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California's Local Marijuana Laws Fail to Heed Decades of Lessons from Tobacco Controls

Allowing high potency products, fruit flavored and candy-like products designed to attract youth, aggressive marketing, and a lack of accurate information has led to a market that fails to protect young people from marijuana health risks, says JAMA Network Open study.

Oakland, CA - A study published today by Public Health Institute (PHI) researchers in the *Journal of the American Medical Association Network Open* finds that few of California's cities or counties that had legalized marijuana sales in 2018 had adopted basic lessons from tobacco control successes to reduce demand, limit harm or prevent youth use. The comprehensive study of all 539 cities and counties, "Assessment of Incorporation of Lessons From Tobacco Control in City and County Laws Regulating Legal Marijuana in California," found that only eight jurisdictions had enacted any cannabis product restrictions. None limited product potency and only one was restricting flavored products in the first year of legal cannabis sales.

Decades of evidence show that aggressive advertising, marketing of flavored products, and manipulating levels of addictive ingredients were key tobacco industry tactics used to recruit and hook users, especially young people. These tactics have been reproduced by the cannabis industry. Youth use of marijuana nationally has been on the rise: the number of twelfth graders who reported vaping marijuana in the past 30 days increased from 5% in 2017 to 14% in 2019, with 3.5% of them vaping near daily. Young people, including those up to age 25 whose brains are still developing, are especially at risk from cannabis use, with emerging evidence on the risks of lasting effects on mental health and youth cognition.

Despite these concerns, the PHI study, supported by the California Tobacco Related Disease Research program (TRDRP), found that state and local rules in California continue to allow cannabis businesses to use tactics that are widely regulated or banned for tobacco:

- **Flavored cannabis products intended for smoking or vaping, including fruit flavored vaping products and pre-rolled joints, are still allowed to be sold throughout the state** . While sales of flavored tobacco products are banned or restricted in more than seventy California cities or counties, the PHI study found that state and local law continues to allow flavored cannabis products. Only one jurisdiction, Contra Costa County, prohibits flavored cannabis products for smoking

or vaping. Three jurisdictions have banned cannapops, cannabis-infused beverages (like orange soda), but still allow other flavored products.

- **No city or country in California has enacted any limit on cannabis product potency beyond state requirements** . The tobacco industry tactic of manipulating nicotine levels to increase addiction and sales is well-known, yet state cannabis law only regulates the amount of THC in edibles. No jurisdiction limits potency, though Cathedral City has enacted a tax on higher potency products. The cannabis industry has massively increased cannabis product potency over the past thirty years, with some products exceeding 90% concentration of THC, creating a higher risk of psychosis and addiction.
- **Most areas (53%) in California allowing cannabis sales have no local cannabis taxes:** 41% have a general tax, and just 1% levy a special tax directing cannabis revenues to specific local uses. Tobacco taxes have proven to be one of the most effective ways to reduce use, especially among youth, and have been successfully used to fund tobacco education and control efforts.
- **63% of jurisdictions allowing retail cannabis storefronts did place limits on the number allowed** , on average, allowing 1 dispensary for every 19,058 residents.

“While promising examples of local innovation are emerging, our study shows that California state and many local governments have allowed the cannabis industry to adopt the same tactics that made tobacco a public health menace,” said Lynn Silver, lead author of the study and a senior adviser with the Public Health Institute. “We need far more cautious rules to fulfill our collective responsibility to protect young people. It is critical to move quickly to get marijuana regulations right from the start and assure that a legal industry is also truly a safer industry.”

The study shows that jurisdictions in California were polarized, either banning cannabis commerce altogether or following lax state regulation without prioritizing public health: 49%, which covered 57% of the state’s population, allowed some form of legal marijuana sales and 38% allowed the sale of adult-use cannabis products. Some localities have adopted certain other regulations, including 23 areas that require health warnings in stores and four requiring stronger package warnings than the state’s weak warning in hard to read 6 point type. Forty two jurisdictions increased the state mandated buffer zone between cannabis sellers and schools, and more than 100 added certain establishments, such as recreation centers and libraries, to the state’s list of “sensitive use sites” from which sellers must be distanced. But six lowered the distance to schools to an average of less than a block. Only 5 adopted any provisions for equity in licensing or hiring.

In 2017, PHI developed and published model local ordinances for the regulation and taxation of cannabis in California. Based on those models and this current study, PHI recommends that if a jurisdiction opts to legalize the sale of cannabis, it should adopt additional measures to:

- Limit high potency products and flavored products known to attract youth.
- Limit the number of dispensaries and not permit delivery.
- Provide prominent and accurate health warnings to inform the public and limit marketing.
- Tax and use tax revenue for youth education and prevention, not more law enforcement.
- Promote equity in licensing, hiring and in health.

According to the National Academies of Science, Engineering and Medicine, marijuana use is associated with significant health risks, including increasing psychosis and schizophrenia, dependency, exacerbation of respiratory symptoms, motor vehicle collisions, and low birthweight babies. In 2019, the CDC concluded that cannabis vaping products were involved in most cases of an outbreak of lung injury that caused more than 2,800 hospitalizations and at least 68 deaths, demonstrating the dangers of allowing proliferation of new products without adequate evaluation of safety. Mental health issues are also a key concern: in addition to links with psychosis and schizophrenia, a 2014 EU study found that marijuana was the leading drug used by clients entering drug treatment, representing 46% of all new clients, up from 29% in 2003.