



May 25, 2018

The Honorable Even Low
California State Assembly
State Capitol, Room 4126
Sacramento, CA 95814

Re: AB 2402– SUPPORT

Dear Assemblymember Low:

On behalf of the Electronic Frontier Foundation (EFF), I write today in support of AB 2402, legislation that would ensure that personal information collected by cannabis licensees is not sold or shared with third parties without the customer or patient's consent. The bill further establishes that medical marijuana cards are "medical information" under California's Confidentiality of Medical Information Act.

With the legalization of medical and recreational cannabis use and sales, Californians are witnessing an entire industry move from a black market to a fully regulated commercial sector worth billions in sales. Because of reporting requirements, many dispensaries are over-collecting information on customers, creating a highly profitable pool of data for advertisers and data brokers. With the advent of online cannabis sales, even more data will be collected on consumers, just as is the case in the traditional retail sector. At best, this information can be used to target consumers with unwanted marketing materials. At worst this information could be used to discriminate against lawful cannabis consumers in housing, hiring, credit, and benefits. This information would also more easily make its way into the hands of federal drug enforcement investigators.

The Fresno Bee conducted a survey of regional cannabis dispensaries and reported:

A check of vendors closest to Fresno County (which has no recreational marijuana outlets) found none where a customer profile was not kept on dispensary computers. That includes an outlet in Woodlake in Tulare County as well as dispensaries in Stanislaus County, Salinas, Santa Cruz, Sacramento and the Bay Area.

When asked why customer profiles were created, several dispensary workers incorrectly stated the information was required under Proposition 64. Others cited it as a customer convenience.

All said a customer who did not agree to the terms would be turned away.¹

Politifact California conducted a similar survey and found:

The half dozen dispensaries we contacted all told PolitiFact California they retain customer information. Most said they scan driver's licenses, a process that in some cases automatically enters personal information into the store's computer system. One dispensary, in addition to the scan, requires customers to fill out their names and phone numbers on a contact form. Another told us they type in customer initials and a date of birth if they're uncomfortable giving their full name.²

AB 2402 would ensure that cannabis licensees do not exploit data collected from customers without consent. It would further prevent licensees from denying products or services to customers who choose not to authorize third-party use of their data. In the case of patients who use cannabis for medicinal purposes, their medical cannabis cards would be treated as confidential medical information.

EFF believes AB 2402 provides modest but important privacy measures for consumers and we urge an Aye vote. Please do not hesitate to contact me with further questions regarding A.B 2402. I may be reached by email at dm@eff.org or by phone at 415-436-9333 ext. 151.

Sincerely,



Dave Maass
Investigative Researcher
Electronic Frontier Foundation

cc: The Honorable Members of the Assembly Committee on Business & Professions

¹ Guy, Jim. *The Fresno Bee*. "Recreational pot vendors don't need to keep your personal info. But they do anyway." May 24, 2018. <http://www.fresnobee.com/news/local/pot-in-california/article211813819.html>

² Nichols, Chris. *PolitiFact California*. "How much privacy do you have when you buy marijuana in California?" Feb. 13, 2018 <http://www.politifact.com/california/article/2018/feb/13/how-much-privacy-do-you-have-when-you-buy-marijuana/>