

<https://weedweek.com/industry-news/scoop-calif-regulators-metric-use-fails-to-comply-judge-rules/>

[COMPLIANCE & ENFORCEMENT](#)

SCOOP: Calif. regulator's Metric use "fails to comply," judge rules



A Metric tag on a Colorado plant, 2016. Photo by Daniel Oberhaus www.danieloberhaus.com

Alex Halperin

By

The Department of Cannabis Control's (DCC) usage of compliance software "does not comply" with the legal requirement that it flag irregularities for the department to investigate, a California judge ruled today. The decision in the closely watched case brought by an affiliate of retailer [Catalyst Cannabis](#) is a defeat for the DCC, which argued that its use of the system fulfills its obligations.

Much of the roughly two hour November trial and Orange County-based Judge Lee Gabriel's ruling focused on the minutia of how the DCC uses software provided by vendor [Metrc](#) to stop diversion from the licensed supply chain.

- *WeedWeek* [recently published a longer report](#) on the four-plus year case, which coincided with Nicole Elliott's tenure as DCC director. Days after the trial, Elliott announced she would step down at the end of the year.

However, Gabriel's ruling also refers to Catalyst's claim that that between 80% and 90% of cannabis entered into California's Metrc system by licensed operators gets "diverted or lost in the Metrc system prior to sale at a licensed retailer." Gabriel notes that diversion hurts licensed operators since they have to compete with unlicensed operators selling diverted cannabis for much lower prices.

- At trial the DCC's lawyers disputed Catalyst's 80%-90% diversion figure but did not provide their own.

Catalyst's case alleges so-called "burner distributors" are a key mechanism for diverting product. The alleged maneuver creates a buffer between the licensed operators whose product is allegedly being diverted, and direct knowledge of any diversion activity.

Metrc can be configured to flag irregularities as the law requires, Catalyst claims, but instead the DCC stuck "it's proverbial head in the sand."

- [Metrc](#), the dominant provider of cannabis compliance software, with exclusive contracts in more than 20 state markets, has not publicly commented on diversion from California's supply chain. It did not respond to a request for comment.

Catalyst's lawyer [Jeff Augustini](#) posted on LinkedIn:

...The Court confirmed what we have alleged since 2021 — METRC system reports are effectively useless, as they do not and cannot actually detect or flag irregularities due to, among other things, the failure of the DCC to provide its analysts with objective criteria or other definitions needed to identify potential irregularities in the raw data"

The Decision] ...”*shines a spotlight on a longstanding systemic problem with the DCC’s current enforcement regime, we look forward to working with both the DCC and the Court to substantially improve the current system not only so that it finally complies with the law (albeit 8+ years late), but more importantly that so that moving forward it can effectively identify and thereby prevent, or at a minimum drastically reduce, the rampant illegal diversionary activity that has been going on virtually unchecked for years.*“

DCC’s spokesperson was not immediately available to comment.

Judge Gabriel set a status conference for February 6 to discuss how the DCC “can implement report-driven flagging of irregularities based on established criteria not requiring manual review to identify irregularities.”

<https://weedweek.com/industry-news/scoop-calif-regulators-metric-use-fails-to-comply-judge-rules/>