



NORTH CAROLINA MARIJUANA POLICY HEALTH AND SAFETY CONSIDERATIONS



Community
Impact
North Carolina



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BACKGROUND

Community Impact NC (CINC) is a not-for-profit organization committed to preventing alcohol and other drug harms in North Carolina. CINC seeks to prevent substance misuse through education, community and environmental strategies, and policy advocacy.

On December 14, 2020, the North Carolina Task Force for Racial Equity in Criminal Justice (TREC) recommended the state study the pros and cons and options for legalizing marijuana possession, cultivation, and sale.

To support a study exploring the implications of legalizing marijuana in North Carolina, CINC researched, drafted, and published *Marijuana Laws and Lessons To Inform North Carolina Policy*. That report discusses federal marijuana law and other states' approaches to and experiences with marijuana legalization.

CINC'S POSITION ON MARIJUANA POLICY

CINC does not support legalizing the cultivation, processing, distribution, possession, or sale of marijuana under North Carolina law for reasons including the potential harms to children and adolescents, as described by the American Academy of Pediatrics.

North Carolina's marijuana and other drug policy should promote public health. Adequate, long-term funding is critical to the success of public-health-focused drug policy.

Public-health-focused drug policy is premised upon prevention; meaningful therapeutic interventions; harm reduction; access to treatment for substance use disorders (SUDs), including marijuana use disorder; and recovery support.

- Health insurance enrollment is essential to SUD treatment access.
- Enforcement of behavioral health parity laws is crucial to SUD treatment access and quality.
- Schools, universities, employers, faith communities social service providers, crisis phone lines, 911 call centers, emergency medical personnel, emergency departments, law enforcement, and corrections personnel should all be prepared to offer immediate therapeutic interventions and "warm handoffs" to SUD treatment.



It is important that individuals being released from correctional settings and re-entering society have access to the following services when necessary:

- Safe and clean housing, including substance-free residences for persons in SUD treatment or recovery; we suggest collaborative relationships between criminal justice agencies and housing authorities;
- Food assistance;
- Financial and employment supports;

- Health care, including treatment for mental illness and SUDs; we recommend enrolling re-entering persons in Medicaid prior to their release; and
- Other social services as necessary, such as peer support for individuals in recovery.

Data collection, analysis, and reporting are crucial to the ability to respond rapidly to the unintended consequences of marijuana and other drug policy. Collecting high-quality baseline health and safety data before changes in drug policy take effect is necessary to assess the impacts of those changes.

Vigorous enforcement of impaired driving, public nuisance, and other health and safety laws is essential to the wellbeing of individuals and communities.

DRUG POLICY REFORMS MUST BE CAREFULLY CRAFTED AND IMPLEMENTED TO AVOID NEGATIVE IMPACTS ON CHILDREN, DISADVANTAGED INDIVIDUALS AND COMMUNITIES, AND RESIDENTIAL NEIGHBORHOODS.

- Appropriate enforcement requires adequate state and local funding.
- We recommend that each county have a certified drug recognition expert on duty or on call at all times who may be summoned to conduct a detailed, diagnostic examination of persons arrested or suspected of drug-impaired driving or similar offenses.

Penalties for prohibited substance-related conduct among people 21 years of age and older should be strong enough to support pre-arrest diversion and drug court programs, which offer therapeutic interventions as an alternative to punishment.

Responses to marijuana and other substance use among people under 21 years of age should be non-punitive, therapeutic, and incorporate early interventions, family and community programs, counseling, and treatment as necessary to meet individual needs.

Drug policy reforms must be carefully crafted and implemented to avoid negative impacts on children, disadvantaged individuals and communities, and residential neighborhoods.

FACTS TO CONSIDER IN NORTH CAROLINA

Although CINC does not condone state laws that authorize the cultivation, processing, distribution, possession, or sale of marijuana, in states where marijuana is legal, state law should be carefully formulated to protect individual and public health and safety.

Drawing from extensive research and the knowledge and experiences of CINC's board of directors, staff, and supporters, CINC and Sequel Health Law have developed the following statements to help inform North Carolina marijuana policy.

Not an Approved Medicine

The American Society of Addiction Medicine (ASAM) recommends that marijuana products be subject to FDA review and approval to ensure their safety and effectiveness before they are used for medical purposes. Basic outcomes studies do not presently support using marijuana for medical purposes.¹

Uniform Control and Tracking

North Carolina's Alcoholic Beverage Control (ABC) Commission serves as a model for the regulation of legal adult-use markets for substances of misuse. The ABC Commission provides uniform control over the manufacture, transportation, sale, purchase, possession, and public consumption of alcoholic beverages in the state. This approach to a legal adult-use alcohol market is also employed in 16 other states and is reported to reduce alcohol-related harm and sales to youth.² A similar agency could be established to provide uniform control over a legal adult-use marijuana market.

ASAM recommends that, "to avoid intrinsic conflicts of interest, the managing government agency should be charged to minimize individual consumption."³

Uniform control could make a legal supply of marijuana available to adults in North Carolina without assuming the health and safety risks that can accompany home growing of marijuana. Examples of such risks include:

- Child and adolescent access to marijuana,
- Robberies and burglaries, and
- House fires associated with marijuana grow lights and drying processes.⁴

Government funding is necessary to establish and stabilize a state regulatory authority in advance of the opening of a legal adult-use marijuana market.

Requiring the use of a seed-to-sale tracking system across a legal marijuana supply chain could help prevent marijuana diversion.

Local Input

In North Carolina, the sale of beer, wine, liquor, and mixed drinks is legal only in jurisdictions that have voted in favor of it. A similar requirement could be applied to the cultivation, processing, distribution, possession, or sale of marijuana within North Carolina's local jurisdictions.

A law requiring counties and municipalities to opt into marijuana legalization and authorizing local restrictions on the cultivation, processing, distribution, possession, or sale of marijuana would enable citizens to provide input on the following questions:

- Whether marijuana farms, retail stores, or consumption sites may operate in their community or places therein, and if so, how many;
- Where marijuana farms, retail stores, or consumption sites may or may not be located (e.g., minimum distances from school grounds, recreation or youth centers, places of worship, or jails or prisons);
- Whether or how marijuana retail stores or consumption sites may market and advertise their products and services in their communities;

REQUIRING THE USE OF A SEED-TO-SALE TRACKING SYSTEM ACROSS A LEGAL MARIJUANA SUPPLY CHAIN COULD HELP PREVENT MARIJUANA DIVERSION.



- Hours of operation for marijuana retail stores or consumption sites, e.g., 9 a.m. to 9 p.m. Monday through Saturday;
- How to control marijuana odor, second-hand smoke, and other potential nuisance, health, and safety concerns; and
- How to respond to unintended consequences of the cultivation, processing, distribution, possession, or sale of marijuana within their communities.

THC and Contaminant Limits and Testing

Limitations on the amount of THC per serving, unit, or package could help reduce drug poisonings and other health risks of using high-THC marijuana (e.g., paranoid thinking, psychosis, and violence⁵).

A tiered purchaser excise tax corresponding with THC content per serving, unit, or package could help discourage higher-THC product purchase and use.

Risks to users' health could be abated by restricting the use of pesticides in marijuana cultivation and setting maximum acceptable amounts of pesticide residues, foodborne pathogens, heavy metals, solvents, and other potential contaminants.

Mandatory testing of all marijuana products could help ensure compliance with limits on THC, pesticide chemical residues, and other potential contaminants.

Formulation, Packaging, Labeling, and Storage

The Centers for Disease Control and Prevention (CDC) and Food and Drug Administration (FDA) recommend that people not use THC-containing e-cigarettes or vaping products.⁶

Vitamin E acetate is strongly linked to e-cigarette or vaping use-associated lung injury (EVALI). In states where adult marijuana vaping is legal, prohibiting the use of Vitamin E acetate as an additive to any marijuana vaping product could help prevent EVALI.

Regulations covering marijuana product formulation, packaging, and labeling could help prevent unintentional ingestion, use, and poisonings among children and adolescents. For example, requiring child-resistant, tamper-evident packaging of marijuana products could help prevent unintentional pediatric ingestion and poisoning.

Experience from regulating tobacco and alcohol formulations, packaging, and labeling could be instructive in regulating legal adult-use marijuana formulations, packaging, and labeling.





Maine's universal warning symbol.

<https://www.maine.gov/dafs/omp/resources/universal-symbol>

Prohibiting products attractive to persons under 21 years of age, such as marijuana-infused sweet beverages and edible foods that look like candy (e.g., gummies and lollipops) could help avoid a decline of non-using norms among young people.

Requiring clear THC, CBD, and other cannabinoid labeling on marijuana product packages could help prevent overconsumption and related adverse events.

Regulations covering marijuana product packaging could help prevent and mitigate adverse events by requiring a) warnings of potential drug interactions and poisonings and b) the inclusion of the NC Poison Control phone number.

Requiring pre-market approval of marijuana products, packages, and labels could help ensure compliance with the spirit of state formulation, THC-content, packaging, and labeling regulations.

Requiring periodic, unannounced inspections of marijuana retail stores could help ensure compliance with the spirit of state formulation, packaging, and labeling regulations.

Advertising, Promotion, and Sale

Research establishes that exposure to marketing of marijuana products influences use, including among persons under age 21.⁷ Furthermore, literature on tobacco use indicates that marketing can attract new users, promote continued use, and shape consumer perceptions about products.⁸ Experience from regulating tobacco and alcohol marketing and advertising could be instructive in regulating legal adult-use marijuana marketing and advertising.

Prohibiting the following types of marijuana advertising and promotion could help avoid a decline of non-using norms among persons under 21 years of age:



Ads on radio, TV, and video streaming services;



Billboards and outdoor signs (other than business signs displaying business or tradename, location, and nature of business);



Ads on the internet and mobile apps (other than a single website providing business or tradename, location, and nature of business);



False statements and health, safety, and therapeutic claims;



Packaging and messaging attractive to persons under 21 years of age, such as candy-like wrappers and depictions of movie or cartoon characters;



Ads depicting marijuana products or plants (other than in a universal warning symbol);



Product or brand promotional merchandise;



Product or brand promotion associated with athletic, musical, or other social or cultural events; and



Sign spinners, inflatables, and persons in costume.

Requiring pre-market approval of marijuana advertisements and promotions could help ensure compliance with the spirit of state advertising and promotion regulations.

Prohibiting marijuana retail stores and consumption sites from providing free marijuana samples, issuing coupons, and promoting discounts could help prevent the initiation of marijuana use among non-using adults or increases in marijuana use among non-dependent adults.

Limiting sales of marijuana products to adult consumers who are physically present in marijuana retail stores or consumption sites could help prevent diversion of marijuana products to persons under 21 years of age.

Not allowing intoxicated persons to enter or to remain in marijuana retail stores or consumption sites could help reduce drug poisonings and other health risks of overconsumption. To achieve this objective, it would be necessary to train marijuana retail store and consumption site associates on best practices in handling situations in which a customer is intoxicated.

Retail Associate and Consumer Education

Education and registration requirements for marijuana retail store and consumption site associates, similar to the [requirements for registration as a pharmacy technician in North Carolina](#), could help prevent diversion and ensure adult marijuana consumers get accurate health and safety information at the point of purchase.

Requiring posters with health warnings and safe-storage practices to be readily visible in marijuana retail stores could help mitigate the health and safety impacts of a legal adult-use marijuana market, including prenatal and pediatric exposure to marijuana.

Consumer education on safe storage of marijuana products could help prevent unintentional pediatric ingestion and the diversion of marijuana products to persons under 21 years of age.

Taxation, Revenue, and Distribution

In the early stages of a legal adult-use marijuana market, when marijuana tax revenue is not yet available for distribution, appropriations from the state's general fund are necessary to support regulatory start-up costs and substance use disorder (SUD) prevention, intervention, harm reduction, treatment, and recovery service expansion and enhancement.

A carefully considered legal adult-use marijuana taxation structure could recoup regulatory start-up costs and enable a state to achieve the following goals concurrently:

- Expand and enhance marijuana and other SUD prevention, intervention, harm reduction, treatment, and recovery services;
- Cover the ongoing expenses of efficient administration and enforcement of state marijuana laws;

NOT ALLOWING INTOXICATED PERSONS TO ENTER OR TO REMAIN IN MARIJUANA RETAIL STORES OR CONSUMPTION SITES COULD HELP REDUCE DRUG POISONINGS AND OTHER HEALTH RISKS OF OVERCONSUMPTION.

- Discourage the purchase and use of illicit marijuana; and
- Offset the health and safety impacts of a legal adult-use marijuana market.

A tiered retail excise tax corresponding with THC content per serving, unit, or package could help discourage higher-THC product purchase and use while providing revenue to mitigate the health and safety impacts of a legal adult-use marijuana market.

- Kentucky⁹ and New York¹⁰ have tiered alcohol taxes, with higher alcohol-by-volume (ABV) products taxed at higher rates than lower ABV products. In those states, liquor is taxed at a higher rate than wine, and wine is taxed at a higher rate than beer.
- Illinois imposes a 10 percent retail tax on non-infused marijuana products with 35 percent THC or less. Marijuana-infused products (such as edible foods) are taxed at 20 percent. It charges a 25 percent tax on non-infused products with more than 35 percent THC.

NEW YORK: TIERED TAX ON ALCOHOLIC BEVERAGES¹¹

Product	Tax Rate
Cider	\$0.0379 per gallon
Beer	\$0.14 per gallon
Wine and wine coolers	\$0.30 per gallon
Liquor containing 2% or less ABV	\$0.01 per liter
Liquor containing more than 2% but not more than 24% ABV	\$0.67 per liter
Liquor containing more than 24% ABV	\$1.70 per liter

ILLINOIS: ADULT-USE MARIJUANA PURCHASER EXCISE TAX¹²

Product	Tax Rate (% of sales receipts)
Non-infused products with 35% THC or less	10%
Infused products (such as edible foods)	20%
Non-infused products with more than 35% THC	25%

- The Illinois retail marijuana tax is in addition to the state retailers' tax of 6.25 percent and the local retailers' tax of up to 3.75 percent.
- Illinois also imposes a 7 percent tax on the cultivator's sale of legal adult-use marijuana.¹³
- Roughly 30 percent of marijuana revenues in Illinois are directed to substance misuse and mental health prevention and other services (20 percent); marijuana-related crime prevention (8 percent); public education and data collection and analysis (2 percent).¹⁴

Environmental Protections

When authorizing a new industry and market, it is important for policy makers to limit environmental impacts. Ways to do so include:

- Prohibiting deforestation and diversion of water resources;
- Protecting wildlife and regulating fertilizer and pesticide use, runoff, and soil erosion;
- Limiting emissions in cultivation, processing, and distribution;
- Requiring remediation of environmental harms; and
- Discouraging single-use plastics.



Workplace Safety

Safe working environments are essential to both employers and employees. Drug impairment among employees can cause injury, property damage, or production or service disruptions. Employer discretion in implementing and enforcing workplace impairment policies, including those that provide for disciplinary action and termination when an employee is impaired on duty, is essential to employers' ability to maintain safe working environments.

ONGOING LEADERSHIP

On April 8, 2021, CINC sent letters to North Carolina Governor Roy Cooper, Senate Majority Leader Kathy Harrington, and Speaker of the House Tim Moore asking that our organization be represented on any state task force that may be formed to study the potential legalization of marijuana in North Carolina.

Similarly, on November 20, 2020, CINC submitted a letter to Attorney General Josh Stein and Supreme Court Justice Anita Earls, co-chairs of the North Carolina Task Force for Racial Equity in Criminal Justice. In that letter, we requested that a representative of our organization be included in the membership of any state marijuana-related task force.

CINC will continue to monitor, analyze, and share information on substance-related policy matters that could affect North Carolinians' health and safety.

This document was researched and written *pro bono* for Community Impact NC by Sequel Health Law PLLC.

ENDNOTES

- 1 <https://www.asam.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2020/10/13/cannabis>
- 2 <https://www.asam.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2020/10/13/cannabis>
- 3 <https://www.asam.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2020/10/13/cannabis>
- 4 <https://www.documentcloud.org/documents/4065804-WASPC-Letter-on-Home-Grows.html>
- 5 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7084484/>
- 6 https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html#cdc-recommends
- 7 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5845833/>
- 8 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5845833/>
- 9 <https://revenue.ky.gov/Business/Alcohol-Taxes/Pages/Alcohol-Tax-Rates-and-Form-Requirements.aspx>
- 10 https://www.tax.ny.gov/pubs_and_bulls/tg_bulletins/abt/filing_requirements_for_registered_distributors.htm
- 11 https://www.tax.ny.gov/pubs_and_bulls/tg_bulletins/abt/filing_requirements_for_registered_distributors.htm
- 12 <https://www2.illinois.gov/rev/research/taxinformation/other/Pages/Cannabis-Tax-Frequently-Asked-Questions.aspx#qst1>
- 13 <https://www2.illinois.gov/rev/research/taxinformation/other/Pages/Cannabis-Tax-Frequently-Asked-Questions.aspx#qst1>
- 14 https://www2.illinois.gov/ISNews/20242-Summary_of_HB_1438__The_Cannabis_Regulation_and_Tax_Act.pdf

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Community Impact North Carolina (CINC) is community-centric and puts people at the center of all of our efforts. We prioritize partnerships, collaborations, and long term impact and support the efforts of the full continuum of care as they relate to the integrated behavioral health model.

The CINC team consists of a diverse professional group with backgrounds that include substance use disorder counseling, recovery coaches, business education, information technology, and community health promotion. This unique skill set, coupled with a true desire to create positive impact, results in a passionate team excited to support communities in advancing their collective strengths to reduce substance use and related harms.

For more information about Community Impact NC, visit impactcarolina.org.

