

Fraudulent marijuana testing labs should be closed to protect the public interest

-Will Adler, Executive Director of Scientists for Consumer Safety

It doesn't take a superhero to make sure Nevada's marijuana is safe from mold, heavy metals, pesticides and other health risks, nor does Nevada need one to test THC potency accurately. There are ethical cannabis labs providing honest and accurate testing in Nevada that do fail contaminated cannabis products and report the THC levels accurately thus protecting and not defrauding the public. Scientists for Consumer Safety (SCS), a consortium of ethical Nevada cannabis labs, in the interest of public safety, calls for the State of Nevada to publish all of its identified METRC data immediately. The members of SCS call upon the State to enforce the existing regulations and revoke the licenses of any labs that have demonstrated through independent data analysis that they are endangering cannabis consumers and the public at large.

As of today, evidence from State regulators and from an independent statistical analysis performed by James MacRae, PhD

(see <https://www.straightlineanalytics.biz/2019/12/are-nevadas-cannabis-testing-labs-counting-cards/>)

shows some labs are incapable of accurate testing or are willfully choosing to falsely report potency levels and ignore contaminants. These labs are violating the law, defrauding customers, and most importantly, putting the health of consumers at risk.

Conversely, the members of SCS have been advocating for greater transparency and oversight in the marijuana industry. Our members concur with the statement issued by Governor Steve Sisolak on October 11, 2019 : “Any marijuana entity – licensed or unlicensed – that violates the law will see swift and severe criminal and regulatory action”. Governor Sisolak, in an interview with Nevada Independent reporters on December 11, further called for data transparency. The labs of SCS ask that METRC data related to lab testing and the results labs have given out, previously and into the future be released to the public and continually published each month hereafter.

After a public records request, the Department of Taxation provided anonymous data to Dr. MacRae; his analysis of it is shocking and instructive. It shows the same labs that are reporting statistically impossible increases in THC levels also have steeply declining failure rates for safety tests. As Dr. MacRae stated, “Nevada knows not only who these labs are, but where they are and who is responsible for their operations. Nevada knows which products they have tested and on which store shelves those products currently lie.”

SCS is aware of, and applauds, actions the Department's Marijuana Enforcement Division (MED) has taken. In August of 2019 MED warned consumers about microbial failures in products tested and previously passed by a marijuana testing lab in July and August. In September, MED put all laboratories on notice that the State was "aware of and investigating potential inflation of THC levels by cannabis laboratories." In October, it was reported, and the members of SCS can confirm, that MED had conducted unannounced inspections at every lab in Nevada, which included taking samples from each lab, which were independently retested at the Nevada Department of Agriculture (NDA). In November, the Department of Taxation suspended a laboratory in Nevada.

To protect the public and to follow the law, the Department of Taxation and the Attorney General should take the enforcement actions indicated by the results of that retesting, which include suspending and revoking licenses of repeat offenders. SCS also asks the results of the NDA retests be made identifiable, to make it transparent to the public that enforcement actions are justified.

SCS applauds Governor Sisolak's call for data transparency. We call upon the MED to regularly identify and publish on its website all METRC data related to laboratories and laboratory testing. Consumers should not be paying top dollar for cannabis with a THC level that has been intentionally inflated. Many consumers, including some children and fragile adults, utilize marijuana for its medical benefits; they should not be at risk of contaminated cannabis. Certainly, the Cannabis Control Board is still under formation, but the law is clear, independent testing has been performed, and the integrity of the law must be upheld.

Cannabis testing laboratories provide a critical link in the safety, legitimacy, and sustainability of Nevada's marijuana program. A large portion of school funding and the recent increases to teachers' salaries depend upon the revenue the marijuana industry produces. Marijuana taxes are filling other holes in local government budgets and creating the ability to provide critically needed services. The education of Nevada's children, the livelihood of its teachers, and the welfare of its citizens should not be sabotaged by allowing unethical testing to undermine the legitimacy of this industry.