

Sarah Mayer

Public Comment

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From: Sam Rodriguez <sam@goodfarmersgreatneighbors.com>
Sent: Saturday, March 9, 2024 7:20 AM
To: sbcob
Cc: Sam Rodriguez
Subject: Item: 24-00242 Cannabis Tax Compliance
Attachments: GFGN - State of Cannabis in California and Santa Barbara County, March 12th.pdf; Dale Gieringer, Director, California NORML (1).pdf

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Attention: Clerk of the Board

Please accept our public comment letter for **Item 24-00242 - Cannabis Tax Compliance** and enclosure from Dale Gieringer, Director of California NORML

Thank you in advance for your assistance.

Best regards,

Sam

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TO: Supervisor Steve Lavagnino, Chair
Supervisor Das Williams, District 1
Supervisor Laura Capps, District 2
Supervisor Joan Hartmann, District 3
Supervisor Bob Nelson, District 4

FR: Sam Rodriguez, Policy Director, sam@goodfarmersgreatneighbors.com
Good Farmers Great Neighbors Trade Association

DT: March 12 2024

RE: **State of Cannabis in California and Santa Barbara County**
Item: 24-00242 Cannabis Taxation Compliance

Eight years after the historic passage of **Proposition 64**, the legal, licensed cannabis economy has *created tens of thousands of jobs, hundreds of millions in tax revenues and over a billion dollars in structural improvements and compliance costs to obtain local permits and state licenses.*

The biggest challenges facing the legal, licensed cannabis market are *excessive high taxes, limited retail access, a thriving illicit market, an influx of potentially harmful intoxicating hemp products and inconsistent regulatory burdens.*

This year's legislative session is centered on strengthening the state's regulatory system and bringing forth systemic reform in licensing throughout the supply-chain.

High Taxes and Limited Retail Access Push Consumers to the Illicit Market

Excessive high taxes have artificially inflated prices for consumers and consequently driving them towards cheaper alternatives in the unlicensed, untested and untaxed cannabis marketplace.

Licensed cannabis businesses bear the burden of locally imposed cannabis taxes that vary by jurisdiction, including taxes based on cultivation square footage and a percentage of gross receipts at various stages of the supply chain.

Moreover, cannabis businesses face federal income tax penalties under the **Internal Revenue Code 280e**, which prevents them from claiming deductions under the “*ordinary and necessary*” standard applied to most businesses. This leads to significantly higher federal income tax rates for cannabis businesses compared to other industries.

According to the *California Department of Cannabis Control*, **62%** of cities and counties in California prohibit cannabis retail operations - as of 2023, **1,216** dispensary licenses are active. The **Reason Foundation Study** identified a dramatic undersupply of legal retail in California compared to **Colorado** which has **one** legal retailer per **13,838 residents** and **Oregon** which has **one** retailer per **6,145** residents.

In 2023, California’s adult-use cannabis retailers reported nearly **\$2.2** billion in sales subject to the state’s **15%** cannabis excise tax, averaging **\$361.6** million per month.

The **Reason Foundation Study** on California’s cannabis taxes and its impact on consumer participation in the legal marketplace reaffirms that California lags other legal states in licensed cannabis sales, with the **illicit market** still accounting for **two-thirds** of cannabis sales in the state - a staggering estimate of **66%** of all cannabis sales in California.

Since **2018**, California licensed cannabis industry has contributed a total of **\$5.5** billion in cannabis tax revenue, including nearly **\$2.8** billion in cannabis excise tax and nearly **\$2.2** billion in sales tax.

The **Governor** as well as **local county and municipal leaders** have appropriated cannabis tax revenues to **fund child care services for the working poor, wrap-around social services for the unhoused, extended library hours and recreational centers for rural communities and environmental remediation programs for parks and rivers** to name a few popular initiatives.

Governor Newsom and State Legislative Leaders Have Taken Action

In 2022, the ***Governor and over two-thirds of the State Legislature*** agreed to ***eliminate the 15% Cannabis Cultivation Tax*** for Farmers and move the collection of the **Excise Tax** from the distributor to the retailer and stabilize the rate at **15%**.

In 2023, as a response to over **1000** cultivation licenses abandoned and lack of a **'fallow program'** for farmers, the **Governor and Legislative Leaders** enacted **SB 833** and directed the **DCC** to develop a robust program that will allow farmers to identify a cultivation license to be declared **'Inactive'** - pay a reduced fee for a renewal and not be subject to state taxes on an annual basis.

The **Governor and State Legislative Leaders** have reaffirmed their commitment to strengthen the state's legal and regulated cannabis market and crack-down on illegal operators throughout the supply chain. Moreover, the state has also launched a **cannabis appellation of origin and an organic certification program** as significant steps forward for our farmers to be in a highly competitive position when federal legalization passes and cannabis is regulated similarly to the wine industry for inter-state commerce.

Good Farmers Great Neighbors (GFGN) is an alliance of primarily outdoor, sungrown cannabis farmers, greenhouse operators, manufacturers and auxiliary businesses throughout the central coast. We advocate for a supportive legal and regulated market. Our **"Network"** of **"Best of Class"** expertise unites cannabis farmers, distributors, manufacturers and supply chain vendors who are committed to exceed the required environmental and public health standards and also spur economic growth and community development. Thousands of workers are employed by local cannabis farmers and many farming operations are vertically integrated and also operate manufacturing and distribution facilities in the City of Lompoc.

In May of 2022, our very own **U.S. Representative Salud Carbajal** underscored our value in the region in the Congressional Record declaring that **"...cannabis**

cultivation is not significantly different from farming strawberries, wine grapes, cut flowers, vegetables and other crops grown in the district [Santa Barbara and San Luis Obispo Counties] and throughout California. California Farmers are among the most productive and innovative in the world."

We have also led the country in the first winery permitted to cultivate cannabis - **Sunstone Winery** www.sunstonewinery.com is one of the most visually stunning winery estates in California and it is the home to the internationally recognized Sunstone Villa, an architectural masterpiece in the Santa Ynez Valley. A Sunstone branded Cannabis Infused Beverage and Gummie is being marketed directly to consumers. Last summer, the **LA Times** ranked the **Sunstone Cannabis "Spritz" Beverage** in the **Top 5** best beverages in SolCal.

Last year, during the budget deliberations, the **Governor Newsom** underscored that "for too many Californians, the promise of cannabis legalization remains out of reach...though the state has made significant progress since the legalization of cannabis, **local opposition, rigid bureaucracy and federal prohibition** continue to pose challenges to the industry and consumers." The Governor and State Legislators boldly moved our state into a leadership role to end cannabis prohibition nationally with the signing of the **Interstate Cannabis Commerce Opportunity Act** - allowing California to enter into agreements with other states to sell medicinal and adult-use cannabis products among licensees.

Santa Barbara County Cannabis Program has led the state since **2018** in the total collection of cannabis taxes among other cultivation counties - including Monterey, Sonoma, Mendocino, Lake, Humboldt and Calaveras - more than **\$47.5 million dollars** collected since its inception.

The local program has demonstrated over time its resilience in regulating permitted and licensed operators showing significant progress related to transparency, certainty, and predictability in the collection and auditing of taxes, cost recovery fees for planning and development activities and business license approval requirements..

Good Farmers Great Neighbors recently surveyed its members to determine the aggregate total costs and investments since **2018** for the **County of Santa Barbara** as it relates to receiving a local permit (LUP or CUP) and a Business License including equipment purchases, total employment costs and total state and local taxes paid.

Below is a snapshot of **GFGN** survey results:

2018 - 2023 Total LUP/CUP Compliance Costs: **\$34.4 million**

2018 - 2023 Total Equipment Purchases: **\$19.850 million**

2018 - 2023 Total Direct/Indirect Employment Costs: **\$63.8 million**

2018 - 2023 Total Taxes (Local and State) Paid: **\$37.345 million**

**In addition our members contract local and regional vendors for a variety of services, expertise and materials specific to agricultural related activities and operations.*

Key Highlights

1 - The **DCC** implementation of **SB 833** to help all cannabis farmers to **identify inactive licenses as yet to be fully understood**

2 - Although some progress has been made in enforcement, the **illicit, illegal market** still controls **2/3** of total sales and therefore undermines legal sales in the marketplace. As of this year, more than **1000** cultivation licenses have **been abandoned** and **15%** of retail stores have closed.

3 - The **County's 4% of gross receipts tax is working well**. It is **providing predictability and certainty** to both operators and government. Today, **Santa Barbara County is collecting more taxes than any other cannabis cultivation County in the state**. More than **\$47.5 million** has been collected since **2018**.

4 - More and more Counties are moving toward a simple gross receipts tax or eliminating taxes all together to sustain **current investments, job creation and employment**.

Enclosure: Dale Gieringer, Ph.D., Director, California NORML, Letter/Post

This post is the foreword from the policy study: "The impact of California cannabis taxes on participation within the legal market."

Back in the days before legal marijuana, I undertook to investigate how it might be legalized, taxed, and regulated. While I was partial to a free-market model (as opposed to a government monopoly,) it seemed apparent that marijuana should logically be taxed like other legal intoxicants such as alcohol and tobacco, both to cover the social costs of its abuse, and to offer non-using voters a solid reason to back legalization. There being no better data at the time, I took a clue from the 1893 British Indian Hemp Drugs Report, the most thorough published investigation of an actual, historical legal cannabis regime in British India.

The report examined various Indian states' regimes, ranging from laissez-faire to prohibition. It concluded by commending the state of Bengal as having the most successful and effective system. Bengal exacted licensing fees from producers and vendors and imposed a weight-based excise tax on the wholesale crop. With this in mind, I tried to devise the best comparable tax for marijuana in a modern legal market. Like other cannabis policy wonks at the time, I was worried that the retail price of marijuana might precipitously collapse if it were legalized along the same free-market lines as comparable agricultural crops such as parsley, herbs, or tea. In that case, it appeared retail prices could easily fall as low as a dime per joint. This seemed far too small a value to place on a widely treasured and enjoyable, but potentially habit-forming and impairing, crop. Based on back-of-the-envelope numbers, I figured that an excise tax of about \$1.00 per joint or \$50 per ounce would be sufficient to sustain a reasonable retail price for the herb.

When **California** finally legalized cannabis under **Prop. 64**, lo and behold, it turned out that I had vastly underestimated the cost of the regulations imposed by the new law. In addition to state and local licensing fees, there were elaborate rules on cultivation, retailing, transportation, manufacture, testing, facility siting, ownership, security, storage, on-site consumption, wholesale distribution, seed-to-sale tracking, waste disposal, labeling, packaging, environmental compliance, water usage, etc. ad nauseam. No way was the price of marijuana in danger of plummeting to pennies per joint; rather, it was becoming costly. Nonetheless, on top of that **Prop. 64** imposed an ambitious package of cultivation and excise taxes aimed at raising some **\$1 billion** per year for various state programs, and local governments were authorized to levy even more taxes on their own. The situation was further exacerbated by local dispensary bans and licensing delays, which left the state with half as many adult-use dispensaries as there were medical collectives before **Prop. 64** was passed.

As a result, **California's legal industry has been hard-pressed to compete with untaxed, unregulated providers on the underground market.** So dire is the current situation that advocates now fear that the cannabis industry in California faces an "existential crisis" in the absence of meaningful tax reform.

The roots of this crisis are amply documented in Reason Foundation's timely new report on cannabis taxes in California. The author has helpfully compiled comprehensive data on cannabis prices, taxes, revenues, licensees, and demand that weren't available in the days before **Prop 64**. Finding that California lags behind other legal states in licensed cannabis sales, the report estimates that the illegal market accounts for roughly two-thirds of total

sales in the state. Based on a survey of various local tax regimes from around the state, it finds that the effective tax rate ranges from **\$42 to \$90** per ounce—more than the wholesale production cost of \$35. Analyzing a variety of different tax scenarios, beginning with elimination of the cultivation tax and then progressive reductions in the excise tax, the report provides a helpful roadmap for cannabis tax reform in California.

In the end, it projects that even with substantial tax reductions, the state can expect total revenues to rise substantially in the next two years due to increased consumer demand. Substantive tax cuts therefore seem to be a feasible strategy for reducing demand for the illicit market, while still retaining reasonable revenues for the state programs funded in Prop. 64. May this timely report from Reason Foundation prove enlightening to the state's lawmakers.

Dale Gieringer, Ph.D.

Director, California NORML