration (CDTFA) reported revenue numbers on August 22, 2019 for cannabis sales for the 2nd quarter of 2019:
 - ▶ As of August 16, 2019, California's cannabis excise tax generated \$74.2 million in revenue reported on the 2nd quarter 2019 returns due by July 31, 2019, and the cultivation tax generated \$22.6 million.
 - ▶ Sales tax from cannabis businesses totaled \$47.4 million in reported revenue for the same period.
 - ▶ Retail sales of medicinal cannabis and medicinal cannabis products are exempt from sales and use taxes when the purchaser provides a valid Medical Marijuana Identification card and valid government-issued identification card.
- ▶ Total tax revenue reported by the cannabis industry is \$144.2 million for 2nd quarter returns due by July 31, 2019.
 - ▶ This does not include tax revenue collected by each jurisdiction.
- ▶ Previously reported revenue for 1st quarter 2019 returns was revised to \$120.8 million, which included
 - ▶ \$63.1 million in excise tax,
 - ▶ \$17.1 million in cultivation tax, and
 - ▶ \$40.6 million in sales tax.
- ▶ Revisions to quarterly data are the result of amended and late returns, and other tax return adjustments.
- ▶ In November 2016, California voters approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act.
- ▶ Beginning on January 1, 2018, two new cannabis taxes went into effect: a cultivation tax on all harvested cannabis that enters the commercial market and a 15 percent excise tax upon purchasers of cannabis and cannabis products. In addition, retail sales of cannabis and cannabis products are subject to state and local sales tax.
- ▶ Source: <https://www.cdtfa.ca.gov/news/19-19.htm>



36

What we will cover...

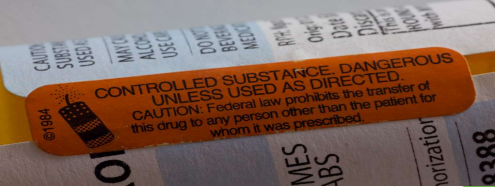
1. Federal Taxation
 - ▶ Controlled Substances Act
 - ▶ IRC §280E
2. California Taxation & Prop 64
 - ▶ CA Taxation
3. Considerations for Attorneys
4. Banking Issues & Political Climate



37

Federal Taxation


- ▶ Prior to the passing of the Controlled Substances Act in 1970, cannabis was not officially outlawed for all purposes at the federal level



38

Gross Income - §61

- ▶ IRC §61 defines "gross income" broadly.
- ▶ IRC §61(a)(3) indicates that gross income includes net gains derived from dealings in property, which includes controlled substances produced or acquired for resale.
- ▶ "Gains derived from dealings in property" means gross receipts less Cost of Goods Sold (COGS).
 - ▶ Why is this important in the cannabis industry?



39

Edmundson v. Commissioner T.C. Memo 1981-623

- ▶ Case prior to enactment of Internal Revenue Code ("IRC") Section 280E
- ▶ Petitioner Jeffrey Edmundson was self-employed in the trade or business of selling amphetamines, cocaine, and marijuana.
- ▶ Petitioner was in Minneapolis and in 1974 received, on consignment,
 - ▶ 1,100,000 amphetamine tablets,
 - ▶ 100 pounds of marijuana, and
 - ▶ 13 ounces of cocaine.
- ▶ Petitioner had no beginning inventory, but his ending inventory was 8 ounces of cocaine.



40

Edmundson v. Commissioner

- ▶ Mr. Edmundson did not keep any books and records, but he did reconstruct his transactions for purposes of filing his 1974 federal income tax return, on which he claimed COGS of \$105,300.
- ▶ Mr. Edmundson also incurred expenses for vehicle travel (2/3 of 29,000 miles was strictly for business use), business trips to San Diego, CA, and food and entertainment expenses related to said travel.
- ▶ A scale was purchased for \$50.00; shipping/packaging expenses of \$200.00 were incurred; \$180.00 of long-distance phone call expenses were incurred; and other expenses including rent for his apartment.
- ▶ The Commissioner disallowed all of Petitioner's business expenses and \$30,341.69 of his COGS.

41

Edmundson v. Commissioner


- ▶ On appeal, the Tax Court allowed all of Petitioner's COGS. The court allowed the business expenses, but limited the amount claimed as rent because of some personal use.



42

IRC §280E

► Congress reacted - Internal Revenue Code §280E



43

IRC §280E rationale

► "No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted."


► "There is a sharply defined public policy against drug dealing. To allow drug dealers the benefit of business expense deductions at the same time that the U.S. and its citizens are losing billions of dollars per year to such persons is not compelled by the fact that such deductions are allowed to other legal enterprises. Such deductions *must be disallowed on public policy grounds.*"

44

IRC §280E

► IRC §280E - Expenses likely to be scrutinized:

- Salaries
- Utilities
- Employee benefits
- Marketing and advertising
- Repairs and maintenance
- Rent
- Payments to independent contractors
- Office expenses
- General and administrative expenses



45


IRC §280E

- ▶ Who does this affect?
 - ▶ Resellers cannot deduct very much other than the invoice price of the purchased cannabis.
 - ▶ Producers:
 - ▶ If incident to and necessary for the production of cannabis - Production-related wages, rents, and repair - allowed upon the sale of inventory for accrual-based and immediately for cash-based taxpayers.
 - ▶ Indirect production costs that might be considered COGS: repair expenses, maintenance, utilities, rent, indirect labor and production supervisory wages, overtime pay, vacation and holiday pay, sick leave pay, indirect materials and supplies, tools and equipment not capitalized, and costs of quality control and inspection

46

IRC §280E Creative Challenges


- ▶ 5th Amendment Privilege Against Self-Incrimination
 - ▶ *Feinberg v. CIR*, 808 F.3d 813 (10th Cir. 2015).
 - ▶ Petitioner Total Health Concepts, or THC (ha ha ha), was a Colorado marijuana dispensary legally operating business under state law. The IRS disallowed their claimed business expense deductions. The IRS issued discovery requests to Petitioner. Petitioner asserted that the Fifth Amendment privilege against self-incrimination relieved them of their duty to respond to the IRS's discovery requests. The IRS filed a motion to compel in U.S. Tax Court.
 - ▶ The Tax Court denied Petitioner's argument that the discovery requests violated Petitioner's Fifth Amendment right, and compelled Petitioner to respond to the discovery requests.
 - ▶ The 10th Circuit failed to fully address this argument since the matter was still pending in U.S. Tax Court.
 - ▶ With respect to the COGS, at trial in U.S. Tax Court, the IRS's determination of COGS stood because Petitioner had inadequate records.
 - ▶ The Tax Court did not even address business expenses claimed under IRC §162 because of inadequate documentation.



47

IRC §280E Creative Challenges

- ▶ 8th Amendment/16th Amendment
 - ▶ *Alpenglow Botanicals, LLC, v. U.S.*, 2016 WL 7856477 (D. Colo. 2016).
 - ▶ Alpenglow sued the IRS for a tax refund, alleging the IRS exceeded its statutory and constitutional authority by denying Alpenglow's business tax deductions under IRC §280E.
 - ▶ IRC §280E does not violate the 16th Amendment because COGS are allowed. COGS are exclusions from gross income. Ordinary and necessary business expenses are deductions, which are discretionary, and which Congress had authority to deny in enacting IRC §280E. The 8th Amendment is not violated because IRC §280E is not a penalty. Deductions are a matter of legislative grace, not a matter of right.



48

IRC §280E Creative Challenges

► Motion to Quash Third Party Summoner

► *High Desert Relief, Inc., v. U.S.* (D. N.M. 2016)

- High Desert Relief, Inc., was a medical marijuana dispensary in New Mexico. Petitioner sought to quash an administrative summons from IRS to its bank, stating that it was not issued for a legitimate purpose. Petitioner claimed the IRS was essentially using its civil audit power to conduct a criminal investigation under the CSA, which it alleged was an abuse of authority.
- Petitioner's requested relief was denied. The IRS can apply IRC §280E to deny ordinary and necessary business expense deductions; Petitioner would not suffer irreparable injury because it could challenge an unsatisfactory result in Tax Court or U.S. District Court; and the public interest in making sure all taxpayers pay their fair share of taxes would otherwise be delayed.



49

CHAMP v. CIR

- CHAMP involved a taxpayer who provided caregiving services and medical marijuana under the California Compassionate Use Act of 1996. The medical marijuana was dispensed at a counter that took up only 10% of the space of the main facility, and members were not allowed to bring marijuana into the church part of the facility. The IRS disallowed all deductions under IRC §280E.
- The Tax Court allowed business expense deductions for the business that was not involved in providing medical marijuana and allocated costs between the two businesses based on the number of employees and the portion of the facilities devoted to each business.



50

On balance: Olive v. CIR


- The Tax Court in this case determined that the business was only engaged in a single business - the dispensing of medical marijuana.
- The Court determined that the caregiving services and social activities were part of that single business and disallowed business expense deductions.
- The Court distinguished CHAMP as having a separate caregiving service business and medical marijuana business.
- Some facts the Court looked at were that patrons went to the business primarily to consume marijuana, and marijuana was the sole source of revenue.



51

Cannabis Cultivation Tax


- ▶ The cannabis cultivation tax applies to all cannabis that enters the commercial market in California:
 - ▶ \$9.25 per dry-weight ounce of cannabis flower;
 - ▶ \$2.75 per dry-weight ounce of cannabis leaves; and
 - ▶ \$1.29 per ounce of fresh cannabis plant
- ▶ Cannabis distributors must collect cultivation tax at time the cannabis enters the commercial market, which is the time at which all testing and quality assurance has been performed
- ▶ Cannabis is presumed to have been sold and taxable at the time the cannabis leaves a cultivator's site



52

EXCISE TAXES


- ▶ Effective January 1, 2018
- ▶ 15% on sales
- ▶ In addition to sales and use tax (at state and local levels)
- ▶ Hit twice
 - ▶ Not only a 15% excise tax, but also a 15% surcharge on sales taxes.



53

How excise taxes calculated

- ▶ Excise tax not calculated on gross receipts
- ▶ Instead based upon average market price base established by the CDTFB
- ▶ Evaluated and set every six months



shutterstock · 200462048

54

Cheech and Chong go to a dispensary

Cheech and Chong go to a marijuana at a retail outlet to buy some pre-rolls and edibles.

Cheech still does not have his medical marijuana card and pays \$100 for the marijuana. The excise tax is \$15, so the total gross receipts for purposes of computing sales taxes on Cheech's purchase is \$115. The sales tax rate in his district is 9%. His sales tax is \$10.35 (9% x \$115). The total cost is \$125.35.

Chong has obtained his medical marijuana card and likes to flaunt it in front of Cheech. At the retail outlet, Chong shows his valid medical marijuana card and presents the proper ID. Since Chong has his valid medical marijuana card, and presented valid ID, he does not have to pay the sales tax, but he is still on the hook for the 15% excise tax. His total cost is \$115.

► **Note:** The above assumes that the \$100 he paid is the average market price as determined by the Department of Tax and Fee Administration.



55

California Taxation

- Prop 215: Compassionate Use Act of 1996 - CA was first
- Prop 64 - 2017
- Tax rates will be adjusted beginning January 1, 2020 for inflation



56

California Taxation-Administration

- Tax stamps or state-issued product bags showing required tax has been paid



57

California Tax-Collection and Payment

- ▶ Excise taxes due and payable quarterly, on or before the last day of the month following the quarter
- ▶ On or before the due date, a quarterly return must be filed by anyone holding a sales or cultivation license
- ▶ department may require every person engaged in the cultivation, distribution, or retail sales of marijuana or marijuana products to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information the department may require.
- ▶ Unannounced inspections



58

California-County Taxes

- ▶ A county may impose a tax on cultivation, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products. (R&TC §34021.5)
- ▶ The board of supervisors for the county must specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the methods of apportionment, and the manner of collecting the tax.
- ▶ Berkeley donations
 - ▶ In October 2018, the Budding Compassion Network (BCN), formerly known as East Bay Canna Compassion, and Berkeley cannabis dispensary, Hi Fidelity, contract to manage complimentary cannabis donations to verified low income (VLI) patients as mandated by Berkeley dispensary regulations.




59

California-Use of Funds

- After initial spending, revenues will be allocated as follows (R&TC 34014a)-(d):
- 60% for youth programs including substance abuse and prevention education and drug abuse treatment;
 - 20% to clean up and prevent environment damage resulting from the illegal cultivation of marijuana; and
 - 20% for:
 - Programs designed to reduce driving under the influence of marijuana, alcohol and other drugs; and
 - A grant program designed to reduce any negative impacts on public health or safety resulting from the AUMA.
 - Prior to July 1, 2020 the legislature may not change the allocations to the programs specified in subdivisions mentioned above. After July 1, 2020, the legislature may amend the AUMA allocations by majority vote.

60



State of California
Medical Marijuana Identification Card
PATIENT

ID# 583276182
To Verify: www.cdmrps.ca.gov
Date of Expiration:
12-31-15

Quinn Cook, Director
Department of Public Health

Medical Marijuana Sales Tax

- Medical marijuana sales were legalized on September 9, 2016, and began from sales and distribution of medical marijuana.
- Medical marijuana sales tax is levied on all medical marijuana sales and distribution. The tax rate is 8.75%.
- Medical marijuana sales tax is levied on all medical marijuana sales and distribution, regardless of the type of documentation provided for each sale.
- Medical marijuana sales tax is levied on all medical marijuana sales and distribution, regardless of the number and quantity of sales.
- Medical marijuana sales tax is levied on all medical marijuana sales and distribution, regardless of the type of Marijuana Identification Card (MID) used.
- Medical marijuana sales tax is levied on all medical marijuana sales and distribution, regardless of the type of original record of sale.
- Medical marijuana sales tax is levied on all medical marijuana sales and distribution, regardless of the type of original record of sale.

61

Use Tax

- Assuming you can legally offer free samples of cannabis, you must pay use tax when you give away the free samples.
 - This includes employees



62



I WANT YOU TO PAY TAXES

Taxes

- Payments by credit card are processed by the State of California.
- Payments by check are processed by the State of California.
- Payments by debit card are processed by the State of California.
- Payments by cash are processed by the State of California.
- Payments by money order are processed by the State of California.
- Payments by electronic funds transfer are processed by the State of California.
- Payments by credit card are processed by the State of California.
- Payments by check are processed by the State of California.
- Payments by debit card are processed by the State of California.
- Payments by cash are processed by the State of California.
- Payments by money order are processed by the State of California.
- Payments by electronic funds transfer are processed by the State of California.

No Cash Policy
Form FTB 3711 PC
Treasurer's Office
Treasurer's Office
Treasurer's Office

63

Cash Payments for Taxes



- ▶ FTB still maintains "No Cash" policy; however new policy as of March 2016
 - ▶ Taxpayer can make a showing of hardship, needs to pay in cash
 - ▶ Written request
 - ▶ FTB responds within 2 business days
 - ▶ If granted, must make appointment in FTB field office to pay
 - ▶ Appointment must be made two business days before desired date to make payment

64

Substantiating income



- ▶ Just for You Caregivers, Inc.
 - ▶ Auditors found liability based on third party website
 - ▶ Reviews used to assess sales
 - ▶ Improper record keeping by Just for You
- ▶ Records must be able to provide adequate books, even though no access to banks.

65


Attorneys

- ▶ Only a few state bar associations (and some local bar associations) have issued formal guidance to attorneys.
- ▶ ABA Model Rule 1.2(d) states that a lawyer "shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent..."
 - ▶ But some states have issued official guidance with respect to modifying this rule.
- ▶ ABA Model Rule 8.4(b) and (d) indicate it is professional misconduct to "(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects... (d) engage in conduct that is prejudicial to the administration of justice."
 - ▶ No official guidance from states yet.



66

Attorneys - CA



- ▶ CA Rule 1.2.1 of the Rules of Professional Conduct
- ▶ Approved as of November, 2018, by the CA Supreme Court.
 - ▶ A Lawyer shall not counsel a client to engage, or assist a client in conduct that the lawyer knows is criminal, fraudulent, or a violation of any law, rule, or ruling of a tribunal.
 - ▶ Notwithstanding paragraph (a), a lawyer may:
 - ▶ Discuss the legal consequences of any proposed course of conduct with a client; and
 - ▶ Counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of a law, rule, or ruling of a tribunal.
- ▶ Paragraph 6 of the Comments to Rule 1.2.1 indicates, "In the event of such a conflict [between California law and federal or tribal law], the lawyer may assist a client in drafting or administering, or interpreting or complying with California laws, including statutes, regulations, orders, and other state or local violations, even if the client's actions might violate the conflicting federal or tribal law."

67

Don't you want our money?




- ▶ Banking Crisis
 - ▶ Federal
 - ▶ Schedule I - No FDIC insurance
 - ▶ Reporting requirement
 - ▶ FinCEN guidelines of 2014 did not provide security; only a policy change
 - ▶ California
 - ▶ Movements to establish private banks at state and local level
 - ▶ Gavin Newsom
 - ▶ John Chasing Cannabis Banking Working Group
 - ▶ Oakland efforts
 - ▶ Los Angeles efforts
 - ▶ Other states
 - ▶ Washington
 - ▶ Colorado
 - ▶ North Dakota only state with its own state-owned bank

68

Cole Memo

- ▶ Obama Administration
- ▶ 2013 memo
- ▶ Then-deputy Attorney General, James Cole
- ▶ Guidelines and Procedures
 - ▶ State and local policing powers
 - ▶ Legalization did not threaten federal priorities
 - ▶ Prosecutorial discretion
 - ▶ Other priorities (opioids)



69

www.PATIENTS.org

Legislation

Rohrabacher-Farr

- ▶ May 2014: House passed
- ▶ Dec 2014: Senate passed
- ▶ Fiscal year 2015: Effective

70

Rohrabacher-Farr amendment

- ▶ Status Timeline
 - ▶ May 17, 2018: House Appropriations Committee approved inclusion of the Rohrabacher-Farr amendment in the CJS appropriations bill for fiscal year 2019, in a voice vote led by sponsor Rep. David Joyce.
 - ▶ June 12, 2018: Senate Appropriations Committee approved a base CJS appropriations bill with the amendment included.
 - ▶ September 30, 2018: Trump signed bill avoiding Government Shutdown before midterms, renewing RFA through December 7th, 2018.

71

Political Climate

- ▶ April 2017: Justice Department reviews Cole Memo at Sessions' direction
- ▶ September 17, 2017: Jeff Sessions "federal law remains in effect."
- ▶ January 4, 2018: Sessions rescinded the Cole Memo
- ▶ November 7, 2018: Sessions fired
- ▶ William Barr: During April 10, 2019 testimony before the Senate Appropriations subcommittee, stated favors a more lenient approach to cannabis laws.

72



73



74

Disclosure

The information provided is for illustrative/educational purposes only. The material is not intended to constitute legal, tax, or financial advice. Effort has been made to ensure that the material presented herein is accurate at the time of publication. However, this material is not intended to be a full and exhaustive explanation of the law in any area.

75

CANNABIS EVENT FACT SHEET



CANNABIS EVENT ORGANIZER LICENSE

- Cannabis events can only be held by a person who has been issued a cannabis event organizer license by the Bureau.
- The cannabis event organizer license is an annual license, with fees based on the number of events organized by the licensee per year.
- The cannabis event organizer is not authorized to cultivate, distribute, manufacture, or sell cannabis or cannabis products, unless the licensee holds a separate license for that activity.

CANNABIS EVENT SALES AND CONSUMPTION

All temporary cannabis event sales must adhere to the rules and requirements for on-site sales and consumption of cannabis goods:

- All cannabis goods shall be transported to the event site by a licensed distributor.
- All cannabis goods must be tested prior to retail sale.
- Only a licensed retailer or microbusiness licensed to sell cannabis goods to retail customers can sell at a temporary cannabis event.
- All cannabis goods shall adhere to retailer requirements pertaining to displays, exit packaging, customer returns, daily sales limits, and free samples.
- All cannabis goods sales at the event must be limited to persons 21 years of age or older.
- Licensees engaging in sales of cannabis goods shall only conduct sales activities within their designated area. Sales through use of a mobile cart or similar means are prohibited.

- Access to the area where cannabis consumption is allowed shall be restricted to persons 21 years of age or older and shall not be visible from any public place or non-age-restricted area.
- Consumption of alcohol or tobacco shall not be allowed on the cannabis event premises.
- Payment to a cannabis event organizer may not be determined based on, or tied to, the sale of cannabis goods.

TEMPORARY CANNABIS EVENT LICENSE

- To obtain a temporary cannabis event license, the cannabis event organizer licensee must submit an application to the Bureau at least 60 days before the first day of the cannabis event.
- Each temporary cannabis event must be issued a separate temporary cannabis event license by the Bureau for the specific date(s) and location of the event.
- A temporary cannabis event license will not be issued for more than four consecutive days.
- Cannabis events must be held at a county fair or district agricultural association event, or at another venue expressly approved by a local jurisdiction for temporary cannabis events.
- Written approval from the local jurisdiction authorizing on-site cannabis sales and consumption by persons age 21 or older at the event is required for all temporary cannabis events.
- The cannabis event organizer will be required to provide the following to the Bureau:
 - A diagram of the physical layout of the event, which includes information contained in section 5601 (h)(5) of the Bureau's regulations.

(continued on next page)



- A list of all licensees providing on-site sales at the event. If the list of licensees changes after the application is submitted or after the license is issued, the applicant shall submit a Notification Request Form, an updated list of licensees, and an updated event diagram to the Bureau no less than 72 hours before the event.
- Contact information for a designated contact person(s) who shall be on-site at the event and reachable by phone during the event.

INFORMATIONAL OR EDUCATION CANNABIS EVENTS

- Informational or educational cannabis events where no cannabis goods are sold or consumed are not required to obtain a temporary cannabis event license.
- Any display of cannabis goods must comply with statutory possession limits.



CANNABIS DISTRIBUTOR (TYPE 11) FACT SHEET



DISTRIBUTOR: Is responsible for transporting cannabis goods between licensees, arranging for testing of cannabis goods, and conducting the quality assurance review of cannabis goods to ensure compliance with all packaging and labeling requirements. A licensed distributor may only distribute cannabis goods, cannabis accessories, and licensees' branded merchandise or promotional materials.

DISTRIBUTOR REQUIREMENTS

• Transportation

- Only a distributor licensee, their employees, or security personnel may be in a vehicle transporting cannabis goods. All persons in a vehicle transporting cannabis goods shall be 21 years of age or older.
- All vehicles or trailers used for transportation shall be owned or leased by the licensee in accordance with the Vehicle Code.
- Other forms of transportation, such as aircraft, watercraft, drone, rail, human-powered vehicles, and unmanned vehicles are prohibited.
- Prior to transportation, the distributor must ensure that a shipping manifest has been generated and provided to the Bureau and the licensee receiving the cannabis goods, as well as verify that the cannabis goods are accurately reflected in the shipping manifest.
- A distributor who has not yet obtained access to the California Cannabis Track-and-Trace (CCTT) system shall transmit shipping manifests by email to the Bureau at bcc@dca.ca.gov and to the receiving licensee. (More information on shipping manifests may be found in the Shipping Manifest Fact Sheet available on the Bureau's website.)
- A licensed distributor shall only travel between licensees' premises, except for necessary rest, fuel, or vehicle repair stops, while transporting cannabis goods.

- If transportation of cannabis goods in a vehicle or trailer is not operationally feasible because transportation would occur between licensed premises that are within the same building or parcel of land, a licensed distributor may transport cannabis goods by foot, hand truck, fork lift, or other similar means, with the requisite shipping manifest.

• Packaging, Labeling, and Rolling

- A licensed distributor may package, re-package, label, and re-label cannabis for retail sale.
- A licensed distributor may not process cannabis but may roll pre-rolls that consist exclusively of any combination of flower, shake, leaf, or kief. Pre-rolls must be rolled prior to regulatory compliance testing.
- A licensed distributor may not package, re-package, label, or re-label manufactured cannabis goods, with the exception of labeling and re-labeling a manufactured cannabis goods package with the amount of cannabinoids and terpenoids based on regulatory compliance testing results.
- All packages of cannabis goods must:
 - Protect the cannabis from contamination.
 - Be tamper-evident.
 - Be resealable if the package contains more than one serving.
 - Not imitate any package used for goods that are typically marketed to children.
- Beginning January 1, 2020, all packages of cannabis goods must also:
 - Be child-resistant until the package is first opened.
 - Be labeled with the statement "This package is not child-resistant after opening."
- Immature cannabis plants and seeds are not required to be packaged in child-resistant, tamper-evident, and resealable packaging.

(continued on next page)



• **Testing**

- After taking physical possession of a cannabis goods batch, the licensed distributor must arrange for laboratory testing and ensure the proper retrieval and documentation of batch samples.
- Once a sample from a batch has been obtained for regulatory compliance testing, the distributor may not arrange for the re-sampling of the same batch without authorization from the Bureau.
- Testing Results
 - o If the batch passes, the cannabis goods may be transported to one or more retailers or another licensed distributor as described below.
 - o If the batch fails and cannot be remediated, the distributor must destroy the batch.
 - o If the batch can be remediated, the distributor may arrange for remediation by a licensed manufacturer as authorized by the Bureau and/or the California Department of Public Health (CDPH). (Information on the remediation process is available in section 5727 of the Bureau's regulations and section 40330 of CDPH's regulations.)

• **Transfer of Cannabis Goods**

- A distributor licensee may transport untested cannabis goods to one or more licensed distributors, licensed manufacturers, licensed cultivators, and/or licensed microbusinesses authorized to engage in distribution, manufacturing, or cultivation.
- A distributor licensee may only transport untested immature cannabis plants and/or seeds to a licensed retailer or to the retailer portion of a licensed microbusiness.

- Once testing has been completed, cannabis goods that have an accompanying COA and are packaged as they will be sold at retail may be transferred to one or more licensed distributors, licensed retailers, or licensed microbusinesses authorized to engage in distribution and/or retail.
- Cannabis goods that have not been transported to retail within 12 months of the date on the COA must be destroyed or retested by the distributor in possession of the cannabis goods.

• **Storage**

- A licensed distributor may provide storage-only services unrelated to the quality assurance and laboratory testing processes to other licensees.
- Storage-only services may only be provided for cannabis goods that are packaged as they will be sold at a retailer, cannabis accessories, and a licensee's branded merchandise or promotional materials.
- A licensed distributor may not store immature cannabis plants, except for seeds.
- A licensed distributor who arranges for testing of batches shall ensure the batches are stored separately and distinctly from other cannabis goods batches and properly labeled so they can be easily identified.

• **Other Requirements**

- A licensed distributor must carry and maintain the required coverage for insurance and provide the Bureau with a certificate of insurance and notify the Bureau of any changes.
- A licensed distributor must be able to account for all inventory and be able to provide the Bureau with the status for each cannabis goods batch in the licensed distributor's possession.
- A licensed distributor must also ensure all proper records are maintained for at least seven years.



CANNABIS DISTRIBUTOR TRANSPORT ONLY (TYPE 13) FACT SHEET



DISTRIBUTOR TRANSPORT ONLY: Is responsible for transporting cannabis goods between licensees, but may not transport any cannabis goods, except for immature cannabis plants and/or seeds, to a licensed retailer or to the retailer portion of a licensed microbusiness.

DISTRIBUTOR TRANSPORT ONLY

SELF-DISTRIBUTION: A distributor transport only licensee who selected “Self-Distribution” during the application process may only transport cannabis goods that the licensee has cultivated or manufactured. A distributor transport only self-distribution licensee is not permitted to transport cannabis goods cultivated or manufactured by other licensees.

A distributor transport only self-distribution licensee whose licensed premises will be on the same property as their licensed cultivation or licensed manufacturing premises is not required to have a video surveillance system or an alarm system at the distributor’s licensed premises.

DISTRIBUTOR TRANSPORT ONLY REQUIREMENTS (ALSO APPLICABLE TO SELF-DISTRIBUTION LICENSEES)

• **Distribution Activities**

- A distributor transport only licensee may only transport cannabis goods, cannabis accessories, and licensees’ branded merchandise or promotional materials.

• **A distributor transport only licensee may NOT:**

- Engage in wholesale, destruction, packaging, labeling, or storing of cannabis goods.
- Arrange for testing of cannabis goods.
- Deliver cannabis goods to a customer.

- Hold title to any cannabis goods unless they are authorized to do so under another state-issued license.

• **Transportation**

- Only a distributor transport only licensee, their employees, or security personnel may be in a vehicle transporting cannabis goods. All persons in a vehicle transporting cannabis goods shall be 21 years of age or older.
- All vehicles or trailers used for transportation shall be owned or leased by the licensee in accordance with the Vehicle Code.
- Other forms of transportation, such as aircraft, watercraft, drone, rail, human-powered vehicles, and unmanned vehicles are prohibited.
- Prior to transportation, the distributor transport only licensee must ensure that a shipping manifest has been generated and provided to the Bureau and the licensee receiving the cannabis goods, as well as verify that the cannabis goods are accurately reflected in the shipping manifest.
- A distributor transport only licensee who has not yet obtained access to the California Cannabis Track-and-Trace (CCTT) system shall transmit shipping manifests by email to the Bureau at bcc@dca.ca.gov and to the receiving licensee. (More information on shipping manifests may be found in the Shipping Manifest Fact Sheet available on the Bureau’s website.)
- A distributor transport only licensee shall only travel between licensees’ premises, except for necessary rest, fuel, or vehicle repair stops, while transporting cannabis goods.

(continued on next page)



- If transportation of cannabis goods in a vehicle or trailer is not operationally feasible because transportation would occur between licensed premises that are within the same building or parcel of land, a distributor transport only licensee may transport cannabis goods by foot, hand truck, fork lift, or other similar means, with the requisite shipping manifest.
- **Other Requirements**
 - A licensed distributor transport only must carry and maintain the required coverage for insurance and provide the Bureau with a certificate of insurance and notify the Bureau of any changes.
 - A licensed distributor transport only must be able to account for all inventory and be able to provide the Bureau with the status for each cannabis goods batch in the distributor transport only licensee's possession.
 - A licensed distributor transport only must ensure all proper records are maintained for at least seven years.
 - A distributor transport only licensee must comply with all of the requirements for a holder of a distributor license, as applicable.

CANNABIS RETAILER (STOREFRONT) FACT SHEET



RETAILER (STOREFRONT): Sells cannabis goods to customers at its premises or by delivery. A retailer must have a licensed physical location (premises), including an address where commercial cannabis activities are conducted.

RETAILER (STOREFRONT) REQUIREMENTS

• Hours of operation

- A licensed retailer may only engage in sales and deliveries between the hours of 6:00 a.m. and 10:00 p.m. Pacific Time.

• Access to the licensed premises

- Retail area—all customers must provide a valid proof of identification.
 - Only persons 21 years of age or older may access adult-use retailers.
 - Persons 18 years of age or older may access medicinal retailers with a valid physician's recommendation.
 - Retail employees must verify the age and valid proof of identification of all customers before granting access.
- Limited access areas—all persons must be at least 21 years of age and have a business reason for entering the limited access area; non-employees with authorized access must be escorted, and an access log must be maintained.
- Retail premises must be secured while not open for business.

• Cannabis goods for sale

- A licensed retailer may only sell cannabis goods, cannabis accessories, and licensees' branded merchandise or promotional materials.
- A licensed retailer may only receive cannabis goods for sale from a licensed distributor.

- All cannabis goods must comply with all packaging and labeling requirements.
- A licensed retailer may not sell cannabis goods that are expired.

• Delivery

- All delivery customers must provide a valid proof of identification.
 - Persons 21 years of age or older may purchase adult-use cannabis goods.
 - Persons 18 years of age or older may purchase medicinal cannabis goods with a valid physician's recommendation.
 - Delivery employees must verify the age by inspecting a valid form of identification of all delivery customers, in person, before they complete delivery of the cannabis goods.
- Delivery must be made to a physical address in any jurisdiction within California that is not on publicly owned land, a school, a day care, or a youth center.
- During delivery, the employee must carry a copy of the retailer's license, the employee's government-issued identification, and an identification badge provided by the licensed retailer.
- The delivery employee shall not carry cannabis goods valued in excess of \$5,000 at any time, with no more than \$3,000 of cannabis goods that are not already part of a customer order that was processed prior to leaving the premises.
- A delivery request receipt must be prepared for each delivery of cannabis goods and contain all the items listed in section 5420 of the Bureau of Cannabis Control's regulations.
- Delivery must be made in person by a direct employee of the licensed retailer. An independent contractor, third party courier

(continued on next page)



service, or an individual employed through a staffing agency would not be considered directly employed by the licensed retailer.

- Delivery must be made using an enclosed motor vehicle equipped with a GPS device and secure storage for cannabis goods.
- A vehicle used by a licensed retailer for delivery purposes is not required to be owned by the licensee.
- **Customer returns**
 - A licensed retailer may accept customer returns but may not resell the returned cannabis goods. The returned cannabis goods may be destroyed or, if defective, returned to the distributor from which they were obtained.
- **Cannabis goods packaging, labeling, and exit packaging**
 - A licensed retailer may not accept, possess, or sell cannabis goods that are not packaged for final sale. A retailer may not package or label cannabis goods.
 - All cannabis goods must leave the licensed premises in an opaque exit package.
 - Through December 31, 2019, all cannabis goods must either be in a child-resistant package or in a child-resistant exit package. All cannabis goods packaging shall be tamper-evident; and resealable if it contains more than one serving.
 - Beginning January 1, 2020, a package containing cannabis goods shall be resealable, tamper-evident, and child resistant.

- Immature cannabis plants and seeds sold by a licensed retailer are not required to be placed in resealable, tamper-evident, child-resistant packaging.

- **Shipments and inventory**

- Licensed retailers can only receive shipments between the hours of 6:00 a.m. and 10:00 p.m. Pacific Time.
- Licensed retailers must be able to account for all inventory of cannabis goods and provide the Bureau with inventory records upon request.

- **Retailer to retailer transfer**

- Cannabis goods may be transported by a licensed distributor from one retail location to another retail location if the retail licenses for both locations are held by the same licensee.

- **Records**

- A licensed retailer must maintain financial records, personnel records, training records, contracts, permits, security records, destruction records, data entered into track-and-trace, and an accurate record of all sales for seven years. All records must be made available to the Bureau upon request.

CANNABIS RETAILER (NON-STOREFRONT) FACT SHEET



RETAILER (NON-STOREFRONT): Sells cannabis goods to customers exclusively through delivery. A retailer non-storefront must have a licensed premises to store the cannabis goods for delivery. The premises of a non-storefront retailer shall not be open to the public.

RETAILER (NON-STOREFRONT) REQUIREMENTS

- **Hours of operation**
 - A licensed retailer may only engage in sales and deliveries between the hours of 6:00 a.m. and 10:00 p.m. Pacific Time.
- **Cannabis goods for sale**
 - A licensed retailer may only sell cannabis goods, cannabis accessories, and licensees' branded merchandise or promotional materials.
 - A licensed retailer may only receive cannabis goods for sale from a licensed distributor.
 - All cannabis goods must comply with all packaging and labeling requirements.
 - A licensed retailer may not sell cannabis goods that are expired.
- **Delivery**
 - All delivery customers must provide a valid proof of identification.
 - Persons 21 years of age or older may purchase adult-use cannabis goods.
 - Persons 18 years of age or older may purchase medicinal cannabis goods with a valid physician's recommendation.
 - Delivery employees must verify the age by inspecting a valid form of identification of all delivery customers, in person, before they complete delivery of the cannabis goods.
 - Delivery must be made to a physical address in any jurisdiction within California that is not on publicly owned land, a school, a day care, or a youth center.
 - During delivery, the employee must carry a copy of the retailer's license, the employee's government-issued identification, and an identification badge provided by the licensed retailer.
 - The delivery employee shall not carry cannabis goods valued in excess of \$5,000 at any time, with no more than \$3,000 of cannabis goods that are not already part of a customer order that was processed prior to leaving the premises.
 - A delivery request receipt must be prepared for each delivery of cannabis goods and contain all the items listed in section 5420 of the Bureau's regulations.
 - Delivery must be made in person by a direct employee of the licensed retailer. An independent contractor, third-party courier service, or an individual employed through a staffing agency would not be considered directly employed by the licensed retailer.
 - Delivery must be made using an enclosed motor vehicle equipped with a GPS device and secure storage for cannabis goods.
 - A vehicle used by a licensed retailer for delivery purposes is not required to be owned by the licensee.
- **Customer returns**
 - A licensed retailer may accept customer returns but may not resell the returned cannabis goods. The returned cannabis goods may be destroyed or, if defective, returned to the distributor from which they were obtained.

(continued on next page)



• **Cannabis goods packaging, labeling, and exit packaging**

- A licensed retailer may not accept, possess, or sell cannabis goods that are not packaged for final sale. A retailer may not package or label cannabis goods.
- All cannabis goods sold must be in an opaque exit package before delivery to the customer.
- Through December 31, 2019, all cannabis goods must either be in a child-resistant package or in a child-resistant exit package. All cannabis goods packaging shall be tamper-evident; and resealable if it contains more than one serving.
- Beginning January 1, 2020, a package containing cannabis goods shall be resealable, tamper-evident, and child resistant.
- Immature cannabis plants and seeds sold by a licensed retailer are not required to be placed in resealable, tamper-evident, child-resistant packaging.

• **Shipments and inventory**

- Licensed retailers can only receive shipments from licensed distributors between the hours of 6:00 a.m. and 10:00 p.m. Pacific Time.
- Licensed retailers must be able to account for all inventory of cannabis goods and provide the Bureau with inventory records upon request.

• **Retailer to retailer transfer**

- Cannabis goods may be transported by a licensed distributor from one retail location to another retail location if the retail licenses for both locations are held by the same licensee.

• **Records**

- A licensed retailer must maintain financial records, personnel records, training records, contracts, permits, security records, destruction records, data entered into track-and-trace, and an accurate record of all sales for seven years. All records must be made available to the Bureau upon request.

LICENSED LABORATORY REPORTING AND TESTING REQUIREMENTS



REQUIREMENTS FOR CERTIFICATES OF ANALYSIS (COAs)

- Cannabinoid testing—A licensed testing laboratory shall deem a sample to have passed testing if:
 - For all edible cannabis products, the milligrams per serving for THC does not exceed 10 mg/serving, **plus 10.0%**.
 - Edible cannabis products, the milligrams per package for THC does not exceed 100 mg/package, **plus 10.0%**.
- A licensed testing laboratory shall not release to any person any cumulative or individual test results prior to completing all analyses and providing the COA to the Bureau of Cannabis Control (Bureau). All COAs issued by a licensed laboratory must be sent to **BCC.Labs@dca.ca.gov**.
- A licensed testing laboratory shall not amend any COA after issuance.
- If any laboratory quality control (LQC) sample produces a result outside of the acceptance criteria prescribed in section 5730 of the Bureau's regulations, the laboratory cannot report the result and the entire batch cannot be released for retail sale.
- If any analyte is detected above any action level, the sample shall be re-prepped and reanalyzed in replicate within another analytical batch.
- Test method limits of detection (LOD) and limits of quantitation (LOQ) are not arbitrarily determined—laboratories must calculate LODs

and LOQs as prescribed in section 5731 of the Bureau's regulations.

- The LOD cannot equal the LOQ, as LOD is less than the LOQ and the LOQ is generally less than or equal to the action level:

$$\text{LOD} < \text{LOQ} \leq \text{ACTION LEVEL}$$

- If requested by the distributor arranging for regulatory compliance testing, the licensed testing laboratory must perform terpenoid testing.
- Reporting density on the COA is only required for applicable manufactured cannabis goods, i.e., liquid tinctures, beverages, topicals, etc.

REQUIREMENTS FOR A CANNABIS GOODS BATCH THAT FAILS REGULATORY COMPLIANCE TESTING

- A cannabis goods batch that fails any test performed by a licensed testing laboratory fails regulatory compliance testing and may not be transported to any retailer for sale or to another distributor.
- If a cannabis goods batch fails regulatory compliance testing, the licensed testing laboratory may not retest the batch and must issue a COA based on the initial testing.
- A licensed testing laboratory shall not amend any COA after issuance.
- Cannabis goods that fail regulatory compliance testing must be quarantined and stored separately and distinctly from other cannabis goods batches at the licensed distributor's premises with a clear identifiable batch number.

(continued on next page)



- Retesting is not a form of remediation. Any retesting performed without remediation will not supersede the original test results performed by the licensed testing laboratory.
- A failed cannabis goods batch may be remediated if the licensed manufacturer or licensed microbusiness complies with the following:
 - Prior to any remediation, the licensed manufacturer submits a corrective action plan to the California Department of Public Health (CDPH) at **RP.MCSB@cdph.ca.gov** OR the licensed microbusiness submits a corrective action plan to the Bureau at **BCC.Labs@dca.ca.gov** within 30 calendar days of issuance of the COA.
 - The failed batch is held in quarantine at the licensed distributor's premises until the corrective action plan is approved.
- Once the cannabis goods have been remediated and returned to the licensed distributor's premises, the cannabis goods batch must be tested and pass all required regulatory compliance testing before being transported to a retailer for sale or to another licensed distributor.
- To remediate a failed cannabis goods batch with a COA issued before January 16, 2019, the corrective plan must be submitted no later than February 16, 2019.
- Failed cannabis goods batches for which a corrective action plan is not approved cannot be remediated and must be destroyed.



BUREAU OF CANNABIS CONTROL

CALIFORNIA

ALL CANNABIS HARVESTED ON OR AFTER 1/1/2018 AND ALL CANNABIS PRODUCTS MANUFACTURED ON OR AFTER 1/1/2018, SHALL BE TESTED ACCORDING TO TITLE 16 OF THE CALIFORNIA CODE OF REGULATIONS, SECTION 5715, AND THE REGULATIONS THAT FOLLOW.

PHASE-IN OF REQUIRED LABORATORY TESTING	INHALABLE CANNABIS	INHALABLE CANNABIS PRODUCTS	OTHER CANNABIS & CANNABIS PRODUCTS
JANUARY 1, 2018			
Cannabinoids Testing	✓	✓	✓
Moisture Content Testing	✓		
Category II Residual Solvents and Processing Chemicals Testing		✓	✓
Category I Residual Pesticides Testing	✓	✓	✓
Microbial Impurities Testing (A. fumigatus, A. flavus, A. niger, A. terreus)	✓	✓	
Microbial Impurities Testing (Escherichia coli and Salmonella spp.)	✓	✓	✓
Homogeneity Testing of Edible Cannabis Products			✓
JULY 1, 2018			
Category I Residual Solvents and Processing Chemicals Testing		✓	✓
Category II Residual Pesticides Testing	✓	✓	✓
Foreign Material Testing	✓	✓	✓
DECEMBER 31, 2018			
Terpenoids Testing	✓	✓	✓
Mycotoxins Testing	✓	✓	✓
Heavy Metals Testing	✓	✓	✓
Water Activity Testing of Solid or Semi-Solid Edibles	✓		✓



Bureau of Cannabis Control
 1625 North Market Boulevard, Suite 202-S
 Sacramento, CA 95834
 (800) 952-5210

For the latest updates, follow the Bureau on social media





FACT SHEET

Highlights of the New California Cannabis Cultivation Regulations

The Regulations Went Into Effect on January 16, 2019

The California Department of Food and Agriculture (CDFA) adopted final regulations for state cannabis cultivation licensing on January 16, 2019, and these regulations went into effect immediately. Outlined below are some of the key regulatory changes, although this is not an all-inclusive list; to review all the final regulations, please visit CDFA's CalCannabis Cultivation Licensing website at calcannabis.cdfa.ca.gov. The references below refer to the final regulations in Title 3 of the California Code of Regulations.

DEFINITIONS

- Modifies the terms “immature plant” or “immature” to include specific measurements for leaves or roots of plants to facilitate clear and consistent tagging/labeling requirements for seed and/or vegetatively propagated plants. *Section 8000(m)*
- Clarifies “mixed-light cultivation” by specifying different lighting combinations, including light deprivation, that a cultivator may use to achieve more than one harvest without being considered an indoor cultivator. *Section 8000(t)*
- Clarifies that “outdoor cultivation” prohibits the use of light deprivation in the canopy area. *Section 8000(x)*
- Clarifies “nonmanufactured cannabis product” by explaining how kief is aggregated. *Section 8000(v)*
- Modifies “pre-roll” to specify its contents as a nonmanufactured cannabis product. *Section 8000(aa)*

APPLICATIONS

- Clarifies that CDFA shall not issue any temporary licenses or extensions of temporary licenses after December 31, 2018. Temporary licenses with an expiration date after December 31, 2018, will be valid until expiration, but will not be extended beyond the expiration date. *Section 8100(e)*
- Clarifies what is acceptable evidence of exemption from, or compliance with, the California Environmental Quality Act (CEQA), which is required for annual license applications. *Section 8102(r)*
- Requires that an applicant with more than one employee will employ one supervisor and one employee who have completed successfully an appropriate Cal-OSHA 30-hour general-industry outreach course within one year of receiving a license. *Section 8102(bb)*

- Requires water sources to be identified and labeled for beneficial-use type on property diagrams. *Section 8105(d)*
- Requires a cultivation plan to have a designated area(s) to physically segregate cannabis, or nonmanufactured cannabis products, subject to an administrative hold.
Section 8106(a)(1)(I)
- Clarifies shareable and non-shareable areas between licenses held by one licensee.
Section 8106(a)(1)(J)
- Clarifies shareable common-use areas between multiple licensees. *Section 8106(a)(1)(K)*
- Requires a pest-management plan to include a signed attestation that the applicant shall contact the appropriate County Agricultural Commissioner prior to using the pesticides listed in the pest-management plan. *Sections 8106(a)(3)(C) and 8106(b)(3)(C)*
- Clarifies the required supplemental water-source information. *Section 8107*
- Adds two additional options for cannabis waste-management plans: (1) deliver to recycling centers that meet specified requirements, and (2) reintroduce cannabis waste into the agricultural operation. *Section 8108*
- Requires the applicant to designate an owner to be the licensee’s California Cannabis Track-and-Trace (CCTT) system account manager, and to register for CCTT system training within 10 business days of receiving a CDFA notice stating his or her application is complete. Completion of the CCTT training is required to access the CCTT system.
Section 8109

CULTIVATION LICENSE FEES AND REQUIREMENTS

- Clarifies the timeframes for applying for a license renewal. If applicable, the licensee may request a license-designation change from an A-License to an M-License, or an M-License to an A-License. *Section 8203*
- Clarifies the meaning of “disaster” for the purposes of disaster relief. *Section 8207(f)*
- Requires child-resistant packaging as of January 1, 2020. *Section 8212(a)(4)*

CULTIVATION-SITE REQUIREMENTS

- Modifies the types of carbon-offset sources available to the licensee to cover excess emissions from the previous annual-license period. *Section 8305(a)*
- Clarifies generator requirements and adds a requirement for an after-market non-resettable hour-meter if the generator is not equipped with one. *Section 8306*

CALIFORNIA CANNABIS TRACK-AND-TRACE (CCTT) SYSTEM

- Clarifies that immature plants in a “lot” shall be uniform in strain. *Section 8403(b)(1)*

- Clarifies which activities are required to be entered into the CCTT system, including the planting of immature lots, tagging of immature plants, and specified harvest information. *Section 8405(c)*
- Requires that any commercial cannabis activity conducted between a temporary licensee and an annual licensee shall be input into the CCTT system by the annual licensee. *Section 8405(f)*

ENFORCEMENT

- Clarifies that for other state law violations, including state labor laws and related regulations, CDFA will use the violation categories of Serious, Moderate, and Minor. *Section 8601(c)*
- Adds circumstances and notice and hearing procedures that require CDFA to issue an emergency decision and order a temporary suspension or an administrative hold to prevent or avoid immediate danger to public health, safety, or welfare. *Section 8604*
- Clarifies that an informal-hearing notice will provide specific information to a respondent, including that he or she may be represented by legal counsel at any or all stages of the proceedings. *Section 8606(b)(2)*
- Clarifies that a respondent may appeal a CDFA informal-hearing decision with the Cannabis Control Appeals Panel. *Section 8607(f)*

CANNABIS MANUFACTURING LICENSES

DEFINITIONS AND BASIC INFORMATION



WHO IS A CANNABIS MANUFACTURER?

In short, a manufacturer is anyone who makes or packages a prepared cannabis product. Cannabis products include edibles, topicals, tinctures, extracts, vape cartridges, capsules and more.

KEY DEFINITIONS FOR CANNABIS MANUFACTURING

- **EXTRACTION** is the process of separating cannabinoids from cannabis plant material using chemical solvents or mechanical methods
- **INFUSION** is the act of creating a cannabis product by incorporating either cannabis extracts or plant material into a recipe
- **PACKAGING AND LABELING** is the final step in cannabis product creation in which finished cannabis products are placed into a container and marked for retail sale
- **VOLATILE SOLVENT** is a solvent that produces a flammable gas or vapor.
Examples: butane, hexane and propane
- **NONVOLATILE SOLVENT** is any other type of solvent used during the extraction process.
Examples: carbon dioxide, ethanol, water, butter and oil
- **SHARED-USE FACILITY** is a manufacturing premises operated by a Type 7, 6 or N licensee in which Type S licensees can conduct manufacturing operations

FIND MORE HELP ONLINE

For more information about cannabis manufacturing licenses, please visit: www.cdph.ca.gov/mcsb

CDPH LICENSES FOR CANNABIS MANUFACTURING

LICENSE TYPE	MANUFACTURING ACTIVITY	NOTES
TYPE 7	For manufacturers using volatile solvents, such as butane, hexane, or propane	Type 7 licensees may also conduct Type 6, N or P activities
TYPE 6	For manufacturers using nonvolatile solvents, such as carbon dioxide, ethanol, water, butter or oil, or performing extraction using mechanical methods	Type 6 licensees may also conduct Type N or P activities
TYPE N	For manufacturers performing infusion	Type N licensees may also conduct Type P activities
TYPE P	For manufacturers only packaging or labeling cannabis products	Type P licensees may only conduct Type P activities
TYPE S	For manufacturers operating on a registered shared-use facility	The shared-use manufacturing facility must be approved before Type S licensees may submit license applications

KEY POINTS TO REMEMBER:

- Every business that manufactures cannabis products must hold a state license for each separate premises where manufacturing operations will be conducted.
- Manufacturers must disclose all activities that they will conduct on their license application. The online license application system, MCLS, will state the license type needed, based on the activities that will be conducted on the premises.
- Cannabis manufacturers can also package flower and roll and package pre-rolls on their licensed premises.

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S)	CASE NUMBER:
<input type="checkbox"/> RESENTENCING OR DISMISSAL (Health & Saf. Code, § 11361.8(b))	<input type="checkbox"/> REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(f))
	FOR COURT USE ONLY Date: Time: Department.:

1. CONVICTION INFORMATION (Check all that apply)

- 11357 - Possession of Marijuana
- 11358 - Cultivation of Marijuana
- 11359 - Possession of Marijuana for Sale
- 11360 - Transportation, Distribution, or Importation of Marijuana
- 11362.1 - Personal Use of Marijuana

2. REQUEST (check all that apply)

- PETITION: Petitioner is currently serving a sentence in the above-captioned case and now requests the court recall/resentence/dismiss the conviction.
- APPLICATION: Applicant has completed his/her sentence in the above captioned case and now requests the court dismiss & seal/redesignate the conviction.

3. WAIVER OF HEARING BY ORIGINAL SENTENCING JUDGE

- Petitioner/applicant waives the right to have this matter heard by the original sentencing judge. The presiding judge of the court may designate any judge to rule on this matter.

4. WAIVER OF APPEARANCE

- Petitioner/applicant understands there is a right to personally attend any hearing held in this matter. Petitioner/applicant gives up that right; the matter may be heard without his/her appearance.

Dated:



SIGNATURE OF PETITIONER/APPLICANT

Form CR-401 (Proof of Service for Petition/application adult crimes) may be used to provide proof of service of this petition/application.

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
PROOF OF SERVICE FOR PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S) Method of Service (only one): <input type="checkbox"/> Personal Service <input type="checkbox"/> Mail	CASE NUMBER: <div style="text-align: center;"> FOR COURT USE ONLY Date: Time: Department: </div>

1. Person serving: I am over the age of 18 and not a party to this action.
 - a. Name:
 - b. Residence or Business Address:
 - c. Telephone:

2. I served a copy of the Petition/Application for Resentencing or Reduction on the person or persons listed below as follows:
 - a. Name of person served:
 - b. Address where served:
 - c. Date Served:
 - c. Time Served: AM PM

3. The documents were served by the following means (*specify*):
 - a. **by personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.
 - b. **by United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*):
 - (1) deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (2) placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:


 SIGNATURE OF DECLARANT

(PRINTED NAME OF DECLARANT)


ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
PROSECUTING AGENCY RESPONSE TO PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S)	CASE NUMBER:
	FOR COURT USE ONLY Date: Time: Department:

PROSECUTING AGENCY RESPONSE

- The prosecuting agency has no objection to this petition/application. Petitioner/applicant is entitled to the requested relief without a hearing.
- The prosecuting agency requests a hearing and objects to the granting of the petition/application because:
 - Petitioner/applicant was not convicted of an eligible offense.
 - Other:

- Petitioner is eligible for relief, but relief should be denied because petitioner presents an unreasonable risk of danger to public safety if he/she is resentenced.
- The prosecuting agency does not object to the petitioner's/applicant's eligibility for relief, but requests a hearing on the issue of resentencing.

Dated:

 _____
 SIGNATURE OF PROSECUTING ATTORNEY

PEOPLE OF THE STATE OF CALIFORNIA v DEFENDANT:

CASE NUMBER:

**PROOF OF SERVICE
FOR PROSECUTING AGENCY RESPONSE**
Method of Service (only one):

 Personal Service Mail

1. Person serving: I am over the age of 18 and not a party to this action.
 - a. Name:
 - b. Residence or Business Address:
 - c. Telephone:

2. I served a copy of the Petition/Application for Resentencing or Reduction on the person or persons listed below as follows:
 - a. Name of person served:
 - b. Address where served:
 - c. Date Served:
 - c. Time Served: AM PM

3. The documents were served by the following means (*specify*):
 - a. **by personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.

 - b. **by United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*):
 - (1) deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (2) placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Date:



SIGNATURE OF DECLARANT

(PRINTED NAME OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
ORDER AFTER PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S)	CASE NUMBER:
<input type="checkbox"/> RESENTENCING OR DISMISSAL (Health & Saf. Code, § 11361.8(b))	<input type="checkbox"/> REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(f))
	FOR COURT USE ONLY Date: Time: Department:

From the petition/application filed in this matter, the records of the court, and any other evidence presented in this matter, the court finds as follows:

1. RESENTENCING GRANTED

- The petitioner is eligible for the requested relief. The petition is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime(s) and enters the following additional orders:
 - The following crime(s) is/are resentenced as misdemeanor(s) infraction(s):
(specify crime(s)):
 - The following sentence is imposed for the commission of the crime(s):
 - The petitioner is given credit for time served of (days):
 - Petitioner is required to complete a period of supervision of _____ months/days on
 - parole postrelease community supervision mandatory supervision (Pen. Code, section 1170(h))
 - formal probation informal probation
 - The court releases the petitioner from any form of postconviction supervision.
 - The court **DISMISSES** the following crime(s) for the reason that the conviction is legally invalid:
 - Other:

2. REDESIGNATION GRANTED

- The applicant is eligible for the requested relief. The application is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime(s) and enters the following additional orders:
 - The following crime(s) is/are redesignated as misdemeanor(s) infraction(s):
(specify crime(s)):
 - The court **DISMISSES** the following crime(s) for the reason that the conviction is legally invalid:
(specify):
 - Other:

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

3. RESENTENCING/REDESIGNATION DENIED

- The petitioner/applicant is ineligible for the requested relief. The request for resentencing/redesignation/dismissal/sealing is DENIED as to crime(s):
for the following reasons:
 - The petitioner/applicant was convicted of an offense that is not eligible for the requested relief.
 - The petitioner's/applicant's age at the time the crime(s) was/were committed makes petitioner/applicant ineligible for the requested relief.
 - The nature of the marijuana substance constituting the basis of the crime(s) makes petitioner/applicant ineligible for the requested relief.
 - The quantity of the marijuana substance constituting the basis of the crime(s) makes petitioner/applicant ineligible for the requested relief.
 - Although petitioner is eligible for relief, for reasons set forth on the record, the court finds that resentencing of petitioner would pose an unreasonable risk of danger to public safety.
 - Other:

4. MISDEMEANOR/INFRACTION FOR ALL PURPOSES

Any misdemeanor resentenced as an infraction as a result of this order shall thereafter be an infraction for all purposes. Any felony conviction resentenced as a result of this order as a misdemeanor or infraction shall be a misdemeanor or infraction for all purposes.

5. REGISTRATION

- The petitioner/applicant is relieved from the requirement to register as a narcotics offender under Health and Safety Code section 11590.

6. SEALING OF CONVICTION

- The court's record of conviction is ordered sealed. No access to the information shall be permitted without court order.

IT IS SO ORDERED.

Dated:

JUDICIAL OFFICER