



July 3, 2019

Lang
Hansen
O'Malley
& Miller

The Honorable Hannah-Beth Jackson, Chair
Senate Committee on Judiciary
State Capitol, Room 2032
Sacramento, CA 95814

**RE: Assembly Bill 1417 (Rubio) Cannabis advertisement and marketing as amended June 25, 2019,
oppose unless amended**

Governmental
Relations

Dear Senator Jackson:

On behalf of our client, Weedmaps, a media and information technology company in the cannabis space, I am writing to oppose Assembly Bill 1417 (AB 1417). This bill would fundamentally alter the advertising relationship of listing service providers and businesses who wish to use on-line platforms by requiring the listing service provider to police advertisements. Additionally, this bill appears to be in conflict with Title 47 of the United States Code, Section 230 of the Communications Decency Act (Section 230).

AB 1417 would prohibit operators of "an internet website, online service, online application, or mobile application that is "operated primarily for the purpose of promoting, or disseminating information about, the sale of cannabis products in the State of California..." from displaying an advertisement for the sale of cannabis products **unless the advertisement displays the license number of the licensee to which the advertisement pertains.**" The inclusion of the language in section (26151.5(c)) "...that is operated primarily for..." is a blatant attempt by the sponsors to minimize their opposition from the many internet advertising platforms that also unwittingly advertise unlicensed cannabis retailers. Some of the platforms that the sponsors seek to exclude from the provisions of this bill include Yelp, Google, Yahoo, Bing and Craigslist.

AB 1417 is likely preempted by Section 230, which provides that "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." Courts have broadly interpreted this as providing immunity to websites and other online providers from any state-law claims based on content provided by third parties. See, e.g., *Barrett v. Rosenthal*, 40 Cal. 4th 33, 56 (2006) ("The provisions of section 230(c)(1), conferring broad immunity on Internet intermediaries, are a strong demonstration of legislative commitment to the value of maintaining a free market for online expression."). By imposing liability on websites for the content of third-party ads and requiring disclosures because of such content, AB 1417 runs afoul of Section 230.

At this time AB 1417 sets a new precedent in the relationship between listing service provider and the content provided by the third-party that will likely trigger protracted litigation and a new relationship between a listing service providers and third-party content providers. During Assemblywoman Rubio's testimony in Senate Business and Professions Committee, she stated that the content provider should be the liable party and not the platform. As such, we would ask that the bill be amended to reflect her testimony. We also believe that if amended to shift the liability to the party that is misrepresenting their licensing status is taken, the bill would no longer violate section 230.

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LHOM Letter Re: Assembly Bill 1417 (Rubio) Cannabis advertisement and marketing as amended June 25, 2019, oppose unless amended

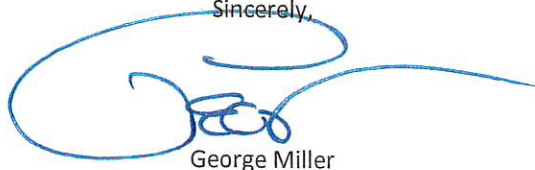
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If we were to assume, for the sake of argument that section 230 was not applicable, the bill is incapable of being complied with for the following reasons: (1) Not all license listings include an accurate operating business address that allow for a search by real address fields - street/city/county/zip) on the BCC website. Many of the business addresses listed on the BCC website are not the physical address of the retail license. Not having the actual location of a retailer inhibits our ability to cross reference for license accuracy, since the physical location address is what is used to identify the retailer on our platform.

(2) The Doing Business as name(s) of the retailer should be included on the BCC license list. Currently, BCC only lists the name of the license holder not the name under which the retailer is operating. The name of the store/retailer is typically a DBA which very often does not directly correlate to a licensed name on the BCC website. (3) If platforms were going to be held liable for having unlicensed retailers, then there must be same day updates on when new licenses issued, or current licenses are revoked. The current process can take up to a month before the BCC system is updated with current license information. At the current pace, there is no way to validate a new licensee with the BCC website since the BCC website runs approximately 30-days behind.

For these reasons we are opposed to AB 1417.

Sincerely,

A handwritten signature in blue ink, appearing to read "George Miller", with a large, sweeping flourish extending to the right.

George Miller