City Managers Meeting
Early Stage Challenges in Regulating Cannabis Businesses in Your Community
February 1, 2018

MARIJUANA POLICY DEVELOPMENT

“Policies designed today will help shape how your industry looks tomorrow.”
-HdL Companies
What’s Legal?

- January 4, 2018 AG rescinds 2013 Cole Memo
- Also FinCEN Guidelines from 2014
- Each state AG will now be free to decide how aggressively they wish to enforce federal marijuana laws
- Rohrabacher-Blumenauer amendment January 19, 2018
- Criminal Action vs. Civil Action
- Medicinal vs. Adult-Use

Attorney General Federal Enforcement Policy
### California Cannabis Laws

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>Medical Cannabis Regulation and Safety Act (MCRSA)</td>
</tr>
<tr>
<td>2016</td>
<td>Proposition 64 Adult Use of Marijuana Act (AUMA)</td>
</tr>
<tr>
<td>2017</td>
<td>Trailer Bills SB 94 and AB 133, Medical &amp; Adult Use Cannabis Regulation and Safety Act</td>
</tr>
</tbody>
</table>

### State Regulations: Key Rule Changes

- Businesses can now only own one Type 3 Cultivation license until January of 2023.
- The 1-acre cultivation limit per location business is no longer required nor is the 4-acre limit statewide.
- Track-n-Trace is not anticipated to go into effect for almost 9 months.
- Health & Safety Code 11362.775 has been repealed and will go into effect on January 9, 2019.
Key Policy Issues of Concern

- Cash handling and transport of money
- Banking
- Consultants’ Conflict of Interest Issues
- Public Records Requests
- Adequate staffing and resources
- Impacts of property value and leases
- Concentration of businesses in the City

Citizen- and City-Sponsored Initiatives: Do’s and Don’ts

Do’s and Don’ts re: Local Ballot Measures
- Write an objective analysis
- Avoid campaign language, just detail the measure’s impact on the city
- Distribute info via normal communications channels
- Take a position at a regular council meeting via public vote
- Work on campaigns on your own time, do not use public funds for contributions, campaign-related activities
- Do not distribute/forward campaign-related emails from any city email account. Receiving them is OK
**REGULATORY OPTIONS**

<table>
<thead>
<tr>
<th>MEDICINAL</th>
<th>ADULT USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total ban</td>
<td>Total ban</td>
</tr>
<tr>
<td>Allow one/few activities</td>
<td>Allow one/few activities</td>
</tr>
<tr>
<td>Allow some/most activities</td>
<td>Allow some/most activities</td>
</tr>
<tr>
<td>Total allowance</td>
<td>Total allowance</td>
</tr>
</tbody>
</table>

Early Stage Challenges

**Tax & Fee Revenues**

![Money Stack](image)
Early Stage Challenges

Revenue Generating Strategies

Cost recovery fees to:
Cover Initial Application Process;
Establish Annual Regulatory Fees

General tax to be considered by voters in November 2018;
50% +1; Tax to general fund

Prop 64 Grant Funding

- What kind of cannabis permits must my agency allow in the City/County in order to be eligible for the funding?
  - Personal use outdoor and Outdoor Commercial Retail sales
- How will the grant funds be distributed?
  - They will be disbursed based on population of those eligible cities in the pool.
- When will the funds be available?
  - Sometime after the Department of Finance tallies state revenues for 2018 at the close of the fiscal year on June 30th. Depending on the state’s “take,” the first distribution may not occur until 2019.
Development Agreements Do They Circumvent Prop 218?

- What is the purpose of Development Agreements (CGC 65864)?
  - Lack of certainty in the approval of a development project can result in a waste of resources, escalate the cost of housing and other developments to the consumer.
  - The lack of public facilities such as streets, sewage, transportation, drinking water, schools and utility facilities.
- Who has right to the property for DA's per CGC (65865 (c))? The property owner or other persons having a legal or equitable interest in the property.

Development Agreements (Cont’d)

- What limitations can the City/County impose on the agreement? (Government Code 65865.2)
  - The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such actions shall not prevent development of the land for the uses and to the density or intensity of the development set forth in the agreement.
- Can development agreements be challenged? (Government Code 65867.5 (a))
  - A development agreement is a legislative act that shall be approved by ordinance and is subject to referendum.
California's Cannabis Market

Total Statewide Cannabis Production:
**13.5 million pounds**  
(CDFA Estimate)

Total Statewide Cannabis Consumption
**2.5 million pounds**  
(CDFA Estimate)
**1.6 million pounds**  
(California Cannabis Opportunity Report)

Current Number of Temporary Permits Issued Statewide
As of Jan 25, 2018

<table>
<thead>
<tr>
<th>License Types</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cottage</td>
<td>24</td>
</tr>
<tr>
<td>Specialty</td>
<td>117</td>
</tr>
<tr>
<td>Small</td>
<td>435</td>
</tr>
<tr>
<td>Medium</td>
<td>118</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>732</strong></td>
</tr>
</tbody>
</table>
## Temporary Permits Issued Statewide Per County as of Jan 25, 2018

**Top 12 Counties**

<table>
<thead>
<tr>
<th>County</th>
<th>Permits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Humboldt</td>
<td>184</td>
</tr>
<tr>
<td>Santa Barbara</td>
<td>147</td>
</tr>
<tr>
<td>Mendocino</td>
<td>85</td>
</tr>
<tr>
<td>Monterey</td>
<td>74</td>
</tr>
<tr>
<td>Calaveras</td>
<td>48</td>
</tr>
<tr>
<td>Riverside</td>
<td>26</td>
</tr>
<tr>
<td>Trinity</td>
<td>24</td>
</tr>
<tr>
<td>Yolo</td>
<td>21</td>
</tr>
<tr>
<td>San Bernardino</td>
<td>21</td>
</tr>
<tr>
<td>Sacramento</td>
<td>19</td>
</tr>
<tr>
<td>Santa Clara</td>
<td>19</td>
</tr>
<tr>
<td>Alameda</td>
<td>18</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>686</strong></td>
</tr>
</tbody>
</table>

## Early Stages Challenges

**Citizen Initiatives vs Council Adopted Ordinances**

- City of Campbell
- City of Compton
- City of Lemon Grove
- City of Long Beach
- City of Pasadena
- City of San Bernardino
Early Stage Challenges in Regulating Cannabis Businesses

Challenges Implementing Citizen Ballot Initiative

**CHALLENGES IMPLEMENTING CITIZEN BALLOT INITIATIVE**

**BACKGROUND**

- Measure V Passed by voters of City of Lemon Grove November 8, 2016
- Measure V is consistent with SB 215 and AB 420 (Compassionate Use Act)
CHALLENGES IMPLEMENTING CITIZEN BALLOT INITIATIVE

**MEASURE V**

- Medical Marijuana Dispensaries by CUP & subject to performance standards & distance restrictions and in full compliance with zoning standards
- In-home cultivation by ZC & subject to performance standards
- All other marijuana businesses & cultivation prohibited (both medical & recreational)
- Restricts City Council changes to Measure V for 3 years

CHALLENGES IMPLEMENTING CITIZEN BALLOT INITIATIVE

**MEASURE V CHALLENGES**

- Land Use provisions not understood by proponents
  - Day Care Businesses
- Legal Cultivation Agreements
  - Issues with getting legal agreements
- Staffing Challenges
CHALLENGES IMPLEMENTING CITIZEN BALLOT INITIATIVE

MEASURE V CHALLENGES

► Frustration with Land Use Process
  ► PRA’s
► Second Initiative Circulated
  Day Care Definition
  New CUP Revocation Standard
► 2nd Initiative Lawsuit

LESSONS LEARNED

► Feedback for City Operating Depts. early in the process
► Allow for flexibility and discretion
► Encourage use of professional land use planner
THE DECISION IS YOURS

Questions