

## Cannabis Delivery: Ensuring Consumer Access and Reducing the Illegal Market

**Licensing delivery of cannabis and cannabis products links both medical and adult-use consumers with safe, convenient and reliable access to legal cannabis retailers and has applications in densely-populated and rural areas. Permitting delivery operators to gain licensure can also be a less challenging method of providing consumers with sufficient retail access while reducing illegal market activity.**

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**What is Cannabis Delivery?** Businesses utilizing delivery can either be storefront cannabis retailers that also provide delivery of cannabis and cannabis products to their consumers, or independent delivery retailers that maintain an industrially-zoned headquarters out of which all inventory and vehicles move. Delivery is not to be confused with distribution or transportation. Distribution and transportation only transport or distribute cannabis products from a cultivation or manufacturing facility to retail outlets, and does not sell or distribute cannabis directly to the end consumer. This document provides an overview of the delivery licensing category, a discussion of where facilitating delivery is most optimal for serving patients and adult-use consumers and examples of state and local government licensing models for this business category.

**Medical Access:** With respect to patient access, cannabis delivery is critical, as many medical consumers rely on delivery as their primary means of access. Patients utilizing cannabis to treat chronic health conditions and manage symptoms associated with cancer, HIV/AIDS, diabetes, epilepsy and PTSD are often unable to drive, or endure long trips via public transportation or rideshare to get to a cannabis retail location. Many of these patients are also too ill to cultivate their own cannabis even if they live in a state that allows them to do so.

**Consumer Access:** Cannabis delivery businesses are also proving adept at serving consumers and reducing illegal market activity in urban, suburban and rural areas. For example, many medical and adult-use patients in rural communities do not live close to a city or town where a

### Delivery Best Practices

All consumers – patients and adult-use – requesting delivery must provide required documentation to secure access, and all orders must be directly delivered to the individual who placed the order or caregiver.

All drivers should be tracked by GPS and all transactions should be accompanied by appropriate order forms, invoices, and manifests.

Cannabis products should be delivered in discrete packaging and meet the testing and labeling requirements per State law.

Deliveries should be restricted to physical addresses. No deliveries to schools, parks, youth centers, etc.

All cannabis in the vehicle should be sealed and securely stored out of site.

Drivers should have a valid state-issued driver's license and carry both personal and business vehicle insurance policies.

Vehicles should not be marked in any way, and must meet all commercial vehicle requirements in accordance with state and local law.

There should be a maximum amount of cannabis allowed in each vehicle.

Delivery headquarters facility must be in compliance with all state and local laws pertaining to security, operation, design and distance from sensitive uses.

storefront may exist. Without a convenient legal alternative these consumers will rely on incumbent illegal providers for access. Licensing delivery in rural areas offers these consumers a safe, legal alternative.

In urban and even suburban communities consumers and legal retailers are separated by time more than they are by distance. These jurisdictions have higher population densities, which contributes to traffic congestion and increases the length of time required to access what often amounts to a very limited number of cannabis retail storefronts. Similar to their rural counterparts, urban and suburban cannabis consumers will also continue to engage incumbent illegal retailers where access to legal providers is inconvenient. Expanding the number of retail access points available to consumers has proven to be an effective strategy in dissuading them from returning to illegal market providers, and delivery offers a creative approach to extending sufficient access.

Enabling consumer access via delivery is also consistent with the way most of us have become accustomed to buying virtually every consumer product from apparel, home goods and tech gadgets to beer, wine and alcohol. Today's consumers expect transactions for new purchases to be quick and easy and product delivery to be seamless and convenient. And more and more these transactions for product delivery are being initiated online. According to the U.S. Census Bureau<sup>1</sup>, 2017 saw e-commerce account for 49 percent of the growth in total U.S. retail sales. Meanwhile U.S. e-commerce sales are projected to reach \$526.09 billion in 2018<sup>2</sup>. Allowing cannabis delivery businesses to operate simply enables them to provide legal access to their consumers in a manner that today's consumers prefer, and gives these businesses the best chance to succeed.

**Non-Storefront Delivery:** The key feature separating storefront retail with delivery capability from independent delivery service providers is onsite consumer access. While storefronts are designed as a space for consumers to visit, those that also provide delivery must have a separate area for their delivery operations which consumers cannot access. The same is true for independent delivery service (non-storefront retail) companies. Independent, or non-storefront, delivery companies offer local governments a less challenging option for satisfying consumer demand among constituents. For example, because consumers are prohibited from accessing the premises of these businesses non-storefront delivery services can be zoned in industrial areas of a jurisdiction with little pedestrian foot traffic. Code enforcement can be utilized to ensure these facilities are in compliance with all local laws, as these buildings will house staff, inventory, cash, records and equipment required for the operation.

State regulations require that all vehicles associated with these businesses are unmarked and maintain GPS tracking software that is provided to local law enforcement 24-hours/day. Finally, all delivery drivers are required to carry smart technology devices that can quickly share a summary of all cash and inventory in the vehicle if pulled over by local law enforcement, and state law imposes requirements on the total amount of cash that can be kept in the vehicle and how long the vehicles can be out on the road before returning to headquarters.

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<sup>1</sup> <https://census.gov/retail/index.html>

<sup>2</sup> <https://www.daytondailynews.com/business/with-more-store-closures-online-shopping-grow-percent-2018/o8SDVTgZJHTxR6ahhrybIN/>

Independent delivery services also provide an attractive offset to traditional storefront retail when it comes to establishing licensed retail in communities. For example, while local governments often artificially limit the number of legal retail locations available to consumers, this approach frequently fuels illegal market providers who can undercut licensed operators on price, product diversity and can access consumers 24-hours/day. This is particularly true in jurisdictions that already have a large volume of incumbent cannabis businesses prior to the organization of a licensing model. Augmenting storefronts with delivery service providers enhances consumer access by expanding the pool of retailers available to consumers, and offering tremendous flexibility in where consumers can secure legal access.

**State and Local Licensing Approaches:** Among states offering licenses for delivery from storefront and independent delivery, California offers the most responsible approach to consider. What makes the California model<sup>3</sup> (*see link to California state law in footnotes below*) unique and compelling is its comprehensive approach to regulating the licensing category while still maintaining local control and permitting sufficient flexibility in the operation of licensees to enable these businesses to function as designed. This approach allows cannabis regulation to meet the needs and demands of local communities, and safeguards traditional local responsibilities related to zoning and land-use, business hours, security and design features.

Beyond the state requirements which establish core regulations for the industry, local delivery regulations vary. However the City of West Hollywood maintains a model worth reviewing<sup>4</sup> (*see link to City of West Hollywood law in footnotes below*). While the model imposes licensing caps, which are not recommended during a market clearing period when states/local governments first transition from prohibition to actually issuing licenses, it includes the core features that local governments should when licensing delivery providers. These include zoning and land-use; hours of operation; facility and vehicle security and operating procedures, as well as insurance and design for each; and administration of taxes, fees and penalties for non-compliance of both industry participant and landlord.

No matter the state, county or city, a successful approach to legal cannabis retail should integrate delivery to satisfy the needs and preferences of medical and adult-use consumers, and combat illegal market forces.

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<sup>3</sup> [BPC Division 10. Cannabis, Chapter 9. Delivery \[26090-26090\]](#)

<sup>4</sup> [ORDINANCE NO. 17-1016 Sec. 5.70.042](#)