



*California Chapter of the National Organization for the Reform of Marijuana Laws
2261 Market St. #278A, S.F., CA 94114 - www.canorml.org - (415) 563-5858 / (510) 540-1066*

Aug 14, 2018

Ms. Lori Ajax, Director
Bureau of Cannabis Control
P.O. Box 419106
Rancho Cordova, CA 95741

Re: Cannabis Delivery Permanent Regulation 5416(d) – Support

Director Ajax:

On behalf of California's many consumers living in jurisdictions that have banned licensed sales of cannabis, we wish to express our strong support for your proposed regulation Chapter 3, Sec. 5416(d), which clarifies that licensed cannabis delivery businesses may drive and deliver their wares to residents in any jurisdiction in California.

Regrettably, the majority of California's local governments have been remiss in permitting legal access to cannabis within their jurisdictions, even where local voters favored Prop 64. As a result, far too many consumers lack legal access to cannabis in their communities. This situation is especially bad for medical cannabis patients, many of whom suffer mobility problems and have trouble accessing legal dispensaries. This situation is apt to get worse with the termination of SB 420 collectives in January, 2019.

No useful purpose can be served by allowing local governments to ban licensed deliveries within their jurisdictions. Consumer deliveries do not pose appreciable risks to public health or safety. Nor do they fall within the traditional constitutional powers of local governments to regulate land use.

MAUCRSA specifically provides that "a local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200" (BPC 26090(e)). While supporters of local bans argue that Section 26200 authorizes local governments to "completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdictions," this language does not apply to activities protected elsewhere in Prop 64, in specific, the right of consumers to purchase and obtain

cannabis at their homes (HSC 11362.1 (a) 1 and HSC 11362.2). Moreover, Prop 64 (BPC 26080(c)) specifically forbids local jurisdictions from preventing transportation of cannabis products on public roads by licensees. Given that local governments are already required to accommodate licensed transportation of cannabis, there exists no argument on public health or safety grounds that residential deliveries pose unusual risks to the community. On the contrary, the right of consumers to obtain and purchase cannabis is explicitly protected by Prop. 64.

Furthermore, it must be emphasized that any extraordinary powers conferred on local governments under Prop. 64 do not apply to medical cannabis, only adult use. This is clear from the “Purpose and Intent” section of Prop 64, which consistently specifies that it applies to “nonmedical” use, and HSC 11362.3 (f), which states: “Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.” There exists no justification or precedent for allowing local communities to ban the delivery of medication to residents in their jurisdictions. On the contrary, such restrictions would violate the mandate of Prop. 215 “to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes” and “provide for the safe and affordable distribution of marijuana to all patients in medical need.”

Finally, allowing state-licensed deliveries everywhere in the state will reduce the incentive for consumers to resort to the illicit market. Local delivery bans are only effective against state-licensed delivery services, which are tracked by the state. Otherwise, they are extremely difficult to enforce. Local delivery bans thus encourage the proliferation of unlicensed deliveries from the illicit market. The Bureau’s proposed regulation allowing home deliveries will therefore help reduce marijuana crime by assuring that all California consumers have convenient access to legal, licensed suppliers.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Gieringer", is placed on a light gray rectangular background.

Dale Gieringer, Ph.D.
Director, Cal NORML
Co-author, Prop. 215
(510) 540-1066 – dale@canorml.org