

**Los Angeles County
Advisory Working Group
on Cannabis Regulation**

Meeting Two:
YOUTH ACCESS AND EXPOSURE
JULY 20, 2017

PREPARATION PACKET

Table of Contents

| | | |
|-------------------|---|-----------|
| Section 1: | Objectives: Recap | 2 |
| Section 2: | Youth Access and Exposure | 3 |
| | Introduction | 3 |
| | Harms Associated with Youth Cannabis Use | 3 |
| | Youth Access and Exposure to Cannabis | 4 |
| | Issue Summary | 4 |
| | State Law and Potential County Actions Summary | 6 |
| | Discussion Questions | 8 |
| | Advertising and Marketing | 8 |
| | Issue Summary | 8 |
| | State Law and Potential County Actions Summary | 10 |
| | Discussion Questions | 12 |
| | Changing Risk Perceptions about Cannabis Use | 12 |
| | Issue Summary | 12 |
| | State Law and Potential County Actions Summary | 15 |
| | Discussion Questions | 15 |
| | Sale of Cannabis to Minors | 16 |
| | Issue Summary | 16 |
| | State Law and Potential County Actions Summary | 17 |
| | Discussion Questions | 18 |
| | Accidental Exposure to Cannabis | 18 |
| | Issue Summary | 18 |
| | State Law and Potential County Actions Summary | 19 |
| | Discussion Questions | 21 |

SECTION 1:

Objectives: Recap

During its first meeting on June 29, 2017, the Los Angeles County Advisory Working Group on Cannabis Regulation (Working Group) reviewed a set of draft objectives to guide the group as it develops recommendations. Through a facilitated process of discussion, re-wording of stated objectives and drafting new objectives, Working Group members arrived at consensus and agreed to the objectives as follows:

1. Manage underage exposure to cannabis, and prevent underage access to and use of cannabis.
2. Prevent adult use disorders associated with cannabis and the abuse of cannabis by adults.
3. Promote the health and safety of the public, equitably.
4. Prevent the unlawful production, distribution and sale of cannabis, equitably.
5. Protect the peace, comfort, and safety of county neighborhoods.
6. Promote compatibility with existing neighborhoods.
7. Prevent any one community/communities from unduly shouldering the burdens of cannabis legalization.
8. Promote positive benefits for communities, especially those disproportionately impacted by historical drug enforcement policies.
9. Pursue equity in licensing and cannabis business ownership.
10. Protect the environment.
11. Maximize the transition from an unlicensed and unregulated cannabis marketplace to a licensed and compliant cannabis marketplace.
12. Allow reasonable economic growth for the licensed cannabis industry.
13. Make sure enforcement is equitable for individuals.
14. Promote equitable community economic development.

These objectives will guide the Working Group as it develops recommendations for commercial and personal-use cannabis in unincorporated areas.

SECTION 2:

Youth Access and Exposure

I. INTRODUCTION

In jurisdictions that have legalized medical or adult-use cannabis or are considering doing so, youth access to cannabis and cannabis products is a significant concern. While states that have legalized cannabis for adult use have set a minimum age for purchase and possession (21 years), worries remain that broader availability of legal cannabis will make it easier for youth to access it. Legalization could also lead youth to believe that cannabis is completely safe, which could result in higher rates of youth cannabis use over time.

In February 2017, the Los Angeles County (County) Board of Supervisors directed departments to prepare regulations for cannabis in unincorporated County areas. The Board of Supervisors specifically mandated that regulations minimize access to and use of cannabis by underage minors.

This section will discuss some of the public policy concerns and potential strategies regarding cannabis legalization and youth access and exposure to cannabis, including the following topics:

- Harms associated with youth cannabis use;
- Youth access and exposure to cannabis;
- Advertising and marketing;
- Changing risk perceptions about cannabis use;
- Sale of cannabis to minors; and
- Accidental exposure to cannabis.

Regulators are also concerned about the accidental ingestion of cannabis products by children, particularly toddlers. Although not necessarily related to a child's chances of becoming a regular cannabis user, accidental ingestion can cause a child significant discomfort and may require hospitalization and treatment.

II. HARMS ASSOCIATED WITH YOUTH CANNABIS USE

According to California's Blue Ribbon Commission on Marijuana Policy (Blue Ribbon Commission), youth are one of the groups most at risk for experiencing harms associated with regular cannabis use.¹ Harms associated with regular or heavy cannabis use include:

¹ California Blue Ribbon Commission on Marijuana Policy, *Pathways Report: Policy Options for Regulating Marijuana in California* (July 22, 2015), p. 76, accessed at <https://www.safeandsmartpolicy.org/wp-content/uploads/2015/07/BRCPathwaysReport.pdf>.

- Reduced educational attainment and educational development;
- Adverse changes in the brain impacting memory and learning;
- Declining IQ scores; and
- Increased truancy and dropout rates for high-schoolers.²

Youth cannabis use can also have criminal justice implications, leading to ineligibility for federal school loans, school expulsions or suspensions, difficulty gaining employment, and fines and attorneys’ fees that are difficult for many young people to pay. These implications were especially acute prior to 2010, when California decriminalized cannabis, and prior to the passage of Proposition 64 in 2016 which further decriminalized cannabis possession and use by people under the age of 21 and created the opportunity for resentencing and the destruction of records for prior cannabis-related criminal convictions.

Although, according to the Blue Ribbon Commission, definitive causal connections between cannabis use and experienced harms are often not available in existing studies, the Blue Ribbon Commission nevertheless concludes that “a leading policy goal should be to delay youth marijuana use, and to reduce regular or heavy use” and “protecting the most at-risk youth to the greatest extent possible.”³

III. YOUTH ACCESS AND EXPOSURE TO CANNABIS

A. Summary of the Issue

The Los Angeles County Department of Public Health (LACDPH) reports that cannabis is the most widely used illegal drug (under federal law) in the United States, and generally available for recreational use despite widespread prohibition.⁴ According to LACDPH, in 2015, approximately 80 percent of 12th graders in the United States reported that cannabis is easy “fairly easy” or “very easy” to obtain.⁵ Studies have also shown that teens find it easier to obtain cannabis than alcohol, cigarettes, and other drugs.⁶

Legalization of adult-use cannabis in California has the potential to increase the availability of cannabis to young people. For example, without strong regulatory controls, an increase in the number of retailers near areas where children congregate, such as schools and playgrounds, could result in greater direct accessibility from

² California Department of Public Health, *Marijuana and Tobacco Use – Fact Sheet* (May 2017), p. 4, accessed at <https://www.cdph.ca.gov/Programs/CCDC/DCDC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/FactsandFigures/MJAndTobaccoUseFac%20Sheet-CDPH-CTCP-5-2017.pdf>

³ Blue Ribbon Commission, *supra*, p. 76.

⁴ County of Los Angeles Department of Public Health, Division of Substance Abuse Prevention and Control, *The Need for a Public Health Approach to Marijuana Policy* (October 2015), accessed at <http://publichealth.lacounty.gov/sapc/PolicyBrief/PublicHealthApproachMarijuana.pdf>.

⁵ County of Los Angeles Department of Public Health, *supra*.

⁶ American Academy of Pediatrics, “Legalization of Marijuana in Washington State Shown to Have Had No Effect on Teens’ Access to Drug” (April 30, 2016), accessed at <https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/Legalization-Marijuana-Washington-State-Shown-to-Have-Had-No-Effect-on-Teens-Access-to-Drug.aspx>.

retailers or proxy accessibility through adults who purchase cannabis to give or sell to minors. Children may also be more likely to access cannabis in the home if siblings, parents, or other family members use cannabis products or grow cannabis for personal use.

In 2015, approximately 80 percent of 12th graders in the United States reported that cannabis is easy “fairly easy” or “very easy” to obtain. Studies have also shown that teens find it easier to obtain cannabis than alcohol, cigarettes, and other drugs.

Generally speaking, several policy interventions have been identified which may reduce youth access and exposure to cannabis. These include:

- **Restricting the density of cannabis retailers**

Research suggests that in areas with dense concentrations of alcohol retailers, youth use and misuse (DUI) can increase.⁷ The density of cannabis retailers can be controlled by requiring that a cannabis retailer be located a minimum specified distance from other cannabis retailers, by limiting the overall number of cannabis retail licenses offered within any one census tract or neighborhood, or other strategies.

The primary concern with restricting the density of retail locations is the potential to inadvertently thwart the transition of the cannabis industry from an unlicensed and unregulated marketplace to one that is licensed, regulated, and compliant. Any density restrictions should be informed by market dynamics to ensure that the legal supply of cannabis is not reduced to the point that incentives to operate without a license continue or increase.

- **Expanding buffers between cannabis retailers and areas that youth frequent**

Research on alcohol and tobacco has shown that creating buffers or “safe zones” around areas that youth frequent is associated with lower levels of youth substance usage.⁸ Similar strategies can be implemented for cannabis retailers. However, the unlicensed cannabis market and homegrown cannabis continue to present regulatory challenges not commonly encountered in the context of tobacco and alcohol.

⁷ Meng-Jinn Chen, et al., “Community Alcohol Outlet Density and Underage Drinking,” *Addiction*, Vol. 105(2) (2010), pp. 270-278.

⁸ AJ Milam, et al., “Alcohol Environment, Perceived Safety, and Exposure to Alcohol, Tobacco, and Other Drugs in Early Adolescence,” *Journal of Community Psychology*, Vol. 41(7) (2013), pp. 867-883, accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4130391/>; William J. McCarthy, et al., “Density of Tobacco Retailers Near Schools: Effects on Tobacco Use Among Students,” *American Journal of Public Health*, Vol. 99(11) (2009), pp. 2006-2013, accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2759807/>.

- **Limiting the hours that cannabis retailers can operate**

In the context of alcohol, research is mixed about whether access to and problems associated with alcohol decrease when retail sales are restricted to certain hours or days.⁹ Day and hour restrictions for cannabis retailers could reduce youth access and exposure to cannabis. However, careful consideration is necessary to ensure that any proposed restrictions achieve a reduction in youth access without encouraging unlicensed market activity. Additionally, if store hours are not uniform across the County’s cities and unincorporated areas, consumers may simply avoid day and hour restrictions in one jurisdiction by traveling to a neighboring city.

- **Increasing price**

Research on tobacco and alcohol shows that increases in price can reduce youth use, as youth are particularly sensitive to small increases in price.¹⁰ Price increases can be achieved through taxation policies. However, increased taxation may lead to continued unlicensed cannabis activity, a slow transition to a regulated marketplace, and may incentivize youth to access cannabis from unlicensed retailers, from people who grow cannabis in their home, or by growing their own cannabis.

B. Summary of Relevant State Law Provisions and Potential County Actions

| YOUTH ACCESS AND EXPOSURE TO CANNABIS | | |
|--|--|--|
| State Law | Considerations | Potential County Actions |
| <p>In determining whether to grant, deny, or renew retail licenses, Bureau of Cannabis Control must consider whether an “excessive concentration” exists in the area where the licensee will operate, meaning:</p> <ul style="list-style-type: none"> • Ratio of licensees to population in the census tract exceeds countywide ratio • Ratio of licensees to | <ul style="list-style-type: none"> • State statutes do not mandate license denial in the event an “excessive concentration” found • Subsequently developed regulations may clarify procedure | <ul style="list-style-type: none"> • Specify by ordinance when an excessive concentration occurs and mandate denial of local license • Determine minimum separation requirements between cannabis businesses • Specify by ordinance days and hours of operation |

⁹ Paul J. Gruenwald, PhD, “Regulating Availability: How Access to Alcohol Affects Drinking and Problems in Youth and Adults,” *Alcohol Research & Health*, Vol. 34(2) (2011), pp. 251-252, accessed at <https://pubs.niaaa.nih.gov/publications/arh342/248-256.pdf>.

¹⁰ Pearl Bader, et al., “Effects of Tobacco Taxation and Pricing on Smoking Behavior in High Risk Populations: A Knowledge Synthesis,” *International Journal of Environmental Research and Public Health*, Vol. 8(11) (2011), pp. 4118-4139, accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3228562/>; Xin Xu, et al., “The Effects of Prices on Alcohol Use and its Consequences,” *Alcohol Research & Health*, Vol. 34(2) (2011), pp. 236-245, accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3860576/>.

YOUTH ACCESS AND EXPOSURE TO CANNABIS

| State Law | Considerations | Potential County Actions |
|--|--|---|
| <p>population exceeds limits placed by local ordinance</p> <p>[Bus. & Prof. Code § 20651(c).]</p> | | |
| <p>Cannabis business may not be located within a 600-foot radius of a:</p> <ul style="list-style-type: none"> • School (K-12) • Day care center (including preschools but not including home day cares with fewer than 14 children), or • Youth center (including youth clubs and video arcades) <p>[Bus. & Prof. Code § 26054(b).]</p> | <ul style="list-style-type: none"> • State law’s 600-foot radius rule is a default provision only • Local jurisdictions can increase or reduce these distances and add other “sensitive uses” | <ul style="list-style-type: none"> • Define “sensitive uses” that should be buffered, including places frequented by youth • Specify distances from sensitive uses |
| <p>The possession or consumption of cannabis is prohibited at a school, day care, or youth center while children are present.</p> <p>[Health & Safety Code § 11362.3(a)(5)]</p> | <ul style="list-style-type: none"> • May be difficult to enforce | <ul style="list-style-type: none"> • Education efforts to increase awareness of rules |
| <p>Smoking cannabis is prohibited within 1,000 feet of a school, day care, or youth center while children are present, except at a private residence if smoke is not detectable at the school, day care, or youth center</p> <p>[Health & Safety Code § 11362.3(a)(3)]</p> | <ul style="list-style-type: none"> • May be difficult to enforce | <ul style="list-style-type: none"> • Consider implementation of local ordinance to prohibit this or similar conduct • Consider education efforts to increase awareness of rules |
| <ul style="list-style-type: none"> • Excise tax of 15 percent on all commercial transactions of cannabis • Cultivation tax of \$9.25 per dry-weight ounce for cannabis flower and \$2.75 per dry-weight ounce for leaves and stems <p>[Rev. & Tax. Code § 34011]</p> | <ul style="list-style-type: none"> • State and local sales tax also apply, except for sales of medical cannabis • Establishes effective tax rate of over 24 percent for adult-use cannabis, considering County’s local sales tax | <ul style="list-style-type: none"> • County may establish local taxation in addition to state excise and cultivation taxes |

Discussion Questions for Youth Access and Exposure to Cannabis

1. Is the “excessive concentration” concept under state law sufficient to prevent densities of retailers that could increase youth access and exposure to cannabis? Are there additional concentration requirements that should be implemented locally by the County to prevent excessive concentration?
2. Is state law requiring cannabis businesses to locate 600 feet from schools (K-12), day cares (including preschools but not including home day cares with less than 14 children), and youth centers (including youth clubs and video arcades) sufficient? Are there additional places where children are likely to congregate that should be added to the list of “sensitive uses” that must be buffered from cannabis businesses?
3. What strategies can help prevent youth access and exposure to cannabis and cannabis products at schools?
4. What strategies can help prevent youth access and exposure to cannabis smoke?
5. How do restrictions intended to prevent youth access and exposure conflict with other policy objectives, such as maximizing the transition of the cannabis industry from an unlicensed to a regulated and compliant industry? How can conflicts be resolved?
6. What could be some unintended consequences of restrictions designed to prevent youth access and exposure? How can unintended consequences be avoided or minimized?

IV. ADVERTISING AND MARKETING

A. Summary of the Issue

Advertising and marketing can strongly influence young people to consume certain products or engage in certain behaviors. This fact is particularly evidenced by numerous studies evaluating the effects of youth exposure to alcohol and tobacco advertising.¹¹

With respect to tobacco, for example, the U.S. Surgeon General reported in 2012 that nearly all tobacco use begins in childhood and adolescence, and that 88 percent of adult cigarette smokers who smoke daily reported starting smoking by the age of 18. Advertising and promotional activities by tobacco companies have been shown to cause

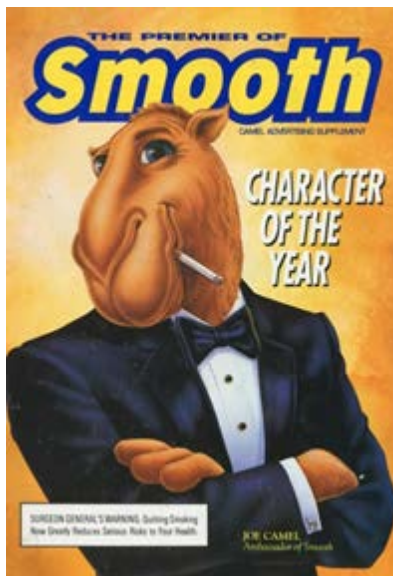
¹¹ See, e.g., Leslie B. Snyder, et al., “Effects of Alcohol Advertising Exposure on Drinking Among Youth,” *Archives of Pediatric and Adolescent Medicine* (2006), pages 18-24, at <http://jamanetwork.com/journals/jamapediatrics/fullarticle/204410>; U.S. Surgeon General, “Preventing Tobacco Use Among Youth and Young Adults,” Executive Summary (2012), pp. 1-6, accessed at <https://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/exec-summary.pdf>.

the onset and continuation of smoking among adolescents and young adults.¹² The Surgeon General's report explained:

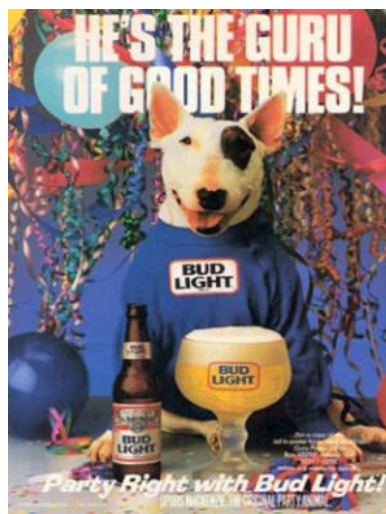
This is a time in life of great vulnerability to social influences, and the pervasive presence of tobacco product marketing—including everything from sleek ads in magazines to youth-generated posts on social networking sites, to images of smoking in the movies—conveys messages that make tobacco use attractive to youth and young adults.¹³

Advertising and marketing techniques identified as particularly persuasive for children and adolescents include branded characters.¹⁴ Celebrity endorsements can also induce children to purchase certain products.¹⁵ In particular, athletes are commonly hired to act as spokespersons for certain brands or products. Table I on the following page demonstrates some of the branded characters associated with an increase in product consumption by children and adolescents.

Table I: Advertising Characters Attractive to Children¹⁶



Joe Camel
(tobacco)



Spuds Mackenzie
(alcohol)



Ronald McDonald
(fast food)

¹² Surgeon General's Report, supra, pp. 1, 3.

¹³ Surgeon General's Report, supra, p. 1.

¹⁴ Sandra L. Calvert, "Children as Consumers: Advertising and Marketing," *The Future of Children*, Vol. 18(1) (Princeton-Brookings 2008), p. 209, accessed at https://www.princeton.edu/futureofchildren/publications/docs/18_01_09.pdf.

¹⁵ Calvert, supra, p. 209.

¹⁶ Calvert, supra, p. 209; J. R. DiFranza, et al., "RJR Nabisco's Cartoon Camel Promotes Camel Cigarettes to Children," *JAMA: Journal of the American Medical Association*, Vol. 266(22) (1991), pp. 3149–3153.

Armed with similar research, the Blue Ribbon Commission concluded “there are considerable benefits to limiting the advertising and marketing of marijuana, even if it may pose a challenge to marijuana retailers and consumers[,]” and explained that such advertising restrictions could “limit exposure to children and youth, and limit tactics that target young people, poor communities, communities of color, women and LGBTQ communities.”¹⁷

Government limitations on advertising and marketing of any sort remain controversial and difficult to implement. The First Amendment to the United States Constitution and Article I, Section 2, of the California Constitution generally protect commercial speech, including advertising and marketing, that is not false or misleading. This is true even if the advertising or marketing is intended or designed to encourage youth to purchase a particular product or engage in a particular activity. While government restrictions on advertising and marketing are permissible, they must directly advance a “substantial state interest” and be no more extensive than is necessary to serve that interest.¹⁸ While protecting youth is often used to justify government restrictions on advertising and marketing, striking the right balance between youth protections and advertisers’ free speech rights is often difficult in practice.

The U.S. Surgeon General reported in 2012 that nearly all tobacco use begins in childhood and adolescence, and that 88 percent of adult cigarette smokers who smoke daily reported starting smoking by the age of 18.

Furthermore, the ability for local jurisdictions to regulate the content and locations of certain types of advertising, such as billboard and other outdoor advertising displays, is often preempted by state law or regulation.

B. Summary of Relevant State Law Provisions and Potential County Actions

Against this legal backdrop, some of the policy interventions intended to reduce the effect of cannabis advertising and marketing on youth are outlined in the table below. Some of these policies are already incorporated into California law. The County may elect to supplement state law rules to achieve the desired policy results with respect to cannabis advertising and marketing.

| ADVERTISING AND MARKETING | | |
|--|---|--|
| State Law | Considerations | Potential County Actions |
| Advertising is prohibited within 1,000 feet of schools, day cares, youth centers and playgrounds. | <ul style="list-style-type: none"> State law does not address on-site marketing or other forms of advertising which youth may frequently encounter | <ul style="list-style-type: none"> Limit advertising at retail locations (regardless of proximity to areas where youth congregate), including posters, window coverings, sandwich board signs, and other similar advertising displays |

¹⁷ Blue Ribbon Commission, *supra*, p. 46.

¹⁸ *Coyote Pub., Inc. v. Miller*, 598 F. 3d 592, 602 (9th Cir. 2010) (quotations and citations omitted).

| ADVERTISING AND MARKETING | | |
|--|--|---|
| State Law | Considerations | Potential County Actions |
| <p>[Bus. & Prof. Code §26152(g)]</p> | <ul style="list-style-type: none"> Overly broad restrictions or bans on advertising may be subject to legal challenge | <ul style="list-style-type: none"> Additional limits on advertising within a certain distance of schools, playgrounds, and other areas where youth congregate |
| <p>Advertising that is “attractive to children” or intended to encourage youth use is prohibited.</p> <p>[Bus. & Prof. Code § 26152(e)-(f)]</p> | <ul style="list-style-type: none"> “Attractive to children” is not defined; subsequently developed regulations may clarify standards Local ordinances establishing advertising and marketing rules more restrictive than state law may be difficult to implement | <ul style="list-style-type: none"> Adopt an ordinance consistent with state law prohibiting advertising “attractive to children” or intended to encourage youth use (e.g., preventing branded characters or celebrity endorsements) Establish sufficient penalties for violating advertising restrictions, up to and including license revocation |
| <p>Billboard advertising is prohibited along all interstate highways and state highways that cross the California border into another state.</p> <p>[Bus. & Prof. Code § 26152(d)]</p> | <ul style="list-style-type: none"> State law does not address outdoor advertising on local roads which may be viewed by youth Constitutional challenges or preemption under the state Outdoor Advertising Act may prevent the implementation of additional billboard restriction | <ul style="list-style-type: none"> Adopt an ordinance restricting outdoor advertising in other places not specified under state law |
| <p>Advertising placed in broadcast, cable, radio, print, and digital media is restricted to audiences where at least 71.6 percent of audience members are 21 or older.</p> <p>[Bus. & Prof. Code § 26151(b)]</p> | <ul style="list-style-type: none"> Must be based on reliable reporting of audience data Additional restrictions may be difficult to implement locally as media is often not limited to County areas, but may be disseminated statewide | <ul style="list-style-type: none"> Local ordinance can reinforce this requirement for licensees and establish sufficient penalties for noncompliance, including up to license revocation |

Discussion Questions for Advertising and Marketing

1. Does state law establish adequate advertising and marketing protections for people under 21? If not, what additional restrictions should the County implement locally to address concerns about state law?
2. Are there strategies used in the context of tobacco and alcohol that can be applied to cannabis to prevent advertising and marketing that is attractive to people under 21?
3. Should the County implement rules about what types of publicly visible signs a cannabis business can display to limit young peoples' exposure to cannabis marketing? What rules would you propose?
4. Some argue that overly restrictive marketing and advertising will defeat one of the purposes of Proposition 64, to create a regulated marketplace for cannabis. How do proposed rules and restrictions on cannabis advertising and marketing reasonably accommodate Proposition 64's objective to create a regulated marketplace for cannabis?

V. CHANGING RISK PERCEPTIONS ABOUT CANNABIS USE

A. Summary of the Issue

Whether a child or adolescent is likely to start using cannabis can depend on whether the child or adolescent perceives cannabis as harmful. The federal Center for Behavioral Health Statistics and Quality (CBHSQ) explains that national data on secondary students indicates that attitudes about the risks associated with substance use are often closely related to use, with an inverse association between use and risk perceptions.¹⁹ Data from the National Survey on Drug Use and Health, summarized in the following Table II, demonstrates that relationship.

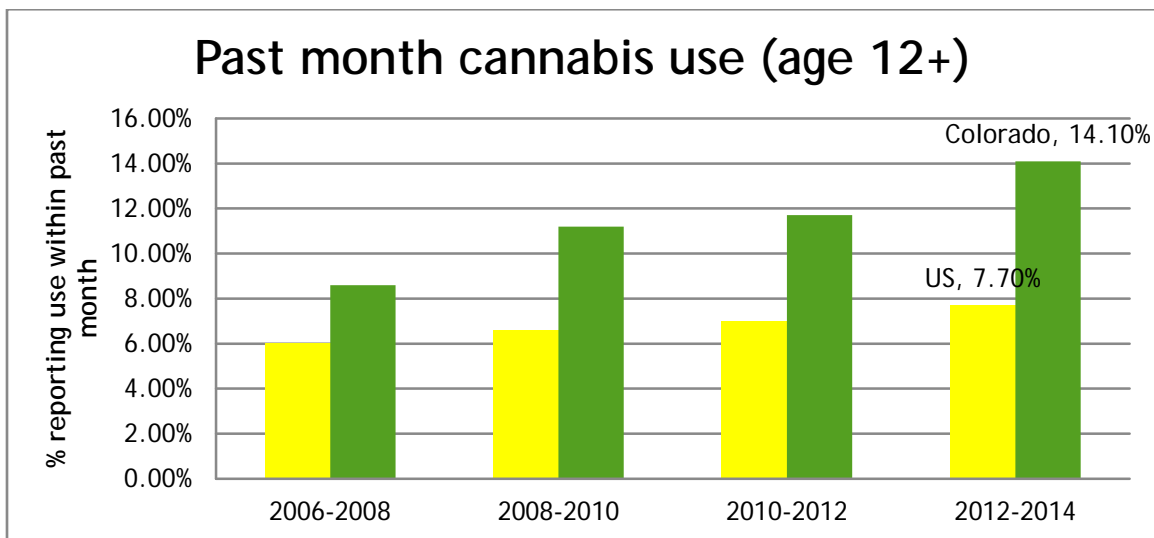
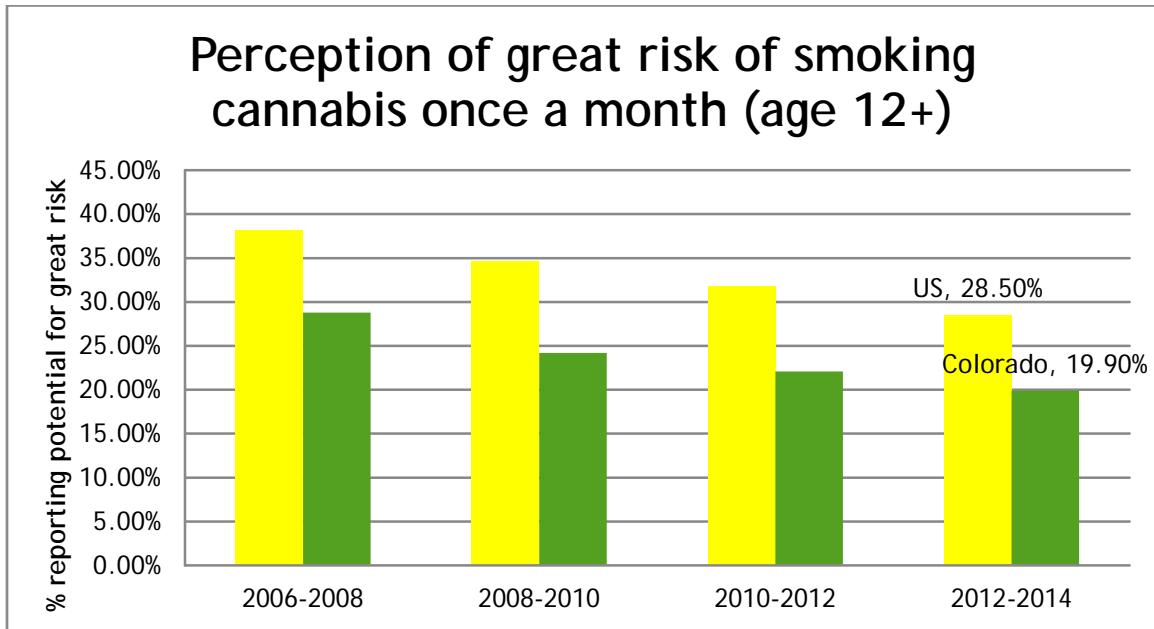
While Colorado and other states that have legalized adult-use cannabis have not reported statistically significant increases in youth use of cannabis since those states legalized adult-use cannabis,²⁰ adult-use cannabis legalization in those states probably has occurred too recently to predict the long-term impacts on youth cannabis usage rates. In addition, future usage rates are likely to be affected by policy intervention, such as drug education and outreach.

¹⁹ Arthur Hughes, M.S., Rachel N. Lipari, PhD & Matthew R. Williams, PhD, "Marijuana Use and Perceived Risk of Harm from Marijuana Use Varies Within and Across States," *The CBHSQ Report*, National Survey on Drug Use and Health, Substance Abuse and Mental Health Services Administration (July 26, 2016), accessed at https://www.samhsa.gov/data/sites/default/files/report_2404/ShortReport-2404.html.

²⁰ Colorado Department of Public Health and Environment, 2015 Healthy Kids Colorado Survey, "Marijuana Use Among Youth in Colorado," accessed at https://www.colorado.gov/pacific/sites/default/files/PF_Youth_MJ-Infographic-Digital.pdf

From a prevention standpoint, therefore, it is important that children and adolescents be informed about potential harms associated with early and regular cannabis use, to help young people make informed choices about whether to begin using cannabis. Recent education and intervention campaigns from other states provide useful models for cannabis-specific programs that show positive results.

Table II: Perception of Risk and Youth Cannabis Usage Rates in Colorado



Source: National Survey on Drug Use and Health (NSDUH), accessed at: <https://www.samhsa.gov/data/population-data-nsduh>

Strategies to educate youth and parents on the risks of cannabis use include the following:

| CHANGING RISK PERCEPTIONS ABOUT CANNABIS USE | |
|---|---|
| Strategy | Considerations |
| Using mass media to increase public concern about use and change perceptions | Must be sufficiently targeted and have high level of reach and frequency; should be reinforced by other strategies ²¹ |
| Using community coalitions to affect positive perceptual changes | Requires well developed coalition and action plan; should have a clear, shared vision of coalition's objective, have committed partnerships and active participation from various community sectors, and utilize a broad menu of prevention strategies ²² |
| School-based drug education opportunities for students, parents, teachers, and others | Schools should provide information to students, young adults, parents and other caregivers, teachers, and school administrators that is motivating, factual, believable, and does not present only one side (e.g., only the dangers and not potential benefits) ²³ |
| Partnering with cannabis retailers and other cannabis businesses to provide information to deter youth use | Information provided by retailers could target children, young adults, parents, and caregivers to increase awareness of harms associated with youth cannabis use; interior signage or displays, pamphlets, and flyers can be effective means of distributing information |

Examples of statewide public information campaigns with respect to cannabis can be viewed here:

- Colorado: <https://www.colorado.gov/pacific/cdphe/news/youth-marijuana-education-campaign>
- Oregon: <http://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/MARIJUANA/Documents/marijuana-mid-campaign-results-2016.pdf>
- Washington: <http://www.doh.wa.gov/Portals/1/Documents/8380/MarijuanaPublicEducationCampaignOverview.pdf>

²¹ Center for the Application of Prevention Technologies (CAPT), "Strategies/Intervention for Reducing Marijuana Use," accessed at https://www.colorado.gov/pacific/sites/default/files/MJ_RMEP_SAMHSA-Marijuana-Strategies-Interventions.pdf.

²² CAPT, supra.

²³ Oregon Health Authority, "Approach to Youth Marijuana Prevention," HB 3400 Legislative Report (2017), p. 14.

B. Summary of Relevant State Law Provisions and Potential County Actions

State funding is available for education, prevention, and intervention campaigns, as specified in Proposition 64. However, it is not yet known which specific programs the state intends to fund and to what extent.

| CHANGING RISK PERCEPTIONS ABOUT CANNABIS USE | | |
|--|--|---|
| State Law | Considerations | Potential County Actions |
| <p>After funding regulatory costs and other programs specified by Proposition 64, 60 percent of remaining cannabis tax revenue (est. \$400-500 million annually) will be deposited into a Youth Education, Prevention, Early Intervention and Treatment Account, to fund grants for outreach and education campaigns, among other things</p> <p>[Rev. & Tax. Code § 34019(f)(1)]</p> | <ul style="list-style-type: none"> • Programs will be implemented by the State Department of Public Health and the State Department of Education • Education campaigns must be multilingual and culturally sensitive | <ul style="list-style-type: none"> • Prioritize spending local cannabis tax revenue on prevention, education and outreach • Implement local education, prevention and intervention programs and campaigns that focus on youth development • Involve schools to disseminate information to parents and kids • Partner with local community groups and community-serving nonprofits to increase campaign reach • Within constitutional limitations, specify by ordinance requirements for cannabis retailers to disseminate educational information to consumers and parents |

Discussion Questions for Changing Risk Perceptions

1. What steps can parents and educators take to ensure young people make informed choices about whether to consume cannabis or cannabis products? How can the County support parents and educators in this regard?
2. Should the County prioritize the spending of cannabis tax revenue on education, intervention and prevention messaging? What objectives should the County seek to achieve through such messaging?
3. Are there new or existing models that would be helpful for developing messaging?
4. What special steps could the County take to ensure that messaging is culturally sensitive?
5. What stakeholders should be involved in developing educational tools or media campaigns?
6. How can cannabis businesses help spread the message to people under 21 that using cannabis is associated with certain risks of harm?

VI. SALE OF CANNABIS TO MINORS

A. Summary of the Issue

Although sales of adult-use cannabis are restricted to people over the age of 21, sales of cannabis to minors can still occur in at least three ways: in-store purchases, “social” purchases, and illegal sales to minors by unlicensed vendors.

With respect to in-store purchases, although sales of adult-use cannabis are restricted to people over the age of 21, there is a risk that retailers will sell cannabis and cannabis products to minors, either intentionally or inadvertently through the absence of proper controls. For example, data from the Washington State Liquor and Cannabis Board shows that approximately 10 percent of cannabis retailers failed compliance checks by selling cannabis or cannabis paraphernalia to a person under the age of 21.²⁴

“Social” purchases typically involve a third-party or “proxy” buyer. Proxy purchases occur when a minor seeks out a specific person, such as a friend or relative, to purchase cannabis on the minor’s behalf, or by waiting outside a store and soliciting incoming shoppers, a method known as “shoulder tapping.” Both methods are well documented in the context of alcohol sales.²⁵

The illegal sale of cannabis to minors by unlicensed vendors includes the resale of homegrown cannabis and sale of diverted or illegally grown cannabis.

A final consideration regarding the sale of cannabis and cannabis products to minors involves the retail delivery of cannabis, in which a cannabis retailer transports cannabis or cannabis products to a consumer at an offsite location, typically a residence. Because retail transactions occur at an offsite location, regulators may find it more difficult to check compliance

Some strategies for reducing sales of cannabis to minors include:

- Requiring training and education for cannabis retail employees, particularly those who engage directly with customers (“budtenders”)²⁶
- Requiring the use of technology that improves the efficacy of age verification processes²⁷

²⁴ Washington State Liquor and Cannabis Board, “Marijuana Dashboard,” accessed at <https://data.lcb.wa.gov/stories/s/WSLCB-Marijuana-Dashboard/hbnp-ia6v/> on July 16, 2017.

²⁵ Steven Davenport, et al. “Controlling Underage Access to Legal Cannabis,” 65 Case Western Reserve L. Rev. 541, 556 (2015), accessed at <http://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1041&context=caselrev>

²⁶ See, e.g., Washington Admin. Code, section 246-70-080 (requiring employee training for cannabis producers, processors and retailers).

²⁷ Baris K. Yoruk, “Can Technology Help to Reduce Underage Drinking? Evidence from the False ID Laws with Scanner Provision,” *Journal of Health Economics*, Vol. 36 (2014), pp. 33-46.

- Routine enforcement efforts (including “secret shopper” techniques which utilize minors who attempt to buy cannabis as part of a compliance check) and sufficient penalties to deter sales to minors²⁸

B. Summary of Relevant State Law Provisions and Potential County Actions

| SALE OF CANNABIS TO MINORS | | |
|--|--|---|
| State Law | Considerations | Potential County Actions |
| <p>Licensed retailers may not sell cannabis to a person under 21, may not allow persons under 21 on the licensed premises, and may not employ persons under 21</p> <p>[Bus. & Prof. Code § 26140(a)(1)-(3)]</p> | | <ul style="list-style-type: none"> • Establish routine inspections to ensure compliance, including for delivery • Establish sufficient penalties, including up to license revocation, to deter the sale of cannabis or cannabis products to minors |
| <p>Consumers must present a valid, government-issued ID card showing the consumer’s age prior to purchase</p> <p>[Bus. & Prof. Code § 26140(a)(4)]</p> | <p>No particular procedure for verifying age is specified; subsequently developed regulations may clarify requirements</p> | <ul style="list-style-type: none"> • Specify by ordinance mandatory technology and procedures for verifying the identity and age of a person to whom cannabis or cannabis products are sold, including for delivery orders • Establish sufficient penalties, including up to license revocation, to deter the sale of cannabis or cannabis products to minors |
| <p>Police may use persons under 21 years of age to purchase or attempt to purchase cannabis or cannabis products for the purpose of enforcing age restriction laws</p> <p>[Bus. & Prof. Code § 21640(b)]</p> | <p>No routine compliance checks are specified; subsequently developed regulations may clarify requirements</p> | <ul style="list-style-type: none"> • Establish routine “secret shopper” purchases by minors, including for delivery orders, to ensure compliance • Establish sufficient penalties, including up to license revocation, to deter the sale of cannabis or cannabis products to minors |

²⁸ U.S. Department of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, “Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices” (Prepared by Pacific Institute for Research and Evaluation) (2011), pp. 30-31, accessed at <http://www.pire.org/documents/UDETC/overview-framework/RegStrategiesAccessLaws.pdf>.

Discussion Questions for Sale of Cannabis to Minors

1. What compliance processes should the County implement to verify that retailers do not sell to minors? What fines or penalties should the County impose on retailers that do sell to minors?
2. Are there unique regulations the County should apply to the retail delivery of cannabis to consumers at offsite locations to ensure people under 21 are not able to take delivery of adult-use cannabis products?
3. What steps can the County take to discourage “social” purchases of cannabis?

VII. ACCIDENTAL EXPOSURE TO CANNABIS

A. Summary of the Issue

The increased availability of cannabis to adults could result in increased levels of accidental cannabis consumption by children, primarily edible cannabis products. In July 2016, *The New York Times* reported a 150 percent increase in accidental ingestion of cannabis products by youth, primarily toddlers, since adult-use products went on the market in Colorado in 2014 (albeit the total number of accidental exposure cases was relatively small).²⁹

Most strategies to prevent the accidental consumption of cannabis by children and adolescents include regulating product packaging and labeling. In 2013, the Pediatric Injury Prevention Education and Research Program at the Colorado School of Public Health and the Children’s Health Advocacy Institute at Children’s Hospital Colorado collaborated to provide the following recommendations to reduce the accidental consumption of cannabis:

- All retail marijuana and marijuana products should leave retail establishments in child-resistant packaging as defined by ASTM International and the federal Poison Prevention Packaging Act of 1970 (PPPA), and should display the label “Keep Away from Children.”
- All child-resistant packaging should be opaque. Cannabis and cannabis products should not be visible when inside child-resistant packaging.
- All child-resistant packaging should be re-closeable, so that products which contain multiple servings can continue to be safely stored after first use.³⁰

²⁹ Jan Hoffman, “Study Finds Sharp Increase in Marijuana Exposure among Colorado Children,” *The New York Times* (July 25, 2016), accessed at <https://www.nytimes.com/2016/07/26/health/marijuana-edibles-are-getting-into-colorado-childrens-hands-study-says.html>.

³⁰ “Preventing Unintentional Ingestion of Marijuana by Children,” pp. 4-5, accessed at <http://www.ucdenver.edu/academics/colleges/PublicHealth/research/ResearchProjects/piper/projects/Documents/HIA%20Final%20Report%208.20.2013.pdf>.

Other strategies could include consumer education programs, particularly for parents, and to those who grow cannabis for personal use, about proper storage of cannabis and cannabis products to prevent accidental consumption. Consumers should be reminded to store cannabis and cannabis products as they would prescription medication or toxic substances if children are present in the household.

The New York Times reported a 150 percent increase in accidental ingestion of cannabis products by youth, primarily toddlers, since adult-use products went on the market in Colorado in 2014.

B. Summary of Relevant State Law Provisions and Potential County Actions

| ACCIDENTAL EXPOSURE TO CANNABIS | | |
|--|--|--|
| State Law | Considerations | Potential County Actions |
| <p>All cannabis sold at retail must be in a re-sealable, tamper-evident, and child resistant package.</p> <p>[Bus. & Prof. Code § 26120(a)]</p> | | <ul style="list-style-type: none"> • Establish sufficient penalties for violations, up to and including license revocation |
| <p>Packages and labels must not be “attractive to children.”</p> <p>[Bus. & Prof. Code § 26120(b)]</p> | <ul style="list-style-type: none"> • “Attractive to children” is not defined; subsequently developed regulations may clarify standards • Local ordinances establishing labeling rules more restrictive than state law may be difficult to implement and result in unintended market consequences | <ul style="list-style-type: none"> • Adopt an ordinance consistent with state law prohibiting packaging “attractive to children” • Establish sufficient penalties for violations, up to and including license revocation |
| <p>Cannabis or cannabis products purchased by a customer shall not leave a licensed retail premises unless they are placed in an opaque package</p> <p>[Bus. & Prof. Code § 26070.1]</p> | <ul style="list-style-type: none"> • Opaque packaging need not be child-resistant • Local ordinances establishing labeling rules more restrictive than state law may be difficult to implement and result in unintended market consequences | <ul style="list-style-type: none"> • Adopt an ordinance consistent with state law ensuring exit packaging is both opaque and child resistant • Establish sufficient penalties for violations, up to and including license revocation |
| <p>Edible cannabis products shall not be designed to be appealing to children or easily confused with commercially sold candy or</p> | <ul style="list-style-type: none"> • “Appealing to children” not defined; subsequently developed regulations may clarify phrase | <ul style="list-style-type: none"> • Adopt an ordinance consistent with state law prohibiting edibles that are “attractive to children” |

| ACCIDENTAL EXPOSURE TO CANNABIS | | |
|--|---|---|
| State Law | Considerations | Potential County Actions |
| <p>foods that do not contain cannabis</p> <p>[Bus. & Prof. Code § 26130(c)(1)]</p> | <ul style="list-style-type: none"> Local ordinances establishing rules for edibles more restrictive than state law may be difficult to implement and result in unintended market consequences | <ul style="list-style-type: none"> Establish sufficient penalties for violations, up to and including license revocation |
| <p>Cannabis products must bear the following on its label: “GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”</p> <p>[Bus. & Prof. Code § 26120(c)(1)(B)]</p> | <ul style="list-style-type: none"> Reminds parents and caregivers to store cannabis products properly Will not be effective to prevent children with no or limited literacy, or who speak and read exclusively in languages other than English, from consuming cannabis products Local ordinances establishing warning label requirements different than those required under state law may be difficult to implement and may result in unintended market consequences | <ul style="list-style-type: none"> Education campaigns can complement and reinforce labeling |

Discussion Questions for Accidental Exposure to Cannabis

- Does state law provide sufficient protections against accidental cannabis consumption by children with respect to packaging and labeling of cannabis and cannabis products? If not, how could the County supplement state law at the local level?
- What potential problems could be associated with the County implementing packaging and labeling requirements that are more restrictive than state law? How could those problems be dealt with or minimized?

###