



To: RCRC Board of Directors
From: Matt Kingsley, Chair and Inyo County Supervisor
Paul A. Smith, Vice President Governmental Affairs
Arthur Wylene, General Counsel
Date: January 8, 2019
Re: Ad Hoc Advisory Committee on Cannabis Regulation Enforcement -
ACTION

Summary

This memo provides a report of findings from the RCRC Ad Hoc Advisory Committee on Cannabis Enforcement (Committee).

Background

At the January 2018 RCRC Board of Directors meeting several RCRC member counties expressed an interest in the creation of an ad hoc committee to address the proliferation of cannabis grows. As a result, RCRC staff researched the ability of creating an ad hoc committee, and discussed the scope such a committee would undertake.

The Committee focused on gathering a better understanding of the options and tools rural counties have to better enforce a county's cannabis regulatory scheme, as well address enforcement of a county's ban on commercial cannabis activities.

The following Supervisors were appointed to serve on the Committee at the March 2018 RCRC Board of the Directors meeting:

Matt Kingsley, Inyo County – Chair
Doug Teeter, Butte County – Vice Chair
Lee Adams, Sierra County
Geri Byrne, Modoc County
Randy Fletcher, Yuba County
Jack Garamendi, Calaveras County
Jim Steele, Lake County

The Committee's "mission statement" reads:

The Ad Hoc Advisory Committee (Committee) will consider options for enforcing state laws and local ordinances regulating commercial cannabis activities, and the challenges arising from unpermitted, unlicensed, and illegal cannabis activities in rural areas. The Committee will examine the

nature and scale of the impacts of such unlawful cannabis operations in rural areas, the state and local resources available to enforce applicable regulations, and the best practices for achieving compliance with state laws and local ordinances. Input will be sought from representatives of state and local regulatory agencies and participants in the regulated cannabis industry, as well as RCRC staff. It is anticipated that the Committee will report its findings back to the Board of Directors by January 2019.

Issue

The Committee met four times before composing its final report.

At the April 26th meeting, the Committee heard from three speakers regarding Humboldt County's cannabis enforcement scheme, and what works, and what has not worked.

Alex Spelman, Vice President of Business Development at SICPA, made a brief statement regarding SICPA and the contract they have with Humboldt, Mendocino, and Yolo Counties to service each county's track-and-trace schemes.

Terra Carver, Executive Director of the Humboldt County Growers Alliance, made a brief statement regarding her background in the cannabis industry, and her perspective on Humboldt County's approach to cannabis enforcement.

John Ford, Director of the Humboldt County Planning & Building Department, gave a presentation regarding Humboldt County's regulatory approach to cannabis and implementing enforcement techniques, including:

- Humboldt County uses a "carrot-and-stick" approach toward unpermitted growers who demonstrate willingness to obtain a permit. Such growers are required to pay a fine equal to twice the applicable cultivation tax, in addition to all other permit fees. Humboldt County's revised ordinance (likely adopted in mid-May 2019) will open a pathway to see these growers are permitted, subsequently bringing them into compliance.
- California Department of Fish and Wildlife (CDFW) initially targeted some permitted growers and those seeking permits, hampering efforts to obtain voluntary compliance. However, Humboldt County has worked positively with DFW, and these issues have mostly subsided.
- Unpermitted growers who do not demonstrate a willingness to obtain a permit receive a notice to abate, and a notice of violation imposing administrative penalties of \$10,000/per day plus enforcement costs. These letters are very effective at obtaining voluntary compliance and/or self-abatement. Failure to address these penalties results in liens being placed on offending properties.

At the June 20th meeting, the Committee heard from Joseph Devlin, Chief of Cannabis Policy and Enforcement with the City of Sacramento, regarding the city's cannabis enforcement scheme. Mr. Delvin has twelve positions at his disposal, including positions in code enforcement, fire, police, and legal. Mr. Devlin indicated that permit fees currently cover enforcement effort costs.

Mr. Delvin shared two key enforcement dynamics for the City of Sacramento: 1) conditions of licensure; and 2) eradication of black market activities, such as home cultivation destined for export the market and illegal retailers.

Mr. Delvin explained that the City of Sacramento levies excise taxes, and proceeds from the excise taxes are appropriated at the City Council's discretion. Additionally, Mr. Delvin discussed the July 1, 2018 deadline whereby a grace period ended for products acquired before January 1, 2018. On July 1st, cannabis products must be destroyed, tested, and/or labeled correctly in order to be legally sold. Mr. Delvin noted there is great fear that these cannabis products will find a way into the black market after the deadline.

Lastly, Mr. Delvin expressed his desires to work with neighboring counties and cities to work on better enforcement against all types of illegal cannabis activities.

The Committee travelled to West Sacramento to tour a cannabis distribution facility, River Distribution. The Committee was able to see first-hand the various aspects of the roles and responsibilities cannabis distributors have in the regulatory scheme.

There was much discussion pertaining to the July 1st grace period deadline, and the impact it could have on the flow of cannabis products in both the legal and illegal market. River Distribution stressed their desire to see further crackdowns by state regulators on illegal retailers.

At the August 15th meeting, the Committee heard from five speakers regarding how the California Department of Food and Agriculture (CDFA), the State Water Resources Control Board (SWRCB), the CDFW, and Tim Townsend with the Office of Assembly Member Tom Lackey (R-Palmdale) are handling the cannabis enforcement scheme.

At the December 5th meeting, the Committee heard from several speakers, including: Rob Bovett, Legal Counsel, Association of Oregon Counties (AOC); Jeff Rhoads, Governor's Policy Advisor, Office of Oregon Governor Kate Brown; and, Jesse Sweet, Director of Administrative Policy and Process, Oregon Liquor Control Commission (OLCC).

Committee Recommendation

The Committee requests that the RCRC Board of Directors adopt and approve the following recommendations:

- 1) Communicate the following list of local best practices to member counties for their consideration:
 - "Carrot-and-stick" enforcement policies that differentiate between those operators who demonstrate willingness and ability to comply with local ordinances and state law, and those who do not.
 - Provide operators who do demonstrate willingness to comply with state and local laws/regulations and standards with modest penalties to encourage a pathway to licensure and compliance.

- Impose substantial civil or administrative penalties upon operators who do not demonstrate willingness to comply, in amounts sufficient to remove the financial incentives for non-compliance.
 - Develop and maintain relationships with the local offices of those state agencies responsible for regulating cannabis operators (e.g., California Department of Fish and Wildlife and Regional Water Quality Control Board), to ensure consistent communications and facilitate compliance by willing operators.
 - Establish regional cooperation between neighboring counties and cities to promote consistent and effective compliance and avoid jurisdiction-shopping.
 - Build enforcement costs into the county's commercial cannabis permit fees, and ensure that these amounts are sufficient for effective enforcement.
- 2) Instruct RCRC's advocacy team to pursue the following state legislative priorities:
- Support legislative proposals to increase state agency enforcement resources and capacity specifically dedicated to cannabis, similar to Governor Brown's 2018 budget proposal.
 - Support proposals to provide grant funding to local agencies for cannabis enforcement, including funding from the General Fund and other sources available to counties that do not permit commercial cannabis activities or outdoor cannabis cultivation.
 - Support legislation to increase the legal tools available to counties to enforce cannabis ordinances, including administrative penalties, liens, and abatement remedies, and oppose any proposals to remove existing enforcement tools or render them less effective.

Attachment

- RCRC Resolution 18-03: Establishment of Board of Directors Ad Hoc Advisory Committee on Cannabis Regulation Enforcement