

California Cannabis Rules May Legally Compromise Some Transporters

California consumers looking to purchase recreational marijuana might not think about what it took to get the product to the retail establishment of their choice, but some in the legal cannabis industry tasked with transporting pot have steeper challenges than you might imagine. Beyond the obvious and inherent risks associated with moving cannabis, there are new legal ramifications that might even surprise some caught in the conundrum. Despite the fact that the Golden State was the first to legalize cannabis for medical use more than two decades ago, strict regulations for moving the leafy crop are relatively recent.

The California Bureau of Cannabis Control (BCC) is expected to release final regulations for cannabis shippers next month. And although it's commonly understood that marijuana cannot be transported across state lines because it is still considered a Schedule I drug at the federal level, the BCC will require all vehicles moving the crop within the state to hold certain licenses. The agency will use a digital "track-and-trace" system to monitor the complete path all California cannabis travels.

This is a change for how transportation has been handled for the twenty-plus years the medical variety has been allowed in California. The Compassionate Use Act that ushered medical marijuana into the state in 1996 didn't get more specific about the issue of getting the product from point A to point B than it somewhat ambiguously "encouraged the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana."

Recreational law comes with seed-to-sale rules

When Californians voted yes to Proposition 64 in November 2016 (legislation that widened cannabis use to the recreational kind for adults 21 and over), the BCC began its work developing regulations that encompassed both the medical and recreational sides, and, for the first time, that included specific rules for those in the industry shipping the leafy green; namely, the stipulation that any vehicle carrying marijuana for business use must be owned or leased by an individual or business holding a BCC-issued permit.

The first temporary business licenses were issued by the BCC in January; the first crop of permanent ones are rolling out this month. The state's goal is to keep close tabs on every marijuana plant grown, harvested, processed, and dispensed, and therefore the transportation regulations are an important way to complete the cycle. However, there may be a thorny issue caused by the disparity between state and federal laws.

Commercial vehicles need federal registration ... and there's the rub

As of 2016, California's Department of Transportation (DOT) has required commercial vehicles wishing to operate with a Motor Carrier permit to apply for a *federal* DOT number, which in turn requires the operator to describe what will be transported. And since marijuana is still illicit in the eyes of the Drug Enforcement Administration (DEA), those transporters not qualifying for exemption would technically be breaking federal law when they're behind the wheel.

This conflict can be avoided if a marijuana business uses its vehicles to exclusively move their own products, though of course that would prevent expansion in a canna-biz that wants to grow. Similarly, the lucky cannareneurs that are currently operating a licensed motor carrier business would not be embroiled in this catch-22, since they would already be registered with the feds. A motor carrier company starting up after the 2016 rule would have to explain what they're transporting in order to earn the necessary federal DOT number, but companies in existence prior to that would already have earned their registration and therefore would be exempt

from needing to admit to the canna-cargo.

Debby Goldsberry, CEO of Magnolia Wellness in Oakland, told Marijuana News that she hopes the state revises its transportation rules to waive federal registration for vehicles weighing less than five tons so that those in the business won't have to get "creative" with their licensing applications. "We don't believe in building a business based on violating federal law," she said.

There's no guarantee transportation regulation exceptions will be handed down from the DOT and the DMV, but it stands to reason that the odds of waivers are much higher if the agencies feel persuaded by lawmakers, businesspeople, and the public.

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