



But What about the Children? Campaign

Demand that policymakers who legalize marijuana guarantee the drug will not be marketed to children, like alcohol and tobacco are.



12 Provisions to Protect Children if Marijuana is Legalized

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1. No Advertising

An advertising ban on legal marijuana.

Why is this needed?

Like tobacco smoke, marijuana smoke contains carcinogens, some in higher concentrations than in tobacco smoke. (1) The drug is addictive, (2) and causes many health problems (3, 4) similar to those caused by alcohol and tobacco. A legal marijuana industry will begin with the same or more freedom to advertise and market its products to children as the alcohol and tobacco industries have today. A ban on the advertising and marketing of legal marijuana will greatly reduce the kinds of marijuana consequences that we endure with alcohol and tobacco.

Consequences, Tobacco

- Tobacco killed *100 million people* in the last century and will kill an *estimated 1 billion people* this century if protective measures are not put in place worldwide. (5)
- More than 400,000 Americans die every year from such tobacco-related diseases as cancer, heart disease, and lung disease. This is more deaths than those caused by AIDS, car crashes, murder, and suicide combined. (6)
- Tobacco kills half of all users who keep smoking. (7)

Consequences, Alcohol

- Alcohol causes *1 in every 25 deaths* worldwide. (8)
- More than 85,000 Americans die every year from alcohol-related crashes, drownings, falls, overdoses, and diseases including stroke, liver disease, and cancer. (9)
- Alcohol is responsible for some 243,000 auto crash injuries in the U.S. every year. (10)

Both industries need to replace the number of people their products kill every year just to maintain sales. They know the younger children are when they start smoking or drinking, the more likely they will become addicted—and lifetime customers. (11) Both industries target adolescents to replace customers who have died using their products.

Impact of Advertising

In September 2010, the American Academy of Pediatrics released a Policy Statement (12) calling for a ban on tobacco advertising and limitations on alcohol advertising. Key points include:

- Advertising is responsible for up to 30 percent of adolescent tobacco and alcohol use. (13)
- Half of all smokers begin by age 13 and 90 percent of all smokers begin by age 19. (14)
- Adolescents are 22 times more likely to see an alcohol ad that encourages drinking than an alcohol industry-sponsored public service announcement that discourages underage drinking or warns about negative consequences like drinking and driving. (15)
- The younger children are when they start, the greater the risk of serious health problems. (16)
- Numerous longitudinal studies have found that young people who are exposed to alcohol advertising and marketing of various kinds are more likely to start drinking, or if already drinking, to drink more.
- Many studies have also found that over and over again, alcohol companies place their advertising where youth (ages 12 to 20) are more likely than legal-aged adults per capita to see, hear, or read it.

Advertising Expenditures

- The tobacco industry spends \$15 billion a year on advertising and marketing. (17)
- The alcohol industry spends \$6 billion a year on advertising and marketing. (18)
- Marijuana is illegal for recreational use. No legal commercial industry exists—yet—to spend anything on advertising or marketing. If marijuana is legalized, an advertising ban will ensure no money is spent to advertise legal marijuana to anyone, especially children.

Alternative: Counter-Advertising
if courts strike down the marijuana advertising ban.

Why is this needed?

In the past, courts have held that commercial speech is protected by the First Amendment. We think a case can be made for restricting the commercial speech of companies that sell drugs that addict and kill people. But if courts don't agree, the next-best solution is counter-advertising. This alternative will:

- Mandate a counter-advertising fund to be financed by the marijuana industry and to be administered by an independent body with no representation from any industry that sells an addictive drug. This fund will create one counter ad for every four ads the marijuana industry runs. Counter ads must be placed in the same media and in the same time blocks as industry ads.
- Prohibit the marijuana industry from deducting advertising and marketing costs as a business expense from taxes it owes.

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2. A Penalty Fee on the marijuana industry for every user under age 21.

Why is this needed?

Each year, six out of ten new smokers are under age 18. Nine out of ten new drinkers are under age 21. (1) Clearly, age limits do not protect children from industries that sell them alcohol and tobacco. An age limit will not prevent a marijuana industry from selling marijuana to kids either. This provision will:

- Hold industry accountable by imposing a penalty fee the marijuana industry must pay for every underage young person in the nation who uses marijuana in his or her lifetime.
- Assemble an independent advisory panel of economists, with no representation from any industry that sells an addictive drug. The panel will calculate the worth to the industry of a person who starts using marijuana under age 21 and smokes the drug over a lifetime and will establish a penalty fee that is 10 percent greater than that amount. The fee will be adjusted from time to time to reflect changes in marijuana prices.
- Specify that the national Monitoring the Future Survey, conducted annually and sponsored by the National Institute on Drug Abuse, shall determine how many American youth are using marijuana.

The 2009 Monitoring the Future Survey reports that 29 percent of 8th, 10th, and 12th grade students have used marijuana at least once in their lifetimes. (2) Penalty fees will be waived if lifetime marijuana use decreases to the threshold of 5 percent among young people ages 12 to 20, but imposed when lifetime use increases by any amount above 5 percent.

Penalty fees will encourage the marijuana industry to reduce underage use from current levels because the fees will be waived as use declines. At the same time, penalty fees will discourage the marijuana industry from marketing to children because, if underage use increases, each new underage user will cost the industry more money than it could have made getting them to start young.

Historically, the alcohol and tobacco industries have tried to hold people accountable by telling them to *use* their products responsibly. Penalty fees will flip that by forcing the marijuana industry to *sell* its products responsibly.

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3. Automatic Repeal of marijuana legalization if underage marijuana use exceeds certain levels.

Why is this needed?

This provision will place the burden on the marijuana industry to make sure no one sells the drug to children, because doing so will automatically put the entire industry out of business.

If marijuana use continues among young people nationwide, despite an advertising ban or counter-advertising and despite penalty fees for underage users, that fact in and of itself will automatically trigger a repeal of marijuana legalization.

- If marijuana use exceeds 10 percent among 12 to 20-year-olds, marijuana automatically will become illegal again.
- Given our failure to prevent underage alcohol and tobacco use, we must hold the marijuana industry accountable for not selling to children.
- The National Survey on Drug Use and Health, sponsored by the Substance Abuse and Mental Health Services Administration, will determine how many American youth ages 12 to 20 use marijuana in their lifetimes nationwide.



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4. No Product Placements

sponsorships, point-of purchase marketing, or depictions in entertainment venues.

Why is this needed?

The Federal Communications Commission (FCC), which oversees the public airwaves, invoked a fairness doctrine in the mid-20th century, which required broadcasters to provide free time for alternate advertising on issues of public concern. The group Action on Smoking and Health argued successfully that broadcasters should grant public-health groups free time for smoking prevention ads to counter tobacco ads on television.

The FCC agreed, granting time for one free counter ad for every four tobacco ads. The anti-smoking ads were so effective that the tobacco industry voluntarily offered to stop advertising on television if it was granted immunity from anti-trust lawsuits and in exchange for loosening requirements for package warning labels. The FCC abolished the fairness doctrine in 1987.

The tobacco industry found other ways to promote its products on television indirectly through sponsorships of racing cars, placement of billboard sized ads in sports stadiums whose games are televised, and other means. The alcohol industry advertises on television without restraint.

Product Placements

Both tobacco and alcohol target youth through alternate methods of advertising and marketing as well:

- Anheuser-Busch boasted on its web site that it had placed its products in: *Wedding Crashers*, *Batman Begins*, *Seabiscuit*, *Spider Man*, *Oceans Eleven*, *Terminator 3*, *Dodgeball*, *Collateral*, *Good Will Hunting*, *As Good As It Gets*, *Jerry Maguire*, *Children of a Lesser God*, *Mission Impossible*, *Ace Ventura: Pet Detective*, *Forrest Gump*, *The Silence of the Lambs*, *Platoon*, *Dirty Dancing*, *Working Girl*, *Top Gun*, *Rain Man*, *Erin Brockovich* and *Close Encounters of the Third Kind*.

A document uncovered in tobacco trials in the 1990s revealed how Phillip Morris provided products for use in movies as youth-oriented as *The Muppet Movie* and *Who Framed Roger Rabbit*. To prevent this from happening again, the Master Tobacco Settlement Agreement of 1998:

- Bans payments to promote tobacco products in movies, television

- television shows, theater productions or live performances, live or recorded music performances, videos, and video games.
- Bans tobacco brand names for stadiums and arenas. (1)

Sponsorships

- Alcohol companies are prominent supporters of nearly every sport that is played. This sends a powerful message to young people that alcohol and sports are inextricably linked.
- In France, in 1991, the health minister declared alcohol the country's number-one health problem, and a variety of measures were adopted, including a ban (which was upheld by the European Court of Justice) on all broadcast alcohol advertising and all sponsorships, including alcohol sponsorship of sporting events.

To reduce the impact on youth of tobacco sponsorships, the tobacco settlement:

- Prohibits brand name sponsorship of events with a significant youth audience or team sports (football, basketball, baseball, hockey or soccer).
- Prohibits sponsorship of events where the paid participants or contestants are underage.
- Limits tobacco companies to one brand name sponsorship per year (after current contracts expire or after three years – whichever comes first). (2)

Point-of-Purchase Marketing

- Research shows that the single most effective prevention tool for children is high price. (3) Over the past decade, local and state governments have been increasing cigarette taxes. Despite agreeing to stop marketing to children in the tobacco settlement, the tobacco industry tripled its advertising budget and devotes three-fourths of it to price discounts for wholesalers and retailers “so our customers (read children) can afford our products.” (4)
- A study published by CDC of 3,961 alcohol retailers in 329 communities throughout the United States found that 94 percent of stores had point-of-purchase marketing, and 44 percent of stores placed alcohol advertising within 3.5 feet of the floor, in the sight-line of children and adolescents as opposed to adults.

Depictions in Entertainment Media

The American Academy of Pediatrics calls for greatly reducing the exposure of young children to depictions of drinking and smoking in television programs and movies. Research shows this exposure is a key factor in persuading teenagers to start smoking, start drinking, and to binge drink. (5)

- Such exposure may account for up to half of young teenagers initiating tobacco use (6) and may even trump parents' smoking status as a key factor in persuading kids to start. (7)
- In 2009 more than half of PG-13 rated films contained tobacco use. (8)

- Adolescents can see alcohol use every 14 minutes on MTV. (9)
- Thirty-eight of the 40 highest grossing movies contain alcohol use. (10)
- Drinking is frequently depicted as normal behavior for teenagers. (11)

Product placements, sponsorships, point-of-purchase advertising, and depictions in TV and movie content have a significant impact in influencing children and teenagers to start using addictive drugs.

This provision will prevent a commercial marijuana industry from engaging in any of these activities.

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5. An Industry-Financed Fund

from marijuana profits to pay for the damage legal marijuana will do, so that taxpayers won't have to pick up the tab.

Why is this needed?

Who should pay for the problems marijuana will cause? Taxpayers? Or the industry that causes those problems?

Our experience with alcohol and tobacco points the way. For every \$1 that federal and state governments get from alcohol taxes, they must spend \$12 of taxpayers' money on health care and law enforcement. (1)

To date, the alcohol industry has not been held accountable for the damage it does to people. Taxpayers foot the bill directly by financing emergency services, law enforcement, hospitals, the criminal justice system, publicly funded treatment, research, and other health care costs. Taxpayers also pay indirectly because their auto insurance and health insurance rates are significantly higher than they would otherwise be. Contributing no share of these costs, the alcohol industry just makes more money.

Until recently, like the alcohol industry, the tobacco industry bore little financial responsibility for cleaning up the mess its products make. Taxpayers paid billions to take care of the damage. That began to change in the 1990s when states realized they were paying out more money in public-health costs and Medicaid costs to treat tobacco-related diseases than they were able to raise in tobacco taxes. State Attorneys General in 46 states sued the tobacco industry to recover those costs.

In the Master Tobacco Settlement Agreement of 1998, the tobacco industry agreed:

- To end its marketing to youth.
- To reimburse states in perpetuity for a portion of their Medicaid costs.
- To establish and finance an independent nonprofit organization, the American Legacy Foundation, to discourage youth smoking and help smokers quit.
- And won an exemption from class-action lawsuits brought by those harmed by tobacco.

If marijuana is legalized, money will be needed for:

- Research in the states and communities that legalize marijuana to determine if use increases and to what extent
- Research to learn what kinds of social and health problems legal marijuana will cause
- Prevention efforts to reduce use
- Treatment services to treat marijuana abuse and addiction
- Health care services to treat marijuana-related diseases, both physical and mental
- Law enforcement services to maintain public safety

This provision will establish a fund that will be drawn from marijuana industry profits and administered by an independent body, with no representation from any industry that sells addictive drugs, to pay for these costs.

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6. A State Agency to Tax and Regulate marijuana purity and potency.

Why is this needed?

If marijuana is legalized, the public will expect the product to be as pure as any other product Americans consume, to have consistent levels of potency, and to be taxed to cover the cost of regulating the industry.

Purity

Most marijuana contains several contaminants such as viruses, bacteria, mold, fungi, and protozoans. (1) Estimates are that current marijuana grown in California for patients has a purity range of from 10 to 20 percent. High purity marijuana grown in Canada has closer to 30 percent purity levels. Marijuana from the Mexican cartels is from 2 to 5 percent pure. (2) If marijuana is legalized and sold to the public, controls to guarantee purity must be put in place.

Potency

In constant search of a “better high,” growers of illegal marijuana have developed more and more potent strains of the drug since the 1960s. Then, most marijuana had a THC content of about 2 percent. THC is the psychoactive chemical in marijuana that produces the “high.” Today, THC levels exceed 10 percent and some strains have THC levels of up to 30 percent, (3) making them considerably stronger than hashish. In addition, levels of another marijuana chemical, CBD, need to be high in order to minimize the occurrence of short-term psychotic effects, particularly among youth. Through selective plant breeding, growers have reduced CBD levels and increased THC levels to make the drug more potent. A single agency can regulate the ratio of THC to CBD in commercial marijuana.

Taxation

The RAND Corporation issued a report (4) in September 2010 which predicts that the price of marijuana will fall by 80 percent if the drug is legalized. Currently medical marijuana costs from \$3000 to \$4000 a pound. Basing its projections on current costs, the California State Board of Equalization estimated legal marijuana could bring in \$1.4 billion in extra taxes in a state whose resources are seriously depleted. However, two months before the election (and after the RAND report was published), the board changed its mind, saying it couldn't make any estimate of how much money legal marijuana would generate. (5) If the RAND researchers' projections are correct, tax revenues from marijuana retail sales may be considerably less than the state's projection.

This provision will establish a single state agency to regulate the purity and potency of legal marijuana and to tax all parts of the marijuana business—production, distribution, and retail sales.

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7. Licensed Growers, Distributors, and Retail Sellers
Marijuana sold *only* in licensed retail stores where no other products are sold.

Why is this needed?

If marijuana is legalized, where marijuana may be grown, how it may be distributed and by whom, where it may be sold, and how it may be packaged are key issues that must be addressed to control amounts grown, distributed, and sold.

The impact of packaging alone can be seen in a new study conducted in New Zealand:

- Researchers found that removing logos and colors from cigarette packages also removes their appeal to adolescents. A majority of young people who participated in the study said they would not be interested in smoking cigarettes from plain packages with only the cigarette brand name and a large graphic warning about smoking's dangers because it wouldn't look "cool" any more. The study was reported at a conference and is due to be published in a scholarly journal soon. (1)

A set of regulations must be established to control the production, distribution, packaging, and sale of marijuana. Then growers, distributors, and retail sellers must be licensed. Licenses can be revoked if licensees fail to comply with regulations.

Another way to exert control is to sell marijuana only in state-owned stores. In either case, to protect children, regulatory controls should meet the following goals:

- A limited number of growers, distributors, and retail sellers to control the amount of marijuana produced, distributed, and sold. Limiting the number of retail outlets will allow regulators to locate them away from areas of the community that young people frequent.
- Marijuana sold only in retail outlets where no other products may be sold (such as alcohol, other drugs, drug paraphernalia, and so forth).
- No onsite consumption (no "marijuana bars").
- No "bundling" of marijuana with other products (no marijuana beer, no marijuana brownies, etc.)

- No underage young people working in any aspect of the marijuana business.
- No marijuana use on the job by growers, distributors, or sellers.
- To protect the tax base, home grown marijuana is prohibited.
- Restrictions on packaging design.
- Warning labels on packages.

This provision will establish a regulatory structure to control the amount of legal marijuana that can be produced and sold to consumers and will govern how marijuana is packaged to lessen its appeal to children, adolescents, and young adults. The costs to regulate legal marijuana and the law enforcement costs that will be required to enforce the regulations will come from the industry-financed fund described in Provision 5.

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8. No Drugged Driving

A ban on driving with marijuana in the systems of drivers or passengers.

Why is this needed?

Motor vehicle crashes are the number-one killer of the nation's adolescents. They account for more than one in three deaths for this age group. (1) In 2009, nearly 3,000 teens were killed and more than 350,000 were treated in emergency departments for injuries suffered in motor vehicle crashes. (2) In 2008, 25 percent of drivers ages 15 to 20 who were killed in motor vehicle crashes had blood alcohol levels of .08 or higher. (3)

No level of marijuana in the system has been established to denote impairment. If we can't tell when a marijuana user is impaired, how can we keep stoned drivers off the road?

This provision will prohibit anyone from driving with any marijuana in his or her system, as detected by tests of oral fluids or urine. Law enforcement and testing costs will be financed by the industry mandated fund described in Provision 5.

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9. No Drugged Employees or Students

A ban on people coming to work or school with marijuana in their systems.

Why is this needed?

Employers worry about drugged employees endangering the safety of others, slowing productivity, increasing absenteeism, workplace accidents, and many other issues for which alcohol and drugs are responsible. Almost everyone worries about an educational system that is not preparing American students to compete in the 21st century.

This provision will prohibit anyone from going to work or school with marijuana in their systems, as detected by tests of oral fluids or urine. The cost of drug testing to enforce this provision and to mandate those who fail the test to be automatically assessed and treated will come from the industry-mandated fund described in Provision 5.



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10. Smoke-Free Laws Apply

No marijuana use where tobacco smoking is banned.

Why is this needed?

Smoking is smoking, whether one smokes tobacco or marijuana. Both create second-hand smoke. The impact of second-hand tobacco smoke on the health of others is beginning to be well understood. For example, researchers have found a 26 percent drop in heart attacks in smoke-free communities compared to communities without smoking bans. (1)

Scientists don't know as much about second-hand marijuana smoke. They do know it contains more carcinogens than tobacco smoke and there is some evidence that it can affect nonsmokers. Research is needed to learn the full impact of second-hand marijuana smoke on nonsmokers, especially on children.

This provision will prohibit anyone from smoking marijuana in any smoke-free area. Research on the effects of second-hand marijuana smoke will be funded by the industry-financed fund described in Provision 5.

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Demand that policymakers who legalize marijuana guarantee the drug will not be marketed to children, like alcohol and tobacco are.



11. Marijuana Controlled by FDA

Marijuana placed under the control of the U.S. Food and Drug Administration, like tobacco is now.

Why is this needed?

It took 150 years, 100 million deaths worldwide, and untold numbers of failed law suits that tried to hold the tobacco industry accountable for premature deaths before Congress was able to say no to industry lobbying and pass the tobacco control act in 2009.

Marijuana smoke contains more carcinogens than tobacco smoke and already causes many mental health and physical health problems. Are we willing to wait 150 years and suffer untold numbers of premature deaths from marijuana-related accidents and diseases? Or should marijuana be placed under the control of the FDA from the beginning if Congress legalizes marijuana?

This provision will place marijuana under FDA control immediately if Congress ever legalizes marijuana.



But What about the Children? Campaign

Demand that policymakers who legalize marijuana guarantee the drug will not be marketed to children, like alcohol and tobacco are.



12. A Surgeon General's Report on the impact of legal marijuana.

Why is this needed?

Most of the public believes marijuana is a harmless drug. The medical literature tells a different story, and new studies keep telling more. A report from the Surgeon General will help clarify what the researchers know for the public.

The report should include information about the impact of legal marijuana on:

- The brain and body, especially on children's mental and physical health
- Children's use due to increased availability
- Life-threatening diseases due to prolonged use
- Children's ability to succeed in school
- Safe driving
- The social health of communities

This provision will call upon the Surgeon General to review the literature and issue a report to the nation about the impact of marijuana use on public health; on the health of children, adolescents, and young adults; and on the social health of communities.