



Top 10 Cannabis Compliance Issues

Licensed cannabis businesses in California are subject to a complex and overlapping set of regulations at both the state and local level. As with any industry, cannabis businesses are commonly owned and operated by individuals whose interest and expertise lies in the products they grow, make, or sell, and not in the myriad regulations they must follow. Many cannabis businesses owners or operators previously operated in the pre-regulation “legacy” industry and are getting their first-ever experience running a legal, licensed business. Even for operators with prior experience in the regulated world, the host of regulations that cannabis businesses must follow can be daunting.

The Department of Cannabis Control (DCC) inspects cannabis businesses for compliance with state law, but the agency does not currently have the capacity to inspect every business, nor does it have the authority to look for or enforce violations of local ordinances. This leaves the responsibility to the local jurisdiction, which may not have the experience, specialized knowledge, or capacity to conduct thorough inspections of cannabis businesses.

Enforcing cannabis regulations is not just important for the safety and security of the community, it also helps protect the business from crime and internal theft. Reports of loss due to robberies, burglaries, theft, and shrinkage more than doubled between 2021 and 2022, according to the DCC, with individual losses in the tens of thousands of dollars. One distributor in Santa Cruz reported over half-a-million dollars in cannabis stolen in a single coordinated attack in March of 2023.

HdL’s cannabis compliance team has inspected nearly 2,000 licensed cannabis businesses in California over the last six years. Our inspectors have identified hundreds of violations that could endanger the safety and security of the business by making them attractive targets for “smash and grab” crimes. While some violations may be malicious, more often than not, they are the result of cutting corners or lack of awareness. Our inspectors approach the task cooperatively, sharing best practices gleaned from cannabis businesses around California to help operators find the easiest and most efficient ways to meet their regulatory obligations.

Through that experience, our compliance inspectors have identified 10 common issues that cities and counties should be aware of. While most of these are violations of state or local laws, some are recommended best practices that are not required but can greatly increase the safety and security of the business.

1. VIDEO SURVEILLANCE SYSTEM ISSUES. All licensed cannabis businesses (except cultivators) are required to install a video surveillance system to capture all areas where cannabis is weighed, packed, stored, loaded, or moved, along with all entrances and exits, limited access areas, and security rooms. Surveillance systems for retailers must also capture every point-of-sale (POS) location and the face of both the customer and the employee. The surveillance video must be kept for 90 days, must include an accurate time and date stamp and must have a battery backup in case of power loss.

Video surveillance systems aren’t just important for enforcement purposes; they are a critical tool for protecting the business from theft and crime. If any of these requirements are not met, the resulting footage could be useless. And yet, 80% of HdL inspections find violations that need to be corrected. Annual compliance inspections can ensure that the system is functioning properly to provide maximum protection for the business.

2. ILLEGAL OR UNAPPROVED SITE MODIFICATIONS. It is common for any business to make changes or modifications to their layout to improve their operations, but the premises for any cannabis business must conform with the site diagram provided to the DCC and the local agency to ensure they are meeting all safety and security requirements. Even a minor change to the sales counter could put POS terminals outside of the view of security cameras or conflict with customer flow and limited access areas.

The local agency should be notified of any modifications to the premises to ensure they are consistent with state law and the terms of their permit. This is especially true for any changes that could affect the overall security of the building such as moving, relocating, and/or changing the security camera layout, limited access areas, sales counter, POS terminals, the secure storage area, and volatile extraction or processing equipment.

3. NON-COMMERCIAL GRADE LOCKS ON BOTH INTERIOR AND EXTERIOR DOORS. While the security of exterior doors should be obvious, it is also important that cannabis businesses install commercial grade locks on all interior doors to ensure that limited access areas are secure and can only be accessed by employees with the appropriate clearance. Proper interior locks provide another layer of security in case a thief gains access to the retail area. They also can help protect against shrinkage due to employee theft.

4. SALES TO UNDERAGE PERSONS. Cannabis retailers are required to check the ID of every customer before allowing them access to the retail area and before selling them any cannabis goods, but some reports show retailers are not doing an adequate job. In some cases, IDs are checked by security guards who are not employees of the business and who are not trained for the task. In other cases, the ID is not checked until the customer is ready to make a purchase, which could allow an unqualified minor to roam the store freely until being told to leave.

Industry best practices and a strict reading of the regulations suggest that a retailer should check the ID *both* upon entry *and* at the time of sale. In addition, many retailers use electronic scanners that remove any human error from reading the ID, and some also maintain a database of every person that enters the store, even if they don't make a purchase. These best practices help protect minors, the business, and the community.

5. ILLEGAL PACKAGING OR INAPPROPRIATE MARKETING. Cannabis companies are prohibited from marketing, packaging or labeling cannabis or cannabis products in ways that may be attractive to children. This includes using cartoons, pictures of anyone under 21, imitating candy packages or labels, using any variation of the term "candy" or "candies" or any likeness to characters or phrases commonly used to advertise to children.

Unfortunately, there are far too many examples of unlicensed cannabis products using "knock-off" labels that imitate popular candies or snacks. Many of these even include the required California cannabis safety labeling information, giving the appearance of being licensed product. Even licensed products can sometimes cross the line. Cannabis retailers are liable for any illegal products on their shelves, even if they were acquired from licensed manufacturers or distributors. Inspections can identify any such illegal products so they can be removed and destroyed.

6. TRANSPORTATION MANIFESTS BEING IMPROPERLY FILLED OUT. Transportation manifests ensure there is a proper record of all cannabis and cannabis products leaving the premises of the cannabis business. The manifest must identify the type of product, the amount, where it is being transported to, the route it will take, and the estimated time it will arrive. Too often, manifests may omit critical information or show significant gaps between when the product left the facility and when it arrived at its destination. In some cases, record of a transport vehicle's whereabouts is missing altogether, raising concerns about licensed product being unsecure or additional pick-ups and/or drop-offs of unlicensed product along the way.

7. UNLICENSED DELIVERY VEHICLES. All vehicles used for retail cannabis deliveries are required to meet certain standards to ensure they are safe, properly registered, insured, and equipped with GPS, a lockable trunk, and/or a securely-mounted storage box for carrying cannabis and cash. In some cases, retailers will allow delivery drivers to use their own personal vehicle, which may not meet these requirements. This can greatly decrease security by allowing unsecured cannabis to be visible to persons passing by the car or allowing the vehicle to travel “off the map” with no GPS to show its location or where it’s been.

8. UNLICENSED SECURITY GUARDS. Licensed cannabis retailers (and retailing microbusinesses) are required to have a licensed security guard onsite during all hours of operation. Some local jurisdictions extend this requirement to other cannabis business types and/or require more than one security guard. Security guards must be 21 years old and hold a current license from the Bureau of Security and Investigative Services (BSIS).

HdL has discovered many underage, unlicensed, and untrained security guards, along with businesses that do not provide a security guard or the required number of security guards. These situations endanger the safety and security of the business and can enable crime, theft, or sales to minors.

9. BUSINESSES OPERATING BEFORE THEY ARE FULLY LICENSED. Cannabis businesses typically have a lot of time and money invested long before they open their doors, which can make them understandably eager to begin operations. HdL inspectors have found numerous instances of businesses growing, manufacturing, or selling cannabis or cannabis products before they have received final approval from the DCC and/or the local agency. Requiring a pre-license inspection before the business is issued a certificate of occupancy can ensure that they have addressed all the physical site requirements of their permit and are not operating under the radar.

10. CANNABIS NOT SECURELY STORED DURING NON-BUSINESS HOURS. Ensuring that cannabis is securely stored during non-business hours can be an important deterrent to crime. Unfortunately, state law provides no guidance on this point, allowing that cannabis can be left on display in the retail area even if it is visible through a storefront window, which can make it attractive to crime. Many jurisdictions require retailers to secure all cannabis in a separate locked room during off hours. Even when not required by local regulations, removing cannabis from the display area can be an important “best practice” for retailers.

These safety and security regulations are put in place to protect the community, the business, its employees, and its customers, but they only work if followed correctly. Many of these regulations work in tandem; failure to comply with one regulation can put a business out of compliance with others.

HdL recommends that cannabis businesses be inspected at least once a year to ensure facilities are safe, secure, and complying with all regulations to protect your community. Our inspection team examines a facility’s security, surveillance cameras, access controls, door locks, product safety, cash handling procedures, cannabis goods storage, recordkeeping, waste management, and other requirements. We ensure retailers only sell licensed product and that no product is sold to minors or diverted into the illicit market. We work with your businesses to teach best practices and lessons learned from inspecting hundreds of cannabis businesses around California, benefitting all within your community.

For more information about our regulatory compliance inspections and other cannabis management services, contact HdL at solutions@hdlcompanies.com or call 714.879.5000.