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PERSPECTIVE

MUNICIPAL MATTERS

Release of state regulations clears way for legal pot sales to begin

By Derek P. Cole

By now, most have heard that cannabis will be legal to purchase in California on Jan. 1, 2018. That is the result of approval of Proposition 64 last November.

Since passage of that initiative, state government has been busy developing a regulatory framework to manage every aspect of the new, legal cannabis industry. Earlier this month, the state released comprehensive regulations intended to allow the industry's startup.

For those who work with local government, the focus has been on getting ordinances in place before the state administrative apparatus is in place. Not knowing how the state would regulate the new industry, many cities and counties have chosen to enact their own regulations — and in some cases, bans — to ensure local control.

With release of the new regulations, cities and counties can now get a glimpse of what a regulated cannabis industry will look like. The regulations address every facet of the cannabis production process, from seed to final product.

How businesses are regulated will depend on the types of commercial activities in which they engage.

Cultivators. At the start of the supply chain are the businesses that grow pot. These businesses must receive licenses from the branch of California Department of Food and Agriculture known as CalCannabis. The types of licenses required vary depending on the sizes of the cultivation sites, number of plants, and whether growing occurs indoors or outdoors. Among other things, Cal-Cannabis will regulate cultivators' growing practices, pesticide applications, water usage and waste generation.

Manufacturers. After being cultivated, the usable portions of the pot plant are transported to a broad range of manufacturers, who will create the products consumers will purchase. Generally, manufacturing involves the extraction through chemical pro-

cesses of cannabinoids — the compound tetrahydrocannabinol, or THC, and the less psychoactive compound, cannabidiol, or CBD — from the cannabis flowers.

The licensing authority for manufacturers is the Manufactured Cannabis Safety Branch, which will regulate the safety and security of manufacturing facilities, the sanitary practices they must follow, and the quality of their products. This agency will issue different types of licenses depending on the types of solvents used in the businesses' extraction processes. Other types of licenses will be issued for manufacturers that engage only in labelling or packaging.

Distributors. After their manufacture, finished cannabis products are stored and transported to the businesses that will sell or provide the products to consumers. Under the state regulatory scheme, cannabis must pass through a distributor; it cannot be exchanged directly between a cultivator and retailer.

The businesses that engage in distribution activities are regulated by the Bureau of Cannabis Control, which will issue the businesses a distributor license. Businesses that engage only in transportation of cannabis products are issued transporter licenses.

Under bureau regulations, distributors must ensure vehicles are secure at all times and equip their vehicles with alarms. Cannabis must not be visible from outside delivery vehicles and must be stored in a locked and secured box or container. Delivery vehicles also must always carry detailed shipping manifests.

Laboratories. Within the overall commercial process are testing laboratories, which exist to ensure cannabis is safe for human consumption. These facilities, which the bureau will regulate through issuance of testing-laboratory licenses, will take samples from harvest and product batches and issue certificates of analysis indicating whether the batches pass or fail. Batches may not be sold



New York Times News Service

A medical cannabis dispensary on the Venice Beach Boardwalk in 2012. Beginning Jan. 1, 2018, it will be legal to purchase cannabis for recreational use in California.

if they do not initially meet or cannot be remediated to meet state standards.

Dispensaries. At the end of the supply chain are the facilities where cannabis retail or commercial transactions will take place. The term “dispensary” is already a well-known term describing medical cannabis storefronts; its usage is continued within the new, expanded regulatory scheme.

The bureau will issue retailer licenses for dispensaries, which can include the traditional storefront operation or mobile delivery services. Storefront operations will not be allowed to package or label cannabis products on their premises. They will be required to observe hour limitations and place all sold products opaque packages. They may not sell tobacco and alcohol products.

Delivery operations may only be carried out by direct employees of the dispensary. Delivery vehicles may carry no more than \$3,000 in products at any time.

Microbusinesses. The above types of businesses require separate licenses. Microbusinesses, however, are small-scale businesses that may combine a combination of cultivation, manufacturing, distribution, or retail so long as they engage in at least three of the four activities.

Common Requirements. With the exception of testing laboratory licenses, the above types of licenses must designate whether they are for

adult-use (“A-license”) or medical (“M-license”) operations. But both adult-use and medical products can be manufactured, distributed or sold at the same facility so long as the A and M-licenses are held by the same business and the adult-use and medical products are separately marked.

Licenses are valid for one-year terms but may be renewed annually. There is no limit to number of licenses a business may hold, but businesses that hold licenses for testing laboratories are prohibited from obtaining a license for any other type of facility.

Tying all of the different types of business together is a “track and trace” system that will record the movement of cannabis throughout the commercial process. Licensees will be required to ensure the cannabis they receive originated and has remained with the regulated system.

All facilities must store cannabis waste in secured receptacles or areas. They must secure their facilities with security personnel and 24-hour video surveillance in areas containing cannabis products, entryways, exits and other key areas. All business employees must be 21 or older. Businesses employing more than 20 employees must enter into labor peace agreements.

Before issuing licenses, the state agencies must confirm that commercial cannabis activities are authorized by the city or county where they would occur.

Many local agencies have waited anxiously to see how a state-regulated cannabis industry would function. In January, they will find out.

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