



United Food & Commercial Workers Union

James Araby, Executive Director · Mickey Kasparian, President · Kirk Vogt, Secretary-Treasurer · Andrea Zinder, Recorder

February 26, 2018

Amalia Neidhart
Senior Safety Engineer
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VIA EMAIL

ml@ssdslaw.com

Re: **Cannabis Industry Cal/OSHA Regulations**

Dear Ms. Neuhardt:

UFCW Western States Council writes on behalf of the more than 1,500 cannabis workers currently represented by its affiliate unions, the majority of whom are employed in Los Angeles County.

The health and safety challenges that exist in this previously unregulated industry are myriad. Workers are exposed to a gamut of hazards from pesticides and diacetyl to on-the-job armed robberies and extraction-related explosions. These dangers are intensified by the sheer lack of awareness that many cannabis industry employers and employees have regarding their obligations and rights, respectively, under occupational safety and health laws.

Cal/ OSHA should promulgate rules specific to violence in the cannabis workplace.

Banking issues, patient psychological needs, and black market enterprises leave the cannabis industry vulnerable to acts of violence in the workplace. Cal/OSHA is currently promulgating general industry workplace violence regulations for non-healthcare employers, which are already regulated by Labor Code section 3342. In its June 2, 2017 findings, Cal/OSHA signaled that this general industry workplace violation regulation would suffice for the cannabis industry as well. However, cannabis industry workplace violence threats may actually be more similar to those addressed in section 3342. Section 3342 mandates that an employer's Workplace Violence and Prevention Plan contain procedures for obtaining assistance from law enforcement, procedures to identify and evaluation patient-specific risk factors and assess visitors or other persons who are not employees. Section 3342 also requires a violent incident log and more stringent



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recordkeeping requirements. Cal/OSHA should consider promulgating a workplace violence rule for the cannabis industry that more closely mirrors what is provided in healthcare settings.

Cal/OSHA must promulgate rules mandating a 30-hour general industry training requirements for the cannabis industry.

Cal-OSHA should require that within one year of receiving a license, a supervisor and one employee complete Cal/OSHA 30-hour General Industry Course given by an OSHA-authorized training provider, certified by an OSHA Training Institute Education Center. This requirement is necessary at least during the industry's infancy and while the Agency undertakes its initial education campaign.

In our comments submitted prior to the issuance of Cal/OSHA's Findings and Recommendations for the Medical Cannabis Industry, we requested that a licensed or designated Cal/OSHA expert be required at every cannabis worksite. In its response, Cal/OSHA wrote that:

[t]he employer is the best resource when it comes to the job operations and procedures performed at a particular worksite. It has been Cal/OSHA's experience that performance-oriented training requirements under current Title 8 standards are preferable to mandating one certification or specific training requirement for all marijuana establishments without taking into consideration the details of a particular operation or extraction process. For training to be effective it needs to be applicable to a particular worksite. All marijuana business must take steps to protect workers for all health and safety hazards associated with their operations.

We respectfully request that Cal/OSHA reconsider this finding. Employers in long established industries may be adequate resources for health and safety training, but that is not yet the case for the cannabis industry. The risks present require a high level of sophistication, and the industry is not dominated by large corporations with in-house human resources or compliance officers. Moreover, the existing state legislation and corresponding emergency regulations do not require applicants or licensees to show any type of plan for occupational safety and health compliance, nor do they penalize licensees for enforcement actions taken by Cal/OSHA. And so, at this point



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in the industry's infancy, most licensees are consumed with meeting the requirements for licensure without a passing thought to health and safety compliance.¹

Please keep in mind that funding is authorized—Senate Bill 94 amends Section 34019 of the Tax Code to provide for “[s]ufficient funds to reimburse the Division of Labor Standards Enforcement and Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10. Marijuana of the Business and Professions Code.”

In sum, the cannabis industry poses serious health and safety risks and the implementation of health and safety training should not only be self-governed

At this time, we are also working to assess whether existing Title 8 regulations adequately encompass the risks posed to cannabis industry employees through outreach to employees and employers. We would like to offer our findings to Cal/OSHA prior to the October 1, 2018 deadline imposed by Labor Code section 147.6. To further this effort, it would be beneficial if in its response to comments, Cal/OSHA provided citations to specific Title 8 regulations that address the issues raised by the public.

If you have any questions regarding this matter, please feel free to call Jim Araby at (510) 599-0488.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Araby'.

James Araby,
Executive Director, United Food and Commercial Workers Western States Council

¹ Cal/OSHA should submit comments to the BCC, CDPH, and CDFA requesting that changes be made in their respective regulations to remedy these oversights.