



silicon valley *cannabis alliance*

# FLOOR ALERT

## AB 1111 - Threatens Cannabis Retailers Sustainability For Nothing In Return

AB 1111 (Pellerin) - Cannabis: small producer event sales license

### OPPOSE

We regret to inform you that UCBA & our coalition of cannabis trade associations, representing the overwhelming majority of cannabis retailers, both equity and non-equity, as well as unionized retailers, formally oppose AB 1111. The majority of licensed retailers have opposed this legislation for 8 years. Every year we get the same bill offering nothing new to remove the harm inflicted on the entire cannabis industry, we only get another self-serving attempt to remove people from the existing and established supply chain. For the following reasons we continue to oppose AB 1111.

- 1) AB 1111 **lacks the guidance & tools for enforcement** of cannabis laws on farmer's market sales.
- 2) AB 1111 **Exacerbates Major Public Health Threat** - Currently **LA Times has exposed** that legal cannabis cultivators have misrepresented **the pesticides and toxic chemicals** they are using in their products.
- 3) The **Enforcement Budget** and oversight from the Department of Cannabis Control has been significantly reduced and the entire cannabis market has suffered. This bill requires significant additional enforcement when existing laws have not been enforced to reduce the diversion of legal products into the illicit market.
- 4) AB 1111 would do further **harm to struggling legal retailers** who are falling into debt, reducing staff, closing their doors or leaving California altogether because of the reduced demand for pricey regulated products.
- 5) AB 1111 **Jumps in front of existing applications for local retail** and undermines local retail business owners from establishing a sustainable local market share. It can take years to get approval for a local retail license and in 90 days this bill encourages a competitor to jump to the front of the line. New cannabis retailers are having increased costs related to acquiring customers to move to the legal cannabis market.
- 6) AB1111 is set up to fail the people it says it's going to help. The provided business plan estimates to bring **negative economic benefit** to cultivators (See chart p.3)
- 7) **The ability to sell products** as a cultivator, at a special event **already exists**.

- 8) AB 1111 **undermines** the existing **supply chain** by cutting out retailers.
- 9) AB 1111 **threatens Union Jobs**
- 10) AB 1111 **does not expand legal market access**
- 11) AB 1111 only **dilutes the existing legal markets**
- 12) **The Legislation Violates Proposition 64**
- 13) **Not a small farmer bill. 80% of the licensees could be allowed to be retailers**

## 1) LACKING ENFORCEMENT TOOLS

AB 1111 proposes to allow thousands of cultivators to become retailers and fails to recognize the need for additional enforcement. There has been a large and growing issue of diverted products leaving the regulated markets for the ever increasing demand for untaxed cannabis products. Now that we have removed the Cultivation Tax under AB195, the oversight and economic necessity to audit and collect the proper taxes from cultivators is gone and the ability to divert products into the unregulated market has grown exponentially. How are we going to enforce 3,695 cultivators with the opportunity to meet a cannabis buyer at a special event? It is close to impossible without robust enforcement tools like those that are required of a physical retailer in retaining 90 days of CCTV recordings of every transaction and the enforcement of the “one ounce per person daily limit” for every person who enters the retail building. By allowing AB 1111 to pass, we will kick open another door of opportunity to divert product to the illicit market. We have not been able to enforce what this bill allows.

## 2) EXACERBATES MAJOR PUBLIC HEALTH THREAT

On June 14, 2024 The LA Times and Weed Week report titled [“The Dirty Secret of California’s Legal weed”](#) tested numerous legal products that despite passing testing were retested by The LA Times and *“The results, the labs said, suggest some level of contamination in more than 250,000 vapes and pre-rolled joints on store shelves..... The Contaminants include chemicals tied to cancer, liver failure, thyroid disease and genetic and neurologic harm to users and unborn children.”*

The Department of Cannabis Control has yet to address the issue comprehensively and continues to maintain silence on the issue. These pesticides and toxic chemicals originate with cultivators who make illegal use of them. Allowing cultivators to have direct access to consumers through sales that AB 1111 would allow them to perform would only further exacerbate the massive public health threat that remains to be resolved in any effective way.

## 3) LOWERED OVERSIGHT AND ENFORCEMENT BUDGET FROM THE DCC

This bill was previously introduced in 2022 as AB 2691, and according to [last year’s Assembly Appropriations Committee analysis](#),

- There would be an initial **cost of at least \$2.4 million and ongoing yearly costs of at least \$1.9 million to DCC (Cannabis Control Fund).**
- DCC must do an initial economic assessment to establish the fee for this new license type and update information technology systems.
- DCC would also need **12 additional staff to process additional licensing applications, support enforcement efforts, and provide applicants and licensees with technical assistance.**

This year AB1111 has reduced the budget for oversight to \$936,000 first year and 3 full-time DCC employees. In a time where oversight should be at it's peak level for this portion of the supply chain, AB1111 suggests we should not hire the additional 9 DCC employees to enforce the rules and regulations that hold the legal cannabis industry accountable to the taxpayers and the Tier 3 recipients that receive the proceeds from these taxes. This high cost comes at a time when the [DCC is being burdened with the added responsibility of assuming control over the failed cannabis cultivation licensing program of Mendocino County.](#)

#### **4) DETRIMENTAL TO THE STRUGGLING LEGAL RETAILERS**

Multiple Reports have shown that retailers are struggling to survive

- [First Social Equity Dispensary in U.S. is now Closed](#) - 7/10/24 - Green Market Report
- [15 % of California Cannabis Businesses Default on Taxes as 2025 hike Comes Knocking](#) - 4/11/24 - Cannabis Business Times
- [Cannabis Company MedMen Goes Bankrupt With \\$411 Million in Liabilities](#) - 4/29/24 - Forbes
- [The Fall of Grassdoor: California-Based Cannabis Delivery Giant Begins Insolvency Proceedings, Ceases Operations](#) - 12/1/2023 - Cannabis Business Times

Cannabis Retailers are failing and continue to fail with no solutions in site. Allowing cultivators to be retailers will prove to be only further detrimental to current retailers who are struggling and will only create more retailers who lack any experience within this current market of operating as retailers further compounding the issue that very likely will see them succumb to failure as well. The market has proven to be unviable for retailers throughout the state and adding thousands of more retailers will not solve the issue.

#### **5) JUMPS IN FRONT OF EXISTING APPLICATION FOR LOCAL RETAIL**

We have hundreds of existing retail licenses still working through the arduous process of obtaining a local retail license. Some applicants have invested hundreds of thousands, if not millions of dollars, to get the right to be a California retailer. Now we are proposing that we just give retail licenses away without those same barriers to entry. This is not a fair and equitable business environment in which to try and entice new retailers into the market. This bill proposes to reduce the value and demand for new California licensed retail businesses.

The state has invested millions of dollars to support the expansion of retail by providing grant money for local municipalities to fast track applications already in que. The state has invested millions of dollars to support Social Equity applicants in getting their businesses open, and now we are suggesting that our investment should be disregarded in exchange for existing license holders to violate Prop 64 and be given unfair priority access to the same markets in which equity operators have invested heavily in both funds and time, many still waiting for years to get their opportunity to become an operational retailer.

#### **6) ESTIMATED TO BRING NEGATIVE ECONOMIC BENEFIT TO CULTIVATORS**

The sponsors of this bill have been asked for an economic assessment or a business plan. Because none was provided, we gathered data from years of retail sales, including average basket size, average time spent with a customer, packaging and labor costs for small scale production, retail pricing models, and consumer behavior to compile the costs associated with starting a retail business. As well as, data from multiple special event analytics and business plans submitted, below are the costs associated with becoming a temporary retailer who travels to attend special events with supporting staff. When examining the costs associated with participating in a retail sales event, it is apparent AB 1111 brings little economic benefit to the cultivator and in fact, becomes a financial loss. (as seen in the model below.) In

addition, AB 1111 brings a significant tax liability to licensees as well. A temporary retailer has new responsibilities with excise tax calculations and compliance, local tax remittance and sales tax responsibilities.

Existing retailers, by comparison, have staff, equipment, POS software, hardware, training, experience and more infrastructure in place. This infrastructure allows retailers to cost effectively scale for temporary events in a profitable manner. Many retailers happily partner with cultivators for events benefitting multiple sectors of the industry.

## 8 Events a year (4 days each)

### 2.5lbs of sales per event/1 ounce max per attendee

	Costs	Revenue	COG	Local Tax 5%	Excise Tax 15%	Sales Tax 9.5%
Permit Fee	\$5,000.00					
Booth Fee \$1000 per event	\$8,000.00					
POS System \$500/month	\$4,000.00					
Cash Register System	\$600.00					
Credit Card/ Debit terminal	\$400.00					
Receipt printer	\$200.00					
Packaging and labor cost for 10lbs of 1/8th @\$30	\$4,400.00	\$ 36,000.00	\$ 7,000.00	\$ 1,800.00	\$ 5,670.00	\$ 4,130.00
Packaging and labor cost for 5lbs of 1/2oz @60	\$1,000.00	\$ 9,600.00	\$ 3,500.00	\$ 480.00	\$ 1,512.00	\$ 1,101.00
Packaging and labor cost for 5lbs of 1oz @90	\$600.00	\$ 7,200.00	\$ 3,500.00	\$ 360.00	\$ 1,134.00	\$ 826.00
Testing COA for 6 SKU's	\$3,600.00					
Training Hours for POS system 12 hours x 3 people	\$720.00					
2 Employees to run POS system at event \$700/event	\$5,600.00					
Food, travel and housing for staff \$800/event	\$6,400.00					
Accountant or Bookkeeper for tax compliance Excise Taxes, Local Taxes, and Sales Tax remittance	\$2,000.00					
Transportation fees from Distribution \$200/event	\$1,600.00	\$ 3,200.00				
	\$44,120.00	\$ 49,600.00	\$ 14,000.00	\$2,640	\$ 8,316.00	\$ 6,057.00
<b>Profit Margin for the year</b>						
<b>Tax Liability</b>						

#### 7) A SYSTEM FOR CULTIVATORS TO SELL THEIR PRODUCT ALREADY EXISTS

The businesses inside the supply chain and the local governments that represent these locally approved licenses see this as a destruction of local control and an overreach by small cultivation communities. There are plenty of existing opportunities within the current system, without inviting more opportunities to divert products to the illicit market. The reason for the separation in the licenses is for oversight and accountability and this bill blurs those lines to the point of them disappearing. We wish to share three examples of how the current licensing structure allows and supports Farmers Markets in Partnership with retailers to the benefit of both.

- a. **Department of Cannabis Control Regulations - Allow for cultivators to participate in temporary events.**

**§15603.1. Participation in Temporary Cannabis Events by Non-Retail Licensees.**

- (a) Licensees who are not retailers may participate in licensed temporary cannabis events and may display cannabis or cannabis products**

The Department of Cannabis Control allows cultivators to display and market their products at Temporary Cannabis Events as well as sell their products in partnership with a licensed retailer.


- b. **Cultivators are currently partnering with Retailers for “farmers market” events, under the current regulations that already allow for this type of activity.**

In an article from earlier this year, it was noted that Farmer Markets are currently able to exist in partnership with retailers, to the benefit of both.

**“The new monthly event takes place at one of two downtown San Francisco dispensaries: Moe Greens on Market Street and Barbary Coast on Mission Street. The showcases allow customers to learn about dozens of different cannabis strains directly from the farmers who grow them.”**

[Article Link](#)

**San Francisco has a new farmers market just for cannabis**

 Lester Black, SFGATE  
March 7, 2023



Forrest Gauder shows off a cannabis flower grown at his Sun Roots Farm in Mendocino County.  
Lester Black/SFGATE

There's a new type of farmers market in San Francisco, but instead of buying fruits and vegetables, customers get to buy a famous California crop that is best enjoyed smoked.

- c. **The Proponents of this bill are disingenuous about the necessity of the bill. They have proven that the current license structure allows for Cultivators to have farmer’s market events such as the one the proponents recently had (as noted below). The sales from cultivators were in partnership with a licensed retailer and benefitted both businesses.**



## MCA Cannabis Marketplace and Screening of Tending the Garden May 28

📅 Sunday, May 28, 2023 ⌚ 12:00 PM 📍 The Madrones & The Brambles, Philo, CA

Join Members of the Mendocino Cannabis Alliance for a craft marketplace event at The Madrones in Philo, CA where you can meet some of Mendocino's world class cannabis farmers and their products thanks to on site dispensary The Bohemian Chemist!



### 8) UNDERMINES THE EXISTING SUPPLY CHAIN

AB 1111 seeks to undermine and cut out existing locally approved retailers, undermining their ability to compete fairly with a cultivator who wishes to sell directly to the consumer. This bill allows further dilution of existing demand affecting locally licensed retailers as they compete for the limited number of buyers of regulated cannabis products.

Recently the DCC provided cultivators a new opportunity where a cultivator is able to participate in temporary events, showcase their products and partner with retailers to facilitate their sales. This new regulation was adopted to the benefit of the entire supply chain, and is a preferred, economically viable solution in which existing license holders are supported within their position in the supply chain.

### 9) AB 1111 THREATENS UNION JOBS

Retail employees throughout the state are joining unions and, in partnership with retail owners, have fulfilled the expectations of Prop 64 in establishing well-paid union jobs. Unlike existing retailers, cultivators under AB 1111 are unlikely to meet the CA Labor Peace Agreement requirements, and even less likely to be unionized. In addition to promoting unfair competition in pricing, AB 1111 would also threaten union jobs by incentivizing cultivators to retail their product using non-union employees.

### 10) DOES NOT EXPAND THE MARKET

California's legal cannabis market must expand into new markets if it hopes to challenge the thriving illicit market and the access it continues to have to consumers. Currently, over 60% of local jurisdictions still do not allow for legal sales of cannabis and the sponsors of this bill have noted that only 11 jurisdictions in the state currently have had any temporary events. This bill does nothing to address the primary need of expanding legal access throughout California.

### 11) ONLY DILUTES EXISTING MARKETS

Temporary Events are currently only locally approved in jurisdictions that have existing local retailers. It's already been well established this bill would undermine already struggling retailers. It's significant to note that AB 1111 would only dilute the existing established cannabis market, in exchange for a subsidy to stand up a new scheme to prop up one portion of the supply chain in exchange for the detriment of another. According to the Department of Cannabis

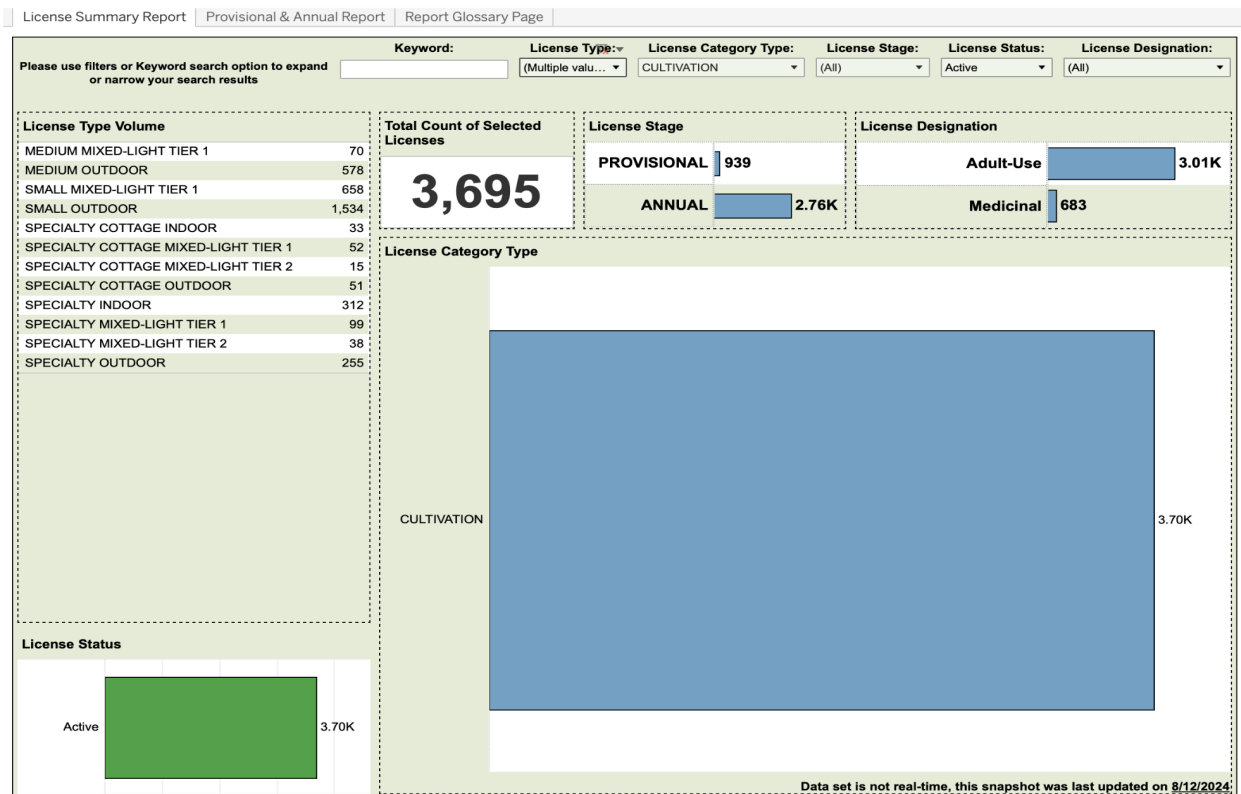
Control and the California Department of Tax and Fee Administration, **In two years California has added 37% more retail licenses only to have revenue drop by 43% in that same time-frame.** More retail opportunities in existing retail markets are not guiding our industry, as a whole, to more revenue.

### 12) The Legislation Violates Proposition 64 -

In 2016, the voters approved Proposition 64 - The Control, Regulate and Tax Adult Use of Marijuana Act, which established the type of cannabis licenses. Proposition 64 specifically established cultivation, manufacturing, testing, distribution and retail licenses. This legislation will be contrary to the voters’ intentions to establish separate licenses and not allow cultivators to have a hybrid cultivation/retail license. If a cultivator wishes to become a retailer, the state has already set up licensing requirements for such an opportunity. There will be harmed retailers that will not accept this divergence from the will of the people and the statute of Prop 64.

### 13) Not A Small Farmer Bill -

This bill would allow 80% of the current cultivation licenses to be included in the small producer definition. Using the filter provided by the DCC to find how many licenses fall under the “small producer” definition the table provided shows that 3695 cultivation licenses are included in the description. Currently there are 1,199 Storefront Retailers and 384 Non-Storefront Retailers. This is an over 200% increase in the number of retail licenses in existing locally approved markets. This artificial increase in the number of retailers competing for the same customers reduces the value of existing retail businesses by 20% or more and the value lost to existing retailers would far exceed the revenue this bill shifts to another licensee. This harms existing retailers and disincentives new retailers from opening and hurts the system as a whole.



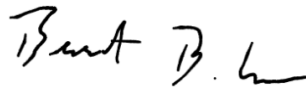
For these reasons we respectfully ask you to **vote No on AB 1111**. It provides little to no economic value to temporary retailers and undermines existing, already struggling, cannabis retailers.

The United Cannabis Business Associations, The Long Beach Collective Association, The Coachella Valley Cannabis Alliance Network, The San Francisco Cannabis Retailers Association, Silicon Valley Cannabis Alliance, Angeles Emeralds, California Minority Alliance, and Social Equity Los Angeles, oppose AB 1111.

We respectfully ask for AB 1111 to not be approved by the Committee. For questions, contact our Legislative Advocacy Chair, Jerred Kiloh from United Cannabis Business Association at (707) 235-8474.



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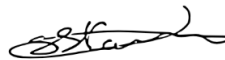
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