



## New York City Sheriff's Office

### Committee on Oversight and Investigations

#### Committee on Finance

Good morning, Chair Brewer and Chair Brannan, and good morning to all Councilmembers here today.

On behalf of the New York City Sheriff's Office, we are excited to be here to discuss such an important initiative for Mayor Adams and this entire administration.

My name is Anthony Miranda, and I have the privilege of serving as the Sheriff for New York City.

As the Sheriff, I have been granted the authority to lead a comprehensive, multi-agency operation to padlock illegal smoke shops and unlicensed cannabis dispensaries across the five boroughs.

In April of 2024, the State granted cannabis enforcement authority explicitly to the Sheriff's Office and to any agency designated by the Sheriff's Office, which includes the Department of Consumer and Worker Protection and the New York City Police Department. This authority permits the Sheriff's Office to inspect these unlicensed locations and to issue civil summonses to smoke shops that are selling cannabis without the appropriate state issued license. The Sheriff's Office is also authorized to padlock locations on the first visit when they are determined to be an imminent threat to health, safety, and the welfare of communities. We are also able padlock locations that are repeatedly found to be selling cannabis illegally.

As of September 11, 2024, in just a little over 4 months, this operation has conducted 5,059 inspections. We have inspected 95% of the reported 3,803 locations; 169 locations were recently reported through 311. The SJCTF has sealed 1,078 locations, seized over \$67 million in illicit products, and issued over \$104 million in civil penalties.



For months, New Yorkers have seen and heard our efforts, but today I would like to take the Council through the operational demands of countering the spread of illicit stores.

At the beginning of May, with an estimated 2,800 illegal smoke shops in operation, the City had to strategically inspect any store that was considered an imminent threat to the health and safety of the community. As such, the Sheriff's Office prioritized inspecting smoke shops that sold unlicensed cannabis that had resulted in adults or children experiencing sickness, smoke shops that were identified as selling or targeting minors, and smoke shops that were within 1,000 feet of a public youth facility, school, or house of worship.

Teams of five to seven personnel—including Deputy Sheriffs, DCWP inspectors, and the NYPD—are strategically deployed to neighborhoods across the five boroughs. To maximize resources, these teams will inspect illegal smoke shops or unlicensed cannabis dispensaries operating in proximity of each other. This enforcement tactic allows our operation to conduct as many as 60 inspections within a single day.

With each inspection, our Deputy Sheriffs, Sheriff Investigators, and DCWP inspectors write and issue all relevant violations, such as unlicensed sale of cannabis and possession of flavored tobacco products. The inspecting officers then conduct an inventory process of all illegal products which separates by category, bags, weighs, and seals the evidence at the location. Illegal products include anything from cigarettes to cannabis in flower form and, if an imminent threat factor is observed, the officers will padlock the store. The largest number of illegal or unlicensed products removed from one location was 29 pallets. This summarizes the inspection process.

After the inspection, for the locations that are padlocked, the respondents, who are the store owners, are entitled to a hearing before OATH within five business days of the issuance of any civil summonses for unlicensed cannabis sales. At this hearing, the respondents can challenge the sealing of their store. Once the hearing has been held, the OATH hearing officer will render a decision on the civil summons and issue a recommendation regarding whether the store should remain closed. Within four business days of receiving the hearing officer's recommendation, the



Sheriff's Office will issue a final decision on whether the store will remain sealed or will be permitted to re-open, based on a careful review of the hearing record.

If the Sheriff's Office determines the store will remain sealed, the store is then monitored by both the Sheriff's Office and the NYPD, to continually monitor the location and ensure compliance with the law.

Many of you may be wondering what happens if a store cuts the padlock once the Sheriff's Office has decided that they should remain closed? Great question. This is illegal, and it is potentially a prosecutable offense, because the owner would be defying a legal order. On the rare occasions when this does occur, we have teams conduct re-inspections as soon as possible. If we find that a padlock has been broken, we go back in immediately to determine if additional illegal activity has taken place within the location and re-seal the store.

I also would like to address a common concern about the fine collection. Our primary objective for this operation is to shut these businesses down, not to raise revenue. The increased fines are meant as a deterrent. By and large, shops that are padlocked, go out of business and it is very difficult to collect fines from an often-untraceable LLC that is no longer in operation. For LLC's that have stayed in business, it may take up to 120 days for fines to be turned into collectable judgments. As of this time, no fines issued have reached this benchmark.

Our goal is not just to inspect unlicensed stores and take appropriate action, but to restore the community's quality of life. This administration wants a legally operating business to be able to take over the commercial space as soon as possible. This will not only help the landlord, but also improve the neighborhood and support local small businesses. Currently, 274 locations are vacant, 141 locations have changed businesses, and 116 locations were released back to landlords who have completed the abatement process.

Operation Padlock to Protect has been able to shut down illegal smoke shops and unlicensed cannabis dispensaries in every City Council district. On a weekly basis, we are inspecting **hundreds of locations**. This is only the beginning; the operation will continue to change and expand as the industry continues to evolve. This will ensure that the health and safety of our communities are protected.



As many of you are aware, these illegal shops are promoting products that are targeting children, especially highschoolers. The illegal smoke shops sell cannabis in packages displaying popular cartoon characters or packages resembling snacks and candy. It is imperative that we do everything we can to protect young New Yorkers and remove harmful products from the streets. There are no quality control regulations on the unlicensed products seized during our inspections, and they can include any number of harmful chemicals, toxins, or trace amounts of other illegal substances. In our inspections we have recovered firearms, such as shot guns, 9MM, 40 caliber and other weapons such as swords, machetes, brass knuckles, mace, and other weapons. We have also recovered narcotics / control substances such as Psilocybin (Mushrooms), cocaine, crack, heroin, MDMA, fentanyl and ketamine to name a few.

The gravity of the work before us cannot be overstated, which is why I am so thankful for the Council's partnership. Many of you have joined our teams on ride-alongs or inspection operations, which I believe has been incredibly helpful. For any members here today, who have not yet participated in a ride-along, please reach out to my office and we'd love to set up a time for you all to join us. This effort needs to be an all-in approach by the entire city.

For the community members listening, you are a crucial part of this effort! It is thanks to your partnership that we've had much success. And to all members of the public: if you see an illegal smoke shop or unlicensed cannabis dispensary operating in your community, please report it to us. We have made this as seamless as possible, which I believe is what has led to so much early success.

Our contact information is the following: email at [smokeshopcomplaints@sheriff.nyc.gov](mailto:smokeshopcomplaints@sheriff.nyc.gov) or call us at 212-NEW-YORK (311).

Now, I would like to discuss the legislation being heard today.

Intro 557 would require OTI to create a new 311 category for reports of unlicensed cannabis retailers. I strongly believe in and support any effort to ensure that every single unlicensed cannabis dispensary and illegal smoke shop is reported and then inspected.



Our current process is working, and 311 does take complaints and direct them to our office. So far over 1,000 complaints have come in through 311 and we are in constant coordination with them to receive this information. In addition, as I mentioned earlier, we have an email inbox and a phone number for constituents to report illegal activity. We have received thousands of reports that have led to hundreds of inspections of suspected cannabis sellers.

At this point, we do not want to disrupt our process in any way that would lead to more administratively burdensome tasks while the Sheriff's Office needs to be narrowly focused on completing as many inspections as possible each day.

Intro 981 would mandate additional reporting requirements on a quarterly basis relating to the total number of inspections, the agencies involved in the inspections, and whether the store was licensed. This bill would expand on existing reporting provisions by requiring that if a store is found to be unlicensed, the Sheriff's Office would be required to provide detailed information relating to the violations, civil summonses, and arrests.

At this point in the operation, the Sheriff's Office is working around the clock to inspect unlicensed stores in the city. The team we have assembled is dedicated to transparency, whether that is responding to the letters sent by the Council, accommodating member requests for ride-a-longs, or even staff attending inspections, because we view the Council as a true partner in this operation. With that, mandating another reporting requirement would be overly burdensome and therefore we cannot support Intro 981 at this time.

In conclusion, Operation Padlock to Protect has led to safer communities, a better quality of life, and the reassurance that the key to prosperity is public safety. The work is only just beginning, but I look forward to our continued partnership as we all commit to inspecting every single unlicensed cannabis shop in the city.

Thanks again for the opportunity to testify before you all today and I am happy to take any questions you have.

Sincerely,



Sheriff Miranda



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September 13, 2024

Dear Councilmember Brewer and Councilmember Brannan,

I would like to thank you and the entire Council for the strong partnership you demonstrated with Operation Padlock to Protect. Public safety is the key to prosperity, and the effort shown by this Administration to close every single unlicensed cannabis store is a true testament to keeping New York citizens safe.

Operation Padlock to Protect began in May of 2024, thanks to the State legislature and the Governor's office granting the city the necessary authority to enforce against the sale of illegal cannabis. The State, at all levels, including the Governor's office and Office of Cannabis Management, have been fantastic partners that have provided the structure and freedom for New York City to successfully adopt its enforcement authorities. With that being noted, the Sheriff's Office has an open dialogue with OCM and is working towards streamlining reporting requirements. At this point, the reporting structure and mechanisms are still being worked on.

**Enforcement actions taken as of September 9th, 2024:**

The Sheriff's Joint Compliance Task Force has attempted 5,068 inspections, sealed 1,110 locations, issued \$101,888,867.00 in civil penalties, and seized a total of \$66,890,341.20 illicit products. Of the 1,110 locations that were sealed, 983 locations have remained sealed based on the final determination of the Sheriff. This equates to 89% of the locations remaining closed.

**Illicit Product Seized Include:**

1. Cannabis Vapes: 1282 Bags: \$5,838,800.00
2. Flower: 1471 Bags & Pre-rolls: 530 Bags: \$32,198,670.00
3. Edibles: 1386 Bags: \$14,354,028.00
4. Cigarettes: 9848.4 Cartons: \$1,101,442.40
5. OTP: 2540 Bags: \$1,262,850.00
6. Flavored Vape: 4062 Bags: \$12,089,540.00
7. The Office of the Sheriff is not currently destroying the illicit products – NYPD is handling the destruction of products on behalf of DOF.

**8. The Office of the Sheriff does not seize cash from any locations. – NYPD seizes cash for safekeeping and investigative review when necessary.**

During the inspection operations, 4,266 civil summonses were issued. Of those civil summonses, 1,262 were issued by the Office of the Sheriff (1,108 relating to closure orders, 121 relating to cease & desist orders, and 33 related to illegal tobacco). The total value of civil penalties issued for cannabis related violations is \$30,725,000.00.

**Resources and Personnel:**

As I have mentioned before, this operation requires an all-hands-on-deck level of effort. Currently, there are approximately 180 employees assigned to the task force, which includes deputy sheriffs and sheriff investigators, officers of all ranks from NYPD, inspectors from DCWP, attorneys and support staff. On any given day, 15% of Sheriff's office staff is working on some aspect of Padlock to Protect and they are spending 8-12 hours a day, depending on shift length, with an average of 4 hours overtime daily.

**Penalty and Judgment Summary:**

The City has one paramount goal for this enforcement effort: to stop these illegal stores from selling unsafe products to our communities and, specifically, our children. Every tool after that is a bonus. Civil penalties were established as a deterrent to prevent future violations.

As of September 9<sup>th</sup>, the City has written 4,266 civil summons resulting in \$101,888,867.00 in penalties assessed. Below you will find the common summons issued:

<b>Code</b>	<b>Description</b>
ABE1	CANNABIS VIOLATION BY A PLACE OF BUSINESS
ABE2	CANNABIS VIOLATION BY OWNER OR PERSON IN CHARGE OF A PLACE OF BUSINESS
ABA1	UNLICENSED RETAIL CIGARETTE ACTIVITY 1 <sup>st</sup>
ABA6	SALE OR POSSESSION OF UNTAXED CIGARETTES 1 <sup>st</sup>
ABB3	SALE OR POSSESSION OF COUNTERFEIT TAX STAMPS 1 <sup>st</sup>
ABD2	UNLAWFUL SALE OF FLAVORED TOBACCO 1 <sup>st</sup>
ADQ2	OPERATION OF A MOTORIZED SCOOTER WITH THE CITY OF NEW YORK

Between the time that Operation Padlock to Protect kicked off and as of September 9<sup>th</sup>, \$243,500 in penalties has been collected for cannabis and tobacco violations issued by Sheriff officers. It should be noted that all DCWP penalties are paid directly to DCWP and are not included in these figures. Operation Padlock to Protect is only four months old, as the Council is aware, typically it can take months for liabilities resulting from civil summonses to be converted

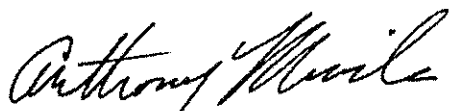


into judgment debt and enhanced collection methods to become available to the city. I will provide collection updates in the following months.

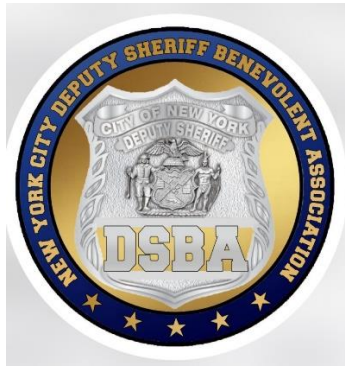
In summary, Operation Padlock to Protect has led to over 1000 unlicensed cannabis retailers to be sealed, over 2,500 locations inspected, and millions of dollars of unsafe product to be removed from our communities. On behalf of Mayor's Adams Administration, we are thankful for your dedicated partnership to improving the quality of life throughout New York City and ensuring the City has a vibrant, successful legal market going forward.

I look forward to our continued partnership.

Sincerely,

A handwritten signature in black ink that reads "Anthony Miranda". The signature is written in a cursive, flowing style.

Anthony Miranda



# **Oversight – The Mayoral Administration’s Implementation of Cannabis Enforcement Laws**

*Testimony of New York City Deputy Sheriff’s  
Benevolent Association President Ingrid Simonovic*

**NEW YORK CITY COUNCIL COMMITTEE ON OVERSIGHT &  
INVESTIGATIONS**

**Hon. Gale Brewer  
Chairwoman**

**NEW YORK CITY COUNCIL FINANCE COMMITTEE**

**Hon. Justin Brannon  
Chairman**

**September 17, 2024**

Good morning, Chairwoman Brewer, Chairman Brennan and the distinguished members of your respective committees. My name is Ingrid Simonovic. I am the President of the New York City Deputy Sheriffs Benevolent Association. Our approximately 140 members provide critical essential services to New York City residents every day. Our Deputy Sheriffs enforce both Civil and Criminal matters. The New York City Sheriff's Office is composed of three sections: Operations, Intelligence, and Support. The deputies working within our Bureau of Criminal Investigation (BCI) investigate city tax violations, real property larceny/deed fraud, cigarette tax, cannabis, synthetic narcotic enforcement (such as spice/K2 and bath salts) and other offenses.

Deputy Sheriffs assigned to civil enforcement duties are referenced as Law Enforcement Bureau (LEB) personnel. LEB deputies perform a wide array of tasks such as evictions, warrants of arrest, orders to commit, and the seizure and sale of property pursuant to judicial mandates. We are the chief Law enforcement agency for both Civil and Family court matters. Businesses and individuals that owe the city money pursuant to unpaid city tax warrants, environmental control board summons, and fire and health code violation fines, are targeted for enforcement action. LEB deputies also serve a wide variety of legal processes, with orders of protection being considered our highest priority.

I mention these critical responsibilities and essential services because most New Yorkers really have no understanding of the wide range of services, we perform every day. That is because to most New Yorkers, our members are largely associated COVID-19 enforcement and as of recent times - with the ongoing shutdown of illegal cannabis shops known as “Operation Padlock.”

Overall, the sheriff’s office is a very unique law enforcement agency with powers and authority unlike any other city agency. This is the same very authority Sheriff Miranda is bestowed upon, and the very same powers he has abused often enough during his short tenure.

Today’s hearing focuses on the implementation of New York’s cannabis enforcement laws, with “Operation Padlock” being the central focus of the city’s cannabis enforcement. To be clear, our union fully supports enforcing all of New York’s laws and ensuring the safety, security and the well-being of all New Yorkers. Our members often put themselves in great risk during our various enforcement proceedings. But I am here today to shine a light on the way our members have been both negatively impacted and mistreated by Sheriff Anthony Miranda, as a result of his poor leadership at the Sheriff’s Office, which extends far beyond his public role as the “pot shop photo op” enforcer.

From day one, Sheriff Anthony Miranda made it crystal clear that he had no interest in respecting our rights as simply human beings, nevertheless as labor union members. This hearing is actually the very first opportunity we have been given to share our concerns and to have our voices heard publicly and with complete transparency. Sheriff Anthony Miranda has spent the past two years establishing a consistent pattern of retaliation against his own workforce, punishing, threatening, and disciplining us and those who dare to challenge his occasional questionable orders and ways of doing things. He has also done the same to the union for advocating the rights of our members. I can speak expertly on this matter as my board and myself have been victims of his retaliatory actions. Throughout the implementation of Operation Padlock, we have raised the alarm on the heavy strain this operation would take on our workforce that is already stretched thin. Our members are now working two 10–12-hour tours and given just a few hours to go home, sleep and then return to work. Sheriff Miranda's overzealous focus on cannabis shop closings has forced our deputies to go from four-day work weeks to five-day work weeks, with overnight tour workers forced to work on Saturdays and focus exclusively on the weekends. He has also forced deputies returning from Line of Duty injuries to work 8-hour tours without their service weapons alongside deputies working 10-hour tours with their service weapons all because of his over deployment of personnel to shutdown cannabis stores. The Sheriff's portrayal of the

shutdown of cannabis shops is also incredible misleading. According to the City Council's Investigations Committee, since Operation Padlock began in the Spring, the Sheriff's Office issued 1,178 violations against 1,107 unlicensed cannabis operators. Of the 991 violations that went through the legal process, 516 cases were substantiated, and 288 cases resulted in default judgments. 188 violations were dismissed and 187 violations are pending adjudication at OATH.

In a nutshell, many stores are reopening after being shutdown yet our workforce is being pulled in time and time again to perform these closings that seem to take more priority over the other critical needs New Yorkers have, particularly those in situations where lives could be on the line. For example, from May 4, 2024 to September 6, 2024, there were over 4,700 pot shop inspections. Over that same time period, we have received over 7,400 orders of protection from victims of domestic violence.

As with any City-wide public safety initiative, a surge of manpower is required to successfully execute the needs specific to that initiative. If the Sheriff truly cared about the public's needs, he would have been committed to increasing our staffing levels in order to both carry out operation padlock, while simultaneously carrying out orders of protection, eviction proceedings, drug and illegal e bike confiscations and other seizures.

We have received hundreds of complaints from New Yorkers demanding to know what is going on with their orders of protection. Since when does a cannabis shop closing take priority over safeguarding the lives of women who are victimized by domestic violence?

We are losing deputies who cannot continue to work under a Sheriff who has zero regard for their employment rights and well-being. We have lost approximately 43 deputies in the last two years alone while only onboarding about 26. Some of those deputies have left because of the toll of being exposed to seized marijuana which is stored unsafely and improperly at a warehouse in queens. And when deputies complain about the toll these drug seizures take on their health, their supervisors tell them to just deal with it. The New York Daily News has recently reported on these incidents.

In another sign of Miranda's personnel mismanagement, he recently hired two new Chiefs- Willie Perez and Egan for a combined salary of approximately \$370,000. Those salaries could have been used to hire at least 8 new duties over the next two years to carry out many of the essential services New Yorkers depend on instead of funding two bureaucrats whose sole function is to further diminish the rights of our members and decrease the quality of their working conditions.

We are calling on this committee to use its authority to take the following actions immediately: First and foremost, we are calling on this committee to investigate our personnel deployment and examine why deputies are being overly deployed on certain operations at the expense of others

Second, we invite this committee to conduct an audit into the storage of seized contraband and to compel the Sheriff to overhaul how cannabis and other toxins are impacting the health and safety of our members

Third, there needs to be greater accountability into the operations of the Sheriff's Office. The Sheriff should have to regularly report his office's performance indicators just like every other agency does, either directly on the Sheriff's website or in the Mayor's Management Reports, both of course public facing.

For too long Sheriff Miranda has operated this office like his own personal fiefdom, even going so far as traveling to work in his city vehicle with lights and sirens when there are no emergencies. The real emergency is the way my members have been bullied and mistreated, all while trampling on their rights as labor union members. I thank you for your time and look forward to answering any questions you may have.





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**Testimony of Alaina Turnquist, Lead Budget and Policy Analyst  
New York City Independent Budget Office**

**To the New York City Council Committees on Finance and Oversight and Investigation  
On IBO's Research and Fiscal Projections for NYC Legal Cannabis Market  
Tuesday, September 17, 2024**

Good morning, Chair Brannan, Chair Brewer, and members of the Finance Committee and Oversight and Investigation Committee. I am Alaina Turnquist, Economic Development Budget and Policy Analyst for the New York City Independent Budget Office (IBO). I am joined here today by my colleague Brian Cain, Assistant Director of Housing, Environment, and Infrastructure.

In August 2023, IBO published a [report](#) estimating the potential size of a mature legal cannabis market in New York City. In May 2024, IBO updated its estimations using more recent data. IBO also recently published a [report](#) discussing important changes from the last session of the State Legislature, including cannabis policy changes relevant to the City. My testimony today will highlight key takeaways from IBO's cannabis-focused research.

IBO has been estimating the potential size and fiscal impact of New York City's legal cannabis market for over a year. The most recent update in May 2024 estimated that New York City's legal cannabis market could, at maturity, yield between \$33 million and \$200 million in annual tax revenues for the City. Notably a variety of factors impact this large range, including the pace of opening of licensed cannabis dispensaries, consumer preferences for switching to the legal market, enforcement of unlicensed dispensaries, and consumer preferences for different types of cannabis products (edibles for example are a higher priced product than typical flower, yielding greater tax revenue).

IBO recognizes this is a wide-ranging estimate and it relies on data from other states, looking at both the average per capita sales and the price per ounce of cannabis sold. The low end of the estimate (\$33 million) assumes a low amount of cannabis sold per capita at a low price. The high end of the estimate (\$200 million) assumes a high amount of cannabis sold per capita at a high price. IBO's estimates are based on consumption and price patterns seen in other states with at least five years of legal adult-use cannabis sales. When the rollout of the legal market is completed, IBO would expect to see cannabis sales in the middle of this range.

It is difficult to pinpoint a future market size for several reasons. New York State's unique requirements for retail licenses have resulted in a slower rollout of the legal market than in most other states. The presence of unlicensed cannabis dispensaries has also slowed the growth of cannabis tax revenue, because any sales made at these unlicensed stores are untaxed. Even if the City is successful in closing all unlicensed cannabis retail operations, consumers may choose to continue patronizing unlicensed sellers—for example, legacy dealers—rather than purchase cannabis from licensed dispensaries.

IBO expects that as more licensed dispensaries open across the City and more unlicensed stores close, which is discussed in more detail below, the pace of cannabis tax revenue collection will increase. Importantly, the amount of potential cannabis tax revenue that the City could eventually see from the mature legal market is small in comparison to other sources of City tax revenue. IBO projects approximately \$85 billion in total City tax revenues in 2028. Even with the highest cannabis projection of \$200 million, this would amount to about 0.24% of the total. Thus, fluctuations in Cannabis revenue are not a make-it-or-break-it factor in creating or closing budget gaps. Although the fiscal impact of unlicensed smoke shops and cannabis revenue is relatively small, unlicensed smoke shops likely affect the ability of licensed dispensaries to compete and succeed. The sale of unlicensed cannabis and tobacco products creates concerns from a consumer protection and public health vantage point.

Cannabis tax revenue collections to date have fallen short of IBO's estimates, but IBO expects collections to increase in the years ahead. As of the 2025 Executive Budget, New York City collected \$2.4 million in cannabis tax in fiscal year 2024. IBO's most recent cannabis tax forecast predicts collections of \$37 million by fiscal year 2028, higher than OMB's forecast of \$30 million in the same year. The legal market has grown dramatically so far in the current calendar year, from 12 licensed dispensaries opening in all of 2023 to over 50 opening so far in 2024. Currently, there are over 70 licensed cannabis dispensaries operating in New York City.

Beyond tax revenue from cannabis sales, the City may also see additional revenue in [Community Reinvestment Grants](#) which will be awarded to communities disproportionately impacted by cannabis prohibition. These grants will be funded out of a portion of the State's cannabis tax revenue. The Cannabis Advisory Board announced that it will begin awarding these grants in 2024, although none have yet been granted. However, the potential amount of grant revenue which could be received is uncertain and would be devoted to the grant-specific project or program, rather than general cannabis revenue which goes to the general fund and can be used for any purpose. The Office of Cannabis Management annually publishes a report with details on fund availability and potential distribution.

## **Albany Updates**

The 2025 New York State Enacted Budget contained some items relevant to cannabis taxation and enforcement in New York City.

First, the Enacted Budget expanded and clarified the powers of local law enforcement to respond to the unlicensed sales of cannabis products. Local law enforcement authorities can now immediately shutter a business for up to a year if they find that the business is both selling cannabis without a license and deemed as posing an imminent threat to public health and safety. As mentioned earlier, IBO expects that as unlicensed cannabis dispensaries continue to be padlocked or to close voluntarily, cannabis tax revenue received by the City will increase.

The Enacted Budget also repealed the cannabis potency tax, which was based on the THC content of cannabis products sold by processors to retail dispensaries. In place of the potency tax, the State introduced a flat 9% tax on wholesale cannabis sales from processors to distributors. This tax change will not directly affect City cannabis tax collections, which equal 4% of taxable retail sales of cannabis that take place within New York City.

IBO will continue to monitor legal cannabis market growth and cannabis tax revenue collections. Thank you for your time and we welcome any questions.



**JUMAANE D. WILLIAMS**

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**STATEMENT OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS TO  
THE NEW YORK CITY COUNCIL COMMITTEES ON FINANCE AND  
OVERSIGHT AND INVESTIGATIONS  
SEPTEMBER 17, 2024**

Good morning,

My name is Jumaane D. Williams and I am the Public Advocate for the City of New York. Thank you to Chair Brewer, Chair Brannan, and members of the Committees on Oversight and Investigations, and Finance for holding this hearing and for allowing me to share my statement.

Since New York State legalized adult-use cannabis, or recreational marijuana, in 2021, unauthorized cannabis retailers have proliferated, in part due to the slow rollout of licensed dispensaries throughout the city and state. Up until April of this year, New York City had limited enforcement measures to curb the expansion of these unlicensed smoke shops, of which some estimates had at more than 2,000 storefronts.<sup>1</sup>

With the legalization of marijuana use, investment in communities that were harmed by its prohibition was always part of the equation, including the distribution of retail licenses. I said last year to the Committee on Consumer and Worker Protection we could consider the legitimization of certain unlicensed retailers via transitional licenses, which would place them under state regulation and ensure health and safety guidelines are followed, and prevent sales to underage individuals. This expansion could be done so in a way where direct profits and funds end up in the hands of individuals and communities harmed by the so-called War on Drugs. The faster we close unlicensed shops safely, the more we can focus on the growth of the licensed cannabis market.

In April, the State announced an initiative that would allow New York City law enforcement to padlock unauthorized cannabis shops and fine the landlords of these properties. This resulted in the Mayor's announcement of "Operation Padlock to Protect," a joint-effort between the NYPD, Sheriff's Office, and the Department of Consumer and Worker Protection. As of August, the City has shut down over 1,000 illegal cannabis and smoke shops, seizing more than \$63 million in illicit products with a total of over \$75 million in civil penalties.<sup>2</sup> Some of these actions call into

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<sup>1</sup> <https://www.nytimes.com/2024/03/22/nyregion/nyc-cannabis-dispensary-legal.html>

<sup>2</sup> <https://www.nyc.gov/office-of-the-mayor/news/662-24/mayor-adams-destroys-four-tons-seized-cannabis-product-operation-padlock-protect-shuts#/0>



**JUMAANE D. WILLIAMS**

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question whether we have moved away from the aggressive policing that led to the disinvestment in our communities where public safety meant policing without social services.

While these are positive moves, I share concerns regarding the City's enforcement tactics. The City must move away from aggressive policing tactics and due process violations. In May, for example, law enforcement officers, including NYPD, entered a Staten Island storefront and requested access to the back of the store. In response, the shop clerk asked to see a court order. The officers disregarded the request, jumped over the counter, and, shortly after, the clerk was in handcuffs and charged with obstruction of justice. Notably, this occurred before any unlicensed cannabis products were found.<sup>3</sup> In August, a judge also found due process violations in how the sheriff's office went about closing a convenience store accused of illegally selling cannabis.<sup>4</sup>

Let me be clear, we want to make sure law enforcement has explicit guidelines on appropriate operations as well as the personnel to do their jobs. Enforcement should not be at the expense of people's constitutional rights. We must remember the purpose of enforcing violations on unlicensed businesses is to prevent harm and nurture the growth of those who have worked hard to operate a safe and regulated market for cannabis the right way. The legalization of cannabis in New York was a watershed moment, aiming to rectify decades of over-policing and injustice inflicted upon Black and Brown communities. With the closures of illicit smoke shops— we as a city must not fall back into a cycle of aggressive policing and violation of New Yorker's rights—we can uplift those historically impacted by low-level marijuana arrests entering an emerging market. As the legal marijuana market grows,<sup>5</sup> so will the city and state, as it also mends long-standing inequities. New York City will be a better place for it.

Thank you.

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<sup>3</sup> [https://www.thecity.nyc/2024/06/03/video-nypd-cannabis-raid-adams-hochul/?utm\\_medium=email&utm\\_source=ActiveCampaign&utm\\_campaign=DAILY\\_240603](https://www.thecity.nyc/2024/06/03/video-nypd-cannabis-raid-adams-hochul/?utm_medium=email&utm_source=ActiveCampaign&utm_campaign=DAILY_240603)

<sup>4</sup> <https://www.nytimes.com/2024/08/15/nyregion/nyc-marijuana-enforcement.html>

<sup>5</sup> Hopefully, the industry will grow to promote a space for small businesses alongside small businesses.

*A Special report from the:*

# The New York Association of Wholesalers and Distributors

By: David M Schwartz, Esq.



## Sting Operation

The Illegal Sale of Untaxed Illegal Cigarettes and Illegal flavored E-Cigarettes in Unlicensed Stores throughout New York City costing the City and State of New York over **2.5 billion dollars** per year.

***37.5 BILLION DOLLARS lost over the Past 15 Years***

**\*\*Testimony for NYC City Council Hearing on Illegal Cigarettes\*\***

My name is David Schwartz, and I am here representing the New York Association of Wholesalers and Distributors. Today, I want to draw your attention to a critical issue that is not only undermining the integrity of our economy but also jeopardizing the safety and well-being of our communities: the illegal sale of untaxed cigarettes and flavored e-cigarettes in unlicensed stores throughout New York City.

Our sting operation conducted years ago revealed a staggering reality: the illegal cigarette trade is costing the City and State of New York over \$2.5 billion annually. Over the past 15 years, this amounts to a staggering loss of \$37.5 billion. This is not just a financial issue; it is a crisis that demands urgent action.

At the New York Association of Wholesalers and Distributors, we believe in maintaining a fair and free market, where businesses can thrive based on merit and competition. However, the rampant sale of illegal cigarettes is eroding this foundation. It diverts potential profits from legitimate businesses, funds criminal activity, and undermines the rule of law.

Through our revitalized “first alert” program, we identified thousands of locations across the city suspected of selling illegal products. We gave this report to the city and state and we are thrilled that the city is acting and closing these stores down. Our undercover operatives documented their findings, revealing that while some shops operate within the law, the majority do not. This illegal activity occurs in broad daylight, showcasing a blatant disregard for our laws. We need to finish the job and shut down all of these stores so the legal trade can take back the marketplace. When we shut down illegal stores, Consumer Affairs must open up the market to legal shops and terminate the moratorium on cigarette licenses because that policy defies logic. The city went from 10,000 cigarette licenses to less than 5000 which hurts the legal distribution channels and enhances the legal channels. All cigarettes and vapor products should be bought in brick and mortar stores where we collect the taxes on these products.

The consequences of this illicit trade are far-reaching. Not only are we losing billions in tax revenue, but we are also witnessing the rise of organized crime. Criminal enterprises are capitalizing on the high taxes in New York by smuggling cigarettes from states with lower taxes. This illicit market poses a significant

danger to public safety and national security. Revenue generated from illegal cigarette sales often funds violent groups and criminal organizations, contributing to a cycle of violence and instability.

We stand at a crossroads. Either we uphold our laws and restore integrity to our markets, or we allow these illegal operations to continue unchecked, further endangering our communities. We urge this council to take decisive action against the sale of illegal untaxed cigarettes and flavored e-cigarettes. By enforcing existing laws and imposing stringent penalties on violators, we can begin to reclaim the billions of dollars lost to this illegal marketplace.

Let us work together to eliminate this scourge from our streets. Our mission is clear: to ensure that every illegal cigarette is removed from our city, protecting both our economy and our communities from the dangers of the black market.

Thank you for your time and consideration. I hope we can count on your support to address this pressing issue.

David M Schwartz, Esq. LLM  
New York Association of Wholesalers and Distributors  
212-641-0499  
dschwartz@gothamgr.com

**NEW YORK CITY COUNCIL TESTIMONY**  
**JEFFREY HOFFMAN - INFO@420JURIST.COM**  
**SEPTEMBER 17, 2024**

My name is Jeffrey Hoffman, and I'm an attorney here in New York City. My law firm focuses entirely on New York cannabis, and we have hundreds of clients in the cannabis industry here in the City and across the state. In addition to our work on the business side of cannabis, we are also very involved in cannabis justice work, specifically freeing cannabis prisoners and expunging cannabis convictions from records.

Thank you for inviting me to speak here today. In addition to addressing your primary topic, the enforcement against illicit cannabis shops here in the City, my remarks today will also touch on:

- the need for better communication between the Cannabis Bar and the City
- the need to elevate Cannabis NYC within City government
- the need for the City to create 24-hour nightlife districts with cannabis tourism being a primary component
- the need for the City to better inform its residents about cannabis justice issues such as expungement and jobs

Addressing enforcement first, I will note that the City (and state, which is primarily responsible for the problems we are having now) are finally moving down the correct path for addressing the illicit cannabis issue. The enforcement is absolutely having an impact and driving up sales at regulated stores. That said, this effort was way, way overdue in its application. We attorneys, the members of New York City's Cannabis Bar, have been saying for over two years that these enforcement measures, in addition to even stronger measures such as taking a building from a landlord, would be required to have a significant impact on the illicit cannabis businesses. This is not Monday morning quarterbacking - we were saying this during practice on Thursday. I encourage the City to create a standing task force, perhaps under an expanded Cannabis NYC, to coordinate efforts on enforcement, especially when it comes to addressing the issue with those in state government who hold the keys to solving the issue. Additionally, the City needs to address the "cat & mouse" game that is now being played. Some of the illicit stores are actually cutting the padlocks which the Sheriff puts on them and reopening within days of being shut down. Others are remaining closed during the day and reopening at night in order to avoid the enforcement efforts.

Following on my comments about the enforcement efforts, I strongly encourage the City to set up a regular dialogue with the Cannabis Bar here in the City. We are on the front lines of what is happening with cannabis here, and we can help you head off problems and craft solutions to issues that you will not be aware of until it is too late to easily and effectively address them. We, like you, have a vested interest in seeing the regulated cannabis industry succeed in our City, and this will not happen unless we work together.

To that end, I believe that the most effective vehicle for such dialogue is an expanded Cannabis NYC. The work that Dasheeda Dawson, Tosi, Roy, and the rest of the crew are doing is fantastic. We need to give Cannabis NYC a higher profile within City government and empower them to continue their leadership in this space. Additionally, if the state was smart, they would duplicate Cannabis NYC's efforts across the state to ensure the success of the regulated industry. We should have those at the highest levels of City government discuss this with their counterparts in state government.



Next, we need to revisit the concept of 24-hour nightlife districts in the City. At one point, the Office of Nightlife explored this - it's a concept being deployed in other cities around the world, and I believe it's an idea whose time has come for us here in New York City. Most significantly, while New York's cannabis regulations generally prevent sales of cannabis from 2am to 8am, they go on to say that this is true "unless given express written permission by such municipality, or the municipality passes a local law, authorizing it to operate during such hours." Hence, we could enable such stores to be open 24 hours in specific districts established for nightlife. This would be a game-changing aspect for nightlife in our City, and I strongly encourage you to consider this.

Last, but certainly not least, and perhaps even most importantly, we need to consider all of the existing and emerging justice issues related to cannabis legalization in New York. There are two main items to focus on here: expungement and employment.

As to expungement, while all of the misdemeanor cannabis convictions in New York were supposed to have been expunged by March 31, 2021, the state was not required to notify anyone about this. While we do have "ban the box" here in New York, which means an individual cannot be asked about their record when it comes to things such as housing and job applications, we all know that this activity continues to this day. If you do not know that your cannabis conviction has been expunged, you will continue to "check the yes box" when asked if you have ever been convicted of a crime. Worse still, any felony cannabis convictions require the filing of a 440 motion, a possible court appearance, and even an appeal in order to get expungement. New York City was the epicenter of anti-cannabis enforcement, and this is where most of the folks that need expungement are, but none of them know about it. I am very involved in such efforts with Professor Terrence Coffie of NYU via The Cannabis Justice & Equity Initiative. We have started discussions with the Manhattan Borough President's Office, in particular with Deputy Borough President Keisha Sutton-James, about how to address the cannabis conviction expungement issue here in the City, and we would welcome continuing this discussion at all levels of City government.

While expungement is a critical part of cannabis justice, it is not the complete picture. While the state's goal is to allocate 50%+ of the cannabis licenses to equity applicants, this will at most amount to a few thousand individuals. The real opportunity here in New York is the jobs. Hundreds of thousands of cannabis and cannabis-adjacent jobs will be created here in the state over the coming decade. If we truly want to have a life changing impact on those that were negatively impacted by anti-cannabis enforcement, it will be by providing workforce development opportunities to enable those individuals to enter the workplace. The Cannabis Justice & Equity Initiative, which I mentioned previously, is among the organizations active in this space. We have a training and placement program, centered in Harlem near the Polo Grounds, which has graduated and placed several individuals in the regulated cannabis industry here in the City, including one who has risen through the ranks to become the manager of a dispensary. This is where we can have the largest, longest lasting impact on communities disproportionately impacted by anti-cannabis enforcement. I strongly encourage you to bring together the appropriate parts of City government in order to drive the efficacy of these workforce development efforts.

In closing, I again want to thank you for inviting me to speak here today. I have often said that "New Amsterdam is the new Amsterdam" - we have a unique opportunity to be the Cannabis Capital of the World. I look forward to working with all of you to make that happen.

# City Council Testimony

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## **Testimony to NYC Council on Enforcement Efforts Against the Illegal Cannabis Market**

*Submitted by David Nicponski, CEO of Freshly Baked NYC and Board Member of the New York Cannabis Retail Association*

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### **Introduction:**

Thank you for the opportunity to testify today. My name is David Nicponski, and I am the CEO of Freshly Baked NYC, a licensed dispensary located in the heart of Bronx's Little Italy. I also serve as a board member of the New York Cannabis Retail Association. Thank you for the opportunity to present this testimony. The following remarks are based on personal experiences, quantitative store data, and direct observations from operating a legal cannabis business in the Bronx.

### **Acknowledging the Enforcement Efforts:**

I want to begin by sincerely thanking Governor Hochul and the Legislature for passing legislation earlier this year to continue addressing the illegal market. Based on this legislation, the local enforcement teams and officials, Mayor Adams, the NYPD, the District Attorneys, and the Sheriff's office have been able to begin making progress in enforcing Cannabis licensing requirements. Their efforts have been instrumental in making strides toward controlling the unlicensed market.

When Freshly Baked NYC was in its early stages, we made it clear to the local community board that our presence would benefit the neighborhood by collaborating with law enforcement to target and close down unlicensed cannabis retailers, which have proliferated in our area. This partnership is useful for the community itself, but essential to ensuring that legitimate businesses like ours can survive.

### **Inconsistent Enforcement and its Impacts:**

While some licensed retailers across the city have seen noticeable improvement in sales after effective enforcement efforts, this has not been our experience in the Bronx. Despite periodic submissions of lists of unlicensed retailers through various official reporting channels, such as the Office of Cannabis Management (OCM) website, the Sheriff's office email, and the city's reporting portal, we have observed little response and no direct follow-up. These reports seemed to disappear into a black hole, leaving us frustrated and disheartened.

After several iterations of this, we shifted our approach. Through the guidance of the retail association's lobbyist, we were connected with State Senator Gustavo Rivera's office. Senator

Rivera has been an active and supportive partner in helping us acquire the attention of enforcement agencies. Working with him, we submitted updated lists of unlicensed retailers every few weeks. This collaboration yielded some initial results: within a week of our first engagement, half of the reported locations were inspected, and a few of them were even shut down on the spot.

However, these successes have been short-lived and limited. Most of the shut-down businesses quickly reopened, generally within days. Padlocks placed during enforcement actions disappeared, and unlicensed businesses resumed operations with little deterrence. Even worse, higher-end illegal retailers—those with more significant resources and operational sophistication—have largely evaded enforcement efforts altogether. Many of these stores operate behind locked doors and tinted windows, easily avoiding inspection by simply not answering when enforcement officers knock. These are the real competitors to legal businesses like ours, yet they remain untouched.

Today, there are more operating illegal retail stores in our area than there were when I first began reporting them months ago. Only one business that was shut down remains obviously shut down to this day; the rest appear to have reopened or to have never been shut down at all. This is highly demoralizing.

### **Challenges with Enforcement Follow-Through:**

It is especially concerning that some of these illicit operations continue despite being classified as "imminent threats to public health." For instance, for over five months, a group of unlicensed sellers has been operating openly from a folding table outside the 4 train Fordham Road station. Despite our repeated reports, pictures, and videos sent, these sellers continue to operate without any attempt to hide their activities. Their continued presence highlights the lack of consistent and meaningful enforcement.

Even when enforcement does occur, it tends to focus on low-budget operations, such as bodegas selling a few cannabis products on the side. These are not the businesses that present the greatest threat to licensed retailers and the general public. Instead, the well-financed, full-scale illicit cannabis shops continue to operate with impunity.

### **What Needs to Change:**

To address these challenges, I propose the following changes to the current enforcement strategy:

1. **Improved Licensee Communication and Transparency:** We need a more direct, two-way communication channel with enforcement teams. The current system of one-way reporting is inefficient, opaque, and demoralizing. We want to be able to track the status of reported businesses and receive updates on follow-up enforcement actions.
2. **Rapid Follow-Up on Reopenings:** When unlicensed stores are shut down, there needs to be swift follow-up enforcement to ensure they remain closed. Businesses reopening after being shuttered should be a top priority for immediate action. Licensees need to be able to report these immediately and see rapid followup action.

3. **Strengthen Laws Regarding Padlock Removal:** Current laws regarding the removal of padlocks from shuttered illegal cannabis retailers are insufficient to deter reentry. According to the Manhattan District Attorney's office, unless there is video evidence of someone physically removing the padlock, there is little they can do. Even when there is evidence, the penalties are minimal. The law needs to be revised to place direct liability on the owner of the establishment if anyone re-enters a padlocked illegal store. The penalties should be significant enough to deter any attempt to reopen these locations, ensuring that once they are shut down, they remain closed.
4. **Closer Collaboration with Legal Retailers:** Legal licensees, such as Freshly Baked NYC, are eager to assist enforcement teams. We are willing to provide video evidence, documentation, and even perform purchase stings and record them if needed to establish probable cause. We want to work in partnership with law enforcement, rather than at arm's length, and we have obvious incentives to do so.
5. **A Right of Private Action:** If enforcement resources remain stretched thin, consider granting licensed businesses a private right of action. We are willing to take legal measures directly against unlicensed businesses and the property owners who enable them.
6. **Seize the profits:** Empower DAs to go after the money of the large illegal operators. In our association's conversations with the Manhattan DAs office, they indicated that seizing their profits is the only way to make a dent in the large operators, as they have the resources and sophistication to avoid arrest and if they are charged, drag things out in court. Because of the huge amount of money they are making, they are more than willing to take on the existing legal challenges and stay in business.
7. **Restrict storefront access:** Access to storefronts in the lifeblood of the large illegal operators, so denying them access to retail space is essential. Landlords need more power to close down illegal stores, and prosecutors need more power to go after landlords who fail to do so.

**Conclusion:**

The progress that has been made in certain areas of the city demonstrates that effective enforcement can work. We urge you to extend these efforts to neighborhoods like ours, where the illicit market remains rampant. Legal businesses like Freshly Baked NYC are critical to the success of New York's adult-use cannabis program, but we cannot succeed without a level playing field. While our own business has seen steady, continual and sustained growth since opening, this will not suffice to keep us operational without actual enforcement against the illicit businesses in our area. It would be a travesty for legitimate businesses like ours to eventually go under while the illegal market flourishes and grows, yet that is the current path we're on.

Thank you for your attention to this issue, and we stand ready to collaborate and support ongoing enforcement efforts in any way we can.

We are here, and we are ready to help.

Respectfully,  
David Nicponski

CEO, Freshly Baked NYC  
Board Member, New York Cannabis Retail Association

[REDACTED]

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**From:** Bruce Sterman <id@unlicensednyc.org>  
**Sent:** Wednesday, September 18, 2024 5:16 PM  
**To:** Testimony  
**Cc:** Brewer, Gale; Holden, Robert; District9; [REDACTED]; AskJB; District8; Office of Council Member Powers; District14; District29; Speaker Adams; District36  
**Subject:** [EXTERNAL] 9/17/24 testimony Unlicensed stores: an ongoing NYC health crisis  
**Attachments:** 6324 Draft Letter to Bernadette O'Donnell.pdf; 111423 DOH Brewer-Response.pdf; latimes.com-The dirty dangerous secret of Californias legal weed-6 2.pdf; Summary BEDFORD AVE. 165 - SMOKER'S WORLD 51 .pdf; 111423 DOH Brewer-Response.pdf

[REDACTED]

Having attended the 9/17/2024 City Council hearing on the unlicensed stores, the following is my testimony:

- The unlicensed cannabis stores represent an current, ongoing, happening now, health crisis that the DOHMH has refused to acknowledge.
- I ask the City Council to amend the Health Code to fully establish the New York City Department of Health and Mental Hygiene's authority to close businesses that present an existing health threat, or pass a new law giving it the necessary the authority it needs to immediately padlock a store.
- The Sheriff's Dept is overwhelmed and understaffed, in relationship to the scale of the problem and is ill-equipped to deal with the well-organized, well-planned "cat and mouse" games being played by the non-profit responsible for the proliferation of unlicensed stores.
- This is an "all hands on deck" moment, and the Health Dept needs to become a participant in addition to the Sheriff's Dept.
- The Health Dept should suspend inspecting restaurants for an 8-12 week period. In teams of two, a bag of gummies is purchased with a credit card. The team then returns the next day to padlock the store, neon orange sticker on the front door. The credit card receipt is "clear and convincing evidence," and is not subject to Lance Lazzaro's inventive lawyering.

Attached is my 6/3/2024 draft letter to the DOHMH, written in response to Deputy Commissioner Maura Kennelly's defective explanation as to why DOHMH does not have the legal authority to respond to the health crisis of the unlicensed cannabis stores.

Also attached are:

- Councilmember Brewer's 8/11/2023 letter to DOH Commissioner Vasani
- Deputy Commissioner Kennelly's 11/14/2023 response
- a Los Angeles Times/Weed Week investigative report about the dangerous pesticides found in vapes from licensed CA laboratories.
- A photograph of the products found in the 63 Adelphi St. (Brooklyn) warehouse from the Governor's website.
- A chart from the LA Times article re: inhaling pesticides
- The BackpackBoyz vape purchased via credit card 5/1/2024

It is my testimony that:

- These vapes and gummies are what is being offered for sale in NYC's unlicensed stores.
- I state that unequivocally as a result of the completed confidential project where two credit card purchases made 10 weeks apart in 13 stores (6 in Manhattan, 7 in Brooklyn) provided a wealth of evidence. On the 2nd purchase I wore a pen that recorded audio and video. I have scanned receipts, photos front and back, of the products as well as the products themselves.
- The products found in the 63 Adelphi St. warehouse are the same CA brands witnessed in the stores, some purchased, and many more that are visible in the display cases in the video files.

- The looming lung and liver cancer crisis is not showing up in ER's or poison center calls; the developmental damage being done to 13/14/15 year olds is not showing up in ER's or poison center calls.

**Bruce Sterman**

[ID@UnLicensedNYC.org](mailto:ID@UnLicensedNYC.org)

<https://www.linkedin.com/in/bruce-sterman-6387859/>





## Contaminated weed in you

### Inhaling

As much as 82% of pesticides in weed winds up in smoke that is drawn into the lungs. From there those chemicals enter the bloodstream.

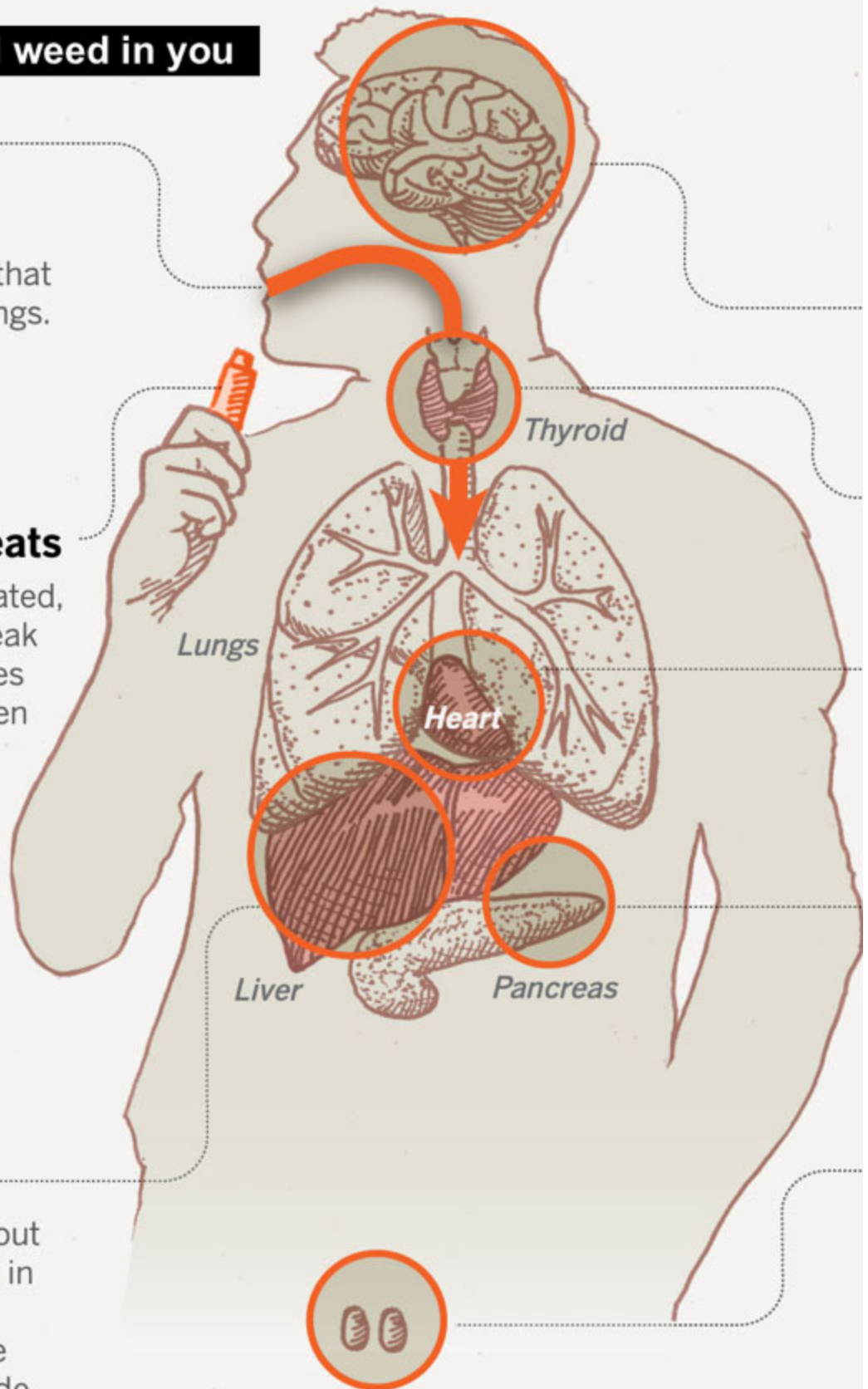
### Compound threats

When burned or heated, some pesticides break down into toxic gases that include hydrogen cyanide.

Organophosphates combine with cannabinoids to pose development risks to offspring, even before conception.

### Ingesting

Your liver will filter out some contaminants in edible products. Regulators therefore allow higher pesticide levels in those products.



By Lorena Iñiguez Elebee and Paige St. John  
June 14, 2024 3 AM PT



# UNLICENSED NYC

Unlicensed. Untested. Unsafe.

6/3/24

**Ms. Bernadette O'Donnell**

Records Access Officer / Associate General Counsel  
Office of the General Counsel  
NYC Department of Health and Mental Hygiene — City of New York  
42-09 28th St., Long Island City, NY 11101

Dear Ms. O' Donnell,

Many thanks for the data provided in response to my FOIL request, data that conforms to the syndromic surveillance paradigm that the NYC DOHMH utilizes to determine health emergencies.

On 8/11/23 Council Member Gale Brewer requested of the Commissioner of the Department of Health and Mental Hygiene (DOHMH) join the effort, citing NYC Health code paragraphs §81.03 and §81.39.

The data you have provided confirms that the DOHMH 11/4/23 decision by Deputy Commissioner Kennelly is defective for two reasons:

1. It is defective because Deputy Commissioner Kennelly added words (**in bold**) not in the code, to justify the decision that DOHMH lacks the authority to regulate cannabis edibles while leaving out the key words that make it clear the DOHMH has the authority. According to Deputy Commissioner Kennelly's letter DOHMH has no authority to padlock the unlicensed stores for selling edibles because:

“ . . . the **typical 'cannabis shop'** is not a food service establishment regulated under Health Code Article 81, in that food **generally** is not prepared and offered for service at the site of the business.

The code actually says (quoting Council Member Brewer's letter):

“§81.03 Definitions: Food Service Establishment means a place where food is provided for individual portion service directly to the consumer whether such food is provided free of charge or sold, and whether consumption occurs on or off the premises or is provided from a pushcart, stand or vehicle.”

The added words “**typical cannabis shop**” and “**generally**” (*in most cases; usually*) appear nowhere in “§81.03 while selectively editing the code by removing the operative words, “where food is provided for individual portion service directly to the consumer” and “whether consumption occurs on or off the premises,” is disingenuous at best, that which makes this decision defective.

2. Deputy Commissioner Kennelly decision continues:

“ . . . a declaration of a public health emergency is not at this time justified as necessary to protect the public health against an imminent or existing threat under Health Code § 3.01. The standard for declaration of a public health emergency under the Health Code is not currently supported by our data on cannabis-related emergency department visits and poison center calls, or other information,

....

Please note that syndromic surveillance was developed to monitor “ . . . the spread and intensity of large outbreaks of disease, especially influenza; enhancing public health awareness of mass gatherings and natural disasters; and assessing new, otherwise unmonitored conditions **when real-time alternatives are unavailable.**” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6198818/>



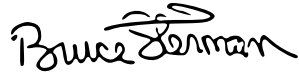
# UNLICENSED NYC

Unlicensed. Untested. Unsafe.

But real time alternatives were, and are, available: principals, teachers, administrators, school nurses, PTA's. This crisis is happening in the schools, in the playgrounds, on the streets, not in the ER or poison call centers. Syndromic surveillance is the wrong paradigm, the wrong model, for this crisis.

DOH looked in the wrong place.

As a tax paying citizen of the City of New York I am requesting a reconsideration of Deputy Commissioner Kennelly's decision.



Bruce Serman  
Unlicensed NYC

DRAFT





**NEW YORK CITY DEPARTMENT OF  
HEALTH AND MENTAL HYGIENE**

Ashwin Vasani, MD, PhD  
*Commissioner*

**Maura Kennelly**  
*Deputy Commissioner*

**Gotham Center**  
**42-09 28th St.**  
**CN33**  
**Long Island City, NY 11101**

November 14, 2023

The Honorable Gale A. Brewer  
New York City Council, District 6  
563 Columbus Avenue  
New York, NY 10024

Dear Council Member Brewer,

Thank you for your August 11, 2023, letter in which you raised concerns about the proliferation of “unlicensed cannabis shops” across New York City. The Department of Health and Mental Hygiene shares your concerns that stores are offering cannabis when they do not have the required New York State (NYS) license and sell cannabis that has not been state-approved.

In your letter, you suggest that the Department exercise its authority to “shutter unlicensed cannabis stores” because these stores are “food service establishments” under New York City Health Code Article 81 and that the Health Commissioner could declare a public health emergency to provide the legal authority for Health Department enforcement action to shut the shops down.

We appreciate these suggestions and have considered them. However, given the NYS cannabis legal framework, the NYC Health Code, and the facts before us, the Department does not believe it is appropriate to conduct the enforcement you suggest. Importantly, the typical “cannabis shop” is not a food service establishment regulated under Health Code Article 81, in that food generally is not prepared and offered for service at the site of the business. Accordingly, the products being sold in these shops are not generally regulated by the food establishment provisions of Article 81 of the Health Code. More generally, given that the sale of so-called “edibles” is generally a component of a larger cannabis business, enforcement efforts in this area are more appropriately coordinated and implemented through other City and State agencies with broader licensing or police power jurisdiction over “smoke shops” and their products.

We would like to underscore that the Department takes seriously its charge to protect New Yorkers from the harms of adulterated food and has diligently enforced Health Code prohibitions with respect to food service establishments that have added unauthorized substances, including cannabis, to food. In 2019, for example, the Department announced enforcement in food service establishments of Health Code

protections from food adulterated by CBD. We are currently actively enforcing against any food service establishment found to be adding cannabinoids—THC or CBD—to its food by issuing summonses, discarding adulterated food, and issuing Commissioner’s Orders to cease and desist the unlawful practice and, in some circumstances, immediately close. We will padlock establishments that defy our closure order. The NYC Sheriff has been exceptionally supportive of these actions and is working closely with us.

The Department is likewise enforcing Smoke-Free Air Act (SFAA) prohibitions on food service establishments that allow patrons to smoke cannabis. The City Council enacted this landmark local law more than 20 years ago, broadened SFAA protections to include cannabis in 2017, anticipating legalization, and just recently further expanded protections as part of the legislation making outdoor dining permanent.

Further, with respect to your suggestion that the Health Commissioner declare a public health emergency, a declaration of a public health emergency is not at this time justified as “necessary to protect the public health against an imminent or existing threat” under Health Code § 3.01. The standard for declaration of a public health emergency under the Health Code is not currently supported by our data on cannabis-related emergency department visits and poison center calls, or other information, and in light of the State’s regulation of licensed cannabis sales, and that there are other existing law enforcement authorities with jurisdiction to take action against the unlicensed sale of cannabis.

The Department conducts timely and comprehensive surveillance of the prevalence of cannabis use and associated health harms among youth and adults. Data are collected through surveys of cannabis use patterns, syndromic surveillance of cannabis-related emergency department visits, and tracking of cannabis-related poison center calls. Syndromic surveillance of cannabis-related emergency department visits show that these visits currently account for a small proportion of drug-related emergency department visits citywide and calls to the Poison Center do not point to exposures attributable to unlicensed outlets. We will continue to analyze our surveillance data and closely monitor cannabis-related morbidity in New York City, and we will consider any appropriate action as evidence changes.

As the State implements its cannabis law in NYC, the Department will act within the appropriate scope of its authority under the Health Code and the SFAA to reduce harms of cannabis to the public and will always be vigilant to respond to new or emerging public health threats.

Thank you for the opportunity to review your concerns. The Department agrees that a careful implementation of all aspects of cannabis legalization is critical to the health and wellbeing of New Yorkers.

Sincerely,



Maura Kennelly  
Deputy Commissioner

IQ#845331

# The dirty, dangerous secret of California's legal weed

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 [latimes.com/california/story/2024-06-14/the-dirty-secret-of-californias-legal-weed](https://www.latimes.com/california/story/2024-06-14/the-dirty-secret-of-californias-legal-weed)

Paige St. John, Alex Halperin

June 14, 2024 3 AM PT

California

## The dirty secret of California's legal weed

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### An L.A. Times/WeedWeek investigation finds alarming levels of pesticides in cannabis products at dispensaries across the state

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By Paige St. John  
and Alex Halperin

Aging yuppies in neon beachwear stand before a green wall with the catchphrase “You have changed ... so has cannabis.”

The social media post is part of “Real CA Cannabis,” a \$5-million taxpayer-funded campaign to promote California cannabis as safe, tested and “regulated by the state to protect consumers.”

In reality, that safety is far from certain.

An investigation by The Times, in conjunction with cannabis industry newsletter WeedWeek, found alarming levels of pesticides in cannabis products available on dispensary shelves across the state, including some of the most popular brands of vapes and pre-rolled weed.

Twenty-five of 42 legal cannabis products that The Times and WeedWeek purchased from retail stores and had tested at private labs showed concentrations of pesticides either above levels the state allows or at levels that exceed federal standards for tobacco. The contaminants include chemicals tied to cancer, liver failure, thyroid disease and genetic and neurologic harm to users and unborn children.

Most of the pesticides found were in low concentrations that risk long-term harm by repeated use, though the extent of the health threat may not be known for years.

Vapes tested from five well-known brands had pesticide loads that exceeded federal Environmental Protection Agency risk thresholds for harm from a single exposure, The Times and WeedWeek found. Users might experience irritation to the lungs, eyes and throat as well as rash, headache, diarrhea and abdominal pain.

Some individual products contained as many as two dozen pesticides.

The findings dovetail with scores of complaints that two private cannabis testing labs have filed over the last eight months, reporting pesticides in products certified by other labs as safe. The results, the labs said, suggest some level of contamination in more than 250,000 vapes and pre-rolled joints on store shelves, about the number sold legally in California in a two-day period.

### Toxic chemicals in legal weed

See our chart of 36 toxic chemicals appearing at the highest levels in legal cannabis products.



### How dirty is your weed?

Check to see if the cannabis product you use is on our list.



There are strong profit incentives driving contamination. Expanding legal markets encourage intensive growing practices to increase yield, inviting the use of pesticides to protect those high-value crops from insect infestations common in greenhouse environments.

At the same time, the soaring popularity of vapes has created heavy demand for bulk oils, which are made from lower-quality cannabis, often grown illegally.

Reviews of confidential lab reports, public records and interviews show California regulators have largely failed to address evidence of widespread contamination in the state's weed crop.

The state's requirements for weed testing also have not been updated to include dangerous chemicals currently used in cultivation, including illegal, smuggled pesticides so toxic that law enforcement officers who encounter them are advised to don respirators and take blood poisoning tests.

The health stakes from contaminated weed are high.

An estimated 5 million Californians consume cannabis products in any given month, according to the most recent federal health surveys. The presence of pesticides is particularly fraught for those who turn to weed for relief from medical conditions — conditions that put them at increased risk of harm.

Long-term public health concerns are exacerbated by the growing use of vapes, which contain the greatest contamination levels and are marketed to young adults who are more apt to consider vaping a healthful alternative to tobacco or alcohol.



California Department of Cannabis Control officials declined to make anyone available for an interview. The agency also would not release either external or internal discussions of pesticide contamination, and refused to release information on its ability to test cannabis products, saying such knowledge would encourage bad actors.

It would not furnish the results of pesticide tests it had received from other state agencies and would not provide the safety certificates for cannabis products on the market. It also declined to say what action it has taken on at least 85 contamination complaints it has received since last fall from private labs, or disclose what tainted products it pulled from sale.

“When we receive complaints, we swiftly assess them, conduct appropriate investigations, and take appropriate action,” the agency’s press office said by email.

The agency is now scrambling to initiate California’s first market tests for pesticides, sending a recent email warning license holders of coming “product embargos, voluntary and mandatory recalls, and disciplinary actions.” The private labs that raised alarms for many months questioned why authorities did not act sooner.

California cannabis regulators initially responded to those complaints with a single product recall, and in orders that remain confidential, required three other products be removed from store shelves.

Frustrated that more was not done, Josh Swider, the chief executive of Infinite Chemical Analysis Labs and author of most of the complaints, in December sent his summary of contaminated products directly to Gov. Gavin Newsom and cannabis regulators in an email. “Those failing products alone represented 150,000 packages of flower, vapes or pre-rolls for sale to unsuspecting consumers,” he wrote.

“The government’s responsibility does not end after writing regulation.”

After Swider sent his letter, an additional product was recalled for pesticide contamination. The remaining tainted batches were left to sell out.

California’s legalization of recreational cannabis in 2016 ushered in a multibillion-dollar industry estimated to be the largest legal weed market in the world. But many of the promises of legalization have proved elusive. In a series of occasional stories, we’ll explore the fallout of legal weed in California.

### Read the stories

Meanwhile, licensing files show the state’s seed-to-sale inventory system contains faulty data, including missing crops, misidentified products and safety tests that don’t match the goods sold. Testing is done by state-approved independent labs, but no state-run lab is

accredited to test for pesticides. There is no routine testing for the chemicals in products on store shelves, putting California out of sync with “best practices” adopted by the Cannabis Regulators Assn.

Those gaps leave policing of the industry largely in the hands of labs financially beholden to the companies whose products they test. Legislation to require independent fraud and accuracy checks has remained stalled in Sacramento for two years amid backroom negotiations between industry players and regulators.

“California is dropping the ball on enforcement where public health is concerned,” said cannabis researcher [Cindy Orser](#), a former director of a private California cannabis testing lab.

## Testing for harmful chemicals

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California requires cannabis products to be tested for 66 pesticides. That list, unchanged since 2018, has not kept pace with current cultivation practices.

Tests conducted for The Times and WeedWeek identified seven off-list pesticides in legal products on store shelves. One brand of vape contained fenvalerate, a fungicide proven to lower sperm counts and prohibited in the United States since 2008. Sixteen products contained pymetrozine, an insecticide known to cause liver cancer and to mimic human hormones, part of a chemical class known as endocrine disruptors, which [over time](#) cause reproductive disorders. Pymetrozine is approved for only limited use by the federal EPA, and is banned in the U.K., Canada and Norway.

A pink acai vape from [Stiiizy](#), the state’s top-selling cannabis brand, carried more than 60 times the maximum amount of pymetrozine allowed by federal regulators in cigarettes. But because California does not require testing for pymetrozine, the company that makes Stiiizy products said it is not in violation of state regulation.

“We adhere to all standards and limits set by the State of California, which has some of the strictest testing requirements and pesticide limits in the country,” Stiiizy President Tak Sato said in an email.



Vapes by West Coast Cure, Flavorade, Phat Panda, Phire and Dime were among those found with pesticides, including chemicals not monitored by regulators.

(Jason Armond / Los Angeles Times)

The Times and WeedWeek testing also found another off-list chemical, propargite, a carcinogenic insecticide that UCLA researchers have linked to brain-cell death and increased incidence of Parkinson's disease in Central Valley residents. It showed up in some vapes at nearly three times what is permitted in cigarettes.

## Slipping into the legal supply

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The state's unlicensed cannabis operations remain a primary source of concern. Deadly carbofuran and methamidophos, banned insecticides usually smuggled from Mexico, continue to appear across California, according to state Department of Fish and Wildlife, regional water board and county investigative records. On a Trinity County farm in 2023, an environmental health report shows, officers found a 3-pound tin of Fumitoxin, a poison that emits phosgene gas, along with evidence workers there were suffering severe diarrhea from exposure.

The chemicals occasionally turn up in the legal market. One, methamidophos, was detected in January in dried cannabis at a Van Nuys manufacturer, along with evidence the company was shipping the product across the country. Its license was revoked.

Interviews, confidential lab reports and public agency records also show a surge in pesticides smuggled from China that contain chemicals not permitted in the United States nor screened for in legal weed.

## **A new threat to cannabis users: Smuggled Chinese pesticides**

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June 14, 2024

These unmonitored chemicals are so toxic California advised cannabis enforcement agents to wear hazmat suits and respirators during field inspections, and to undergo annual blood poisoning tests.

“Repeated inhalation of pesticide residues through regular smoking or vaping is quite concerning as this is a relatively direct route of exposure into the bloodstream,” said Kimberly Paul, an epidemiologist and assistant professor in neurology at UCLA who was lead researcher on the Central Valley study. “Low-level pesticide residues are something to be concerned about.”

National health surveys by the U.S. Substance Abuse and Mental Health Services Administration show those between ages 18 and 25 make up the largest part of the market: More than 40% of young adults used cannabis within the last year. Separate studies by the University of Michigan Institute for Social Research show 1 in 3 high school seniors last year used cannabis, two-thirds of them by vaping. Despite state laws against marketing to children, many brands reflect this youth appeal, from weed bags modeled after McDonald’s Happy Meals to vape flavorings that mimic bubblegum.

## **The risk for medical users**

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Pesticides, which are designed to kill living organisms, have their place in agriculture. Regulation is focused on limiting contact exposure to agriculture workers and residues lingering on fruits and vegetables at the market. Tolerances take into account the body’s ability to filter toxins through the liver.

Smoking and vaping, however, deliver chemicals directly to the lungs, into the blood and to the brain. The only other consumer product intended for smoking in this country is tobacco. Rather than demand pesticide inhalation studies for tobacco, the EPA decades ago decided smoking itself is so carcinogenic as to eclipse other health threats. The agency thus set a universal cap for tobacco contaminants at 0.01 part per million before requiring determination of health impacts, a standard California used to set limits for many chemicals in cannabis.



## **Contaminated weed in you**

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An illustrated explainer of how consuming weed that is contaminated with dangerous chemicals can have severe impacts on health including neurological damage, endocrine disruption, reproductive harm, loss of appetite, weakness and heart failure.

Arizona State University toxicologist Max Leung, who was part of the state team that in 2017 advised California cannabis regulators on pesticide risks, said the threats are greater for medical marijuana users who have epilepsy, Parkinson's or other neurological disorders.

But Leung said the lack of federal recognition of cannabis' widespread use, whether state-sanctioned or not, has left consumers vulnerable. There is a lack of data on health impacts experienced by cannabis users, though some states do solicit health complaints from the public, and in a few cases, those have led to product recalls for pesticides. California does not collect such information.

Rather than uniform national health standards, Leung and his team found a patchwork of disparate state regulations, different pesticides capped at different levels or not capped at all.

"You've got all of this contamination, but what do they do?" Leung said. "There's just no research."

After passage of Proposition 64 created a legal recreational market in California, toxicologists with the [Department of Pesticide Regulation](#) proposed to ban from inhaled weed products 42 chemicals the agency said are harmful to people, the environment or water, according to a copy of the March 2017 proposal.

The limits were rejected amid industry concerns about testing costs and lab capacity.

Six months later, the pesticide agency returned with more relaxed rules. It cut the zero-tolerance list by half, to 21 chemicals, and set limits for 45 other pesticides on a par with tobacco standards. Manufacturers of products that failed screening can attempt to lower the pesticide levels — such as by dilution — or incorporate the weed into edibles, where higher levels are tolerated. If they fail again, according to state regulation, the batches must be destroyed.

Pesticide agency records, including interagency memos and emails, show that since 2018, despite repeated requests, cannabis regulators have not updated the list of chemicals that weed is tested for — even after pesticide regulators made a direct appeal to the governor’s cannabis advisor, Nicole Elliott. In January, the Department of Cannabis Control, which Elliot now heads, said it was working to update those regulations, but as of June no changes had been proposed.

State toxicologists have also been stymied from taking a more active role in protecting the public from cannabis pesticides.

California’s Department of Pesticide Regulation conducts some of the nation’s most sophisticated evaluation of pesticide exposure to the public. It even has an employee whose job title is “cannabis and hemp program manager.”

But when it comes to cannabis, a spokesperson for the pesticide agency said, responsibility for protecting consumers rests solely with the Department of Cannabis Control.

The pesticide regulators did try, early on, to draft their own public health advisories for cannabis, but those were never issued. The agency released copies of six under a public records request, and would not say how many more existed.

One of those advisories was for piperonyl butoxide contamination in cannabis. It was among the chemicals The Times and WeedWeek found in testing.

“Acute toxicity symptoms may include tearing, drooling, runny nose, congestion, and difficulty breathing,” the unreleased advisory read. It added that laboratory animals exposed to the pesticide had more miscarriages and produced offspring with fingers and toes that were sometimes fused.

In 2019, toxicologists in the Department of Pesticide Regulation tried but did not succeed in launching a program to monitor chemicals being used in the illicit market. Internal memos from 2021 show that those same toxicologists were barred from seeing data collected from product safety tests, making it impossible for them to monitor what was circulating in the legal market.



The highest pesticide concentrations were found in Backpack Boyz vapes.

(Jason Armond / Los Angeles Times)

There is no easy way in California to trace contamination. The state does not investigate the sources of pesticides in cannabis goods, but instead relies on a system of paper trails — seed-to-sale inventories and lab testing certificates — to protect the public.

Tests for The Times and WeedWeek showed repeated contamination in small batches of vapes stamped with the unique tracking number of a Van Nuys manufacturer, David Shin.

Among them were Backpack Boyz carts with as many as two dozen pesticides, half of those above state safety limits and including chlorfenapyr, prohibited at any amount, at 2,000 times above the minimum detection level.

The bulk oil for these vapes originated from cannabis grown on a single Central Valley farm. Shin said he bought the oil through a broker and did no independent testing of his own.

He flavored and packaged the vapes and a state-certified lab declared the products pesticide-free. They were then distributed by a wholesaler to Backpack Boyz dispensaries across the state.

Alerted to the pesticides found by The Times and WeedWeek, Shin said he could not unravel the source of contamination. A manager for the wholesaler said the company was launching its own investigation. The owners of Backpack Boyz LLC, which holds no cannabis license, did not respond for comment.



Andy Garcia, a sales rep for Backpack Boyz, talks to a possible client at the Hall of Flowers trade show in Ventura County.

(Genaro Molina / Los Angeles Times)

## The problem with cannabis trim

The THC oil that fills vape pens is extracted from biomass, plant material made up of lower potency leaves and stalks left after harvest, moldy flower and even high-quality buds that sit too long. Harsh chemicals and extreme temperatures in the extraction process can destroy a few pesticides, but most pesticides become more concentrated. That makes vapes more likely than select flowers to exceed safe limits.

The rise of intense cultivation practices — densely planted greenhouses and industrial warehouses with “sea of green” crops supported by netting — invites infestations of whiteflies, spider mites and mold. Clean cannabis can be commercially grown, but it requires time and care, said Sam Feliciano, a former pest control manager for a high-end Los Angeles brand, Maven Industries. It is cheaper and faster to douse high-value crops with chemicals, as Feliciano and other workers were ordered to do at Maven, they allege in a civil lawsuit.



## When good weed goes bad

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“I didn’t want to upset them and tell them, ‘No, it’s not OK to do that stuff,’” Feliciano said. “They simply would’ve just got rid of me.” Feliciano alleged in the civil suit that he suffered bouts of nausea, disorientation and confusion brought on by cannabis pesticide treatments. He told The Times that because of the impact to his health, he decided to quit. The workers in November were ordered to have their complaints heard by a private arbitrator.

By email, Maven Industries Chief Executive David Bosworth declined to comment on the lawsuit but asserted the company’s products “are certified as safe and are, in fact, safe for consumer use.”

Legalization has also brought large-scale cultivation out of the mountains and into agricultural areas, including Central Valley farmlands, where airborne pesticides drift from almond groves and grape vineyards.

At the same time, the explosion in vape sales has created heavy demand for distillate. California vape sales tripled from 2020 to 2023 to become a \$1.4-billion market, and now only slightly trail those of packaged flower.

To feed this demand, bulk oil manufacturers seek out lower-quality weed, much of it contaminated, to buy at discounted rates.

To meet state screening limits, the extracted oils, or distillates, are blended to dilute pesticides.

One manufacturer who solicits farmers for “dirty” weed defended the practice, saying he provided struggling growers an income source while keeping otherwise unusable cannabis out of the landfill.

The amber-colored bulk oil moves on an opaque market, traded by brokers who operate without license or regulation. It is bought by manufacturers who sometimes will use oil from the same batches to fill thousands of vape cartridges for competing brands.

This cheap commodity oil now dominates the market, selling for a fraction of the cost to produce a clean product.

The cannabis industry’s reliance on low-quality weed enrages old-style farmers such as Mary Gaterud, who nurtures her sun-grown plants on a Humboldt County farmstead that has been her principal means of support for decades.

She is offended by the pleas she regularly receives from those seeking “old, moldy or even dirty trim,” as a San Luis Obispo distributor put it in a text to her in February.

A Humboldt buyer, with “Turn That Trash into Cash” in the subject line, asked for “trim with all levels of pesticides and heavy metals.”

“The people who are doing it right get crushed,” she said. “The bad actors are encouraged and rewarded. And the consumers are poisoned while being told they are safe.”

## The Weed Whistleblowers

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In February 2022 a group of California cannabis testing labs, upset about what they believed was widespread fraud in weed potency claims, decided to force regulators into action.

They formed a blind round robin, each lab testing retail flower samples without knowing whose work they were checking. In the course of testing for potency, one batch of flower was found to contain three times the allowed level of pyrethrins.

Cannabis regulators were alerted but issued no recall. In fact, it wasn't until the end of 2023, six years after recreational sales became legal, that California sought to remove a product for pesticide contamination, according to the agency's published recalls.

When cannabis was first legalized, labs rushed to be licensed to capitalize on the expanding market. But labs with stringent testing methods and expensive equipment complained to the state of losing customers to operators that promised high potency results or had track records for approving most products.

“There's no checks and balances ... to make sure no one's doing something wrong when they're not being watched,” said Swider, of Infinite Chemical Analysis Labs. “That's all we've ever asked for.

“I don't want to be the judge, jury and executioner. I just wanna let everyone be treated fairly.”

Swider embarked on doing what regulators were not — testing weed specifically for pesticides.

He ultimately sent cannabis regulators 77 complaints about pesticide contamination he found in tests conducted from last October to May.

The complaints included Zoap flower sold by Grizzly Peak Farms and Cru Mai Tai vape carts, both with chlorfenapyr, prohibited at any detectable level; Fog City Farms Shark Bites with too much piperonyl butoxide and spiromesifen; West Coast Cure Biscotti vapes with myclobutanil, and Jack Herer-flavored ones with chlorfenapyr, paclobutrazol, bifentazate and trifloxystrobin. Backpack Boyz vapes contained chlorfenapyr, bifentazate, bifenthrin,

etoxazole, malathion, myclobutanil, piperonyl butoxide, pyrethrins and spiromesifen. Most of the manufactures told reporters they were unaware of contamination because their product had been certified as safe by private labs.

It took 41 days from receiving Swider's complaint for regulators to announce California's first-ever pesticide recall of a cannabis product, the Zoap flower sold by Grizzly Peak Farms. The lab that had cleared the product for market, ProForma Labs, also lost its license. But regulators took no action against those who grew the weed, a cultivation arm of the Kolas brand. Tests for The Times and WeedWeek showed Zoap sold under a Kolas label also contained chlorfenapyr.

Kevin McCarty, an owner of Sacramento-based Kings Holdings, which grew the Zoap strain, said no zero-tolerance pesticides were used in its cultivation and the cannabis had been certified by state-licensed labs. The Department of Cannabis Control "has not initiated any additional recalls involving us, and we have no additional comment," McCarty wrote by email.

The Department of Cannabis Control's second pesticide recall came in January, eight weeks after Swider's tipoff. The affected Fog City pre-rolls were nearly sold out by the time the public was alerted in January.

Four flavors of Phat Panda vapes also were voluntarily removed from sale, for what regulators told consumers was a labeling mistake — despite outside tests that showed dangerous levels of malathion. California has issued no pesticide warnings since.

Swider's tests found that 19 varieties of vapes by California's fourth-largest brand, West Coast Cure, carried a large assortment of illegal pesticide loads. After learning of those results, operators of a San Francisco-based lab, Anresco, undertook their own tests and also notified California regulators of pesticides in eight West Coast Cure products.

Sarah Otis, Anresco's director of quality assurance, said regulators asked for reams of supporting data, then refused to say whether they would act on the information. "Now that we know there's contaminated product on the market, like what, what do we do with that?" she said.



Some batches of [West Coast Cure](#) vape pens exceeded safety limits for multiple pesticides.

(Jason Armond / Los Angeles Times)

Anresco also agreed to test products for The Times and WeedWeek, as did a Santa Cruz-based cannabis testing company, SC Labs. Reporters bought products from dispensaries across the state, choosing some that were the subject of complaints and others at random. The results confirmed Swider's findings and identified additional contaminated products. Some goods violated state limits for a single chemical. Others, such as vapes by West Coast Cure and Backpack Boyz, contained dozens of undisclosed pesticides.

California

### **How we tested for pesticides**

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June 14, 2024

Manufacturers universally defended their products and cast doubt on the lab testing industry.

### **Manufacturers Respond**

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June 14, 2024

“We’ve invested millions of dollars to build our business in compliance with California’s laws and regulations. We firmly advocate for the stringent testing mandated by the state to guarantee the safety and excellence of our products,” said Logan Wasserman, the CEO of West Coast Cure’s parent company, Shield Management Group. He contended that responsibility for ensuring product safety was on the labs that declared his vapes pesticide-free.

The Department of Cannabis Control issued no public recalls of West Coast Cure products, but did conduct a surprise inspection at its Long Beach facility. In early May, the agency levied a \$3.2-million fine against Wasserman’s company, saying it failed to guard against product tampering, including storing goods in the parking lot in shipping containers that had no security cameras. It was also cited for failing to provide legally required video proving the selection of product samples for lab testing was not rigged.

Wasserman did not respond to questions about the citations.

Directors of labs that had certified products cited as contaminated in Swider’s crusade accused him of seeking a competitive edge, even spiking pesticides into clean samples. They accused clients of having clean material tested and sending contaminated goods to market. None made these statements on the record. They cited fear of lost business, litigation and personal harm.

They also said pesticide testing is inexact, and easily manipulated.

“You could give it to 10 different labs and get 10 different results,” said Paul Hamrah, owner of Verity Analytics, the San Diego lab that approved vapes by West Coast Cure, Phat Panda and Maven that subsequently showed pesticides. Hamrah asserted that those testing products for The Times and WeedWeek tampered with the results as part of “an elaborate smear campaign.”

The labs denied the allegation.

State inspectors visited Hamrah’s lab in January, “trying to shut us down because of cases made against us by Infinite,” Hamrah said. In late April the state suspended Verity Analytics’ license, saying the lab “has engaged in activity that poses harm to public health, safety or welfare.”

The suspension — reviewed by The Times and WeedWeek — said Verity inflated potency of four cannabis products, failed to show accreditation, could not provide the chemical standards it used to check calibration and told regulators it had “unacceptable” accuracy ratings for testing pesticides, molds and solvents. Inspectors also said Verity labeled a pesticide as “non detect” when equipment showed contamination, without offering “any scientific criteria.”

Hamrah said what inspectors took to be a pesticide hit was instead “instrument noise.”

“I am determined to prove my lab is a victim of a grand and elaborate frame job by several labs because they couldn’t compete with us,” he said. “We were expanding and they got scared.”

Meanwhile, Swider became a target. He said he lost clients as word of his activism spread. Then while traveling in March, Swider received a cellphone call from a blocked number.

“I’m going to come and get you and your ... whole family,” the caller said. “You’re gonna pay for this.”

“It makes me want him to get out” of the cannabis industry, said his wife, Kaylena Swider. “He’s like, ‘What would I do?’”

In late May, Swider filed one more round of complaints with the Department of Cannabis Control, alerting the agency to excessive pesticides in 16 products, some of them subject of prior complaints but still for sale.

Days later, he received an email from the agency.

It was sending inspectors to audit his lab.

## **Cannabis regulators**

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California’s Business and Professions Code 26011.5 is explicit about the mission of the state cannabis regulatory agency: “The protection of the public shall be the highest priority. ... Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

In industry presentations, Elliot, the Department of Cannabis Control director, often identifies the challenges facing California cannabis as economic.

Chief among her concerns, she told the National Cannabis Industry Assn. in February, is the large swath of California that prohibits dispensaries. These “cannabis deserts,” as Elliott calls them, are the greatest constraint to “scalability,” or expansion, of California’s legal market.

To drive business to licensed dispensaries, Elliott’s agency conceived the Real CA Cannabis campaign.

“We know we have a good amount of consumption from the illegal market. We know there’s an opportunity through education to shift some behavior to the legal market,” Elliott told the trade group.

The social media campaign, launched in February, included ads targeted at seniors, among others, because polling showed they were most swayed by safety messages.

The catchphrases promoting legal weed include “the good stuff” and “quality you can trust.”

The belief that any cannabis product carrying a certificate of analysis, or COA, is safe is foundational for dispensary owners.

“We will not accept it [for sale] if it doesn’t have a COA,” said Dave Sisson, a board member of Foothills Health and Wellness, a legacy dispensary that over two decades has earned the trust of medical providers who send cancer patients to the store in Shingle Springs, east of Sacramento.

To learn some of these certified products carry pesticides, Sisson said, “is absolutely terrible.”

“These are medically compromised people. They have to be very, very careful of what they put into their body.”

“As a retailer, I’m sitting in this really strange position where everything comes to me ‘safe and tested,’” said the owner of a multicounty dispensary chain, speaking anonymously because of concern of being tied to bad publicity for the struggling legal industry. “But it’s so crazy that we’re operating in a system where” many are “gaming it.”

Elliott declined to be interviewed on the extent of the pesticide threat. Her agency selectively responded to requests for public records, and refused to release records regarding policies on pesticide contamination. It contended that it conducts random testing of products for sale to consumers.

Behind the scenes, internal records showed, the cannabis agency as early as late February sent buyers into the field to obtain products on Swider’s lists. They remained stockpiled for months while the department worked to get its Richmond lab — able only to test potency and check for mold — accredited to run pesticide screens. As of early June, accreditation records showed the lab was still not ready, and most of the products flagged for contamination had sold out. On Monday, a spokesperson said the regulatory agency would be able to begin tests on consumer products collected from store shelves by the following week.

Other agencies in the Newsom administration also refused to release cannabis-related records. The Department of Fish and Wildlife provided partial summaries but no records of pesticides encountered by its agents on raids. The Department of Toxic Substances Control said its reports on pesticides encountered on cannabis sites were confidential. The Department of Pesticide Regulation over eight months released only partial records that hinted at the extensive work its staff had undertaken to address pesticide-tainted weed.

Department of Cannabis Control employees, who spoke on condition of anonymity, complained of a lack of willingness within the agency to take a hard line on pesticide contamination. One said she was schooled on the importance of “not disrupting the market.”

In January, as The Times and WeedWeek began asking questions regarding its handling of licensed cannabis products, the agency launched a series of product recalls — not for pesticides, but for mold and misleading potency claims.

The department also asked the Legislature for an \$8.2-million budget increase, seeking to hire more enforcement lawyers and laboratory staff to develop testing protocols.

Within 48 hours of being provided the findings of this story for response, the deputy director of lab services left. No public reason for the departure was given.

A day later, speaking to the National Cannabis Industry Assn., Elliott emphasized her concern for public health.

“My road map isn’t about preserving what is. It’s about creating what is best for consumers, for the general public,” she said. “That’s sort of my North Star.”



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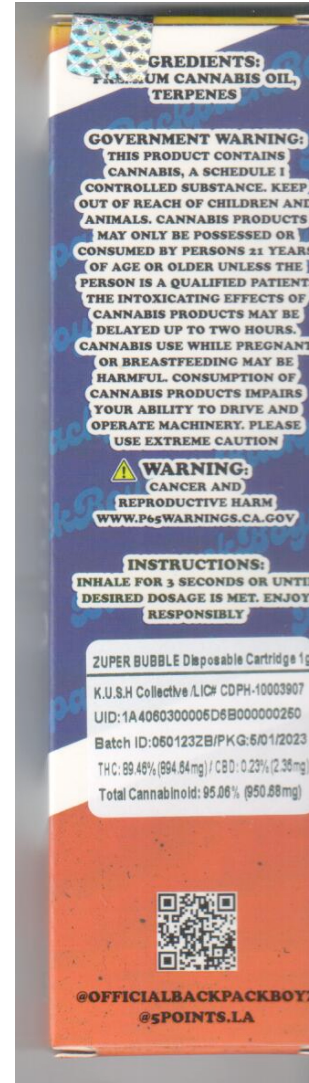
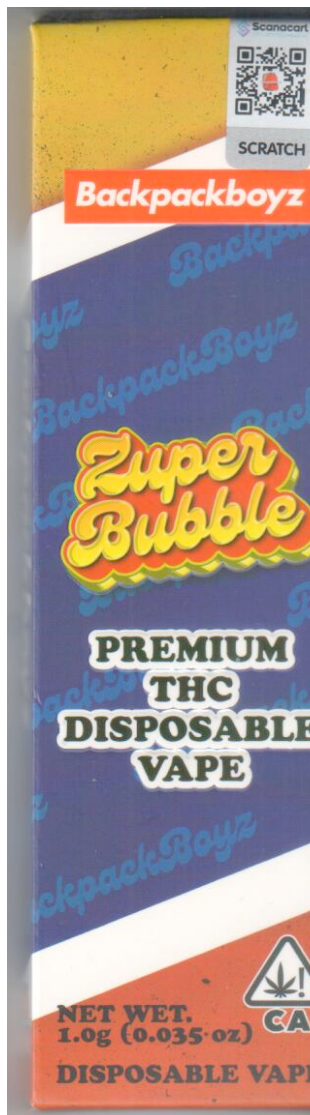
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(PLEASE PRINT)

Name: Michael Zaytsev

Address: \_\_\_\_\_

I represent: LIM College

Address: \_\_\_\_\_

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Name: Jeffrey Hoffman

Address: \_\_\_\_\_

I represent: Me

Address: \_\_\_\_\_

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Brian Cain

Address: \_\_\_\_\_ New York, NY 10069

I represent: NYC Independent Budget Office

Address: 110 William St, 14<sup>th</sup> floor, New York, NY 10038

Please complete this card and return to the Sergeant-at-Arms

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Date: \_\_\_\_\_

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Name: Nadia Kahnawitz Esq

Address: 9601 Liberty Avenue Queens Park NY

I represent: Convenencia Store

Address: \_\_\_\_\_

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(PLEASE PRINT)

Name: Alaina Turnquist

Address: \_\_\_\_\_

I represent: Independent Budget Office

Address: 110 William Street, FL 14 10038

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Appearance Card

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in favor  in opposition

Date: 9/17/24

(PLEASE PRINT)

Name: Lance Luzzaro

Address: Coast St Bklyn NY

I represent: Business Council

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 9/17/24

(PLEASE PRINT)

Name: Stephen McQuade

Address: 120 Broadway, 28th Flr, NY, NY 10271

I represent: NYC Deputy Sheriffs Benevolent Association

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: First Deputy Sheriff

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Lt. Francesca Rosa

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Sheriff Miranda

Address: \_\_\_\_\_

I represent: DOF

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 9/17/24

(PLEASE PRINT)

Name: Furney Cautera II

Address: [REDACTED] Bronx, NY, 10466

I represent: DSBA

Address: 3100 47<sup>th</sup> Avenue Suite 3100

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 9/17/2024

(PLEASE PRINT)

Name: Ingrid Simonovic

Address: 3100 47<sup>th</sup> Avenue Suite #3100

I represent: NYC Deputy Sheriff Benevolent Ass.

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Anowarul Haque

Address: 458 Hillside d.s.

I represent: protest against illegal stores

Address: \_\_\_\_\_

*Please complete this card and return to the Sergeant-at-Arms*

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. 981 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: David Vohra

Address: \_\_\_\_\_

I represent: NY Association of Wholotary

Address: 548 5th Ave NY

*Please complete this card and return to the Sergeant-at-Arms*