



## **Permanent Closure**

Suggestions for Ending the Presence  
of  
Unlicensed Cannabis Retailers  
Open to the Public

Founded four years ago, the Southern California Coalition is the Southland's largest trade association for cannabis stakeholders. It is unique in that it has meaningful partnerships with organizations like Americans for Safe Access and organized labor. Our board includes participation by veterans, social equity candidates and women. The Southern California Coalition was an early, strong supporter of the Los Angeles Social Equity Program. The organization works closely with legislators at the local, state and federal level to ensure cannabis policies are inclusive and fair. Our Executive Director, Adam Spiker, can be reached at: (714) 654-1930 or [adam@southerncaliforniacoalition.com](mailto:adam@southerncaliforniacoalition.com)



## Table of Contents

Introduction .....	Page 3
Continuing to Test Products Coming from Unlicensed Shops Will Separate Those Operating a Business Without a License from Those Poisoning the Public .....	Page 5
Dismantling Illegal Businesses Will Permanently End Unlicensed Retail Cannabis Activity.....	Page 5
Barricading the Business in Addition to Turning Off the Power.....	Page 6
Seizure of the Cannabis Inventory.....	Page 6
Discouraging Employment at Unlicensed Shops.....	Page 7
Deadbeat Dads.....	Page 8
Collaborative Efforts Which Might Help End Patronage of Illegal Entities.....	Page 8
Taxation as a Method of Cost Recovery.....	Page 9
Targeted Public Information Campaigns Relating to Closure.....	Page 9
Other Dangerous and Illegal Practices Which Endanger the Public.....	Page 10
Unregulated Products Which Exceed State Mandated Dosages.....	Page 10
Counterfeit Products and Knock-Offs.....	Page 11
Legal Products in Unlicensed Shops.....	Page 11
Misrepresenting the THC Content or Otherwise Misrepresenting the Product.....	Page 11
Sales to Minors.....	Page 11
Red Tagging and Electrical Inspections.....	Page 12
Prioritizing Enforcement in Underserved Areas.....	Page 12
Annotations and References.....	Page 14



## Introduction

This white paper is not a critique of previous or current enforcement efforts. The City of Los Angeles (the City) has adopted a wide array of enforcement techniques. It has diligently pursued closures since 2013. The comprehensive list of retailers closed by the City has been taken off the City Attorney's website, but as early as 2015, the City Attorney's office had already closed over 500 shops.<sup>1</sup>

On April 17, 2019, the City Attorney's office took another ground-breaking step in ending the proliferation of unlicensed establishments, when it launched the first civil enforcement action in California to allege cannabis sold by an unpermitted location contains pesticide.

Our organization urges the City, in the strongest possible terms, to continue testing cannabis and cannabis products in unlicensed shops. When contaminated products are found, the site should be immediately barricaded, and the owners and landlords prosecuted to the full extent of the law.

The proliferation of contaminated cannabis products sold by unlicensed shops is a state-wide problem.<sup>2</sup> Because the effects of pesticide poisoning and the accumulation of heavy metals in the body are cumulative they may not fully manifest immediately after exposure. The failure to close shops peddling poison may precipitate a health crisis that drags on for years.

The leadership of the City Attorney's office in this area may well become the template for how this problem is eradicated throughout the state.

There is another compelling reason for closing these shops via a combination of charges and fines so onerous that the shop cannot relocate and re-open.

The current proliferation of unlicensed shops creates an environment where licensed shops, who are paying taxes and carrying heavy regulatory costs cannot compete with illicit operators. Many of these shops are small businesses still operated by their Pre-ICO founders. They are being driven towards bankruptcy because they are surrounded by rogue operators whose lack of tax burdens and regulatory costs means they can offer products at a steeply discounted rate.

Additionally, the only way to ensure the success of the Social Equity Program is to eradicate all illicit retail operators, and to do so in a way which makes it impossible for any other bad actor to take their place. If this does not happen, social equity retailers serving the public will come into a marketplace so saturated with unlicensed competition that they will be unable to acquire enough market share to survive.

Thus, it would be prudent to examine how current enforcement tools can be enhanced and what new methods can be employed to eradicate the remaining illegal retail cannabis businesses.



Poisoning the public, knowingly misrepresenting products in the interests of maximizing revenues, selling counterfeit items, maintaining an unsafe workplace, these are all activities that injure workers and the public. They should not be tolerated by the City of Los Angeles.

In the following sections we propose solutions which would strengthen enforcement efforts and help bring about the permanent closure of cannabis retailers whose behavior is so egregious that they present an ongoing threat to the public's safety and welfare.

IT SHOULD BE NOTED THAT THIS WHITE PAPER ADDRESSES ONLY ENFORCEMENT RELATED TO UNLICENSED RETAIL OUTLETS OPEN TO THE PUBLIC. BOTH THE PUBLIC AND STAKEHOLDERS HAVE MADE IT CLEAR THAT THESE ENTITIES ARE PROBLEMATIC AS WELL AS CONSTITUTING THE BULK OF COMPLAINTS COUNCIL OFFICES RECEIVE RELATING TO CANNABIS BUSINESSES. BECAUSE THEY ARE OPERATING IN PLAIN VIEW, THEY ARE EASILY LOCATED AND ENFORCED AGAINST, ALLOWING THE CITY TO PRUDENTLY SPEND ITS ENFORCEMENT MONIES.





### **Continuing to Test Products Coming from Unlicensed Shops Will Separate Those Operating a Business Without a License from Those Poisoning the Public**

It's important that the City differentiate between someone operating a business without a license and those who are operating businesses which impact the health and safety of the public.

The easiest and fastest way to do this is to make multiple purchases at a location that is unlicensed and test the cannabis and cannabis products with tests identical to those that licensed cannabis and cannabis products are required to pass before they can be sold to the public.

The City Attorney's office has already identified and closed one shop whose products were a threat to the public's health and safety. Our organization hopes the City will zealously pursue the identification of other shops similarly situated.

This is an expensive process, but necessary to ensure the health and safety of the public. To offset this cost the City is already contemplating an ordinance that requires recovery of all expenses related to the shutdown of unlicensed shops.<sup>3</sup> The Southern California Coalition and its coalition partners stand in strong support of this motion and have already begun outreach to other groups, such as organized labor and social equity groups to try and garner as much support for the motion as possible.

The City should also carefully scrutinize the products, as many of them may be counterfeit.

Once a location selling poisoned or counterfeit products is identified, the City should immediately shut down the business, and seize all cash and inventory. The entity is contributing to a health and safety problem and should be prosecuted to the full extent the law allows.

### **Dismantling Illegal Businesses Will Permanently End Unlicensed Retail Cannabis Activity**

Enforcement must not merely close down illegal retailers but must also render them bereft of all assets that would enable the illegal actor to reopen in another location or sell the business to a successor-in-interest.

Currently it appears that the City's enforcement is focused on closing illicit retail businesses, not dismantling them. This method means all the entity's assets are still intact, the business just can't operate at its current location. All it needs is a new address, the illicit operators have everything else they need: inventory, fixtures, employees and cash.

Recently, the City turned off the power at an unlicensed cannabis retailer but left the business intact<sup>4</sup>. When the Los Angeles Times contacted the business, a spokesperson indicated that the illegal entity would re-open in ten days.



## **Methods for Dismantling Illegal Retail Operations Which Entertain the Public**

### **Barricading the Business in Addition to Turning Off the Power**

Simply shutting down the power has resulted in illegal shops acquiring generators and immediately re-opening. Another method for closure must be found<sup>5</sup> While the City can issue tickets for an unpermitted generator this may, depending on how much money the shop is making, just be shrugged off as the cost of doing business.

The idea that dismantling a business works better than just closing it down, is greatly aided by a new, proposed enforcement tool which allows rogue shops to be locked up and barricaded. Barricading relieves the City of the obligation to seize bulky fixtures, such as huge display cases, and other things necessary to run the business.

Seizure of assets prior to conviction has long been a drug war tactic and we'd like to avoid it here. Simply locking everything up until things can be sorted out in court is a softer approach and provides a real incentive for both the property owner and the business operator to begin negotiations with the City Attorney or proceed into court.

Failure to seize inventory and any cash relating to the business may materially aid the illegal entity in re-opening. In cases where the operator has been engaging in serious crimes, like poisoning the public, seizure of inventory and cash are prudent steps to end life-threatening behavior.

### **Seizure of the Cannabis Inventory**

The most clear and present danger to the public is contaminated cannabis and cannabis products.<sup>6</sup> Thus, before prioritizing closures, the City should determine which shops are selling unsafe products or engaging in other serious crimes.

There is a very important reason to test the inventory of an unlicensed entity before any other actions are taken. Under State law, cannabis licensees can only do business with other licensees.<sup>7</sup> This means cannabis testing labs cannot test the cannabis or cannabis products that rogue retailers carry.

Because those who grow this illegal product are more interested in yield than safety, there's a high probability the cannabis and cannabis products in these shops are contaminated with pesticide residue and other deadly substances.<sup>8</sup>

All cannabis and cannabis products in these illicit shops should be tested, with the rogue operator paying for the testing.

If the results show the inventory is contaminated, civil nuisance abatement should be abandoned. The operation should be shut down immediately and the stiffest penalties possible, including incarceration, should be pursued.