



12/16/22

To: Department of Cannabis Control, Legal Division
2920 Kilgore Road
Rancho Cordova, CA 95670

OAL Reference Attorney
300 Capitol Mall, Suite 1250
Sacramento CA 95814

Delivered electronically to publiccomment@cannabis.ca.gov and staff@oal.ca.gov

Re: §15049.3. Track and Trace Requirements for Delivery. Emergency Regs Public Comment

Dear OAL Reference Attorney and Department of Cannabis Control Legal Division -

Our Coalition of local jurisdictions as represented by the California State Association of Counties, League of California Cities, and Rural County Representatives of California as well as the cannabis industry as represented by The United Cannabis Business Association and our regional partners, the Long Beach Collective Association, San Francisco Cannabis Retailers Alliance, Coachella Valley Cannabis Alliance Network, Social Equity Los Angeles, and California Minority Alliance strongly advise that the Department of Cannabis Control implement a simple solution to very serious concerns regarding the recently proposed emergency regulations of Track and Trace Requirement for Delivery. We are concerned that proposed

subsection(d)(5) language requiring only “the county of the physical location at which the delivery occurred” be recorded into the track and trace system is insufficient and will inadvertently undermine the viability of local governments and the licensed operators located within their jurisdictions.

Recommendation:

Require “ZipCode and City” be recorded into the Track and Trace system instead of “County”

Currently DCC proposed Emergency Regulation:

§15049.3. Track and Trace Requirements for Delivery

(d) For each sale of cannabis goods through delivery, the following information shall be recorded within the track and trace system by the end of the calendar day on which the sale was completed:

*(5)The **county** of the physical location at which the delivery occurred. which is the location at which the cannabis goods were provided to the customer.*

Reasons:

1. **Requiring only “County” is too broad.** This coalition strongly believes that the current language is insufficient and undermines the credibility and confidence in the state's Track and Trace program by requiring only the “county of the physical location at which the delivery occurred” be recorded into the track and trace system.

There are only 58 counties in the entire state. By comparison there are 482 additional local jurisdictions represented through 1737 zip codes. The County of Los Angeles alone makes up 25% of the state population with 89 unique jurisdictions. Recording by county alone is not effective. Prop 64 establishing a dual license system whereby Local Governments have a right to allow or disallow legal cannabis activities. More recently, a number of local governments have voted to allow legal retail of cannabis from delivery operators located outside of their jurisdiction. By limiting the sale data to only record the county and not the local government, they will not have access to data that will allow them to audit and support locally licensed activities.

2. **Undermines locally licensed operators.** As it remains, local governments do not have the necessary data or tools to audit and support their locally licensed operators from unequal competition from outside cannabis delivery operators. The City of Los Angeles has just issued a new round of equity storefront retail licenses and has the intention of licensing hundreds of new equity-based delivery operators. Without a tool to Track and Trace delivery sales, which originated from outside the city, the city's own operators will be subject to unfair competition. Taxes from the local jurisdiction cannot be collected without being able to audit the activities within their city. Furthermore, those outside delivery providers do not abide by local regulations which oftentimes vary from city to city. In the City of LA, for instance, every delivery driver must register their vehicle with the city. Having no way to enforce the same of outside delivery companies only undermines the viability of the cities own operators. The current

proposed language inadvertently disadvantages local operators who have invested heavily both in time and money to establish themselves to operate within their jurisdiction.

3. **Undermines tax collection.** Delivery operators must pay the appropriate sales and use tax for each city. Without the proper Track and Trace data local governments will have no way to audit if the taxes were appropriately paid to them. Similarly, consumers may be over or under taxed. It is vital for tax collection purposes to record the track and trace data by zip code, city, and county.
4. **Will lead to a reduction in market access.** If the state does not support local governments by requiring Track and Trace data that showcases legal cannabis sales within their borders, the local governments will be forced to maintain and enforce a ban against outside delivery. There are notable examples of governments prepared to do so by imposing hefty fines of \$30,000 per incident. Such enforcement actions would only further disadvantage the struggling legal industry against the illicit market. We have strong reason to believe that local governments such as Los Angeles City, Los Angeles County, Long Beach, and others would be willing to do so.

The DCC stated the following as their reason for the proposed regulation:

Proposed subsection (d)(5) requires that the county of the physical location of the delivery be recorded. The proposed subsection also clarifies how to determine the location at which the delivery occurred. This is necessary to provide the Department with information regarding where deliveries of cannabis goods are occurring while at the same time protecting the privacy of customers by only recording the county not recording the specific addresses where cannabis goods are delivered.

We agree that the privacy of the customer should be protected, however, recording only the County of the physical location of the delivery is woefully insufficient in achieving the intent of the Track and Trace requirement and we would propose the following as solution:

Solution:

Require that the Zip Code and City be recorded into Track and Trace. Requiring the Zip Code and City to be recorded will achieve the same goal of protecting the customers privacy and will resolve all above reasons that we have identified as a challenge to both operators and local governments. We strongly support the regulation to be written as follows:

§15049.3. Track and Trace Requirements for Delivery

(d) For each sale of cannabis goods through delivery, the following information shall be recorded within the track and trace system by the end of the calendar day on which the sale was completed:

(5)The Zip Code, City, and County of the physical location at which the delivery occurred, which is the location at which the cannabis goods were provided to the customer.

Thank you for taking our concerns into consideration. Should you have any further questions please contact Marvin F. Pineda, Esq. from California Advocacy at 916-869-3685.



Ada Waelder
Legislative Representative
California State Association of
Counties



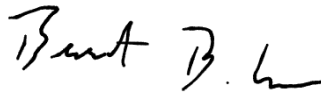
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