Mobilizing Cannabis Tax Revenues in the COVID-19 Era

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Spoiler Summary:
Tax Cannabis
Tax Enough
Not too Much
Use it wisely
Getting it Right from the Start’s Mission

To collaboratively develop and test evidence-based models of marijuana policy with the goal of reducing harms, youth and problem use and supporting greater equity.
Why Decriminalize?
Should we legalize?

- Profound Racism in Drug Policy
- Mass Incarceration
- Trafficking Related Violence
- Prohibition didn’t work
Why Worry? Some Proven Evidence of Benefit – generally at modest doses

Chemotherapy induced nausea

Recently approved pharmaceutical Epidiolex (cannabidiol) for rare difficult to control form of epilepsy

Certain forms of chronic pain

Source NASEM 2017; FDA 2018
But
Substantial
Evidence of
Harm with
Use

- Low birth weight
- Schizophrenia and psychoses
- Increased motor vehicle crashes
- Respiratory illness, including severe lung disease with vaping
- Problem use associated with early onset of use and frequency of use

Source: National Academies of Science, Engineering, and Medicine, 2017, CDC 2019
Rapidly emerging evidence

COGNITIVE, ACADEMIC AND SOCIAL EFFECTS

ACCIDENTAL INGESTION AND OVERDOSE

CARDIOVASCULAR DISEASE
2017-2019 California Government Focused on Creating a Legal System after Prop 64 passed
Now it’s time for the guardrails to protect youth and public health
National Youth Marijuana Use at 35 Year High in 2018
Major Increases in Daily Use by US Youth

> 1 in ten 19-22 y.o. not in college &
1 in 20 college students and 12th graders

FIGURE 2
MARIJUANA
Trends in 30-Day Prevalence of Daily Use among College Students and Noncollege Youth 1 to 4 Years beyond High School

Source. The Monitoring the Future study, the University of Michigan.
Vaping of marijuana and of nicotine each doubled for U.S. college students between 2017 and 2018.

Source: Monitoring the Future 2019
Vaping Epidemic

2807 CASES
68 DEATHS
HALF BELOW AGE 24
COULD BE YOU
Changing Landscape of Increasing Potency and New Routes of Administration
Three Dangerous Areas Where the Cannabis Industry is Borrowing from Big Tobacco’s Playbook

- Manipulating Potency thereby Increasing the Risk of Addiction and Psychosis
- Creating flavored and other diverse products aimed at attracting youth
- Shameless and misleading marketing of products
Frequent or High Potency Cannabis (=just >10% THC!) and new psychosis

- Daily cannabis use increased odds of psychotic disorder three-fold (OR 3·2, 95% CI 2·2-4·1)
- Daily use of high-potency types of cannabis increased odds of psychotic disorder five-fold (OR 4·8, CI 2·5-6·3)
- Population attributable fraction of first episode psychosis to high potency (>10% THC):
  - 12·2% (95% CI 3·0-16·1) across the 11 sites
  - 30·3% (15·2-40·0) in London
  - 50·3% (27·4-66·0) in Amsterdam.

Source: Di Forti Lancet Psychiatry 2019
The entire California market is migrating to potency greater than the increased risk level.
We are allowing manufacture of products that will create a substantial added burden of serious mental illness in youth.
Specific Recommendations in this Setting
In this setting, what does a public health & equity approach mean?

The Basics

Decriminalize & efficiently expunge past criminal records (CA AB 1793), passed in CA, IL, NY

Make sure enforcement does not lead to a new wave of incarceration

Protect children and youth

Preserve local control - State and Federal law should be a floor and not ceiling
In this setting, what does a public health & equity approach mean?

Where commerce allowed, collect and invest tax revenue to reduce youth use, address health disparities and mitigate effects of the war on drugs.

- Reduce risk of addiction and other negative health effects through product, retail, marketing and fiscal regulation.
- Discourage big outside investors & growth of a powerful industry, encourage equity candidates.
- Moderate choice, social normalization of smoking.
IN 2016, CALIFORNIA VOTERS APPROVED PROPOSITION 64, LEGALIZING ADULT-USE CANNABIS. TODAY, 77% OF CALIFORNIA CITIES AND COUNTIES STILL BAN ITS SALE.

weedmaps
Study of all California Locals Laws in place by January 31, 2019
One Year after doors opened

• **Data Sources** – Cannaregs, Municode, Municipal websites, and direct outreach

• **Universe** – all 539 California Cities and Counties

• **150 different variables**, many based on our models, collected on:
  - Types of commercial activity allowed
  - Limits on number and location of licensees
  - Restrictions on products, potency, flavors, attractiveness to kids
  - Restrictions on advertising and marketing
  - Limits on discounting, minimum price
  - Requirements for health and other warnings
  - Taxation
  - Smoke-free air, on site consumption, events permits.

• **Inter-rate reliability testing** showed 97% after coding clarification and reiteration

• Data collection by public health lawyer, PhD researcher and law student

• **Missing Data** 5 jurisdictions no data available

*Silver, Naprawa & Padon JAMA Network Open June 19, 2020*
Most California residents can now access to legal cannabis

49% of California’s jurisdictions, with 57% of residents, had legalized some form of retail cannabis commerce by January 2019

Silver, Naprawa & Padon JAMA Network Open June 19, 2020
A majority allow some cannabis commercial activity

289 or 54% of cities and counties allow some form of commercial activity, whether cultivation, manufacturing, testing or retail.

Silver, Naprawa & Padon JAMA Network Open June 19, 2020
Cities and Counties allowing Legal Sale as of January 2019

- 38% allow adult-use sales of some kind
  - 23% Allow storefront dispensaries for adult-use
  - 15% Allow delivery only for adult-use

- 48% allow medical use
  - 26% allow storefront medical dispensaries
  - 22% allow delivery only of medical

Other 51% ban sale but all forced by state to accept delivery, over-riding guarantee of local control in Prop 64, pending court outcomes

Silver, Naprawa & Padon JAMA Network Open June 19, 2020
Cultivation and Manufacturing in California Cities and Counties

168 OR 31% ALLOW CULTIVATION

176 OR 33% ALLOW MANUFACTURING
A Missed Opportunity

More than half of those allowing commerce did not tax locally

- 154 of 289 (53%) cities and counties which allowed some form of commerce did not tax
- Cities and counties not allowing commerce but receiving deliveries pursuant to state regulations did not tax
- A missed opportunity for local revenue

Silver, Naprawa & Padon JAMA Network Open June 19, 2020
Delivering more joy than dogs & babies combined.

Marijuana delivered | eaze.com
Those who taxed, mostly taxed little

**RETAIL ADULT USE**

**GROSS RECEIPTS TAX**

2019 MEAN TAX 6% (RANGE 2-15%)

2019 MEAN LEGAL MAX 9.8% (RANGE 2-20%)

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**CULTIVATION TAXES**

2019 MEAN TAX 4.6% (RANGE 1-10%) OF GROSS RECEIPTS

2019 MEAN LEGAL MAX 10.1% (RANGE 1-20%)

OR 2019 MEAN $8.1 PER SQ FT ($1.3-18)

2019 MEAN LEGAL MAX $15.2 PER SQ FT (RANGE $2-$40)

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**MANUFACTURING**

**GROSS RECEIPTS TAX**

2019 MEAN TAX 4.4% (RANGE 1-15%)

2019 MEAN LEGAL MAX 8.6% (RANGE 2-20%)

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*Silver, Naprawa & Padon JAMA, Network Open June 19, 2020*
Taxes did not go to youth, prevention, substance abuse or other social uses

- 119 or 41% passed general taxes
- 7 passed a general tax with an advisory body
- Only 3 passed a special tax with earmarking (law enforcement, fire, parks and rec, streets, community centers)
- Little revenue captured for reinvestment in vulnerable communities

Silver, Naprawa & Padon JAMA Network Open June 19, 2020
Cathedral City taxed based on potency as recommended
Cathedral City taxes 8 times higher for highest potency

- 40 cents for each cannabis infused product like edible or beverage
- 5 cents per gram for “crude” concentrate (raw unrefined extract usually 40-75%)
- 10 cents per gram distillate (concentrate that is filtered/ultrarefined 80-100 cannabinoids)
- 40 cents per gram - Exotic/boutique (concentrate ultra premium extract oil 75-100% cannabinoids), like shatter, live resin, etc.
So what do we do?

How can we get the benefits of ending incarceration without creating a new tobacco industry?
Start by incorporating best lessons from tobacco control
Tobacco Taxes

PROVEN TIME AND AGAIN TO REDUCE YOUTH USE

GLOBALLY ACKNOWLEDGED AS ONE OF THE MOST SUCCESSFUL TOBACCO CONTROL POLICIES

GENERATES REVENUE THAT CAN BE USED FOR TOBACCO CONTROL OR OTHER SOCIAL NEEDS

ILlicit MARKET EXISTS BUT IS SMALL
Model Local Ordinances for retailing, marketing and taxation available drafted based on qualitative research with >50 key informants & legal experts
If you are not taxing, put a tax on the ballot this November
If you propose a tax, tax enough

- Our model call for a ballot measure that provides at least 15% gross receipts cap, but allows councils or boards to start low and gradually increase.
- California has a 15% retail tax.
- Nationally states tax 10-37% on retail.
- Over time, as illicit market shrinks, taxes should rise to discourage use.
If you propose a tax, tax potency as well

- Our model proposes an additional 1% tax for each additional percent THC above 17% THC in flower or 50% THC in concentrate products.

- An additional tax of 20% of gross receipts from sweetened cannabis beverages used to attract youth.

- This tax would apply to cultivation, manufacturing or retail.
If you tax, capture revenue for social needs, not more policing – Our Model:

• To dedicate [suggested: of at least 70%] the proceeds of the taxes imposed by this ordinance to fund community-based prevention of the leading causes of illness, injury, and premature death including, but not limited to substance abuse and addiction, promote wellness and to reduce inequity in health conditions whether or not arising from cannabis use;

• To dedicate the remaining proceeds of the taxes to fund other community needs to mitigate negative social impact of substance abuse and reduce incarceration, including support to diversion programs to reduce new drug-related incarceration, programs to assist residents in expungement or reclassification of records of marijuana convictions allowable pursuant to MAUCRSA, re-entry programs for those released from incarceration to avoid recidivism, job training programs and other community-based and educational programs, especially those which can help minimize substance-abuse related incarceration;
Use revenue to meet social needs exacerbated by COVID pandemic and recession
Arguments Against Local Taxes

- Taxing will slow the transition to the legal market.
- Prices are too high in the legal market.
### Responses

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<tr>
<th>California produces 13 + million pounds, the vast majority is illegally exported out of state. Not taxing won’t make the illicit market go away</th>
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<tr>
<td>Excess production post legalization is driving prices DOWN in most states, facilitating youth access</td>
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<tr>
<td>Excess production will be the main driver of prices and illicit market</td>
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<tr>
<td>Track and trace data on prices in CA is being kept secret</td>
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<td>Letting prices fall too low facilitates youth access and harm</td>
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Conclusions: Regulating & Advocating amidst uncertainty

- We don't know what the optimal tax rates are yet - so build in flexibility
- More research and evaluation is needed
- **BUT** - Examples of innovative local regulation incorporating lessons are emerging
- Current practice is a missed opportunity for revenue in a crisis, protecting youth, and addressing social needs
- The cannabis industry is far outstripping public health in agility and engagement in setting the rules
- Communities need to organize and set rules based on public health, protecting youth, and equity
Summary:
Tax Cannabis
Tax Enough
Not too Much
Use it wisely
Thank you

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Thanks also to Alisa Padon, PhD, Amanda Naprawa, JD, Michael Colantuono, JD, Jim Keddy, and many others

www.gettingitrightfromthestart.org

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