



CALIFORNIA CANNABIS INDUSTRY ASSOCIATION

PUBLIC COMMENTS TO CDPH

The California Cannabis Industry Association (CCIA) was formed to unite the legal cannabis industry to help educate and act as a resource to lawmakers and our members. Our unified voice includes over 460 California businesses representing nearly 650 brands and approximately 10,000 employees. We would like to thank the California Department of Public Health (CDPH) for their hard work in crafting the proposed draft permanent regulations. We appreciate the time and diligent efforts the CDPH has extended to address the concerns of the cannabis industry as well as ensuring the safety of patients and consumers of cannabis products.

CCIA, representing a collective group of California cannabis industry businesses and its customers, along with our supply chain committees and Board of Directors, would like to take this opportunity to submit these comments to the draft permanent regulations.

Our comments seek to optimize the draft permanent regulations by addressing the business concerns of the cannabis industry as well as clarify public safety issues. The objective is not to reject regulation but rather to enhance regulations to combat the illicit market and support the newly regulated cannabis industry, pushing it towards success both commercially as well as maintaining patient and consumer safety.

In implementing the draft permanent regulations we ask that the CDPH be thoughtful of the industry as a whole. While there are some large commercial cannabis businesses, many are small and independently operated, and new to regulated markets. CCIA has found its members are eager to comply with issued regulations but at the same time overwhelmed by the financial and logistical burdens of implementation.

We thank the CDPH for its review and objective consideration of these comments.

SUMMARY of COMMENTS

1. Section 40410(e). “Labeling Restrictions: picture of edible”
2. Section 40410(f). “Labeling Restrictions: Use of Organic”
3. Section 40513(d). “Track and Trace System-Loss of Access”
4. Section 5413. “Exit Packaging”
5. Additional Recommendations:
 - a. Supply Chain Sampling
 - b. Compassionate Care Programs
 - c. Research & Development

1. Section 40410(e). “Labeling Restrictions: Picture of Edible”

Section 40410(e) states the following:

Cannabis product labeling shall not contain any of the following:

(e) If the product is an edible product, a picture of the product contained therein.

Comment: We feel this restriction is onerous and unnecessary.

Recommendation: CCIA recommends striking this section.

2. Section 40410(f). “Labeling Restrictions: Use of Organic”

Section 40410(f) states the following:

Cannabis product labeling shall not contain any of the following: (f) For purposes of this section, false or misleading information includes any indication that the cannabis or cannabis product is organic, unless the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Page 95 of 111 July 3, 2018 CA Section 6501 et seq.)) authorizes organic designation and certification for cannabis and the cannabis or cannabis product meets the requirements for such designation and certification. This includes use of the word “organic” on the labeling or variants in spelling such as “organix.”

Comment: We believe this language is too restrictive and should be clarified to permit licensed operators to state “made with organic” on their products’ information panel provided they meet the criteria set forth by the United States Department of Agriculture (USDA) as part of its [National Organic Program](#). According to the USDA, products can be labeled “made with organic” if the product contains at least 70% organically produced ingredients (excluding salt and water).

Recommendation: CCIA recommends that the regulations mirror the requirements established by the USDA with respect to labeling organic products.

3. Section 40513(d). “Track and Trace System-Loss of Access “

Section 40513(d) states the following:

(d) A licensee shall not transfer cannabis products to another licensee or receive cannabis or cannabis products from another licensee until such time as access to the track-and-trace system is restored and all information is recorded into the track-and trace system.

Comment: Subsection (d) will unquestionably have unintended consequences resulting in shutting down the entire legal marketplace. METRC *will* inevitably experience technical difficulties resulting in a system wide shut down. In an industry of unknowns, one constant is that all technology providers experience technical difficulties. California is arguably the largest cannabis market in the world and its operators would be crippled and paralyzed should a shutdown of the METRC system occur. An example of a system shut down involving METRC occurred in Maryland with approximately 47,000 patients, a fraction of the consumers in California.

Here in California we are looking at an enormous amount of data being uploaded with 50+ data points required across five license categories, with various sub-licensing categories, coupled with significant amount of back stock inventory and a system that is continuing to generate data.

Technology will fail and cause delays of an unknown amount of time.

Recommendation: Strike section 40513 (d).

4. Section 5413. "Exit Packaging"

Section 5413 states the following:

Cannabis goods purchased by a customer shall not leave the licensed retailer's premises unless the goods are placed in a resealable child-resistant opaque exit package.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070.1 and 26120, Business and Professions Code.

Comment: Further legitimizing the regulated market requires the industry to support best practices that promote public safety and comply with mandated regulations set forth by our licensing entities. In furtherance of these goals, the California cannabis industry responded to and conformed with multiple iterations of child resistant packaging regulations aimed at keeping cannabis and cannabis products out of the hands of underage minors.

CCIA remains strongly committed to adhering to strict CRP requirements and has been working with the licensing entities to meet the following objectives.

1. Ensure that strict child resistant packaging (CRP) requirements are maintained;
2. Encourage the use of environmentally sustainable CRP alternatives that support our state's environmental objectives, including the reduction of unnecessary landfill waste;
3. Promote consumer education programs on appropriate storage and use;
4. Minimize costly and burdensome requirements on the cannabis industry; and
5. Protect cannabis businesses from undue liability.

Recommendation:

CCIA supports section 5413, which requires the use of resealable child-resistant opaque exit packages at the retail level. We also support efforts that encourage 1) the use of recyclable and/or

biodegradable exit bags by January 1, 2022; 2) the development of a robust consumer education program to promote responsible cannabis storage and use that deters underage access; and 3) efforts aimed at protecting cannabis businesses from strict liability in the event that consumers misuse or abuse purchased cannabis and cannabis products.

5. Additional Recommendations:

(a) Supply Chain Sampling

Allowing licensed operators to provide samples throughout the supply chain is an important business activity. However, a strict interpretation of Section 26153 of the Business & Professions Code prohibits a licensee from giving away any amount of cannabis or cannabis products, or any cannabis accessories. In other consumed good industries such as wine and food products, distributors, manufacturers and others in the supply chain are able to provide limited samples of products to retailers for them to sample to determine if the product meets their consumer and sales needs. For example, a retailer may only want to carry products that complement existing inventory or address a specific flavor. Being able to provide a sample allows retailers to make more informed choices about the products they carry and address business concerns. Similarly, cultivators may want to provide samples of flower to distributors, retailers and manufacturers to demonstrate quality or consistency of their product. This activity is performed in other agricultural industries and cannabis is being unfairly restricted as the current regulatory language would prohibit such activities. For clarity, CCIA is not recommending samples be made available to end consumers in any form. Rather CCIA understands the legitimate business needs of cultivators, manufacturers, distributors and retailers in purchasing new products, carrying product lines and understanding the plants themselves. Samples address this need. As this poses no public safety issues and continues to restrict sample to end consumers, we recommend that the BCC provide guidance that expressly permits licensed distributors to provide free products samples to retailers as part of its normal business activity.

(b) Compassionate Care Programs

Compassionate care programs are a foundational cornerstone of the regulated cannabis market. These programs provide necessary care for patients and are essential to maintain. As such, CCIA strongly urges the CDPH to work with the BCC to exempt compassionate care programs from paying state cannabis taxes when they are providing free medical cannabis to financially disadvantaged people living with serious health conditions. Not-for-profit donation programs have been serving medical cannabis patients for decades and are now being forced to pay taxes meant for commercial businesses. The current cannabis tax structure is placing compassionate care programs at risk and needlessly burdening seriously ill patients and their caregivers. Patients with life threatening conditions such as HIV/AIDS, cancer and epilepsy will be faced with considerable costs for medical cannabis and in many cases will no longer be able to access as programs close and financial burdens increase. Compassionate care programs should be exempt from paying state cannabis taxes so they can continue to use their resources to support financially disadvantaged patients.

(c) Research & Development

Little is known about which cannabis contaminants pose a health risk to humans, especially when the cannabis in question is combusted prior to consumption. CCIA recommends that the state fund research into the public safety threat posed by microbiological and/or pesticide contaminants present in cannabis products intended for consumption by combustion.

CCIA further recommends that future changes to increase testing standards are proposed only in response to demonstrated consumer safety threats. Furthermore, where perceived risks are shown to be unwarranted, CCIA recommends that testing standards are liberalized.

In addition, current regulations provide no allowance for any license type (other than nurseries) to conduct R&D internally for product development. While funding research is necessary and much needed, so is internal exploration for product development and the ability to do market research.

