

MMRSA's Distributor Requirement: A Risky Experiment

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California's new statewide regulation of medical cannabis (MMRSA) features a novel approach radically different than from any other regulated state: the introduction of a mandatory distributor level into the supply chain.

The experts most knowledgeable about California's existing medical cannabis market agree (almost universally) this policy will be detrimental to patients, local communities, and the State of California. Here's why:

- 1. The distributor requirement will greatly increase prices in the regulated market.** The distributor requirement will multiply the steps in the supply chain required to get a product to market, with distributors quoting a 15% to 35% fee to manage each of those additional steps. Assuming a median total distributor fee of 25%/step, this would equate to a minimum 50% increase in the retail price of a product that requires one step (retailers must keystone—double-- their total wholesale cost to have a viable margin). This increase will be multiplied for products that require distributors to manage more than one step in the supply chain (edibles, beverages, extracts, vape pens, etc.). A product that requires three steps could triple in price.
- 2. This price increase will erode and possibly collapse the regulated system.** In the short term, this price increase will immediately and unfairly impact patients, many of whom are already suffering severe financial distress due to their illnesses. In the medium term, substantial and widespread retail price increases will decrease the share of the market that can be claimed by licensed retailers, decreasing tax revenue and strengthening the illicit market. In the slightly longer term, the kind of price increases that can be reasonably projected threaten to sink the entire regulated system, in exactly the same way an excessive tax burden almost did in Washington State—patients will turn to the illicit market before they endure 50%-200% price increases.
- 3. The distributor requirement is unsafe because it extends time to market for an extremely time sensitive health care product.** Cannabis is composed of at least 65 therapeutically active ingredients known as cannabinoids, and other chemical compounds known as terpenes. The particular effect of any given batch of cannabis will vary widely depending on its cannabinoid profile at time of use. However, beginning at harvest, and continuing over time cannabinoids will convert. For example, THC over time will convert to CBN—which has a radically different (sedative) effect, and could be dangerous if not expected and planned

for. Another example would be the conversion of non-psychoactive THCA to psychoactive THC, which could also be unsafe if ingested without warning or proper preparation.

4. **Regulatory concerns regarding diversion and revenue collection can be effectively addressed with alternatives that are less risky than the distributor requirement.** One example is seed-to-sale tracking, which could be expanded to include tracking of all inter-licensee transactions. These could be combined with a real time digital transport manifest requirement for all inter-licensee transactions. Several other solutions that would not lead to catastrophic price increases or product safety issues could also be explored.

5. **The mandatory distributor requirement has been promoted as a protection for small growers, but the overwhelming majority of those growers are opposed to it.** The requirement will block them from directly accessing the market via farm-to-table, farmer's market, bud 'n breakfast, and weed ranch business models. They will become dependent on a limited number of distributors to ensure their products find buyers and are allocated favorable shelf space, and those distributors will therefore be at a bargaining advantage to the small growers. The distributor requirement also fails to address the central challenge facing growers wishing to become compliant: finding a compliant location, and sufficient funds to successfully navigate the licensing process, and the business modifications it will demand. A Community Supported Agriculture approach would be more effective in securing a stable place in the market for small growers.

6. **The proper role of government is to create a level playing field for competition, not to pick winners and losers in the market place.** The distributor requirement stems more from special interest pressures and regulatory concerns, than from an inherent need of the marketplace. It will prevent the free market from doing its job of sorting out the most effective and efficient business models and organizations, and distort the organic development of the legal cannabis industry. Patients will pay with extremely high prices for unsafe products; employees and tax revenues will suffer from sales shifting to the unregulated market; and the entire system might well collapse—as state directed command economies are prone to do.

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