

# Complying with California's SB1186, Medical Cannabis Access Principles for Protecting Youth, Public Health, & Equity

[SB 1186](#) (Wiener), the “Medicinal Cannabis Patient’s Right of Access Act,” passed in 2022, overrode the foundational local control principle of Proposition 64. Absent judicial decisions to the contrary, it would require local jurisdictions to allow a mechanism for the delivery of medical cannabis including the establishment of a delivery physical premises. Our interpretation by legal expert Michael Colantuono, JD, is that SB1186 violates Proposition 64’s intent, which promised robust local control. While we believe it should be challenged in the courts, some jurisdictions may be re-examining their policy decisions as it goes into effect January 1, 2024.

While we strongly support the progress in decriminalizing possession and use, reducing arrests and expunging criminal records, legalizing cannabis commercial sales without robust regulation and promoting the growth of an unfettered for-profit industry threatens our developing youth, mental and public health outcomes, and risks further exacerbating social, economic, and health disparities. As a society, we have a collective responsibility to prevent or mitigate such harms. We can better accomplish this by putting in place strong guardrails and policies that protect youth, promote public health, and advance social equity. The purpose of any legalization of sale, whether medical or adult-use, should be to provide safer legal access without driving up harmful consumption patterns, rather than maximizing economic growth.



In 2023, 63% of Californians live where legal cannabis sale is allowed. Only three counties have no jurisdiction within allowing legal sales. In 2023, 309 cities and counties did not allow local retailers, of which 68 allow delivery from outside businesses, although many residents still lived within a short distance to a legal retailer.

If your jurisdiction is assessing whether to modify current policies, we recommend considering the policy options below. Detailed language is available in our model ordinances for local [retailing and marketing](#), [general](#) and [special](#) cannabis taxes, although these were written to cover both adult-use and medical cannabis. If you are challenging the law, please let us know. Many [California jurisdictions](#) have adopted some components of the options we have provided.

## POLICY RECOMMENDATIONS: LICENSING MODEL

- **Non-profit Only Requirement.** Only award local cannabis licenses to applicants with a non-profit business model. This allows legal cannabis sales while moderating the drive to increase profits by constantly escalating consumption. Consider licensing a single exclusive non-profit to provide legal access under terms defined by your jurisdiction through a contractual or licensing mechanism.
- **Mandate Local Permitting.** Require that all retailers, especially deliverers originating from outside the jurisdiction, obtain a local permit in order for the city/county to retain control and to ensure compliance with your local regulations.
- **Limit the Number of Businesses Licensed and Location.** We recommend no more than 1 storefront for every 20,000 inhabitants, the approximate ratio of liquor stores to population in several longstanding state alcohol monopolies. In 2023 77% of CA jurisdictions capped the number of licensed retailers. It is unclear what the optimal ratio of licensed delivery businesses is, but deliverers can cover larger areas, suggesting fewer are required. Require at least 1,000 foot distance from schools and colleges.

## POLICY RECOMMENDATIONS TO PROTECT CHILDREN AND YOUTH

- **Create a Local Tax and Dedicate Tax Revenue.** Local jurisdictions can tax medical cannabis sales and should dedicate tax revenue to youth, substance abuse prevention, or reinvestment in communities most affected by the War on Drugs. This can be done through [general](#) or [special](#) tax mechanisms (see our model tax ordinances). Taxes should be structured to disincentivize higher potency product sales, which are more likely to cause addiction, cannabis-induced psychosis or other harms.
- **Delivery Destinations.** Limit where deliveries can terminate, for instance, prohibit delivery to college dormitories, rehabilitation facilities, childcare facilities, or schools.
- **Independent ID Verification Process.** Mandate the use of an independent third-party age and identity verification process before cannabis delivery to prevent youth access and discourage diversion.

## POLICY RECOMMENDATIONS TO PROTECT CHILDREN AND YOUTH (CONT.)

- **Strengthen Medical ID Card Requirements.** If under the age of 21, require that the teen's primary care physician or a specialist be the certifying physician to verify the medical needs of a youth before issuing a medical cannabis card.
- **Products Attractive to Youth.** We strongly recommend several restrictions on product types allowed. However, SB1186 created some overbroad and vague limitations relating to meeting the demand of medical patients. Jurisdictions may be able to require that retailers provide meaningful evidence that each product sold is medically necessary. To eliminate the "Cannabis Kids Menu" we recommend prohibiting the sale of any product that is attractive to children or youth, such as products that resemble commercially available candy or foods, flavored combustible or inhalable (non-edible) products, and cannabis-infused soda pop. Flavored products, like banana vapes, bubble gum flavored products, and orange soda, are well known to be more appealing to youth and most youth initiate cannabis vaping with a flavored product. Cannabis-flavored products should be sufficient to meet the medical needs of patients. The DCC also recently revised its regulations to restrict the addition of artificial cannabinoids which may impart a flavor other than cannabis but is not enforcing it, and reiterating this more robustly in your ordinance allows local enforcement and protection of teens.
- **Marketing to Youth.** Restrict advertising and packaging attractive to youth, prohibit the sale of non-cannabis branded merchandise, and restrict or prohibit the use of billboards to advertise cannabis.

## POLICY RECOMMENDATIONS TO KEEP YOUR COMMUNITY SMOKE FREE

- **Temporary Events.** Join 72 California communities that prohibit temporary cannabis events such as at county fairs or concerts in parks where youth are exposed to cannabis products and second-hand smoke and vapor.
- **On-Site Consumption.** If you allow storefront sales at some point, we recommend you join the 75% of California jurisdictions with storefront retailers who protect workers and avoid renormalizing smoking by not allowing on-site consumption lounges.

## POLICY RECOMMENDATIONS TO PROMOTE SAFER USE

- **Ensure Low-Potency Product Access.** Require retailers to stock lower-potency products. These are needed for better medical prescribing.
- **Educate Consumers.** Require retailers to provide each consumer accurate, prominent, and science-based health information on the health risks of cannabis products and information on simple steps for safer use for consumers, developed by the California Department of Public Health or your County Health Department, and require health warnings on ads. This would educate consumers of relevant risks to avoid unintended effects, protect children and youth, and support the legal cannabis market over the illicit one by highlighting the additional risks of unregulated cannabis.

## POLICY RECOMMENDATIONS TO PROMOTE ECONOMIC EQUITY

- **Employ Low-Income and/or Equity Workers.** Require or incentivize hiring to prioritize low-income workers or those from communities disadvantaged by the War on Drugs.
- **Priority in Licensing.** If for-profit licenses are issued, prioritize equity applicants when issuing cannabis business licenses (e.g., residents of communities impacted by high drug incarceration rates, and people with past cannabis convictions).
- **Cost Reduction/Deferral.** Reduce/defer the costs of cannabis business licenses for equity applicants.

## POLICY RECOMMENDATIONS TO ADDRESS INTOXICATING HEMP

In addition to the public health challenges presented by the traditional cannabis market, over half of California 10th graders using cannabis today start with Delta-8, one of many intoxicating cannabinoids derived from hemp products now widely sold without age limits in smoke and vape shops and gas stations. We urge you to review our [model hemp ordinance](#) and prohibit the sale of intoxicating hemp, more accurately described as "less safe cannabis".