

Cannabis Taxation, Compliance, and Enforcement Report Third Quarter - Fiscal Year 2022-23

Board of Supervisors
June 6, 2023



County Executive Office

Context

- Quarterly updates provided to summarize:
 - Land use permitting
 - Business license activity
 - Enforcement
 - Tax receipts and compliance
- Seek board direction on potential changes to Chapter 50 and other code sections as needed

Land Use Permitting and Licensing

- Land use permitting continues, submitted permit acreage exceeds acreage cap
- Currently 8 cannabis projects are still on appeal
- Four operators holding over 42 acres in the inland area cap withdrew business license applications
- Freed up acreage offered to operators on Waiting List
- A total of 99 county business licenses issued; 23 issued in Q3
- Fifty-seven county licenses are pending

Enforcement

- Sheriff's Office actively pursuing illegal activity
- Illegal market is active and evolving
- Completed six enforcement actions in Q3
 - 2,657 lbs of dried product confiscated
 - \$3.4 M street value

Tax Collection

- Collected \$2 M in cannabis gross tax receipts; annual total to date \$4.2 M
- Projected negative variance from adopted budget of \$10.2 M
- Market is affected by oversupply of wholesale cannabis product statewide
- Operator attrition and voluntary following
- Retailers have been slow to open, making their way through the permitting process
- Projected revenues and fund balance carryover will be sufficient to fund FY 22-23 program costs and other allocations

Tax Reporting

- Total number of operations required to report: 69
 - Number of operations that have not reported: 9
 - Number of operations reporting zero gross receipts: 26
 - Number of operators reporting and making payment: 34
- Ordinance requires operators with active State license(s) to file tax reports
- Current ordinance has no penalties for late filing, or not filing the quarterly report if reporting \$0 revenue
- Operators are required to submit any missing quarterly reports and pay outstanding balances as a condition of license renewal
- Office of Treasurer-Tax Collector sends notices of reminder and non-compliance as needed

Items for Discussion

Changes to Chapter 50 and 50A

- Supervisors' request to strengthen penalties and consequences related to timely tax reporting and payment
- Potentially addressed through Chapter 50 ordinance amendment; revising several sections
 - Require timely reporting and payment of taxes as stated in tax ordinance, the last day of January, April, July, and October
 - Consider revised deadline to incorporate notice of intent to deny license and appeal period into the 30-day reporting period
- Potential changes to Chapter 50A – Tax on Cannabis Operations, as allowable

Items for Discussion

Changes to Fees

- Direction at May 16th Board meeting to consider CCA and Treasurer-Tax Collector costs in licensing fees
- Requires amendment to the cannabis fee ordinance
- Assembly member Hart proposed bill (AB 687) to allow access to state track and trace data, still making its way through legislative process
- Staff working with CCA to negotiate a lower data access fee
- Adoption of AB 687, as currently written, would eliminate county expense associated with data access
- Plan to return in July with revised fee proposal pending outcome of AB 687

Recommended **Actions**

- a) Receive and file the Fiscal Year (FY) 2022-23 Third Quarter Cannabis Taxation, Compliance, and Enforcement Report;
 - b) Provide direction to amend Chapter 50 and related code sections to strengthen penalties and consequences for failing to timely reports or timely pay quarterly cannabis taxes, including potential denial of license renewal;
 - c) Provide any other direction to staff regarding the County's cannabis program; and
 - e) Determine that the above actions are not a project under the California Environmental Quality Act (CEQA), because pursuant to sections 15378(b)(4) and 15378(b)(5) the recommended actions consist of organizational, administrative, or fiscal activities of government that will not result in direct or indirect physical changes in the environment.
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