



City of Seattle  
Office of the Mayor  
Edward B. Murray, Mayor

## Non-State Licensed Cannabis Establishment Enforcement Guidelines

In order to continue operating until July 2016 without a license issued by the Liquor & Cannabis Board, non-state licensed cannabis establishments must ensure that their operations do not run afoul of the recently enacted “Cannabis Enforcement Resolution.” The following document describes both, basic requirements to continue operating, the Tier structure of the resolution, how non-state licensed cannabis establishments can remain in compliance and how to best cooperate with city inspectors when they are at your business.

### **Requirements Guided by Department of Justice “Cole Memo”**

In a memo written by James M. Cole (<http://www.justice.gov/opa/pr/justice-department-announces-update-marijuana-enforcement-policy>), a U.S. Deputy Attorney General, there are 8 priorities which if they are not met would trigger intervention by the Federal Government on state authorized cannabis activities. The following two factors in particular will be a top priority for city inspectors.

#### **Presence of Firearms**

A main concern of the Cole Memo was the prohibition of firearm possession surrounding manufacturing or distribution of cannabis. As such, there will be zero tolerance for the presence of firearms at any non-state licensed cannabis establishment. No firearms may be allowed on the premises of the cannabis establishment nor shall security guards be allowed to carry them. If a firearm is found on the premises of a non-state licensed cannabis establishment, city officials will take steps towards immediate closure of that establishment.

#### **Cannabis Products from Out of State**

Another concern listed in the Cole Memo was preventing the interstate trafficking of cannabis. As such, non-state licensed cannabis establishments are prohibited from distributing cannabis or cannabis products that were not produced or processed in Washington State. In order to assure compliance, city inspectors will request transaction records from non-state licensed cannabis establishments. If an establishment refuses to cooperate or provide records upon request, there will be a presumption that said establishment is utilizing products from outside of the State of Washington and city officials will take steps towards the immediate closure of that establishment.

### **Requirements Under Ordinance 124807**

#### **Advertising and Signage**

In order to continue operating until July 1, 2016, amongst other responsibilities detailed in the Finance and Administrative Services Tip Sheet 5501, all non-state licensed cannabis establishments must abide by rules

found in Washington Administrative Code 314-55-155 on signage and advertising. Included below is an edited version of WAC 314-55-155 that highlights areas of priority for city inspectors.

(1) **Advertising by retail licensees.** Each retail licensed premises is limited to one sign identifying the retail outlet by the licensee's business name or trade name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right of way. The size of the sign is limited to sixteen hundred square inches.

(2) **General.** All cannabis advertising and labels of useable cannabis and cannabis-infused products sold in the state of Washington may not contain any statement, or illustration that:

- (a) Is false or misleading;
- (b) Promotes over consumption;
- (c) Depicts a child to consume cannabis, or includes:
  - (i) Objects, such as toys, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume cannabis; or
  - (ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(3) No non-state licensed cannabis establishment shall place or maintain, or cause to be placed or maintained, an advertisement of cannabis, usable cannabis, or a cannabis-infused product in any form or through any medium whatsoever:

- (a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older;
- (b) On or in a public transit vehicle or public transit shelter; or
- (c) On or in a publicly owned or operated property.

(4) Giveaways, coupons, and distribution of branded merchandise are banned.

(5) All advertising must contain the following warnings:

- (a) "This product may have intoxicating effects and may be habit forming.";
- (b) "Cannabis can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";
- (c) "There may be health risks associated with consumption of this product."; and
- (d) "Keep out of the reach of children."

### **Enforcement on Advertising and Signage**

As a required component in being permitted to operate until July 2016, when a city inspector identifies signage or advertising that violates the above criteria, they will issue a Notice of Citation and assess a civil

penalty. If the violation is not remedied, further actions may be taken, up to and including closure of the business.

## **Cannabis Enforcement Resolution Tiers and Guidelines**

### **Highest Priority - Tier 1**

*Violations in this tier are of the highest priority for the City of Seattle. Any violation in this Tier is likely to result in actions by the City to close a non-state licensed cannabis establishment.*

#### **1) Access and Verification for Qualifying Patients**

Cannabis, cannabis concentrates, or cannabis-infused products may only be distributed to those people over 21 years of age, designated providers and qualifying patients.

- Only designated providers 21 years of age or older, as defined by RCW 69.51A.010, may acquire, produce or provide cannabis, and cannabis products to a qualifying patient of any age.
- Only qualifying patients 21 years of age or older, as defined by RCW 69.51A.010, or designated providers 21 years of age or older may handle or acquire cannabis from a non-state-licensed cannabis establishment.
- Until July 1, 2016, qualifying patients between the ages of 18-21 may not handle or acquire cannabis directly from any cannabis establishment.
- Qualifying patients between the ages of 18-20 may only be upon the premises of a non-state-licensed cannabis establishment if they are accompanied by their designated provider who is 21 or older.
- Qualified patients under the age of 18 may not be upon the premises of any cannabis establishment.
- Qualifying patients and designated providers must have Washington state-issued identification and valid documentation as defined in RCW 69.51A.010, written on tamper-resistant paper, to enter the premises.
- Only qualifying patients with valid documentation written on tamper-resistant paper or their designated providers may be allowed to access cannabis from a non-state-licensed cannabis establishment.
- Those distributing cannabis products are responsible for verifying the identity, age and valid documentation of each qualifying patient that enters their establishment.
  - Only Washington State issued identification and valid documentation as defined in RCW 69.51A.010 may be accepted.
  - Non-state-licensed cannabis establishments must verify the authenticity of the documentation by contacting the issuing healthcare professional, and keeping a record of such contact. These records must be made available, in paper form or electronically, to city inspectors upon request.

## **2) Recreational Delivery Services**

There is no provision under state law for the allowance of home delivery for recreational cannabis. Those who run such operations risk felony criminal prosecution. The Mayor's Office will be coordinating with the Department of Finance & Administrative Services (FAS) and the Seattle Police Department (SPD) to determine the most effective way in curtailing this aspect of the illicit market.

## **3) Entities being investigated by the Seattle Police Department**

Individuals or entities that operate non-state-licensed cannabis establishments and are under law enforcement investigation for criminal violations or that have become public safety concerns will not have an opportunity to continue operations until July 2016. However, rather than lead with criminal prosecutions, the Mayor will seek to close these locations with FAS and Department of Planning and Development (DPD). If operators of these locations do not cooperate with city inspectors or refuse to close, criminal prosecution will be considered.

## **4) Edible products appealing to children**

Individuals or entities shall not manufacture or distribute cannabis products that mimic or imitate trademark protected products or are packaged or designed in any manner that would be especially appealing to children. The depiction of objects, such as toys, characters, or cartoon characters, is prohibited on the labels or packaging of any cannabis package.

- City inspectors will use the Liquor & Cannabis Board list of [approved infused products](http://liq.wa.gov/records/frequently-requested-lists) (<http://liq.wa.gov/records/frequently-requested-lists>) as a general guide when making a determination of whether a product is appealing to children.
- Further, city inspectors will refer to [Washington Administrative Code 314-55-077](http://app.leg.wa.gov/WAC/default.aspx?cite=314-55-077) (<http://app.leg.wa.gov/WAC/default.aspx?cite=314-55-077>) when determining the types of infused products allowed to be distributed at non-state license stores. The following items will be a priority for city inspectors:
  - Cannabis-infused edible products such as, but not limited to, gummy candies, lollipops, cotton candy, or brightly colored products, are prohibited.
  - All cannabis-infused solid edibles must prominently display on the label "This product contains cannabis."
  - The label must prominently display the number of servings in the package and the amount of product per serving.
  - Potentially hazardous foods requiring time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins

are prohibited. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with cannabis.

- Other food items that may not be infused with cannabis to be sold in a retail store are:
  - Fruit or vegetable juices (this does not include shelf stable concentrates);
  - Fruit or vegetable butters;
  - Pumpkin pies, custard pies, or any pies that contain egg;
  - Dairy products of any kind such as butter, cheese, ice cream, or milk;
  - Dried or cured meats.
- If the Liquor & Cannabis Board changes any aspect of WAC 314-55-077, city inspectors will mirror those changes when making their assessments.
- If an inspector identifies a product as being prohibited, the inspector will ask the proprietor to immediately remove and destroy said product.
- If the proprietor refuses to remove the product or that product is still available at that location during a second inspection, the City will take actions to close that location.

#### **5) Operating without a business license or a license issued after January 1, 2013**

Businesses that are operating without a business license or one issued after January 1, 2013 will receive letters from the FAS and the DPD detailing their options in either closing or objecting to the City's determination of their status. Operations that refuse to comply will face civil penalties and criminal prosecution may be considered.

#### **Second Highest Priority - Tier 2**

*Non-state licensed cannabis establishments that violate items in this tier may be given an opportunity to come into compliance depending on the nature of the violation. Repeated violations will result in city departments seeking closure of a non-compliant establishment.*

#### **1) Violation of City and State Regulations**

Any non-state-licensed cannabis establishment that is growing, processing or distributing cannabis shall not violate building and construction, land use, fire, labor standards or other city codes. They must also be in compliance with the Washington Department of Labor & Industries and the Washington Employment Security Division. While general information is provided below, it is highly recommended that an attorney be consulted to ensure compliance with all applicable laws.

- DPD Tip Sheet 134: <http://www.seattle.gov/DPD/Publications/CAM/cam134.pdf>
- FAS Tip Sheet 5501:  
<http://www.seattle.gov/Documents/Departments/FAS/RegulatoryServices/MJ-Business-License-Tip-5501.pdf>

- Labor Standards: <http://www.seattle.gov/civilrights/labor-standards>
- For information on your responsibilities as an employer regarding workers compensation insurance, worker safety and state wage and hour laws:  
<http://lni.wa.gov/main/ForBusiness.asp>
  - Please note that a volunteer for a business that receives any sort of compensation may be considered an employee. Please see:  
<http://www.lni.wa.gov/ClaimsIns/Insurance/Learn/Volunteers/default.asp>
- For information on your responsibilities to pay unemployment premiums:  
<http://esd.wa.gov/employer-taxes>

## **2) Medical Cannabis Delivery Services**

As is the case for recreational cannabis delivery services, there is no provision under state law for these types of services. As such, there is no way to comply and all such operations should cease immediately. These types of services are in a lower tier in order to allow time for qualifying patients to begin making other arrangements to receive their medication. In consultation with SPD, FAS and DPD, the Mayor will develop a methodology on how best to pressure these types of operations to close using a combination of civil and criminal law enforcement.

## **3) Cannabis Consumption Lounges**

The recently enacted E2SB 2136, created an absolute prohibition on public venues for the consumption of cannabis and cannabis products. As such, all venues that allow this type of activity must cease operations immediately. While violation of this new state law is a felony, it is the intention of the City to first attempt closure utilizing civil law enforcement. However, if operations refuse to shutter, criminal charges may be filed.

## **C. Third Highest Priority - Tier 3**

### **1) Quality Assurance Testing**

All cannabis or cannabis product that is distributed must undergo quality assurance testing.

- Testing must include a microbial screening and a determination of the presence and percentage of THC, THCA and CBD.
- If pesticides were used, the type of pesticide applied on cannabis or cannabis products must be proactively disclosed to every qualifying patient. Disclosure is mandatory and may be done verbally. However, written documentation must be provided to each qualifying patient upon request
- Individual packaging and labeling disclosing the above required information is not required. However, a document detailing the required information must be provided to a qualifying patient for each type of product acquired.

- To confirm testing, inspectors may request documentation of an active account with an LCB-licensed testing laboratory. Records of product tested will be compared to sales transaction records to determine if all products distributed are being tested properly.
- If an inspector determines a given product has not been tested, they will request that product be immediately removed from the shelves until testing has been completed.
- If a medical cannabis establishment, is found to have repeatedly violated this section, the City will take further civil and potentially criminal actions.

## **2) Dispersion between retail locations**

The presence of any medical cannabis establishment that is distributing cannabis and is located within 500 feet of another state-licensed or non-state-licensed cannabis establishment will be under closer scrutiny by city inspectors. Pending legislation to be transmitted to City Council by Mayor Murray will create a formal dispersion requirement. Once that law is enacted, certain retail locations may be required to close.

## **3) Adherence to Medical Use of Cannabis Act (MUCA)**

All medical cannabis establishments that are not operating within the parameters of MUCA's provisions governing collective gardens risk closure. If city inspectors, determine that a given establishment is operating outside the bounds of the MUCA, that establishment will be given an opportunity to comply. If compliance is not achieved or not done so in a timely manner, the City will take actions to close that establishment.