

Cannabis Delivery

Ensuring Consumer and Patient Access



WM Policy is the government relations, research, education, and public engagement arm of Weedmaps.

The WM Policy staff—with decades of legislative, regulatory and public policy experience, and an impressive record of achievement in local, state and national political campaigns; far reaching and impactful policy development; effective and creative public awareness efforts; and powerful, change-making coalition building—works with lawmakers, advocates, industry groups and other allies to forge safe, open, and sensible cannabis policy across the country and around the world.



Executive Summary

Licensing delivery of cannabis and cannabis products links both medical and adult-use consumers with safe, convenient and reliable access to legal cannabis and has applications in densely-populated and rural areas. Permitting delivery operators to gain licensure can also be a less challenging method of providing consumers with sufficient retail access while reducing unlicensed market activity. Multiple methods and frameworks for delivery services—including storefront and non-storefront delivery, third-party transport, and dynamic delivery—ensure that operators have access to the business model that best suits their market.

Policy Recommendations

1. Allow both retail storefront and independent non-storefront delivery services to conduct cannabis delivery statewide.
2. Allow for dynamic delivery, where delivery operators can operate more efficiently in high-traffic areas and/or expand delivery zones.
3. Ensure that cannabis delivery is available to both medical and adult-use consumers.
4. Authorize online ordering for delivery services.
5. Mandate GPS tracking for all delivery drivers and require all transactions to be accompanied by appropriate digital or paper order forms, invoices, and manifests.
6. Prior to delivering cannabis to an individual at the final point-of-sale, delivery services should be subjected to capturing the same identification and age verification information that exist for brick-and-mortar storefront retailers.
7. Deliveries should only be made to physical addresses, and there should be a clear prohibition on deliveries to schools, parks, and youth centers.
8. Delivery operators should not be required to have more than one employee in the vehicle.

What is Cannabis Delivery?

Businesses utilizing delivery can either be storefront cannabis retailers that provide delivery of cannabis and cannabis products to their consumers, or independent delivery retailers that maintain a warehouse-like headquarters out of which all inventory and vehicles move. Delivery is not to be confused with distribution or transportation. Distribution and transportation only transport or distribute cannabis products from a cultivation or manufacturing facility to retail outlets, and do not sell or distribute cannabis directly to the end consumer. This document provides an overview of the delivery licensing category, a discussion of where facilitating delivery is most optimal for serving patients and adult-use consumers, and examples of state and local government licensing models for this business category.

Storefront vs. Non-storefront Delivery

There are typically two types of licensed delivery services: (1) storefront cannabis retailers that also provide delivery of cannabis to consumers, and (2) independent/non-storefront delivery retailers that maintain a depot-model headquarters out of which all inventory and vehicles move. **A functioning policy framework for cannabis delivery should include provisions for both storefront and independent/non-storefront delivery.**

The key feature differentiating storefront retail with delivery capability from independent, non-storefront delivery service providers is onsite consumer access. While storefronts are designed as a space for consumers to visit, those that also provide delivery must have a separate area for their delivery operations which consumers cannot access. Independent/non-storefront delivery services are subjected to the same standards and regulations as traditional retailers; however, they do not allow consumer access or purchases on site. Non-storefront delivery provides small businesses with a licensing category that requires less capital than traditional brick-and-mortar storefronts and other capital-intensive operations like cultivation and product manufacturing.

Third Party Transport

In addition to retail dispensary employees acting as delivery drivers, third party delivery operators can also deliver cannabis products from retailers to customers, if state licensing allows. These third party services are subject to the same regulations and restrictions as employees of the retailer, and should be permitted to conduct the same operations as a retailer, including: storefront and non-storefront delivery, and dynamic delivery. Many states that allow cannabis delivery, though not all, permit third party transport services.

Dynamic Delivery

To ensure sufficient access to all consumers, cannabis delivery operators should be permitted to conduct dynamic delivery. Dynamic delivery allows a driver to store inventory in their vehicle and accept orders while out on the road, in contrast to needing to return to the retailers or warehouse after each delivery. For example, a delivery driver could receive an additional five orders while driving and fulfill each order without needing to return to their warehouse to pick up additional inventory. This service is key to reducing transportation costs for delivery businesses, allowing them to maximize efficiency and minimize unnecessary driving. Dynamic delivery also enables operators to fulfill orders more quickly, which is important in incentivizing consumers to purchase cannabis from licensed sources.

Just as with standard delivery services, dynamic delivery services should also maintain accurate and up-to-date order manifests, which include details on all inventory in the vehicle, and tracking of all orders received. Reasonable inventory limits should also be placed on dynamic delivery operators: this can be achieved either through direct quantitative restrictions on product weight/quantities, or by requiring drivers to return to a retailer or warehouse after a maximum amount of orders. Any inventory restrictions should reasonably accommodate the ability of dynamic delivery services to efficiently conduct their business and provide multiple deliveries while on the road. Sensible inventory limits also impact public safety concerns—restrictions on product quantities and/or cash inventories lessens the risk for robberies and increases the safety of delivery drivers.

Delivery Is Critical for a Functioning Regulated Cannabis Market

Delivery services are critical for a functioning regulated cannabis market. Delivery (1) provides patients—particularly those with mobility issues—with much-needed access to medical cannabis, (2) increases adult-use consumer access to the regulated market, and (3) minimizes the size of the unlicensed market.

Access to Medicine for Patients

Delivery services provide patients with much-needed access to medical cannabis, especially those who are unable to drive or endure long trips via public transportation or rideshare. Delivery is crucial for patients using cannabis to treat chronic health conditions and manage symptoms associated with cancer, HIV/AIDs, diabetes, epilepsy, and PTSD. Many of these patients may also be too ill to cultivate their own cannabis, even if they live in a state that allows them to do so. Banning cannabis delivery means that many patients will be prevented from accessing the medicine they rely on. As Americans for Safe Access emphasized in their 2018 Annual Report:

“Many legal medical cannabis patients cannot travel to access points to receive medical cannabis due to physical, economic, or time constraints. This is especially problematic for legal patients who are in the hospital, are bedridden, or live far from an access point. Allowing for delivery of medicine is a compassionate and common-sense solution for these patients.”²

Cannabis delivery must be available to both medical and adult-use cannabis consumers, as there are a multitude of reasons as to why a medical patient may not join their state’s patient registry. Depending on the jurisdiction, cannabis use can put an individual at risk for termination of employment, loss of child custody, rejection of gun permit applications, or loss of Department of Veterans Affairs benefits. This can be observed in California, where the number of patients registered with the state’s medical cannabis ID program has decreased dramatically in the past 10 years, even as cannabis has become more accepted and easily available. In the 2018-2019 fiscal year, only 4,807 people in a state of 39 million held official medical cannabis ID cards, demonstrating that many medical patients are choosing to bypass the patient registry altogether. To ensure that patients have reliable access to medical cannabis, delivery must be a widely available and accessible service for all consumers.

COVID-19 Highlighted the Essential Nature of Cannabis Delivery for Medical Patients

Amid the COVID-19 pandemic, as businesses were forced to temporarily shutter and people were asked to shelter in place, cannabis delivery became an essential service that provided critical access to medicine for patients across the country. All states with legal adult-use or medical cannabis marketplaces that mandated shelter-in-place orders designated cannabis businesses as essential, recognizing the

crucial role it plays as a medicine, and further affirming the legitimacy of the industry. Numerous states adopted temporary emergency regulations that permitted or expanded cannabis delivery, allowing consumers to safely purchase cannabis from their homes instead of putting themselves and others at risk for infection by visiting a dispensary.

Access for Adult-Use Consumers

Delivery services also expand adult-use consumer access to the regulated market. According to a survey conducted by the market research firm BDS Analytics, **convenient access is the second most important purchasing consideration for cannabis consumers.**³

Figure 1. Key Purchasing Considerations in the U.S.



Cannabis delivery businesses are adept at providing a key point of access and level of convenience to consumers in urban, suburban and rural areas. This is especially the case in rural and suburban regions where local government bans and low population densities often result in a shortage of licensed storefronts. In urban areas, limited transit options and traffic make delivery services far more convenient than time-intensive commutes to cannabis retailers.

Enabling consumer access via delivery is also consistent with the way most Americans have become accustomed to buying virtually every consumer product from apparel, home goods, and tech gadgets to beer, wine, and alcohol. Today's consumers expect transactions for new purchases to be quick and easy and product delivery to be seamless and convenient. As McKinsey highlighted in a recent report, more than 70 percent of U.S. consumers currently shop online, and a rapidly growing segment of consumers exclusively purchase goods digitally.⁴ Allowing cannabis delivery enables businesses to provide legal access to adult-use cannabis in a manner that today's consumers prefer and increasingly demand.

Delivery Minimizes the Size of the Unlicensed Market

Given the important role delivery plays for medical patients and adult-use consumers, authorizing cannabis delivery is a fundamental policy prerequisite for enabling the regulated market to minimize and—ultimately—eliminate the unlicensed market. A failure to authorize delivery services eliminates a key point of access and level of convenience, thereby incentivizing a significant portion of medical patients and adult-use consumers to frequent the unlicensed market where delivery services are widely available.

Cannabis delivery should, therefore, be viewed as an important policy lever for minimizing the unlicensed market. As Lieutenant Sean Toman of Las Vegas Metro Police's Narcotic Crimes Division told reporters during Nevada's deliberations as to whether they should authorize adult-use cannabis delivery, "The more [licensed businesses are] allowed to go forward with legal delivery, the better chance we have at decreasing the illegal delivery services."⁵

Model Policies Exist for Delivery

Since a majority of states with adult-use cannabis laws have advanced policy frameworks for delivery, these laws and regulations serve as useful models for identifying and emulating best practices. Several of these models contain innovative provisions that appropriately expand patient and consumer access, address public health and safety concerns, and facilitate collaboration between licensed businesses and state regulators.

Ensuring Public Safety

In order to uphold desired public health and safety goals, policymakers can incorporate several measures to prevent sales to youth, diversion to the unlicensed market, and other concerns.

Regulatory Parity with Traditional Storefronts

Policymakers should apply the same standards to delivery services as they apply to traditional brick-and-mortar storefront retailers. Including, but not limited to, the following:

- **Identification and Age Verification:** Prior to delivering cannabis to an individual at the final point-of-sale, delivery services should be subjected to the same identification and age verification standards that exist for traditional brick-and-mortar storefront retailers.
- **Purchasing Limits:** Policymakers should apply the same restrictions on daily and per transaction purchases as they apply to brick-and-mortar storefront retailers.

Additional Safety Requirements and Regulations

Additional regulations should be implemented to ensure the safety of both the delivery driver and the general public:

- **Prohibit Out-of-State Deliveries and Routes:** Delivery services should be prohibited from traveling out-of-state while conducting deliveries.
- **Delivery Vehicle & Driver Standards:** Deliveries should occur in unmarked cars that meet all commercial vehicle requirements in accordance with state law; cannabis should be delivered in discreet packaging and securely stored out of site; and drivers should have a valid state-issued driver's license and carry both personal and business vehicle insurance policies.
- **Restrict Deliveries to Physical Addresses:** Deliveries should only be made to physical addresses, and there should be a clear prohibition on deliveries to schools, parks, and youth centers.
- **Direct Employees:** Deliveries should only be conducted by direct employees that have gone through the same screening and vetting requirements that exist for other licensed cannabis businesses. This applies to storefront, independent non-storefront, and third party delivery businesses.

- **Cashless Transactions:** Delivery orders should be pre-paid in advance of physical product delivery to ensure a cashless transaction, limiting risk to both the delivery driver and the customer.

In addition to the above requirements, some states mandate that more than one employee occupy a delivery vehicle, ensuring that one person is in the vehicle at all times. While the rationale behind these requirements is logical, requiring two employees at all times introduces higher labor costs and inefficiencies, and has not shown to be more effective at preventing robberies.

Technology Can Make Cannabis Delivery Safe and Convenient

The use of certain technologies can help make cannabis delivery safer for drivers and more convenient for consumers. GPS and inventory tracking promotes transparency among both regulators and business owners and helps ensure the safety of delivery drivers. Policies should also permit consumers to order cannabis online and have it delivered to their place of residence.

GPS and Inventory Tracking

Mandatory GPS tracking with seed-to-sale tracking integration allows regulators to monitor the movement of legal cannabis through the supply chain and enables licensed operators to remain compliant with local and state regulations. GPS tracking also helps ensure delivery driver safety by providing real-time information on delivery routes, which is especially important for drivers transporting large sums of cash or product.

- **Mandatory GPS tracking:** All delivery vehicles should be equipped with GPS tracking devices and all transactions should be accompanied by appropriate order forms, invoices, and manifests.
- **Seed-to-Sale Integration:** Deliveries should be appropriately integrated into the state's seed-to-sale tracking systems, and GPS and inventory tracking data should be made available to state regulators upon request.

Online Ordering

To promote convenience and facilitate legal market purchasing, consumers should be allowed to order cannabis and cannabis products online and have it delivered to their homes. To advance transparency and equip patients and consumers with sufficient information, delivery services, both storefront, and non-storefront, should be permitted to post a plethora of product information online.

- **Online Ordering Across Multiple Platforms:** Patients and consumers should be allowed to place delivery orders through multiple methods—including by phone, on licensed delivery services' websites, and through technology platforms.
- **Full Menu Access:** Delivery services should be able to communicate, list, and advertise a full menu of available products and prices, as well as current discounts, deals, and promotions.

Local Control Considerations

Delivery is an important mechanism for responsibly expanding patient and consumer access, and state policies should reflect that. Accordingly, licensed delivery services should have the authority to deliver medical and adult-use cannabis statewide. In order to avoid a patchwork of local government standards, deliveries at a minimum should be allowable between 6:00 a.m. and 11:00 p.m., and local governments should have the authority to increase these hours of operation if they so choose.

Policy Recommendations

State and local officials looking to establish a functioning, well-regulated cannabis market should consider the following policy recommendations related to cannabis delivery:

- 1. Allow both retail storefront and independent non-storefront delivery services to conduct cannabis delivery statewide.**
- 2. Allow for dynamic delivery, where delivery operators can operate more efficiently in high-traffic areas and/or expand delivery zones.**
- 3. Ensure that cannabis delivery is available to both medical and adult-use consumers.**
- 4. Authorize online ordering for delivery services.**
- 5. Mandate GPS tracking for all delivery drivers and require all transactions to be accompanied by appropriate digital or paper order forms, invoices, and manifests.**
- 6. Prior to delivering cannabis to an individual at the final point-of-sale, delivery services should be subjected to the same identification and age verification standards that exist for brick-and-mortar storefront retailers.**
- 7. Deliveries should only be made to physical addresses, and there should be a clear prohibition on deliveries to schools, parks, and youth centers.**
- 8. Delivery operators should not be required to have more than one employee in the vehicle.**

Endnotes

1. British Columbia Ministry of Public Safety and Solicitor General. "Home delivery: another reason to choose legal cannabis". *BC Gov News*, British Columbia Ministry of Public Safety and Solicitor General, 17 Jun. 2021, <https://news.gov.bc.ca/releases/2021PSSG0051-001120>
2. "Medical Cannabis in America - the Medical Cannabis Briefing Book 116th Congress." Americans for Safe Access, 2019, <https://www.safeaccessnow.org/briefingbook116>.
3. "Top 10 Trends in Cannabis for 2019 (Mid-Year Update)." *BDSA*, BDSA, 30 Jan. 2019, <https://bdsa.com/top-10-trends-in-cannabis-for-2019-mid-year-update/>.
4. "CPG Goes Omnichannel: Shoppers Grasp the Digital Opportunity." McKinsey, March 2018, p. 3. <https://www.mckinsey.com/business-functions/growth-marketing-and-sales/solutions/periscope/our-insights/surveys/cpg-goes-omnichannel-shoppers-grasp-the-digital-opportunity>
5. Kudialis, Chris. Ban on Home Delivery for Recreational Pot Surprises Nevada Industry Officials, *Las Vegas Sun*, 10 Aug. 2017, <https://lasvegassun.com/news/2017/aug/10/surprise-ban-on-home-delivery-for-recreational-pot/>.