



Kriss Worthington

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CONSENT CALENDAR

November 27, 2018

To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington
Subject: Support ~~League of California Cities'~~ Efforts to "Stop Wandering Weed"

RECOMMENDATION:

That the Council should support proposed regulations that protect both consumer public safety and voter-approved access to legal cannabis. That can be achieved via a letter to our state lawmakers, supporting legislation that maintains the Bureau of Cannabis Control's proposed regulation authorizing delivery into any jurisdiction within the state of California. The council should also simultaneously support safeguards on how cannabis deliveries are permitted. It is important that localities maintain their authority to restrict commercial cannabis activity from establishing a physical operation within their boundaries. However, the council should also support the right of all Californians of legal age to have safe access to, and receive delivery of, legal consumer products regardless of where they live~~supports the League of California Cities' efforts to urge the Bureau of Cannabis Control to "Stop Wandering Weed" and amend proposed regulations that are negligent to consumer public safety and health protections. The Council should also send a letter requesting our State Assemblymember and State Senator to introduce or support legislation that allows local control on cannabis delivery.~~

BACKGROUND:

The League of California Cities is an association of California city officials who work together to influence policy decisions that affect cities. In August 2018, the League ~~has~~ issued a statement on the Bureau's ~~of Cannabis Control's~~ proposed delivery regulations. Working with the California Police Chiefs Association and United Food and the Commercial Workers (UFCW) Western States Council, the coalition launched a collective initiative to "Stop Wandering Weed" by amending the regulations concerning delivery services.

The coalition ~~has~~ve pushed for this initiative because of the concern about how the Bureau's delivery regulation would authorize ~~"cannabis delivery anywhere in the state regardless of conflicting local regulations or bans" (Covina Mayor Walt Allen). As a result, this authorization would provide~~ "unrestricted access to the cannabis delivery industry and open the floodgates to a number of public safety risks" (California Police Chiefs Association President David Swing). In turn, the costs to maintain public safety obligations may place a burden on local law enforcement agencies and the City. However, the burden may be avoided if we create City regulations to limit the accessibility of cannabis delivery permits and the ~~manner in which cannabis delivery can take place~~type of cannabis being sold through delivery services.

In order to "Stop Wandering Weed," ~~the Council~~we should support the ~~League of California Cities'~~ efforts to end the Bureau's proposal to permit delivery ~~drivers to aimlessly wander around jurisdictions without a specific and defined delivery route as proposed by the Bureau~~of recreational cannabis from any jurisdiction. We should ensure that recreational cannabis remains to be sold with strict safeguards because while also supporting a policy that expressly provides safe access of legal cannabis to legal consumers in California. This policy should apply regardless of whether that customer resides in a jurisdiction that does not zone or authorize a physical operation of a commercial cannabis business within its boundaries. There is a difference between an order that was received, processed and bagged at a locally-authorized, licensed premises that is dispatched (with a pre-determined route) to a legal customer, and a delivery vehicle wandering around neighborhoods, waiting to receive and fulfill orders from the road. The former is simply a delivery

with no other commercial activity taking place, whereas the latter authorizes a wandering dispensary model which would circumvent or violate local activity bans and zoning regulations.

~~“if marijuana can be delivered anywhere with virtually no regulation, California will lose these safeguards that protect communities and children” (UFCW Western States Council Executive Director James Araby).~~ Through our support, we not only provide more agency for the City to regulate the cannabis delivery industry, but also increase consumer public safety and health standards to keep our communities more safe.

In addition to supporting the League’s efforts, the Council should also send a letter requesting our State Assemblymember and State Senator to introduce or support legislation that allows local control on cannabis delivery.

FISCAL IMPACTS OF RECOMMENDATION: Minimal.

ENVIRONMENTAL SUSTAINABILITY: Consistent with Berkeley’s Environmental Sustainability Goals and no negative impact.

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ⁱ Business And Professions Code. Division 10. §26090(e). Delivery.

(e) 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.

ⁱⁱ California Bureau of Cannabis Control Proposed Permanent Regulations

§ 5418. Cannabis Goods Carried During Delivery

(d) A licensed retailer's delivery employee shall not leave the licensed premises with cannabis goods without at least one delivery order that has already been received and processed by the licensed retailer.

(i) If a licensed retailer's delivery driver does not have any delivery requests to be performed for a 30-minute period, the licensed retailer's delivery driver shall not make any additional deliveries and shall return to the licensed premises. Required meal breaks shall not count toward the 30-minute period.

COMMENT: This language arguably allows drivers to drive and/or park aimlessly every 29 minutes with a significant amount product in the vehicle and no orders, destination or defined route. This language, in fact, establishes a "wandering weed" allowance and explicitly encourages unnecessary, negative environmental impacts. While it is reasonable for a delivery employee to make stops for rest, restroom and/or fueling needs, adding a 30-minute window allocation, in addition to "required meal breaks" for idling leaves too much room for exploitation of this regulation by the employee and/or the licensee. If all orders are required to be received, prepared and bagged at the licensed premises, the issue of "wandering weed" will be mitigated as all delivery drivers will have a defined route prior to leaving the premises.