20-17 - Cannabis (Marijuana) Retailers (Dispensaries)

Los Angeles County Sheriff's Department
NEWSLETTER
Field Operations Support Services

CANNABIS (MARIJUANA) RETAILERS (DISPENSARIES)

With the legal sale and use of medical cannabis and adult-use of cannabis, the number of cannabis (marijuana) retailers (dispensaries) are increasing. The state has placed strict regulations and laws regarding the cannabis business. This newsletter will discuss some of those regulations and laws and what deputies should do when encountering a retail business of cannabis and cannabis products.

Storefront dispensaries present obstacles for patrol deputies that require a keen knowledge of cannabis laws and regulations. These businesses almost always have high quality surveillance that include audio, and employ staff and attorneys who have pre-planned actions and cover stories to mitigate our enforcement efforts. Absent some extenuating or emergent circumstance, deputies should confer with their station's Narco Crew for guidance should they believe enforcement inside a storefront dispensary is necessary, particularly if it involves seizing cannabis and/or cash.

Cannabis businesses are governed by three California agencies and each agency has a different aspect of the cannabis industry. The Bureau of Cannabis Control, a division of the Department of Consumer Affairs, is responsible for licensing retailers, distributors, testing labs, microbusinesses, and temporary cannabis events. The CalCannabis Cultivation Licensing, a division of the California Department of Food and Agriculture, is responsible for licensing cultivators and implementing a track-and-trace system to record movement of cannabis throughout the distribution chain. The Manufactured Cannabis Safety Branch, a division of the California Department of Public Health, is responsible for all manufacturing of cannabis.

Deputies should also know the city and county requirements regarding cannabis retailers as additional restrictions and/or a business license, etc., may be required for that city or county.

The following licenses will be associated with a cannabis retailers:

- Type 6 – Manufacturer 1
- Type 7 – Manufacturer 2
- Type 10 – Retailer
- Type 11 – Distributor
- Type 12 – Microbusiness (the cultivation of cannabis on an area less than ten thousand square feet, act as a distributor, Level 1 manufacturer, and retailer)

In addition to the types of licenses, the licenses will be marked for medicinal or adult-use. The "M" is used for

medicinal and the “A” is used for adult-use. An example would be “M-Type 10” or “A-Type 10”. The reason for the separation of medicinal and adult-use of cannabis is the tax base is different for the two types of uses. An additional reason is the amount the customer may purchase and age of customer. A cannabis retailer may sell both medicinal and adult-use cannabis, but they must have both licenses.

Pursuant to Penal Code section 26140, a cannabis retailer with an A license:

- Shall not sell cannabis or cannabis products to anyone under 21 years of age;
- Shall not allow anyone under 21 years of age on the premises;
- Shall not employ anyone under 21 years of age; and
- Must view a valid government-issued identification card from the person purchasing the cannabis or cannabis product to prove the person buying the product is 21 years of age or older.

A cannabis retailer with an M license:

- Shall allow a person 18 years or older on the premises who possesses a valid government-issued identification card and either a valid medical marijuana card or a valid physician’s recommendation for themselves or for whom they are a primary caregiver;
- May sell cannabis, cannabis products, and cannabis accessories to a person 18 years of age or older who possess a valid government-issued identification card and either a valid medical marijuana card or a valid physician’s recommendation for themselves or for whom they are a primary caregiver; and
- Shall allow anyone 21 years of age or older on the premises.

If a building houses an illegal dispensary and the owner of the building knowingly rents, leases, or makes available the building for the illegal cannabis retailer, deputies may issue a citation to the owner of the building for 11365.5(a) H&S which is a misdemeanor. If the owner has a prior conviction for this section, it is a felony (11365.5)(c).

Branding of cannabis or a cannabis product is the packaging and labeling of the product. The Manufactured Cannabis Safety Branch of the California Department of Public Health is responsible for ensuring the branding of cannabis and cannabis products is done within the laws of section 26120 B&P. Pursuant to section 26120 B&P, the packing and labeling of cannabis products must include:

- Prior to sale, the product must be labeled and placed in a resealable, tamper-evident, child-resistant package;
- A government warning statement specific to cannabis and cannabis products. The exact verbiage can be found in section 26120(c)(1)(A) and 26120(c)(1)(B) B&P;
- Packaging containing only dried flower, must contain the weight of the cannabis in the package;
- The identification of the source and date of cultivation;
- The type of cannabis or cannabis product;
- The date of manufacturing and packaging;
- List of pharmacologically active ingredients (example THC), with the amount in milligrams per serving, servings per package, and the amount for the total package for each pharmacologically active ingredient;
- A warning if nuts or other known allergens are used;
- The unique identifier issued by the California Department of Food and Agriculture;

- Medicinal cannabis sold at a cannabis retailer, must include the statement “For Medical Use Only;” and
- Only generic food names may be used to describe ingredients in edible cannabis products.

A product is misbranded if:

- The product is manufactured, packaged, or held on a premises which is not licensed by the state for such act;
- The labeling on the product is false; and
- The labeling on the product does not conform to section 26120 B&P.

Not only is it illegal to misbrand a cannabis product, but it is illegal to manufacture, sell, deliver, hold, or offer for sale a product that has been misbranded (26121 B&P). If a deputy believes that a product has been misbranded, the deputy should contact the Manufactured Cannabis Safety Branch to verify and report the misbranding.

Retailers, microbusinesses, and licensed nonprofits may deliver cannabis and cannabis products to customers. A local jurisdiction cannot prevent the delivery of cannabis or cannabis products by a cannabis retailer, microbusiness, or licensed nonprofit. All employees delivering cannabis or cannabis products must carry a current copy of the cannabis retailer’s license and the employee’s government-issued photo identification card. During delivery of the cannabis or cannabis products, the cannabis retailer shall maintain a copy of the delivery request. A customer requesting delivery of cannabis or cannabis products shall maintain a physical or electronic copy of the delivery request. If a deputy requests to see any of the above documentation, the cannabis retailer, employee, and customer shall make it available for law enforcement (26090 B&P).

The state has imposed strict guidelines for advertising of a cannabis retailer. They are as follows:

- All advertisement and marketing shall have the licensee’s license number (26151(a) B&P);
- Shall not advertise or market in a manner that is false or untrue material or tends to create a misleading impression (26152(a) B&P);
- Shall not publish or disseminate advertising or marketing material containing any statement of a brand or product that is inconsistent with any statement on the label of the cannabis or cannabis product (26152(b) B&P);
- Shall not publish or disseminate advertising or marketing material which tends to create the impression that the cannabis originated in a particular place or region and the label does not reflect the place or region in the advertising or marketing material (26152(c) B&P);
- Shall not advertise or market cannabis or cannabis products on an advertising sign within one thousand feet of a day care center, school (kindergarten through 12 grade), playground, or youth center (26152(g) B&P). This provision shall not apply to signs inside a licensed premises which is not visible by normal unaided vision from a public place, provided that such signs do not advertise cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products (26155 B&P);
- Shall not give away any amount of cannabis, cannabis product, or cannabis accessories as part of a promotion or other commercial activity (26153 B&P); and
- Shall not include health-related statements that are untrue on cannabis or cannabis product labeling or advertising (26154 B&P);

When a customer purchases adult-use cannabis or cannabis products from a cannabis retailer, the cannabis retailer shall charge the customer with a 15 percent excise tax. The cannabis retailer is required to provide the customer with an invoice, receipt, or other document which includes the following statement:

"The cannabis excise taxes are included in the total amount of this invoice."

The taxes imposed on adult-use cannabis or cannabis products are NOT imposed on the sale of medicinal cannabis or cannabis products (34011(f) R&T) when the medicinal cannabis or cannabis product is purchased by a qualified patient or primary caregiver and the person provides their valid medical marijuana card and a valid government identification card.

Section 3416 R&T allows for law enforcement to inspect a cannabis retailer during normal business hours and no more than once in a 24-hour period. Any person who refuses to allow an inspection of the cannabis retailer may be charged with a misdemeanor. The licensee or any other person would be in violation of a misdemeanor if there is evidence no tax payment was made by the customer and/or the cannabis or cannabis product was not contained in secured packaging. In addition to the misdemeanor citation, law enforcement is authorized to seize the cannabis or cannabis products. The cannabis or cannabis products shall be seized as evidence and handled per Department evidence procedures.

A cannabis or cannabis product business that is issued a license, pursuant to section 26050(a) B&P, shall not sell alcoholic beverages or tobacco products on or at any premises licensed for a cannabis or cannabis product business (26054 B&P). In addition, the premises of a business of cannabis or cannabis products shall not be within 600-foot radius of a school (kindergarten through 12 grade, a day care center, or a youth center (26054(b) B&P). If a local jurisdiction or licensing authority specifies a different radius, the local jurisdiction or licensing authority will take precedence.

A retailer shall notify law enforcement, along with the licensing authority, within 24 hours after discovering the following (26070(k) B&P):

- Significant discrepancies identified during inventory;
- Diversion, theft, loss, or any criminal activity;
- Diversion, theft, loss, or any criminal activity by any agent or employee of the retailer;
- The loss or unauthorized alteration of records related to cannabis or cannabis products, registered qualified patients, primary caregivers, or retailer employees or agents; and
- Any breach of security.

All cannabis or cannabis products purchased at a cannabis retailer shall be placed in an opaque package by the retailer before a customer leaves the premises with their purchase (26070.1 B&P).

Deputies may electronically verify a cannabis retailer's license by going to bcc.ca.gov under the tab "Licensees & Consumers." To report a non-criminal violation of a cannabis retailer, deputies may either call the Bureau of Cannabis Control at
833-768-5880, or electronically file a complaint at bcc.ca.gov under the tab "Licensees & Consumers."

Below is a list of charges to consider when a deputy is investigating an illegal cannabis retail business or criminal violations of the cannabis retail business:

- 11357 H&S – Possession of more than 28.5 grams of cannabis and/or more than 8 grams of concentrated cannabis;
- 11360 H&S – Sale of cannabis; and
- 11357.5 H&S – Sale of synthetic cannabis

When a criminal violation is charged, the cannabis or cannabis products shall be seized as evidence and handled per Department evidence procedures.

If you have any questions, please call or email Field Operations Support Services at [REDACTED TEXT]