

## FINAL REPORT

# Examination of Current Minimum Legal Marijuana Use Age 21 Laws in California: A State Where Recreational Marijuana is Legal

AUGUST 2020

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*at the* UNIVERSITY of CHICAGO

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## EXECUTIVE SUMMARY

### **Background:**

In 1988, the minimum age for possessing and purchasing alcohol was raised to 21 in all states and the District of Columbia. The implementation of this policy across states has saved the most lives out of all the policies designed to reduce unintentional injuries due to alcohol consumption by young people. One of the important enforcement strategies of minimum legal drinking age 21 (MLDA-21) has been compliance checks at alcohol outlets. In these checks, a pseudo-underage patron (who is 21 but looks younger) attempts to buy alcohol without showing proof of age using a valid ID. When states began legalizing the recreational use of marijuana, the legal age for possessing and purchasing marijuana was also set at 21, due mainly to the success of the minimum legal drinking age 21 (MLDA-21) laws. As with alcohol compliance checks, many states that have legalized marijuana, such as Washington and Colorado, enforce the minimum legal marijuana use age 21 laws (MLMU-21) using compliance checks conducted at recreational marijuana outlets. This study documented the MLMU-21 laws, surveyed enforcement agencies, summarized underage marijuana reported use from surveys and explored the use of compliance checks at recreational marijuana outlets in California, where recreational marijuana was legalized in 2016.

### **Methods:**

Our objective was to assess the ease of access to marijuana by underage patrons at recreational marijuana outlets in California. To this end, the following activities were conducted: 1) legal research to determine what other marijuana laws were associated with the legal age 21 use, 2) interviewed representatives from a random sample of law enforcement and other regulatory agencies from across the state of California to better understand law enforcement strategies concerning recreational marijuana, 3) reviewed and analyzed existing surveys of underage marijuana use to determine if legal recreational states had higher underage use than states where recreational marijuana is illegal, and 4) sent pseudo-underage patrons to 50 randomly selected licensed recreational marijuana outlets across California to see if they could enter the outlet without ID.

### **Results:**

California has adopted several MLMU-21 laws including that it is illegal to possess, purchase, consume, furnish and sell marijuana to underage patrons. Underage youth charged with any marijuana violation will lose their drivers' license for a period of time. While reported underage use of marijuana in California is higher than in most states where marijuana is illegal, over the past ten years underage use of marijuana has decreased in all states (where marijuana is legal and illegal). 100% of the recreational marijuana outlets visited by the pseudo-underage patrons required identification to enter.

### **Discussion:**

While the number of enforcement agencies contacted and the number of recreational marijuana outlets visited by the pseudo-underage patrons was small in this study, they were both drawn from a stratified

random sample, and therefore were representative of the state. Distinct patterns emerged. Licensed recreational outlets in California consistently require age identification yet enforcement of MLMU-21 laws is apparently not a priority for law enforcement agencies. The frequency of marijuana impaired driving by underage youth is unknown, but many in law enforcement believe it is high, so it is important to reduce underage access to marijuana.

**Conclusion:**

The legalization of recreational marijuana has not resulted in increases in underage usage. Local law enforcement agencies in California do not consider marijuana law enforcement a priority and depend mainly on the retail store security to enforce the marijuana use age of 21. Law enforcement agencies focus their limited marijuana law enforcement resources on the black market and ensuring retailers comply with their permits to sell recreational marijuana. It appears that the legal California recreational marijuana industry is being very careful to avoid selling marijuana to underage customers. While the sample of outlets visited in the state may not be strictly representative of the picture, the 100% compliance rate for requiring a valid ID was impressive. However, this may not be true in the almost 3,000 illicit outlets (black market) reported to be in California. Future studies should conduct pseudo-underage operations at a sample of the black market dispensaries to determine the MLMU-21 compliance.

## INTRODUCTION

### Underage Drinking Laws

One of the most successful alcohol control policies in the United States (US) was the establishment of the minimum legal drinking age of 21 (MLDA-21). All states have a version of MLDA-21, with Congress passing legislation in 1984 pressuring all states to enact the policy if they had not already done so. Even absent strict enforcement, an abundance of research has shown the MLDA-21 policy to be very effective in reducing underage impaired driving (Decker et al., 1988; O'Malley & Wagenaar, 1991; Jones et al., 1992; Toomey et al., 1996; Shults et al., 2001; Dang, 2008). Now that marijuana has become legal for recreational use in eleven states and the District of Columbia (DC) in the US, it is important to examine the minimum legal marijuana usage age-21 (MLMU-21) laws to determine if they are effective in reducing access to marijuana by youth under age 21.

Stimulated by scientific findings, at least 20 important underage drinking laws have been identified. The policies focus on: (a) control of furnishing and selling alcohol to youth, (b) possession and consumption of alcohol by youth, and (c) prevention of impaired driving by those aged 20 and younger. These policies have been adopted over the last three decades in many of the 50 states and DC. Strong evidence exists that such laws can reduce underage alcohol-related traffic fatalities (O'Malley & Wagenaar, 1991; Ponicki et al., 2007; Shults et al., 2001; Voas et al., 2003). From 1988—when all states had enacted minimum legal drinking age 21 (MLDA-21) legislation—to 1995, alcohol-related traffic fatalities for youth aged 15 to 20 declined from 4,187 to 2,212, a 47% decrease, with wide variability in these declines between states (National Center for Statistics and Analysis, 2003; National Highway Traffic Safety Administration, 2001). Efforts in further reducing youth alcohol-related traffic fatalities has included the passage by all states of zero-tolerance (ZT) laws, which make it an offense for drivers aged 20 and younger to operate a vehicle with any amount of alcohol in their systems (blood alcohol concentration [BAC] > .00 is illegal). These ZT laws are designed to strengthen the prior MLDA-21 laws.

While all 50 states have adopted a core minimum legal drinking age of 21 (illegal to purchase or possess alcohol), a large number of states have adopted additional underage drinking laws. Of the 20 expanded underage drinking laws that have been identified in this research, nine have been found to be particularly effective in reducing the number of fatal crashes involving underage drinking drivers. Recent research reveals that these nine laws designed to reduce underage drinking have been estimated to save more than 1,100 lives annually across all the states that have adopted them, and that an additional 210 lives could be saved each year if they were adopted in every state (Fell, Scherer, Thomas & Voas, 2016). Each law's strengths and weaknesses in terms of coverage, sanctions for violations, exceptions, and ease of enforcement have been documented (Fell, Thomas, Scherer, Fisher & Romano, 2015). There is wide variability in the strength of each underage drinking law and in the number of states that have adopted each of them. The nine minimum legal drinking age laws associated with significant decreases in fatal crash ratios of underage drinking drivers were: (1) possession of alcohol illegal if under age 21 (-7.7%), (2) purchase of alcohol illegal if under age 21 (-4.2%), (3) use alcohol and lose your license if under age 21 (-7.9%), (4) zero tolerance or .02 BAC limit for underage drivers (-2.9%), (5) age of bartender must be

≥ 21 (-4.1%), (6) state responsible beverage service (RBS) program to avoid sales and service to underage patrons (-3.8%), (7) fake identification support provisions for retailers (-11.9%), (8) dram shop liability (-2.5%), and (9) social host civil liability (-1.7%) (Fell et al., 2016). At this time, only 5 states have all nine effective underage drinking laws: California, Colorado, New Mexico, Utah and Wyoming.

All of this research on the age-21 minimum legal drinking age laws is relevant to marijuana. If underage marijuana use can be reduced, it is reasonable to assume that underage marijuana impaired driving can be decreased (Shults et al., 2001). For clarification purposes, marijuana is the popular name for the dried flowers and leaves of the *Cannabis sativa* plant. The cannabinoids in marijuana are the mind-altering chemicals. “Marijuana” refers to herbal cannabis while “hashish” refers to the cannabis resin. Cannabis is a psychoactive drug, and not a central nervous system (CNS) stimulant nor a depressive. The psychoactive ingredient in marijuana is delta-9-tetrahydrocannabinol (THC). Throughout this final report the terms *marijuana*, *cannabis* and *THC* are used interchangeably.

### **Enforcement of Minimum Legal Drinking Age 21 (MLDA-21) Laws**

One of the earliest studies of the enforcement of MLDA-21 laws was sponsored and conducted by the Insurance Institute for Highway Safety (IIHS). Preusser and Williams (1992) conducted 100 pseudo-patron purchase attempts to assess ease of alcohol access from commercial establishments in each of three communities: Westchester County, New York; Albany and Schenectady Counties, New York; and Washington, District of Columbia (DC). They randomly selected off-premise outlets that sold beer (grocery stores, grocery chains, liquor stores) in each community and sent in 18-20 year old pseudo-patrons to purchase a six-pack of beer. The pseudo-patrons did not lie if asked their age and they did not use false identification. The percentages of successful beer purchases (non-compliance with the law) were 80% for Westchester County, 44% for Albany/Schenectady Counties, and 97% for DC. The reason for the lower non-compliance rate in Albany/Schenectady (44%) was because law enforcement in that area had recently enforced drinking age 21 using compliance checks (i.e., sent in underage youth to purchase alcohol under supervision of law enforcement agents) and had made 50 arrests of the sellers, which had been publicized.

This initial assessment of likelihood for illegal alcohol sales to underage youth set the stage for assessments in other regions. Pseudo-patron studies were also conducted in Minnesota during the early 1990s. These studies also found that the majority of alcohol outlets would sell alcohol to someone who appeared under age 21 without age identification (Forster et al., 1994; 1995). More recent estimates of illegal sales for young-appearing buyers have ranged from 26% to 39% across cities (Britt et al., 2006; Freisthler et al., 2003; Paschall et al., 2007; Toomey et al., 2008). A potential reason for this decrease in likelihood of sales to underage youth may be an increase in enforcement against alcohol retailers that illegally sell alcohol to youth.

The research on underage drinking showed that it was important to assess ease of access to alcohol by underage youth from licensed establishments. This indicated that there was a need for enforcement to decrease access to alcohol by underage youth. Preusser, Williams and Weinstein (1994) followed up their 1992 study with a study in Denver, Colorado, using multiple law enforcement compliance checks to



prevent sales to underage youth. Compliance checks were made by Denver Police cadets who were under age 21 at a random sample out of 374 licensed outlets. During the baseline (June 1992), underage cadets were sold beer in 59% of purchase attempts (88 outlets). In July 1992, following extensive media coverage and letters to the outlets about the compliance checks, the non-compliance rate dropped to 32%, cut almost in half. In October 1992, the non-compliance dropped again to 26% and in April 1993 remained at 26%. The authors concluded that compliance check enforcement operations are effective and efficient in limiting alcohol sales to underage youth.

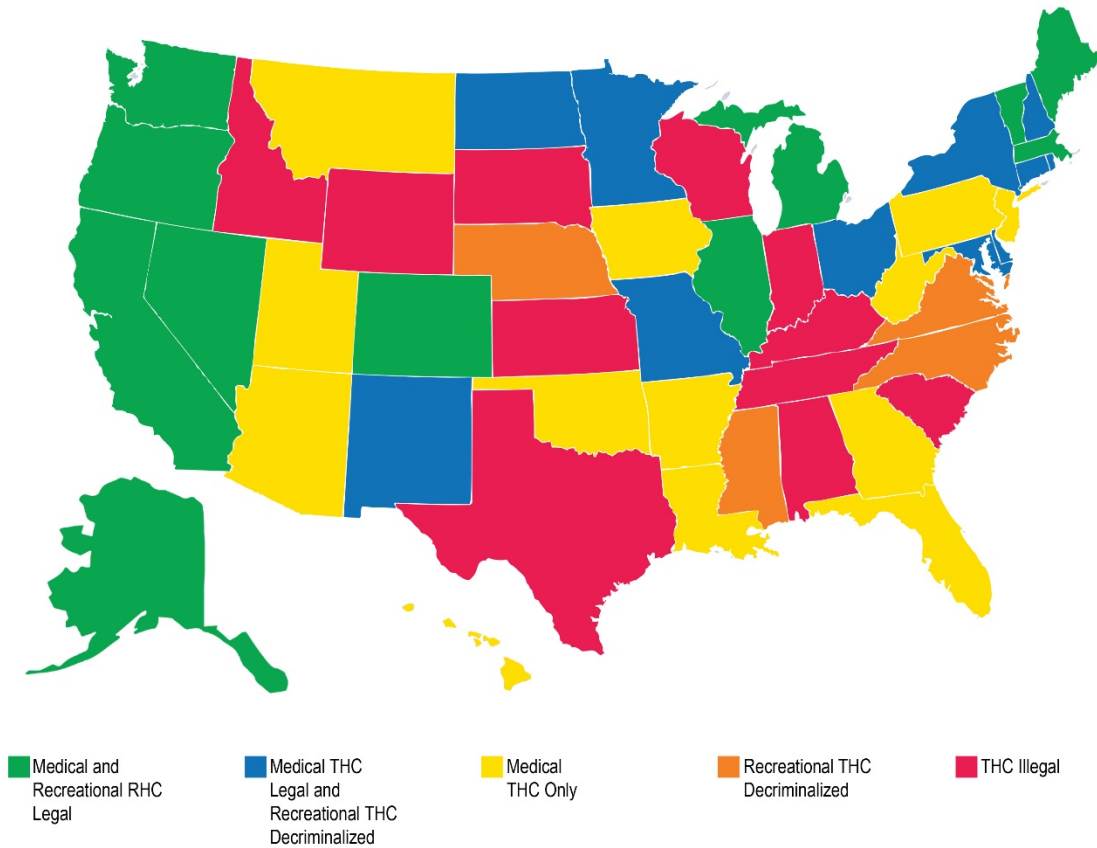
Subsequent studies have confirmed the effectiveness of compliance checks to prevent illegal alcohol sales to youth (Barry et al., 2004; Grube, 1997; Wagenaar et al., 2005). However, Wagenaar and associates (2005) found that effects of compliance checks decay over time. In liquor stores, convenience stores, and grocery stores, the likelihood of an outlet selling alcohol to youth decreased 17% immediately after an enforcement compliance check but this effect disappeared for that establishment within three months of the compliance check. This suggests compliance checks may need to be conducted more than once or twice per year to create sustained effects. Wagenaar and associates (2005) also found that a deterrent effect did not spill over on to other establishments in the community that were not checked by enforcement, suggesting that compliance checks should be conducted in all establishments in a community rather than a subsample of establishments. Based on the Wagenaar et al (2005) study and theory, Erickson, Toomey and associates (2014) proposed a model compliance check campaign: (1) conduct compliance checks on all establishments, (2) conduct compliance checks 3-4 times per year, (3) hold license holders accountable for illegal alcohol sales instead of or in addition to the clerk or server who makes the sale, and (4) conduct re-checks within 3 to 6 months of a failed compliance check.

The original Preusser and Williams (1992) study and all of the subsequent alcohol research described in this section guided our research focusing on preventing youth access to marijuana. The pseudo-patron protocol was adapted to assess likelihood of illegal marijuana sales to youth. The compliance check literature provided an assessment of enforcement actions focused on preventing these types of sales.

### **Minimum Legal Marijuana Use Age 21 (MLMU-21) Laws**

Currently, eleven states and DC have officially legalized both medical and recreational marijuana use. An additional eleven states have legalized medical marijuana and decriminalized recreational marijuana use (meaning no criminal penalties, but there could be civil penalties). Thirteen states have legalized medical marijuana laws only. Three states have decriminalized marijuana possession only. In the remaining twelve states marijuana is currently illegal (See Figure 1 and Table 1). However, this scenario is changing rapidly and according to the Marijuana Policy Project, sixteen states are including legalizing medical and/or recreational marijuana on their November 2020 election ballots (AZ, AR, CT, FL, ID, MS, MO, MT, NE, NJ, NY, ND, OH, OK, RI, and SD).

**Figure 1.** Marijuana Laws in the United States: 2020



**Table 1:** Marijuana Laws in the United States-2020

Medical and Recreational THC Legal	Medical THC Legal and Recreational THC Decriminalized	Medical THC Only	Recreational THC Decriminalized	THC Illegal
<ul style="list-style-type: none"> <li>• Colorado (2012)</li> <li>• Washington (2012)</li> <li>• Oregon (2014)</li> <li>• Alaska (2014)</li> <li>• District of Columbia (2014)</li> <li>• California (2016)</li> <li>• Maine (2016)</li> <li>• Massachusetts (2016)</li> <li>• Nevada (2016)</li> <li>• Michigan (2018)</li> <li>• Vermont (2018)</li> <li>• Illinois (2019)</li> </ul>	<ul style="list-style-type: none"> <li>• Connecticut</li> <li>• Delaware</li> <li>• Maryland</li> <li>• Minnesota</li> <li>• Missouri</li> <li>• New Hampshire</li> <li>• New Mexico</li> <li>• New York</li> <li>• North Dakota</li> <li>• Ohio</li> <li>• Rhode Island</li> </ul>	<ul style="list-style-type: none"> <li>• Arizona</li> <li>• Arkansas</li> <li>• Florida</li> <li>• Georgia</li> <li>• Hawaii</li> <li>• Louisiana</li> <li>• Iowa</li> <li>• Montana</li> <li>• New Jersey</li> <li>• Oklahoma</li> <li>• Pennsylvania</li> <li>• Utah</li> <li>• West Virginia</li> </ul>	<ul style="list-style-type: none"> <li>• Mississippi</li> <li>• Nebraska</li> <li>• North Carolina</li> <li>• Virginia</li> </ul>	<ul style="list-style-type: none"> <li>• Alabama</li> <li>• Idaho</li> <li>• Indiana</li> <li>• Kansas</li> <li>• Kentucky</li> <li>• South Carolina</li> <li>• South Dakota</li> <li>• Tennessee</li> <li>• Texas</li> <li>• Wisconsin</li> <li>• Wyoming</li> </ul>

**Sources:** National Conference of State Legislatures (NCSL), *State Medical Marijuana Laws 2019*; <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx#4>; NCSL, *Marijuana Overview 2019*; <http://www.ncsl.org/research/civil-and-criminal-justice/marijuana-overview.aspx>; NCSL, *Drugged Driving 2019*; <http://www.ncsl.org/research/transportation/drugged-driving-overview.aspx>; Marijuana Policy Project, *State Policy*; <https://www.mpp.org/states/>; and Wikipedia, *Legality of Cannabis by U.S. Jurisdiction 2019*; [https://en.wikipedia.org/wiki/Legality\\_of\\_cannabis\\_by\\_U.S.\\_jurisdiction](https://en.wikipedia.org/wiki/Legality_of_cannabis_by_U.S._jurisdiction)

**Table 1 Decriminalization Notes:** In Minnesota, Missouri, North Carolina and Ohio, a marijuana offense is a low level misdemeanor with no possibility of jail. The other states with decriminalization policy have reduced the small amounts of marijuana possession to a civil infraction.

A preliminary examination of laws in each state indicates that most of those eleven states have adopted four laws prohibiting marijuana use by persons under age 21: illegal for a person under 21 to (1) purchase, (2) possess, (3) consume, and for someone to (4) furnish marijuana to a person under age 21. When comparing MLMU-21 and MLDA-21 laws on purchase and possession, the MLDA-21 laws are more comprehensive.

At this time, a comprehensive assessment of the changing legal landscape around MLMU-21 laws has not been conducted. Thus, there is a need to document the underage marijuana use laws in each of the eleven states and DC where recreational marijuana is legal to (1) determine which laws are present, (2) document underage marijuana use enforcement strategies, and (3) determine the ease of access to marijuana by youth under age 21 at marijuana outlets. This will provide important information for assessing the effectiveness of the current underage marijuana laws in the eleven legal states and DC and for states developing legislation in the near future.

## METHODS

The basic objectives of this study were to (a) examine the *current* minimum legal marijuana use age 21 (MLMU-21) laws in California, one of the eleven states where recreational marijuana is legal, (b) document current levels and types of training and enforcement of MLMU-21 laws in California, (c) identify current rates of use of marijuana among youth using existing data, and (d) assess how easily pseudo-underage patrons could access to marijuana from retail establishments in California. To meet these objectives we:

1. Conducted original legal research according to legal epidemiology best practice standards to document the MLMU-21 laws in California.
2. Documented the enforcement strategies reported by enforcement agencies in California. Whether and how often police and other regulatory agencies in California conducted regular compliance checks or other types of enforcement targeting MLMU-21 laws was assessed. Agencies were asked, for example, whether marijuana retail outlets receive any training to avoid illegal sales and whether age identification (ID) scanners are used.

3. Examined the available published surveys (national, state, on-line, telephone, in person) to determine anonymous/confidential self-reported use of marijuana by youth under age 21 and how they obtain their marijuana. Unpublished surveys from a number of recreational marijuana states were acquired and analyzed by comparing those underage usage rates to surveys in states where recreational marijuana is illegal.
4. Conducted pseudo-underage entrance attempts in a random sample of marijuana outlets in California. To facilitate this action, underage looking decoys (pseudo-underage-patrons) attempted to enter retail recreational marijuana outlets without an age identification document (i.e., drivers' license).

### Conduct Legal Research

The legal research was conducted according to legal epidemiology best practices standards using two steps: (1) review existing legal research on minimum legal marijuana use age 21 (MLMU-21) laws; and (2) conduct original research using an online legal research service (Tremper, Thomas & Wagenaar, 2010). Previous research has shown that use of secondary sources and original legal research is needed to ensure a degree of accuracy (LaFond et al., 2000). A systematic assessment was conducted to identify the full range of possible minimum age laws for marijuana to determine whether California has the policies demonstrated to be effective based upon MLDA-21 research.

Below is a list of the secondary sources that were reviewed. These resources were chosen based on the reliability of the producer and/or comprehensiveness of their coding. Specific citations were checked for accuracy while more general discussions were used to affirm the validity of the research. The original research was conducted using Westlaw. A two-step process was used to gather all relevant statutes and regulations in California. The legal researchers ran a search using a tailored keyword string in California's statutes and regulations, reviewed all results for applicability, and collected and coded language describing all relevant prohibitions. Legal citations were gathered and recorded. Sources included the following:

#### Secondary Sources

Alcohol Policy Information System (APIS)

<https://alcoholpolicy.niaaa.nih.gov>

Governors Highway Safety Association (GHSA)

<http://www.ghsa.org/state-laws/issues/drug%20impaired%20driving>

National Conference of State Legislators

[http://www.ncsl.org/documents/transportation/PerSeChart\\_Jan2017.pdf](http://www.ncsl.org/documents/transportation/PerSeChart_Jan2017.pdf)

National Highway Traffic Safety Administration (NHTSA)

Drug Per Se Law

[https://www.nhtsa.gov/staticfiles/nti/impaired\\_driving/pdf/811317.pdf](https://www.nhtsa.gov/staticfiles/nti/impaired_driving/pdf/811317.pdf)

Stop Drugged Driving

<http://www.stopdruggeddriving.org/pdfs/2014StopDUIDReport.pdf>

Legal research on statutes and regulations was performed to assess whether policies similar to those for the MLDA-21 were in place for marijuana, including:

- Possession
- Consumption
- Internal Possession
- Purchasing
- Furnishing
- False ID
- Minimum Age for Sellers
- Responsible marijuana sales training
- Social Host Liability, holding the homeowner liable for supplying or allowing underage marijuana use in their home if the underage user causes harm to someone (such as in a crash)
- DUID
- Use/Lose, if you are cited for using marijuana, you lose your drivers' license

Any exceptions to all of these policy topics was documented. Regulations were examined to see if any expressly mentioned the permissibility of compliance checks of any sort and programs such as Cops in Shops (Montgomery et al., 2006), etc.

### **Current Enforcement of MLMU-21 Laws**

A pilot study by Wiens, Lenk, Fabian and Erickson (2018) surveyed a random sample of local law enforcement agencies (25 in each state), the survey focused on youth marijuana use, youth access to marijuana and driving under the influence (DUI) of marijuana in the first two states to legalize recreational marijuana: Colorado and Washington in 2012. Only 20% of the sampled agencies reported conducting underage compliance checks at licensed marijuana outlets (Colorado-32% of the law enforcement agencies surveyed; Washington-only 8% of the agencies surveyed). However, the state-level agency primarily responsible for enforcing marijuana laws in Washington reported conducting routine underage compliance checks at all licensed marijuana outlets about three times a year.

One small pilot study (Buller, Woodall, Saltz, & Starling, 2016) found that 95% of pseudo-underage buyer attempts were denied in Colorado. The Washington State Liquor and Cannabis Board (2018) reported that 92% of 2,664 compliance checks conducted in the state between 2015 and 2018 resulted in the sales being denied. Although this is encouraging, no studies or reports examining the ease of underage access to marijuana in other states that have retail marijuana outlets were identified.

Despite MLMU-21 laws in the eleven recreational marijuana states plus DC, a substantial percentage of high school students report using marijuana in the past 30 days (e.g., 19.4% in Colorado in 2017, according to their Healthy Kids Colorado Survey). This presents implications for underage impaired driving.

## Document Enforcement Strategies

As demonstrated by the MLMU-21 laws that were documented, understanding the enforcement of these types of laws in California is important in understanding compliance with the laws. Some enforcement strategies that have been documented in the literature include:

- Compliance Checks (Washington State Liquor and Cannabis Board; Colorado Marijuana Enforcement Division; Denver Police Department report these)
- Cops in Shops (Colorado Marijuana Enforcement Division reports these)
- Shoulder Tap operations (Colorado Marijuana Enforcement Division reports these)
- Undercover operations (Colorado Marijuana Enforcement Division reports these)

Some news articles reporting enforcement efforts in Colorado and Washington appear in Appendix A.

The key California state regulatory agencies for cannabis enforcement include the Bureau of Cannabis Control, the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health. In addition, local police agencies usually enforce cannabis laws in the areas of their jurisdiction.

For this task, a random sample of local agencies were contacted for enforcement strategies used for MLMU-21 laws in their community and their local recreational retail outlet. Agency representatives were contacted by phone and e-mail to collect information on their enforcement strategies. The original project design included two site visits for face-to-face discussions and observations of enforcement strategies, but the Coronavirus (COVID-19) pandemic prevented that from occurring.

Finally, internet searches for news articles concerning enforcement in California of MLMU-21 laws and in particular, any articles on compliance checks, were conducted.

## Examine Existing Surveys

Existing self-report data about youth access and use of marijuana and the various forms of marijuana products was examined. The following national surveys were found to have data on marijuana use by youth under age 21:

- Monitoring the Future (MTF)
- Youth Risk Behavior Survey (YRBS)
- National Survey on Drug Use and Health (NSDUH)
- National Longitudinal Study on Adolescent Health (NLSAH)
- National College Health Assessment (NCHA)
- Behavioral Risk Factor Surveillance System (BRFSS)
- National Health and Nutrition Examination Survey (NHANES)

Some individual states, both those that have legalized recreational marijuana and those that have not, conducted their own surveys collecting data on youth marijuana use. These include, but are not limited to:

- Oregon Healthy Teens Survey
- Oregon Student Wellness Survey
- California Student Tobacco Survey
- Washington State Healthy Youth Survey
- Healthy Kids Colorado Survey
- Missouri Student Survey
- Minnesota Youth Tobacco Survey

For the review of existing surveys, NORC began with surveys at the national level. The CDC has created a list of federally-funded surveys that obtain data and statistics on marijuana use<sup>1</sup>. NORC searched for the most recent iterations of these nation-wide surveys in order to obtain the latest statistics on lifetime and last 30-day prevalence of youth marijuana use. Additional national surveys were found in literature references and through the knowledge of the project director.

For the state surveys, an exhaustive Google search was conducted by searching “state + marijuana + survey” or “state + drug + survey”. For example “Alaska drug survey.” This was used for all 50 states. The surveys that were found as a result of the search were separated into two categories—legal and illegal. Surveys from states where recreational marijuana was legal when the latest survey was conducted were listed in the “legal” category. Surveys conducted in states where recreational marijuana was illegal, including those that had only legalized medical marijuana, fell into the “illegal” category.

The list of national surveys above includes all identified surveys with at least one question about marijuana use/exposure and/or attitudes towards marijuana, including a few that did not collect data on the prevalence of marijuana use. The list also included surveys of college students, which, since the data were reported in aggregate, included data from students who were over age 21.

In order to assess youth marijuana use across the country, NORC recorded the latest statistics on lifetime and last 30-day prevalence of marijuana use from both the national and state-level surveys, where available. NORC also recorded the age/grade-level surveyed, as this varied amongst the surveys.

## **Limitations**

The MTF and NCHA surveys do not have state-specific estimates. YRBS, NSDUH, BRFSS, and NHANES do have state-specific estimates, though YRBS is only conducted every two years.

National and state surveys reported data differently, which made comparisons difficult. Some reported data by grade level, others by ages, other surveys by age groups (i.e. 12-17 and 18-25), and others by school-level (i.e. high school and middle school). Surveys that aggregated by school level did not define

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<sup>1</sup> <https://www.cdc.gov/marijuana/data-statistics.htm>

which grades were included. States administrated these surveys through schools, but which grade levels are in “high school” and “middle school” were not specified.

### **Conduct Pseudo-Underage Entry Attempts**

An important goal of this project was to assess compliance with MLMU-21 laws. This was accomplished by conducting pseudo-underage retail recreational marijuana outlet entry attempts. To begin this process, the number and locations of all recreational marijuana retail outlets in California were documented. Then a stratified random sample of retail outlets in California were selected for pseudo-underage outlet entry attempts. Two persons 21 years old or older who looked under age 21 were recruited and trained to serve as pseudo-underage-patrons. Using this strategy, law enforcement was not involved since each pseudo-underage-patron is legally able to enter and purchase marijuana in a licensed outlet based on California state law. The pseudo-underage patrons were each paired with a team leader for safety and logistical reasons, who waited in the car during each access attempt.

In California, patrons are supposed to be asked for age identification to enter the outlet. If the pseudo-underage patron was asked, they said that they did not have an age ID. If they were denied access to the outlet, this was considered *compliant*. If they were let into the outlet without ID, this was considered *non-compliant*. If they were denied entry without showing an age ID, the pseudo-underage patron returned to their car and obtained their real ID. They returned to the outlet, showed their ID and were able to enter the outlet. While in the outlet, they made specific observations and recorded data in their cell phone. The pseudo-underage-patron then returned to their partner in the car and filled out a form with data on the following items as a minimum:

- State (California)
- Time of day
- Day of week
- Approximate number of customers and outlet staff
- Location (urban; suburban; rural)
- ID checking method
- Location of outlet security personnel
- Type of marijuana products sold in the outlet
- Outcome of initial entry attempt without an ID

### **Method for Selecting Marijuana Outlets**

The goals of the sample design were to provide statistically reliable estimates while reducing data collection costs. Marijuana retail outlets tend to cluster in densely populated areas. Data collection activities would be more efficient by concentrating collection efforts in these areas. Importantly, to make the outcomes representative of the whole state, all retail outlets had a chance of being sampled. Outlets that were clustered together had higher chances of being selected, while those in remote locations had lower chances of being selected. This helped to minimize travel distance for the pseudo-underage patrons because outlets that were clustered were more likely to be selected jointly.



While a simple random sample would have achieved more precision in estimates, that design would have made data collection infeasible. The stratified probability proportional size (PPS) design was expected to generate estimates with a margin of error of at most plus or minus 14 percentage points, and at least 68% power in detecting differences between groups of outlets.

To draw the sample of 50 recreational marijuana outlets in California the names and addresses of the marijuana dispensaries with active licenses were obtained through the California Bureau of Cannabis Control website (<https://online.bcc.ca.gov/bcc/>). The outlets were then geocoded and four distance measures were created for each outlet. The first distance measure represented the distance to the next nearest outlet from the reference outlet. The second distance measure was the second nearest outlet and so on. Then a stratified probability proportional to size sample was selected where the strata were three geographical regions of California (North, Central, and South) and the size measure equaled the reciprocal of the first distance measure. The number of outlets chosen in each strata was proportional to the number of outlets in the region on the sampling frame of 632 outlets with geo-code-able address information.

In anticipation of challenges in attempting to enter the outlets without an ID (e.g. store closures, reduced hours of operation), alternate outlets were chosen to give the pseudo-underage patrons locations of other nearby outlets in the same strata to replace the inaccessible one. A set of 2 alternate outlets was chosen for each of the 50 outlets where each alternate outlet was the next closest outlet that had not already been selected in the original sample. Also, to decrease the likelihood of overlap in alternates, no one outlet could be a first alternate for two different outlets. As a result, the desired sample size of 50 was expected to be reached.

### **Recruitment and Selection of Pseudo-Underage Patrons**

Pseudo-underage patrons were required to be age 21 or older (i.e., of legal age to purchase) but appear to be under age 21. Candidates were recruited through a number of online job boards including the University of Minnesota job board, the University of Minnesota School of Public Health (UMN SPH) job board, Indeed.com, and Craigslist. In the subsequent weeks, a total of 40 applications were received for the position. The requirements of the pseudo-underage data collector position were such that determining applicants' perceived age was a prerequisite to interviewing for the position. In order to determine the perceived age of the candidates, auditions were held at the University of Minnesota's School of Public Health. The auditions consisted of the candidates delivering lines in front of an age assessment panel of 7-9 individuals of varying ages, at least 3 of whom had experience serving alcohol in a bar or restaurant (and so had experience estimating age in a professional setting). Of the 10 candidates that auditioned, five were determined by the panel to appear to be under the age of 21. All five candidates were interviewed and the position was offered to the top two candidates, a male (age 22) and a female (age 23). In past studies using this same protocol (Britt, et al., 2006), the mean estimated age for the pseudo-underage patrons was 18.9 for pseudo-underage patrons visiting off-premise alcohol establishments, with a perceived age range from 17 to 20. The mean actual age of the pseudo-underage patrons was 22.6 years with a range from 21.1 to 24.8.

Both selected pseudo-underage patrons for the current study (one male and one female) participated in a training session at the University of Minnesota to learn the study protocol. The pseudo-underage patrons were instructed to dress casually and wear little or no make-up, jewelry, or facial hair. This protocol has been used successfully in previous studies (Forster et al., 1994; 1995; Toomey et al., 1999, 2004, 2006; Wolfson et al., 1996a; 1996b). The pseudo-underage patrons were trained on the protocol and safety measures and instructed both pseudo-underage patrons to immediately abort any attempts where they felt unsafe. All data collection methods were approved by NORC's Institutional Review Board (IRB) and the University of Minnesota's IRB.

### **Pseudo-Underage Patron Training Description**

The data collector training consisted of a presentation of the study protocol by Dr. Toomey, a review of the data collection forms, and pretesting of the forms at UMN SPH, followed by two practice data collection sessions at pre-selected sites in Minneapolis. Given that there are no recreational cannabis dispensaries located in Minnesota, the data collection forms were adapted to the context of a liquor store. After each practice observation, pseudo-underage patrons debriefed with the trainers from UMN SPH, discussing any issues they encountered during the practice observation. Representatives from NORC attended the portion of the training held at UMN SPH via videoconference.

### **Data Collection Protocol**

After examining the maps showing the distances between the sampled 50 retail marijuana outlets, it was decided that two teams would be assembled to travel to California. A team leader (full-time staff from UMN) was assigned to the 22 year old male pseudo-underage data collector and another team leader from UMN was assigned to the 23 year old female pseudo-underage data collector. The data collection protocol was as follows. Each team made observations in each area of California. The team leader drove to the outlets per the observation schedule while the data collector helped to navigate. At each outlet, the pseudo-underage patrons attempted to enter the outlet without showing ID. If asked for ID, the pseudo-underage patrons truthfully said they did not have their ID to see if they would be allowed entry without the ID. The protocol specified that if allowed in without an ID, they would enter the outlet and make observations. If not allowed in without an ID, the pseudo-underage patrons returned to the car, wait for a couple of minutes, and returned to the outlet saying that they had found their ID in the car. Upon entering the outlet, the pseudo-underage patron began to complete the first of two data collection forms on their smartphone. Pseudo-underage patrons were instructed to look as if they were simply browsing the store while looking at their phone, when in reality they were completing the first data collection form. After finishing the first data collection form, the pseudo-underage patron would return to the car, where they completed the second data collection form on their phone. Pseudo-underage patrons and team leaders also spoke about anything unusual that was observed within each outlet, making careful note of these observations. Once the observation was complete, the team would continue to the next scheduled outlet.

Pseudo-underage patrons were instructed not to purchase any cannabis products, and agreed to this term in writing in advance of traveling to California. In order to minimize suspicion during site visits, pseudo-underage patrons were asked to change their appearance slightly (using a hat, glasses, etc.) between site visits. Throughout the training, it was made clear to the pseudo-underage patrons that safety was a top

priority. In the event that they felt their safety was threatened, they were told to leave the dangerous situation as quickly as possible.

## RESULTS

### The MLMU-21 Laws in California

The legal research of the minimum legal marijuana use age 21 (MLMU-21) laws are summarized below in Table 2. Table 2 shows the MLMU-21 laws adopted in California and also lists the MLDA-equivalent laws that have not been enacted.

**Table 2:** California Minimum Legal Marijuana Use Age 21 Laws

Topic	Policy	Citation(s)	Note(s)
<b>Possession</b>	Prohibited	Cal. Health & Safety Code § 11357 Cal. Health & Safety Code § 11362.1	
<b>Consumption</b>	Prohibited	Cal. Health & Safety Code § 11362.1	
<b>Internal Possession</b>	No law		Testing for the presence of marijuana in oral fluid or blood.
<b>Purchasing</b>	Prohibited	Cal. Bus. & Prof. Code § 26140 Cal. Health & Safety Code § 11362.1	
<b>Furnishing</b>	Prohibited	Cal. Bus. & Prof. Code § 26140 Cal. Health & Safety Code § 11362.1	Both noncommercial and commercial
<b>False ID</b>	No law		
<b>Minimum Age for Sellers</b>	21 and over	Cal. Bus. & Prof. Code § 26140	
<b>Social Host Liability</b>	No law		
<b>DUID</b>	No per se law		Driving under the influence of drugs is generally prohibited by Cal. Veh. Code § 23152
<b>Use/Lose</b>	1 year	Cal. Health & Safety Code § 11357 Cal. Health & Safety Code § 11362.1 Cal. Veh. Code § 13202.5	Penalty imposed for underage purchase, possession or consumption
<b>Responsible Marijuana Sales Training</b>	No Law		

A more detailed description of each law followed by the penalties associated with each law is depicted in **Appendix B**.

## Enforcement of MLMU-21 Laws in California

The enforcement survey was completed by 24 randomly selected enforcement agencies. The task of finding the correct individual in the agency with knowledge on the enforcement of California's marijuana laws was more difficult than anticipated. More than 50 agencies were contacted with at least 10 calls or e-mails to each. Only 21 agreed to complete the survey. While obviously a small sample and not representative of all agencies in jurisdictions with retail recreational marijuana outlets, some interesting responses are summarized below:

- Of the 21 agencies interviewed, 70% represented a community with < 250,000 population; 60% had 53 or fewer sworn officers; 70% had 1 or 0 full-time individuals assigned primarily to marijuana law enforcement; and 28% reported that they enforced minimum legal marijuana use age 21 laws.
- 45% reported conducting age 21 compliance checks at their retail outlets; 25% reported that store employees are required to complete responsible marijuana sales training; and all agencies (100%) said that ≤ 10% of their agency resources were spent on marijuana law enforcement.
- All agencies (100%) said marijuana use by underage 21 persons was somewhat or very common; 93% said they did not conduct enforcement efforts regarding the use of a fake ID to purchase marijuana; 89% said that underage persons get their marijuana from the black (illicit) market as opposed to the legal market.
- 81% said marijuana impaired driving was somewhat or very common in their jurisdiction; 33% said they conduct enforcement specific to marijuana-impaired driving (separate from alcohol-impaired driving enforcement efforts); 8% had participated in a media campaign to promote the enforcement of marijuana-impaired driving in the previous year.
- 17% said the illicit market is smaller since the legalization of recreational marijuana.
- 22% said the illicit market is larger since the legalization of recreational marijuana.

Comments from survey respondents included: (a) marijuana law enforcement is not a priority in most agencies; (b) police agencies focus on the marijuana black market and illegal cultivation; (c) retail recreational marijuana outlets all have their own security at the entrance; and (d) the State Bureau of Cannabis Control (BCC) does not communicate with local law enforcement concerning any retail outlet monitoring that they conduct.

These findings were unexpectedly supported by news articles (see Appendix C) covering the enforcement of MLMU-21 laws in California. In September, 2019, the Los Angeles Times reported that close to 3,000 black market marijuana dispensaries were discovered via an audit of the popular website "Weedmaps" (<https://weedmaps.com>) which functions similarly to Yelp, but for marijuana dispensaries and products. Not all illegal marijuana dispensaries advertise on Weedmaps, so this is merely an estimate. It confirms what law enforcement relayed about the black market being an issue --- and thus, the focus of their enforcement, not the MLMU-21 laws.

The law enforcement survey indicated that less than half of the local law enforcement agencies are conducting undercover MLMU-21 compliance checks. The Los Angeles Times reported in November

2019 that the Bureau of Cannabis Control in California does not conduct MLMU-21 compliance checks (also known as “stings” in California) at any of the licensed Recreational marijuana outlets, although they were conducting underage stings at establishments selling alcohol. The article pointed out that tobacco compliance checks resulted in 10% noncompliance with the age-21 law and that alcohol compliance checks resulted in a 14% noncompliance with the MLDA-21 law.

In December 2019, the Fresno Bee revealed that a tobacco compliance check, or “sting” operation, resulted in an arrest of an individual for selling marijuana vape pods to underage buyers. This was part of a federal Department of Justice grant for \$552,000 to the Fresno County Sheriff’s Office to combat sales of cigarettes, vaping material and tobacco products to underage users, but not marijuana. This operation just happened to enforce cannabis vaping.

### Surveys of Marijuana Use by Youth under Age 21

#### Prevalence of Marijuana Use

The following tables summarize the data on lifetime and 30-day prevalence for each survey that collected such data, inclusive of those previewed above. The age range for which data was collected is also included.

**Table 3:** National Surveys of Marijuana Use by Youths

Survey Title	Year	Lifetime Prevalence	30-Day Prevalence	Ages
Monitoring the Future	2018	13.9% (8 <sup>th</sup> grade) 32.6% (10 <sup>th</sup> grade) 43.6% (12 <sup>th</sup> grade)	5.6% (8 <sup>th</sup> grade) 16.7% (10 <sup>th</sup> grade) 22.2% (12 <sup>th</sup> grade)	Grades 8, 10, 12
Youth Risk Behavior Survey	2017	35.6%	19.8%	Grades 9-12
National Survey on Drug Use and Health	2017	15.3% (age 12-17) 52.7% (age 18-25)	6.5% (age 12-17) 22.1% (age 18-25)	12-17 and 18-25
National Longitudinal Study on Adolescent Health (NLSAH)	1994-1995	N/A	27.45%	Grades 7-12
National College Health Assessment	2018	37.1%	19%	College students
Behavioral Risk Factor Surveillance System	2017	N/A	9.3%	18+
National Health and Nutrition Examination Survey	2015-2016	35.4%	N/A	18+

**Table 4:** State Surveys Where Recreational Marijuana Is Legal

Survey Title	Year State Legalized	Year	Lifetime Prevalence	30-Day Prevalence	Ages
California Student Tobacco Survey	2016	2018	25.3% (10 <sup>th</sup> grade) 38.6% (12 <sup>th</sup> grade)	11.3% (10 <sup>th</sup> grade) 18.7% (12 <sup>th</sup> grade)	10 <sup>th</sup> grade, 12 <sup>th</sup> grade
Healthy Kids Colorado Survey	2012	2017	35%	19.4%	Middle and high school
Maine Integrated Youth Health Survey	2016	2017	6.9% (middle school) 32.6% (high school)	3.6% (middle school) 19.3% (high school)	High school and middle school
Massachusetts Youth Risk Behavior Survey	2016	2017	5.8% (middle school) 37.9% (high school)	2.3% (middle school) 24.1% (high school)	High school and middle school
Michigan Profile for Healthy Youth	2018	2018	Data is reported by county		
Oregon Healthy Teens Survey	2014	2017	13.7% (8 <sup>th</sup> grade) 39.5% (11 <sup>th</sup> grade)	6.7% (8 <sup>th</sup> grade) 20.9% (11 <sup>th</sup> grade)	8 <sup>th</sup> grade, 11 <sup>th</sup> grade
Oregon Student Wellness Survey	2014	2018	3% (6 <sup>th</sup> grade) 14% (8 <sup>th</sup> grade) 38.4% (11 <sup>th</sup> grade)	1.5% (6 <sup>th</sup> grade) 7.9% (8 <sup>th</sup> grade) 20% (11 <sup>th</sup> grade)	6 <sup>th</sup> , 8 <sup>th</sup> , 11 <sup>th</sup> graders
Vermont Youth Risk Behavior Survey	2018	2017	7% (middle school) 37% (high school)	4% (middle school) 24% (high school)	High school and middle school
Washington State Healthy Youth Survey	2012	2018	N/A	1% (6 <sup>th</sup> grade) 7% (8 <sup>th</sup> grade) 18% (10 <sup>th</sup> grade) 26% (12 <sup>th</sup> grade)	6 <sup>th</sup> , 8 <sup>th</sup> , 10 <sup>th</sup> , 12 <sup>th</sup> graders

**Table 5:** State Surveys Where Recreational Marijuana Is Illegal

Survey Title	Year	Lifetime Prevalence	30-Day Prevalence	Ages
Arizona Youth Survey	2018	29.7%	15.7%	8 <sup>th</sup> , 10 <sup>th</sup> , 12 <sup>th</sup> graders
Delaware School Survey	2018	17% (8 <sup>th</sup> graders) 42% (11 <sup>th</sup> graders)	8% (8 <sup>th</sup> graders) 22% (11 <sup>th</sup> graders)	8 <sup>th</sup> , 11 <sup>th</sup> graders
Florida Youth Substance Abuse Survey	2018	3% (6 <sup>th</sup> graders) 6.8% (7 <sup>th</sup> graders) 13.1% (8 <sup>th</sup> graders) 18.8% (9 <sup>th</sup> graders) 27.9% (10 <sup>th</sup> graders) 33.9% (11 <sup>th</sup> graders) 38.9% (12 <sup>th</sup> graders)	1.3% (6 <sup>th</sup> graders) 3.1% (7 <sup>th</sup> graders) 6.7% (8 <sup>th</sup> graders) 9.7% (9 <sup>th</sup> graders) 15.9% (10 <sup>th</sup> graders) 18.2% (11 <sup>th</sup> graders) 21.6% (12 <sup>th</sup> graders)	6-12 <sup>th</sup> graders
Georgia Student Health Survey	2019	Not Reported	0.79% (6 <sup>th</sup> graders) 2.14% (7 <sup>th</sup> graders) 4.45% (8 <sup>th</sup> graders) 7.22% (9 <sup>th</sup> graders) 9.38% (10 <sup>th</sup> graders) 11.14% (11 <sup>th</sup> graders) 13.23% (12 <sup>th</sup> graders)	6-12 <sup>th</sup> graders
Illinois Youth Survey (before recreational marijuana became legal)	2018	10% (8 <sup>th</sup> graders) 23% (10 <sup>th</sup> graders) 42% (12 <sup>th</sup> graders)	5% (8 <sup>th</sup> graders) 13% (10 <sup>th</sup> graders) 26% (12 <sup>th</sup> graders)	8 <sup>th</sup> , 10 <sup>th</sup> , 12 <sup>th</sup> graders
Indiana Youth Survey	2018	N/A	13.1%	High school
Iowa Youth Survey	2016	2% (6 <sup>th</sup> graders) 6% (8 <sup>th</sup> graders) 21% (11 <sup>th</sup> graders)	1% (6 <sup>th</sup> graders) 3% (8 <sup>th</sup> graders) 11% (11 <sup>th</sup> graders)	6 <sup>th</sup> , 8 <sup>th</sup> , 11 <sup>th</sup> graders
Kentucky Incentives for Prevention	2018	Not Reported	11.4%	10 <sup>th</sup> graders
Minnesota Youth Tobacco Survey	2017	Not Addressed	Not Addressed	
Missouri Student Survey	2018	14.0%	6.5%	6 <sup>th</sup> -12 <sup>th</sup> graders
New Mexico Youth Risk and Resiliency Study	2015	14.0% (middle school)	25.3% (high school) 4.8% (6 <sup>th</sup> graders) 13.8% (7 <sup>th</sup> graders) 23.4% (8 <sup>th</sup> graders) 20.4% (9 <sup>th</sup> graders) 22.4% (10 <sup>th</sup> graders) 27.7% (11 <sup>th</sup> graders) 32.6% (12 <sup>th</sup> graders)	Middle school, high school
Pennsylvania Youth Survey (PAYS)	2017	0.9% (6 <sup>th</sup> graders) 8.4% (8 <sup>th</sup> graders) 22.4% (10 <sup>th</sup> graders) 38.1% (12 <sup>th</sup> graders)	0.5% (6 <sup>th</sup> graders) 4.6% (8 <sup>th</sup> graders) 12% (10 <sup>th</sup> graders) 20.8% (12 <sup>th</sup> graders)	6 <sup>th</sup> , 8 <sup>th</sup> , 10 <sup>th</sup> , 12 <sup>th</sup> graders
Virginia Youth Survey	2015	7.2% (middle school)	16.5% (high school)	Middle school, high school

It is difficult to make comparisons of the underage prevalence rates since the national and state surveys collected and reported data in different ways. The year of the surveys differ, as well as the age of the respondents, the wording of the questions, and the data collection methodologies. State and National surveys aggregate data in different ways, with some surveys reporting data at the age level, others reporting by grade level, and other surveys reporting data for high school versus middle school. In addition, most national surveys report data for students in high school and below (under 18) or for adults (18+), with little data disaggregated for those 18-21, when respondents are adults but too young to legally purchase marijuana (i.e. NSDUH, NCHA).

While YRBS and NSDUH both collect state estimates, the YRBS conducts school-based surveys of 9<sup>th</sup>-12<sup>th</sup> grade students every two years. Data are aggregated nationally by the CDC and the state surveys are conducted by state departments of health and education. In contrast, NSDUH is a nationwide survey conducted annually that has a multistage area probability design and uses field interviewers to collect data. It reports data by age (rather than grade) and oversamples youths 12-17 and young adults aged 18-25.

After examining the data collected, it does not appear from NSDUH (2017) that use of marijuana by youth under age 21 is substantially different in recreational legal states vs. recreational illegal states. For example, the 30-day prevalence for youth 12-17 in the legal states ranged from 7% in California to 10% in Oregon. This compares to the 30-day prevalence for high school youth in the illegal states, which ranged from 5% in Texas up to almost 7% in Indiana.

Tracking trends in the 30-day prevalence (current users) is more revealing and more useful. If current youth marijuana use in the legal states increases over the years compared to the trend in the illegal states, it could indicate lack of enforcement of the MLMU-21 laws. The National Survey on Drug Use and Health (NSDUH) does track trends in the states. Below the state-level data for the nine states where recreational marijuana was legal when the last iteration of NSDUH was conducted (legalized before 2017) is presented, as is data for the twelve states where marijuana is illegal (both medical and recreational)<sup>2</sup>. The prevalence rates for YRBS are higher than for NSDUH because the data is limited to high school students.

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<sup>2</sup> National Conference of State Legislatures (NCSL), *State Medical Marijuana Laws*, (2019), <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>; National Conference of State Legislatures (NCSL), *Marijuana Overview*, (2019), <http://www.ncsl.org/research/civil-and-criminal-justice/marijuana-overview.aspx>



**Table 6:** Marijuana Use in the Past Month among Youths Aged 12 to 17 (NSDUH)

	Legal <sup>3</sup>	Year Legalized	2010	2011	2012	2013	2014	2015	2016	2017
<b>Colorado</b>	Yes	2012	9.91%	10.72%	10.47%	11.16%	12.56%	11.13%	9.08%	9.02%
<b>Washington</b>	Yes	2012	8.01%	9.59%	9.45%	9.81%	10.06%	9.17%	7.93%	8.96%
<b>Oregon</b>	Yes	2014	9.46%	10.26%	9.86%	9.59%	10.19%	9.42%	9.77%	10.35%
<b>Alaska</b>	Yes	2014	8.64%	8.82%	10.01%	8.73%	9.19%	10.64%	10.43%	8.84%
<b>D.C.</b>	Yes	2014	9.31%	10.60%	9.35%	9.89%	10.56%	8.85%	8.07%	8.26%
<b>California</b>	Yes	2016	8.60%	9.43%	8.83%	7.80%	8.74%	8.32%	7.33%	6.93%
<b>Maine</b>	Yes	2016	8.94%	9.14%	8.94%	9.26%	9.90%	10.01%	9.70%	9.89%
<b>Massachusetts</b>	Yes	2016	10.27%	11.32%	10.58%	8.90%	8.88%	9.22%	8.68%	8.91%
<b>Nevada</b>	Yes	2016	7.61%	8.53%	8.77%	8.33%	7.97%	7.39%	8.65%	8.82%
<b>Alabama</b>	No	N/A	5.75%	6.29%	5.62%	4.81%	4.98%	5.16%	5.20%	5.26%
<b>Arizona</b>	No	N/A	7.58%	8.23%	8.37%	8.25%	8.30%	7.71%	6.75%	6.31%
<b>Connecticut</b>	No	N/A	8.86%	8.59%	8.72%	8.57%	7.91%	8.34%	7.95%	7.91%
<b>Hawaii</b>	No	N/A	7.90%	8.29%	9.69%	9.55%	7.65%	6.15%	6.63%	6.54%
<b>Idaho</b>	No	N/A	7.63%	7.47%	6.21%	5.61%	6.39%	6.51%	5.77%	6.34%
<b>Indiana</b>	No	N/A	6.68%	6.51%	6.25%	5.97%	6.52%	8.08%	7.23%	6.51%
<b>Kansas</b>	No	N/A	6.42%	6.31%	5.47%	5.09%	5.85%	6.43%	6.15%	5.16%
<b>Kentucky</b>	No	N/A	5.44%	6.36%	6.06%	5.07%	5.63%	6.36%	6.13%	6.01%
<b>Montana</b>	No	N/A	9.61%	10.40%	9.56%	8.68%	8.30%	8.71%	8.43%	8.80%
<b>Nebraska</b>	No	N/A	6.30%	6.16%	6.53%	6.24%	5.54%	5.26%	5.74%	6.00%
<b>New Jersey</b>	No	N/A	7.21%	8.01%	6.85%	5.38%	6.36%	6.81%	5.72%	5.16%
<b>New Mexico</b>	No	N/A	9.34%	9.27%	9.82%	9.22%	7.98%	8.53%	9.46%	9.74%
<b>Rhode Island</b>	No	N/A	9.63%	11.07%	12.44%	12.95%	10.69%	10.19%	10.50%	9.49%
<b>South Carolina</b>	No	N/A	5.74%	6.37%	7.24%	7.11%	6.16%	6.57%	6.40%	5.47%
<b>South Dakota</b>	No	N/A	5.51%	5.76%	6.44%	5.13%	5.32%	6.43%	6.72%	5.94%
<b>Tennessee</b>	No	N/A	5.34%	6.24%	5.92%	6.04%	5.70%	5.90%	6.16%	5.75%
<b>Texas</b>	No	N/A	6.49%	6.32%	6.32%	5.83%	6.12%	6.86%	5.94%	4.86%
<b>Virginia</b>	No	N/A	6.74%	7.22%	6.61%	6.05%	5.89%	5.44%	5.35%	5.48%
<b>Wisconsin</b>	No	N/A	6.87%	6.36%	7.78%	7.18%	7.18%	7.60%	6.96%	5.91%
<b>Wyoming</b>	No	N/A	7.07%	5.29%	6.00%	5.95%	6.19%	6.59%	5.81%	5.76%

Source: <https://pdas.samhsa.gov/saes/state>

<sup>3</sup> Recreational Marijuana as of September 2019.

**Table 7.** Marijuana Use in the Past Month among High School Youths (9<sup>th</sup>-12<sup>th</sup> grade) (YRBS)

	Legal <sup>4</sup>	Year Legalized	2009	2011	2013	2015	2017
<b>Colorado</b>	Yes	2012	24.8%	22.0%	N/A	N/A	19.6%
<b>Washington</b>	Yes	2012	N/A	N/A	N/A	N/A	N/A
<b>Oregon</b>	Yes	2014	N/A	N/A	N/A	N/A	N/A
<b>Alaska</b>	Yes	2014	22.7%	21.2%	19.7%	19.0%	21.5%
<b>D.C.</b>	Yes	2014	N/A	N/A	N/A	N/A	N/A
<b>California</b>	Yes	2016	N/A	N/A	N/A	22.9%	21.8%
<b>Maine</b>	Yes	2016	20.5%	21.2%	21.3%	19.9%	18.8%
<b>Massachusetts</b>	Yes	2016	27.1%	27.9%	24.8%	24.5%	24.1%
<b>Nevada</b>	Yes	2016	20.0%	N/A	18.7%	19.3%	17.9%
<b>Alabama</b>	No	N/A	16.2%	20.8%	19.2%	17.3%	N/A
<b>Idaho</b>	No	N/A	13.7%	18.8%	15.3%	17.0%	16.2%
<b>Indiana</b>	No	N/A	20.9%	20.0%	N/A	16.4%	N/A
<b>Kansas</b>	No	N/A	14.7%	16.8%	14.3%	N/A	13.5%
<b>Kentucky</b>	No	N/A	16.1%	19.2%	17.7%	17.2%	15.8%
<b>South Carolina</b>	No	N/A	20.4%	24.1%	19.6%	17.8%	18.6%
<b>South Dakota</b>	No	N/A	15.2%	17.8%	16.1%	12.4%	N/A
<b>Tennessee</b>	No	N/A	20.1%	20.6%	21.4%	N/A	18.1%
<b>Texas</b>	No	N/A	19.5%	20.8%	20.5%	N/A	17.0%
<b>Virginia</b>	No	N/A	N/A	18.0%	17.9%	16.2%	16.5%
<b>Wisconsin</b>	No	N/A	18.9%	21.6%	17.3%	N/A	16.0%
<b>Wyoming</b>	No	N/A	16.9%	18.5%	17.8%	18.3%	N/A

Source: <https://nccd.cdc.gov/Youthonline/App/Default.aspx>

From Table 6 it can be seen that in California the trend for 12-17 year olds current use of marijuana decreased from 8.6% in 2010 to 6.9% in 2017. That compares to Texas, where marijuana in any form is illegal, where the trend for 12-17 year old youth went from 6.5% in 2010 to 4.9% in 2017. So while the percent of youth reporting marijuana current use was higher in California in each year, the declining trend from 2010 to 2017 is very similar to that of other states where recreational marijuana is illegal.

### Pseudo-Underage Patron Outlet Visits

Table 8 below indicates the number of outlet visits scheduled each day of the travel period for each data collection team. All outlet visits were conducted between the hours of 10:00 am and 8:00 pm.

<sup>4</sup> Recreational Marijuana as of September 2019

Table 8: Number of outlet visits scheduled for each day of data collection

Date	Team 1	Team 2
Thursday, 1/16	10	7*
Friday, 1/17	5	5
Saturday, 1/18	4	2*
Sunday, 1/19	3	2
Monday, 1/20	2	4
Tuesday, 1/21	1	5*

\* Indicates that one of the scheduled outlets were not observable

The two data collection teams were able to collect data at 47 of the 50 outlets. Of the 47 outlets at which observations were made, 10 were listed as alternate outlets. Each of the 50 sampled outlets had an alternative retail outlet nearby in case the original outlet selected was closed down, was the wrong address, was in a dangerous area, etc. The three outlets and their alternates (site ID: 01, 13, and 21) that Team 2 was unable to observe did not sell cannabis for recreational use. In some cases, these locations sold cannabis for medical use only. In other cases, the indicated locations were abandoned buildings or other businesses entirely. Interestingly, site 21 and its alternates were located in a county that does not allow the sale of cannabis for recreational use.

## Results of Outlet Visits

### *Entry*

In the 47 observations that were made, the pseudo-underage patrons were never able to enter an outlet without showing identification that they were 21 or older (100% compliance rate). About half of the outlets visited checked ID before entry and the other half checked ID as they entered. Most outlets seemed to be clean and bright on the inside, with a few exceptions. However, the inside and outside of the store did not always match in terms of appearance. The buildings themselves generally fit in with their surroundings, but the inside of the store in many cases was much cleaner and more modern looking than one would expect looking at the store from the outside. In two of the observations, customers were seen using products inside the store. In one of these cases, the store being observed was offering free samples of edibles.

### *Products Sold*

In terms of products offered, 42.6% (20/47) of the outlets offered all of the products listed on the observation form (candy bars, bite-sized candy, beverages, baked goods, pre-rolled flower/bud products, flower/bud products by weight or bulk, concentrates, vapes, tinctures, and topicals). At many of the outlets, store staff emphasized the wide variety of products offered. The most commonly promoted products were flower/bud products by weight or bulk (34%; 16/47), pre-rolled flower/bud products (34%; 16/47), and candy (26%; 12/47). In addition to the products listed on the data collection forms, pseudo-underage patrons also observed cannabis suppositories, gel capsules, and CBD skin patches for sale in at least one outlet.

### ***Security***

Security was present at 79% (37/47) of the outlets, and most often consisted of a private security officer in uniform outside of the entrance. Occasionally, these security officers were in plain clothes, but no police officers were observed at any of the outlets. Ten of the 47 stores observed did not have a security guard. In these stores, a member of the retail staff checked observers' ID. In many of these cases, this occurred at relatively small stores with few staff members. 15 of the 47 stores observed (32%) used an electronic ID scanner. When checking pseudo-underage patrons' ID, most security guards at stores without ID scanners quickly glanced at the card, rather than carefully examining it. Thirty-four of the 47 outlets (72%) did not have any signs outside the outlet or at the door concerning no sales or entry into the outlet for persons under age 21. Only 11 outlets (23%) had signs inside the outlet about no sales to persons under age 21 and no outlets (0%) had a sign in the outlet stating there would be no sales to obviously intoxicated individuals.

### ***Outlet Staff***

Inside the outlets, pseudo-underage patrons were typically not escorted by an employee through the sales area in any formal way. However, the pseudo-underage patrons noted that in many cases, especially if an outlet was not particularly busy, a store employee was informally assigned to them, helping or watching them from behind the counter. Additionally, the pseudo-underage patrons noted that many store employees seemed eager to sell them products quickly--these outlets did not seem to be places where customers were expected to browse. Twenty-four outlets (51%) had 3 or fewer staff members. Twenty-six outlets (55%) had more than 3 customers in the outlet when the pseudo-underage patron visited.

Overall, store staff did not seem to be suspicious of data collection staff. In one case, an employee attempted to look over a pseudo-underage patron's shoulder while they were completing the observation form, but apart from this there were no obvious signs of suspicion. Approximately 5 - 7 stores (11% - 15%) had a policy prohibiting cell phones inside the store and a picture taking restriction. It seems these policies were most likely for the privacy of patrons rather than an attempt to keep information about the store secret. Neither team encountered any significant issues during the data collection period. The pseudo-underage patrons had feedback regarding the data collection forms and how they might be improved in future iterations of the study.

## Discussion

California has many of the MLDA-equivalent laws regarding enforcement of underage 21 marijuana use. Looking at available national survey there does not appear to be an upsurge in underage marijuana use in California or any of the other legal states. Based on discussions with law enforcement agencies in California, the responsibility of enforcing underage entry via proof of age requirements is the responsibility of individual outlets. While the licensed marijuana dispensaries do a good job of checking the ID of patrons attempting to enter (100% compliance), it is unknown whether that is true for the reported 3,000 unlicensed illegal black market dispensaries.

California MLMU-21 laws do not include the following laws that have been found to be important for MLDA: (1) no law prohibiting the use of false identification to purchase marijuana, (2) no social host liability law, and (3) no mandatory responsible marijuana sales training. This may increase the use of fake IDs, and the frequency to which adults allow underage youths to use marijuana in their homes. The lack of mandatory training for marijuana sales could result in intoxicated customers purchasing marijuana without consequences.

While past month marijuana use for youth aged 12 to 17 was higher in each year for the legal states compared to the illegal states according to the NSDUH survey results in Table 6, the trends over the 8 years in both legal and illegal states appear to be consistent with decreases in the prevalence in the last three years. Legalization of recreational marijuana has not resulted in massive increases in underage reported usage.

Local enforcement and regulatory agencies in California do not consider underage purchasing of marijuana a priority and depend mainly on the retail store security to enforce the marijuana use age of 21. Whatever limited resources the agencies have goes into shutting down the black market stores and illegal growing, and complying with permits to sell recreational marijuana.

It appears that the California recreational marijuana outlets are being very careful to avoid selling marijuana to underage customers. While the sample of 47 outlets out of over 600 outlets in the state may not be all-inclusive, the 100% compliance rate is impressive and aligns with the 100% compliance rate in Colorado reported by Buller, et al., (2016). Tables summarizing the key observation items are shown in Appendix D.

Some findings from the pseudo-underage patron observations could be used to better limit underage access to marijuana products:

- More stores should be using electronic ID scanners (only 32% used them).
- All of the outlets should have signs outside and inside the outlet stating no sales to persons under the age of 21 and any individual who is intoxicated.
- Customers should be prohibited from trying any of the marijuana products in the outlet.

- The California Bureau of Cannabis Control should publicize the results of any compliance checks they conduct and describe other enforcement efforts they engage in.

In summary, while California had a 100% compliance rate in not allowing entry of underage youth at their legal outlets, it appears that there is a considerable marijuana black market in the state and that could be where underage youth obtain their marijuana. The following is recommended:

1. Based upon MLDA-21 laws, California should consider adopting additional MLMU-21 laws such as making it illegal to use a fake ID to purchase marijuana, require responsible sales of marijuana training at the outlets, and a social host civil liability law.
2. According to news reports in California, cannabis regulatory agencies should initiate efforts to shut down the illicit sales of marijuana (black market), especially those selling to youth under age 21.
3. All recreational marijuana outlets should use ID scanners at the entrance of the stores. Clerks should also use a book with pictures of valid drivers' licenses from all 50 states and DC to check ID.
4. All states that legalize recreational marijuana should conduct compliance checks at all or a systematic sample of outlets on at least an annual basis.
5. In California, a sample of the unlicensed illegal marijuana outlets should be checked for compliance with the MLMU-21 law. The locations of these illegal outlets can be found on the popular website "Weedmaps" (<https://weedmaps.com>).

## Limitations

All of the results and conclusions are based upon one state, California. California is only one state of the current eleven states plus DC to legalize recreational marijuana, and the results may be different in some of the other "legal" states. While California appears to have some strong MLMU-21 laws, however, other legal states may have better laws. More legal research would be needed for that determination. The study has a modest sample size, both in terms of the number of enforcement surveys as well as the number of pseudo-underage patron visits. The response rate for enforcement surveys was also modest, potentially limiting the representativeness of the sample. The compliance rate was 100% for checking the ID of young patrons in this study at legal licensed dispensaries. It is unknown what the compliance rate would be at the black market dispensaries. More research is needed. The extent to which underage patrons use a fake ID to get into the legal dispensaries, or the illegal dispensaries, is unknown. Further research is needed on that issue.

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**APPENDIX A:  
NEWS ARTICLES CONCERNING  
MARIJUANA UNDERAGE ENFORCEMENT**

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## Washington State Marijuana Shops Caught Selling to Minors

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Katy Steinmetz

Updated: May 26, 2015 5:30 PM ET | Originally published: May 20, 2015

10/24/2018 Washington Marijuana: Some Stores Selling to Minors | Time.com

<http://time.com/3891500/%20washington-marijuana-retail-sting-operations/> 2/3

Washington's retail marijuana businesses got calls from the state liquor control board before the sting operations began, warning them and reminding them about best practices when it comes to keeping weed out of kids' hands. But when the board sent 18- to 20-year old operatives into the first batch of stores this month to see if shops would sell them weed, four of them still failed the test. According to the board's report released Wednesday, that amounted to 18% of 22 operations.

"We're always going to have the goal of 100% compliance, that's what we want; [82%] is good, but it's not great," says State Senator Ann Rivers, who has continued to work on reforming the state's retail and medical marijuana industries. "Many of these businesses have invested a lot of time and a lot of money. And it's stunning to me that they'd be willing to risk their livelihood to do something so foolish."

By the end of June, the state plans to conduct sting operations at each of the 138 retail marijuana shops reporting sales in Washington. "When the news is out," the liquor control board's Brian Smith says of these first numbers, "we'll see a spike in compliance. That's what happened on the alcohol side." In the operations, the underage shoppers present their real IDs if asked but don't offer an ID if they aren't; if a store sells them marijuana, they complete the transaction and bring the contraband to officers waiting outside the shops.

Marijuana businesses in Washington that sell to minors face possible license suspensions and fines of up to \$2,500. Businesses that fail three times in three years can lose their state issued licenses, while the person who conducts the actual transaction faces a possible felony charge.

Reformers who wanted to legalize marijuana in Washington and Colorado—and who continue to pursue reform in other states—often argue that weed should be legal because it's safer than alcohol. Regulations for alcohol, such as selling it only to adults ages 21 and older, have been used as scaffolding for nascent marijuana markets. Smith points out that similar sting operations conducted among liquor sellers in Washington always find slipups.

Since 2012, monthly checks have found that an average of 85% of businesses, ranging from liquor shops to restaurants, don't sell to minors. Colorado conducted their first stings among a sample of 20 retail marijuana shops in 2014 and found 100% compliance, but the vast majority of the state's more than 250 shops were not tested. Since summer 2014, the state has conducted a total of 137 compliance checks and six shops have been caught selling to minors.

Similar checks among liquor sellers in Colorado have found that an average of about 90% of businesses don't sell alcohol to minors.

Smith chalks some failures up to "human error," though drivers licenses for residents under age 21 are vertical rather than horizontal in the state. Many shops, he says, have someone stationed at the door and people working the register sometimes mistakenly assume that all shoppers' IDs have been checked before they show up at the counter. "It's early. This is a brand new industry that is finding it's way," Smith says. "There's going to be some kinks initially."

"Because this market is new, some business people don't have all of their systems in place as much as we might like them to, so I'm going to cut them just the slightest bit of slack,"

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### **Seattle store sold marijuana to minor in latest round of stings**

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By seattlepi.com staff on July 17, 2015 at 9:22 AM

10/24/2018 Seattle store sold marijuana to minor in latest round of stings - The Pot Blog

<https://blog.seattlepi.com/marijuana/2015/07/17/seattle-store-sold-marijuana-to-minor-in-latest-round-of-stings/> 2/8

Nothing really more to say about the latest round of stings at Washington's recreational marijuana stores other than, for God's sake people! (Though that's pretty easy for us to say ... still...). Anyway, the bad news is that Seattle's newest recreational marijuana retailer American Mary, which opened in June, was one of 19 stores out of 158 that sold to a minor in the latest round of stings by the Liquor Control Board.

Here's the full list.

1. Green City Collective, 13601 Highway 99 STE B (Everett)
2. Purple Haze, 4218 Rucker Ave (Everett)
3. Emerald Leaves, 2702 6th Ave (Tacoma)
4. Mary Mart, 3005 6th Ave STE B (Tacoma)
5. Dockside Cannabis, 15001 Aurora Ave N (Shoreline)
6. Evergreen Cannabis, 922 Peace Portal Dr. (Blaine)
7. Cannablyss, 2705 Hartford Dr. STE A (Lake Stevens)
8. Cascade Kropz, 19129 Smokey Point Blvd STE B (Arlington)
9. Clear Choice Cannabis, 8001 S Hosmer St (Tacoma)
10. Royal's Cannabis, 7115 N Division St STE A (Spokane)
11. Token Herb, 837 A Crescent Beach Rd (Eastsound)
12. Sweet Greens Northwest, 19943 Old Hwy 99 SW (Rochester)

13. Green Lady, 3044 Pacific Ave SE STE B (Olympia)
14. TJ's Cannabis Buds, Edibles, Oils & More, 1428 Olympic Hwy S (Shelton)
15. 4us Retail, 23251 Hwy 20 (Okanogan)
16. Purple Haze, 4218 Rucker Ave (Everett)\*\*
17. Bud Hut, 11603 Hwy 99 (Everett)
18. Theorem, 6323 NE Bothel Way (Kenmore)
19. American Mary, 321 NE 45th St (Seattle)

The board wrote in a news release:

In the first complete round of compliance checks of retail marijuana retail stores, 19 Washington recreational retail marijuana businesses sold marijuana to an underage investigative aide. Washington State Liquor Control Board (WSLCB) enforcement officers working with underage investigative aides, checked each retail marijuana business for sales of marijuana to minors. The checks essentially represent an 88 percent no-sales-to-minors compliance rate.

“Our goal is 100 percent compliance,” said WSLB Board Chair Jane Rushford. “While perfect compliance is always a challenging goal, it is clearly in everyone’s interest that our licensees be vigilant about preventing underage sales.”

The 19 businesses will be cited for selling marijuana to minors. The individuals who sold the marijuana will be referred to their respective prosecuting attorney’s office for potential criminal prosecution. Businesses cited for Sale to a Minor face a 10-day suspension or \$2,500 fine. A second violation within three years requires a 30-day suspension with no monetary option. Businesses who receive three public safety violations within three years face license cancellation.

One store co-owner said the minor who got into his store in Blaine was only a couple months from being legal and the worker at the just did the math wrong. Shoot.

In May, the board got four stores to sell to a minor.

## Two Aspen marijuana shops cited for underage sale to enforcement officer

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By JESSE PAUL | [jpaul@denverpost.com](mailto:jpaul@denverpost.com) | The Denver Post

PUBLISHED: July 31, 2015 at 7:08 am | UPDATED: October 2, 2016 at 3:59 pm

<https://www.denverpost.com/2015/07/31/two-aspen-marijuana-shops-cited-for-underage-sale-to-enforcement-officer/> 2/3

Two recreational marijuana shops in Aspen were cited this week by state regulators for selling pot to an underage customer in a set of rare cases for the industry in Colorado.

The Marijuana Enforcement Division confirmed that it issued two citations after conducting seven underage compliance checks in Aspen. Since January 2014, the division has conducted about 130 underage compliance checks statewide, resulting in a total of nine violations, Moore said.

In the 19 months since recreational marijuana has been legal in Colorado, recreational shops — for the most part — have been lauded for their compliance with state law, particularly on the hot-button topic of underage possession and consumption.

In Washington state, by comparison, which legalized recreational marijuana at the same time Colorado did but implemented recreational sales six months later, several stores have been reprimanded for selling to minors.

The Aspen Times first reported the Native Roots citation.

## **Marijuana In Colorado**

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Authorities have not said which shops were cited, but Native Roots confirmed to The Post on Friday that one of their employees sold marijuana to a state enforcement officer posing as an underage customer.

“Needless to say, we’re extremely remorseful,” said Dave Cuesta, who handles compliance and licensing for Native Roots. “We’ve been through several sting operations, and this is the first time our employees have sold to undercover agents,” he added.

According to Josh Ginsberg, CEO of Native Roots, one employee was cited. “Saying that I’m appalled and outraged by this act would be an understatement,” Ginsberg said in a statement. “Native Roots holds itself to the highest standards, and as a company we’ve put measures in place to ensure the highest standards are met.”

Ginsberg said the employee in question and the Aspen store’s manager have been fired. He said “swift and company-wide action” will be taken to avoid underage sales.

Native Roots is one of Colorado’s largest recreational marijuana enterprises with 11 stores throughout the state, including one in Dillon that opened this week. While medical marijuana stores can sell to registered patients under 21, recreational stores can sell only to those 21 and over and must check identification. Stores that are found selling to someone underage could have their license suspended or revoked or face a fine up to \$100,000.

“It’s not something I hear about happening in Colorado,” Tyler Henson, president of the Colorado Cannabis Chamber of Commerce, said of recreational shops selling to minors. Henson said as an industry, recreational marijuana enterprises have been vigilant about selling to minors. “Are we going to see these types of incidents in the future? I’m going to say it’s bound to happen,” he said.

## Denver Police Issue 7 Citations for Underage Marijuana Sales

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By JESSE PAUL | [jpaul@denverpost.com](mailto:jpaul@denverpost.com) | The Denver Post  
PUBLISHED: September 30, 2015 at 7:54 am | UPDATED: October 2, 2016 at 3:49 pm  
Jesse Paul: 303-954-1733, [jpaul@denverpost.com](mailto:jpaul@denverpost.com) or [@JesseAPaul](https://www.instagram.com/JesseAPaul)  
<https://www.denverpost.com/2015/09/30/denver-police-issue-7-citations-for-underage-marijuana-sales/> 2/4

Denver police issued seven citations for underage retail marijuana sales during an enforcement operation at 30 shops last week, officials said Wednesday. Police say they conducted checks Friday in an effort to audit any potential underage sales and found there to be a “lower underage compliance rate.”

“We are disappointed,” said Lewis Koski, director of Colorado’s Marijuana Enforcement Division, in a statement. “Up until now these compliance checks have been a bright spot for the industry. This recent check drops compliance to 92 percent.”

The news comes as a blow to recreational marijuana in Colorado, especially since in the roughly 21 months since recreational marijuana has been legal, stores mostly have been lauded for their compliance. Owners and operators have been praised for their handling of the hot-button topic of underage possession and consumption. In Washington state, by comparison, which legalized recreational marijuana at the same time Colorado did but implemented recreational sales six months later, several stores have been reprimanded for selling to minors.

Koski said despite a lack of repeat violations at any one licensed shop, “this represents a downward trend in compliance that is concerning.” When reached by phone, representatives at five of the cited shops either declined to immediately comment or said they could not discuss the citations because of ongoing criminal investigations. “Obviously we failed at our mission to keep people under 21 out of our shop,” said Ryan Fowler, owner of the cited store Redeye Relief. “I’m incredibly disappointed.”

Fowler said four employees, including a store manager, were fired in the citation’s wake. He added that the shop will stop accepting vertical identification cards and begin using electronic verification to ensure there are no underage customers. “We are very concerned about this matter,”

The Healing House said in a statement to The Denver Post. “We are 100 percent committed to compliance in all aspects of the law. We have had no issues in the past and we are taking this matter very seriously.” Officials say the citations for selling marijuana to a person younger than 21 were issued at seven separate businesses. The charge is a Class 1 misdemeanor.

“Those dispensaries need to be held accountable,” said Tyler Henson, president of the Colorado Cannabis Chamber of Commerce. “Your job as an owner and operator is to ensure your employees are readily trained.” “That can’t happen again,” he added.

Henson said employers and their employees need to understand “what’s at stake here.” Officials say the violations can mean a license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$100,000 and license revocation. “Sanctions may also include restrictions on the license,” police said in a news release.

Investigators say they will file the cases with the Denver City Attorney’s Office, which could issue its own discipline ranging from license suspension to license revocation. According to the Colorado Department of Revenue, the Marijuana Enforcement Division has conducted 172 compliance checks since Jan. 1, 2014 and found 16 violations.

Recreational shops where citations were issued:

- The Herbal Cure, 985 S. Logan St.
- The Healing House, 2383 S. Downing St.
- Pure Medical Dispensary, 505 W. 40th Ave.
- La Conte’s Clone Bar & Dispensary, 105 E. 7th Ave.
- Herbs 4 You, 20 E. 9th Ave.
- Mile High Green Cross, 852 N. Broadway St.
- Redeye Releaf, 1332 S. Cherokee St.

Updated Oct. 1 at 9:08 a.m. The following corrected information has been added to this article: Previous versions of this story misreported the name of shop Redeye Releaf.



**APPENDIX B:  
MLMU-21 Laws in California**

## MARIJUANA LAWS PERTAINING TO YOUTH UNDER AGE 21

Topic	Citation	Relevant Text
<b>Possession</b>	Cal. Health & Safety Code § 11362.1	(a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to: (1) Possess*** not more than 28.5 grams of cannabis not in the form of concentrated cannabis; (2) Possess*** not more than eight grams of cannabis in the form of concentrated cannabis, including as contained in cannabis products; (3) Possess*** not more than six living cannabis plants and possess the cannabis produced by the plants; ***
<b>Possession</b>	Cal. Health & Safety Code § 11357	(a) Except as authorized by law, possession of not more than 28.5 grams of cannabis, or not more than eight grams of concentrated cannabis, or both, shall be punished or adjudicated as follows: (1) Persons under 18 years of age are guilty of an infraction *** (2) Persons at least 18 years of age but less than 21 years of age are guilty of an infraction ***
<b>Consumption</b>	Cal. Health & Safety Code § 11362.1	(a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to: *** (4) Smoke or ingest cannabis or cannabis products; ***
<b>Purchasing</b>	Cal. Bus. & Prof. Code § 26140	(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish cannabis to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any cannabis while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase cannabis. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).**
<b>Purchasing</b>	Cal. Health & Safety Code § 11362.1	(a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to: (1) *** purchase *** not more than 28.5 grams of cannabis not in the form of concentrated cannabis; (2) ** purchase *** not more than eight grams of cannabis in the form of concentrated cannabis, including as contained in cannabis products; ***
<b>Furnishing</b>	Cal. Bus. & Prof. Code § 26140	(a) An A-licensee shall not: (1) Sell cannabis or cannabis products to persons under 21 years of age. ***

Topic	Citation	Relevant Text
<b>Furnishing</b>	Cal. Health & Safety Code § 11362.1	(a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to: (1) *** give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis; (2) *** give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of cannabis in the form of concentrated cannabis, including as contained in cannabis products;
<b>Minimum Age for Sellers</b>	Cal. Bus. & Prof. Code § 26140	(a) An A-licensee shall not: *** (3) Employ or retain persons under 21 years of age. ***
<b>DUID</b>	Cal. Veh. Code § 23152	*** (f) It is unlawful for a person who is under the influence of any drug to drive a vehicle. (g) It is unlawful for a person who is under the combined influence of any alcoholic beverage and drug to drive a vehicle.
<b>Use/Lose</b>	Cal. Health & Safety Code § 11357	(a) Except as authorized by law, possession of not more than 28.5 grams of cannabis, or not more than eight grams of concentrated cannabis, or both, shall be punished or adjudicated as follows: (1) Persons under 18 years of age are guilty of an infraction *** (2) Persons at least 18 years of age but less than 21 years of age are guilty of an infraction ***
<b>Use/Lose</b>	Cal. Health & Safety Code § 11362.1	(a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to: (1) Possess, *** purchase, *** not more than 28.5 grams of cannabis not in the form of concentrated cannabis; (2) Possess, *** purchase, *** not more than eight grams of cannabis in the form of concentrated cannabis, including as contained in cannabis products; (3) Possess *** not more than six living cannabis plants and possess the cannabis produced by the plants; (4) Smoke or ingest cannabis or cannabis products; ***
<b>Use/Lose</b>	Cal. Veh. Code § 13202.5	(a) For each conviction of a person for an offense specified in subdivision (d), committed while the person was under the age of 21 years, but 13 years of age or older, the court shall suspend the person's driving privilege for one year. If the person convicted does not yet have the privilege to drive, the court shall order the department to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. *** (d) This section applies to violations involving controlled substances or alcohol contained in the following provisions: *** (2) Division 10 (commencing with Section 11000) of the Health and Safety Code. ***

## **POSSESSION PENALTIES**

Cal. Health & Safety Code § 11357

- (a) Except as authorized by law, possession of not more than 28.5 grams of cannabis, or not more than eight grams of concentrated cannabis, or both, shall be punished or adjudicated as follows:
- (1) Persons under 18 years of age are guilty of an infraction and shall be required to:
    - (A) Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.
    - (B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.
  - (2) Persons at least 18 years of age but less than 21 years of age are guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).
- (b) Except as authorized by law, possession of more than 28.5 grams of cannabis, or more than eight grams of concentrated cannabis, shall be punished as follows:
- (1) Persons under 18 years of age who possess more than 28.5 grams of cannabis or more than eight grams of concentrated cannabis, or both, are guilty of an infraction and shall be required to:
    - (A) Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.
    - (B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.
  - (2) Persons 18 years of age or older who possess more than 28.5 grams of cannabis, or more than eight grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both that fine and imprisonment.
- (c) Except as authorized by law, a person 18 years of age or older who possesses not more than 28.5 grams of cannabis, or not more than eight grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished as follows:
- (1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.
  - (2) A fine of not more than five hundred dollars (\$500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.
- (d) Except as authorized by law, a person under 18 years of age who possesses not more than 28.5 grams of cannabis, or not more than eight grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of an infraction and shall be punished in the same manner provided in paragraph (1) of subdivision (b).

## **FURNISHING PENALTIES**

Cal. Health & Safety Code § 11360

(a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any cannabis shall be punished as follows:

(1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of Section 11357.

(2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three, or four years if:

(A) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(B) The person has two or more prior convictions under paragraph (2);

(C) The offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer, or give away cannabis to a person under the age of 18 years; or

(D) The offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of cannabis or more than four grams of concentrated cannabis.

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of cannabis, other than concentrated cannabis, is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, that person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) For purposes of this section, “transport” means to transport for sale.

(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

## **CONSUMPTION PENALTIES**

Cal. Health & Safety Code § 11362.4

*NOTE: The penalties for underage consumption vary based on type of consumption and location. There is no general penalty for underage consumption (or that generally covers private property). The subsections below are associated with the following type(s) of consumption and location: (a) smoke or ingest in public place; (b) smoke where tobacco prohibited or smoke within 1,000 feet school, day care center, or youth center while children are present (exempt if not detectable); and (c) smoke or ingest on grounds of school, day care center, or youth center while children are present.*

(a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one-hundred-dollar (\$100) fine; provided, however, that persons under 18 years of age shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.

(b) A person who engages in the conduct described in paragraph (2), (3), or (4) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine, unless that activity is otherwise permitted by state and local law; provided, however, that a person under 18 years of age shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 is subject to the same punishment as provided under subdivision (c) or (d) of Section 11357.

(d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 is subject to punishment under Section 11379.6.

(e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine.

(f) Notwithstanding subdivision (e), a person under 18 years of age who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under paragraph (1) of subdivision (b) of Section 11357.

(g)(1) The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that the program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.

(2) The drug education program required by this section for persons under 18 years of age shall be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of cannabis and other controlled substances. (h) Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

**APPENDIX C:  
News Articles Concerning Enforcement of  
Mlmu-21 Laws In California**

# The Los Angeles Times

## CALIFORNIA

# Nearly 3,000 illegal marijuana businesses found in California audit, dwarfing legal trade

Merchandise for sale at an illegal marijuana dispensary shut down in Wilmington earlier this year.

(Allen J. Schaben / Los Angeles Times)

By [JAMES QUEALLY](#),  
[PATRICK MCGREEVY](#)

SEP. 11, 2019

5:14 PM

SACRAMENTO —

California's black market for cannabis is at least three times the size of its regulated weed industry, according to an audit made public Wednesday, the latest indication of the state's continued struggle to tame a cannabis economy that has long operated in legal limbo.

The audit, conducted by the United Cannabis Business Assn., found approximately 2,835 unlicensed dispensaries and delivery services operating in California. By comparison, only 873 cannabis sellers in the state are licensed, according to the Bureau of Cannabis Control.

The figures are the latest sign of California's rocky rollout of its legal marketplace, which promised better regulations and control beginning in 2018. Legitimate marijuana businesses have repeatedly criticized state leaders and law enforcement for failing to curb unlicensed dispensaries and delivery services, which sell cannabis at a much lower price by skirting state and municipal cannabis taxes.



[This year, an industry-backed financial audit projected](#) that roughly \$8.7 billion will be spent on unregulated cannabis products in California in 2019, compared with just \$3.1 billion spent on cannabis sold by legal businesses.

Officials have also warned that cannabis products sold in the illegal marketplace can pose health risks because the edible products, vaping pens and flower on shelves of illicit stores have not been subject to state testing. Since June, the California Department of Public Health has [linked more than 60 cases of acute lung disease to patients who had recently used vape pens](#), and it warned that many of those people had recently purchased products from unlicensed shops.

The UCBA, a trade association that represents dispensary owners, cultivators and other licensed marijuana businesses in the state, conducted its audit by scouring the popular and controversial website Weedmaps, which functions as a Yelp-like service for cannabis dispensaries and products.

Lawrence Mansour, chief technology officer for APOP Media, a UCBA member focused on cannabis advertising, said he calculated the estimate of illegal operators by compiling a database of every California-based listing for a cannabis dispensary or delivery service on Weedmaps. Mansour said he found 3,757 listings, a number far higher than the total list of approved cannabis sellers registered in the state.

Any attempt to quantify the number of unlicensed cannabis sellers in the state would be an estimate. The Bureau of Cannabis Control does not track such data, and there are illegal marijuana businesses in California that do not advertise on Weedmaps.

The UCBA presented the audit's findings in a letter to Gov. Gavin Newsom and the cannabis agency early Wednesday and called for a crackdown on Weedmaps, which many in the cannabis industry have criticized for amplifying the reach of illegal sellers.

"Every day that Weedmaps continues to advertise for unlicensed retailers they are putting consumers at risk and suppressing the growth and very existence of the legal market," the letter said. "The unlicensed operators on Weedmaps do not pay taxes or the cost of compliance with local and state regulations, do not follow required worker or consumer protections and do not allow labor unions to organize workers, in turn allowing them to charge a fraction of the cost."

The trade association also called on the state to retroactively impose millions of dollars in fines on Weedmaps under Assembly Bill 97, legislation that passed in July and allows for \$30,000 in penalties for each day a cannabis retailer operates without a license. Some have interpreted the law to mean that Weedmaps should also be subject to those fines for allowing unlicensed dispensaries to advertise without a license.

Alex Traverso, a spokesman for the Bureau of Cannabis Control, said the agency has been diligent in trying to combat the state's sprawling illegal marketplace.

"The bureau would love to be able to license more cannabis retail locations in California," he said. "Unfortunately, there are a number of factors that prevent us from doing that. It's not all under our control. As far as illegal activity is concerned, the bureau will continue its enforcement efforts and continue looking out for the public's health and well-being."

The agency [said this year that it had served 19 search warrants at illegal dispensaries](#) and seized roughly \$16.5 million in unregulated cannabis products in the first six months of the year. Both totals were more than the entirety of enforcement actions taken by the agency in 2018.

The cannabis bureau also sent a cease-and-desist letter to Weedmaps last year, demanding that the website stop working with unlicensed operators. But Weedmaps has argued in the past that it is protected from such orders under Section 230 of the 1996 Communications Decency Act, which has shielded platforms like Facebook and YouTube from responsibility for the content their users post.

Late last month, however, [Weedmaps said it would stop allowing unlicensed businesses to advertise on its platform](#), an announcement met with a mixture of praise and skepticism from those who consider the website the bane of California's legitimate cannabis industry.

In a statement issued Wednesday, the company said that in addition to requiring new advertisers to provide a state license number, customers will also need to provide state identification. Despite the effort, Weedmaps Chief Executive Chris Beals said California's black market would not truly be curtailed until more municipalities allow legal cannabis sales.

“While these policy changes will only have a symbolic impact on the size of California’s unlicensed market without more licensing opportunities and other large listing platforms following suit, we want to continue to lead by example,” Beals said in a statement.

Less than 20% of cities in California — 89 of 482 — allow retail shops to sell cannabis for recreational use. Though many large cities, including Los Angeles, San Diego and San Francisco, allow for the sale of commercial cannabis, even those cities have struggled to curb the black market.

[A Times audit of Weedmaps this year](#) found at least 220 unlicensed dispensaries in Los Angeles. By comparison, the city has issued only 187 temporary licenses for legal storefronts.

At the state Capitol, lawmakers were also discouraged by the audit’s findings.

“California’s not making it easy for business to join the regulated market,” said Assemblyman Tom Lackey (R-Palmdale). “Right now there’s more incentive to be an illegal dispensary than a licensed dispensary.”

*Queally reported from Los Angeles and McGreevy from Sacramento. Times staff writer Ben Welsh contributed to this report.*

## The Los Angeles Times

# California isn't using minors to bust illegal pot sales as it does with tobacco and alcohol

Marijuana found in an illegal marijuana dispensary raided by the LAPD in Wilmington in May.

(Allen J. Schaben / Los Angeles Times)

By [PATRICK MCGREEVY](#) STAFF WRITER

NOV. 18, 2019

5 AM

SACRAMENTO —

Each year, California authorities send minors into thousands of liquor stores and bars to attempt to buy alcohol or cigarettes. The stings catch hundreds of clerks and bartenders selling to underage customers.

But two years after the state began licensing marijuana shops, the agency tasked with enforcing cannabis laws has not conducted similar stings targeting California's multi-billion-dollar pot industry, the largest in the country.

Proposition 64, which was approved by voters in 2016 to legalize the sale and cultivation of pot, does not require the use of sting operations to enforce the law. But proponents of the initiative promised aggressive action to keep marijuana out of the hands of minors, and experts and critics of legalization say the state is failing to use an important method to hold the industry accountable.

“Decoy stings are a great indicator of how prevalent noncompliance truly is,” said Republican Assemblyman Tom Lackey of Palmdale, a retired California Highway Patrol officer. “They also help send a message that there are consequences for not following the law. California should be using every tool in the belt to go after noncompliant operations.”

Law enforcement routinely uses minors to test whether pot shops sell to underage customers in Colorado, Washington and Oregon, where marijuana also has been legalized.

The operations “are a proven tool for improving compliance,” said Brian E. Smith, a spokesman for the Washington State Liquor and Cannabis Board. “The more we do, a better rate of compliance is achieved.”

In the last two years, Washington state enforcement officers have sent minors into pot shops 2,144 times, and retail clerks allegedly sold the drug to the underage buyers in 90 cases. The numbers have declined as word of the sting operations has gotten around, Smith said.

California officials say they have not mounted routine sting operations because they have their hands full trying to eliminate the large black market of pot sellers, some of whom are peddling contaminated products, including dangerous vaping cartridges.

Instead, officials have focused their attention on responding to complaints received by the Bureau of Cannabis Control.

“The vast majority are illegal retail and delivery complaints,” according to bureau spokesman Alex Traverso. “The priority is working on complaints received in areas where we have licensees who are impacted because illegal operators are cutting into their business.”

Black market sellers — who don’t pay taxes or comply with costly regulations, including testing requirements — threaten the legal market by taking customers away from licensed sellers, officials say. Illicit sellers are also more likely to sell to underage customers.

A recent audit by the United Cannabis Business Assn. found there are about [2,835 unlicensed dispensaries](#) and delivery services operating in California, more than three times the number of licensed businesses.

Despite the need to address black market sellers, some lawmakers say the state can and should do more to keep marijuana out of the hands of minors.

Opponents of Proposition 64 said backers of the initiative have failed to keep their promise to make sure the legalized system does not provide minors greater access to cannabis.

“Teen access, use and harms related to marijuana are skyrocketing,” said Scott Chipman, vice president of Americans Against Legalizing Marijuana. “Minor decoy programs are one of many enforcement strategies that could be useful, especially if there is sufficient media regarding the outcomes.”

Lawmakers also say the state should be testing licensed pot shops by sending in minors under the supervision of law enforcement. The Legislature approved a bill in 2017 that allows law enforcement to recruit people younger than 21 to help perform sting operations.

Similar operations have been mounted for years to prevent tobacco and alcohol sales to minors.

In 2018, the California Department of Public Health conducted 3,652 undercover inspections using decoy minors that resulted in 361 illegal tobacco sales.

The state also conducted 5,443 sting operations last year in which minors supervised by law enforcement were sent into liquor stores, bars and restaurants, resulting in the arrests of 739 people for illegally selling alcohol to underage buyers.

Violators face penalties including fines and suspended licenses.

Tobacco stings were cited as a possible model for marijuana law enforcement in a 2015 report by a state commission led and appointed by then-Lt. Gov. Gavin Newsom.

“Illegal sales by adults to minors should remain a public safety priority,” said the final report from the Blue Ribbon Commission on Marijuana Policy, which provided recommendations for Proposition 64.

Citing experts, the panel added: “The tobacco model may provide some insights, where retailers are checked by having people go in to purchase, resulting in penalties

if the retailer sells to the minor or if the retailer fails to secure the area immediately around their location.”

Newsom declined to comment on whether the state should recruit minors for pot shop stings, but as governor he has called for stepped-up enforcement in recent months.

In response to an outbreak of lung-related illness in which vaping cartridges containing THC, the psychoactive compound in marijuana, have been implicated as a potential cause, Newsom issued an executive order in September calling for state agencies to develop a plan for increased enforcement to reduce illegal vaping by minors. The governor noted that 14.7% of California high school students reported using cannabis last year.

Industry officials have been pressing the state to crack down on the black market, but recognize that there are other issues to contend with, said Lindsay Robinson, executive director of the California Cannabis Industry Assn.

“We’re obviously supportive of the industry not selling to minors,” Robinson said. “There are so many enforcement priorities to balance.”

Some backers of Proposition 64, including Assemblyman Rob Bonta (D-Alameda), say they support sending minors to pot shops as part of sting operations.

“As Prop. 64 is now fully implemented, it makes good sense to take proactive steps to ensure our children are properly restricted from cannabis products in licensed stores,” Bonta said.

While cannabis buyers — just like those purchasing alcohol and tobacco — are required to show an ID, Bonta said, “Still, it’s our responsibility to see that our laws are being followed.”

## The Fresno Bee

[HTTPS://WWW.FRESNOBEE.COM/](https://www.fresnobee.com/)

[CRIME](#)

### **Underage decoy sting nabs Dinuba man for illegally selling pot vapes to minors**

[BY TIM SHEEHAN](#)

DECEMBER 10, 2019 05:22 PM, UPDATED DECEMBER 10, 2019 06:22 PM

A Dinuba man has been arrested and faces charges of selling marijuana vape pods to children.

Fresno County sheriff's detectives said Ruben Dominguez, 23, was arrested Monday after a sting operation in which an underage decoy customer allegedly purchased flavored THC pods from him.

The arrest concluded a three-month investigation in which detectives determined that Dominguez was using social media sites to market vaping products to minors. The THC products are marketed under the brand name STIIIZY.

Dominguez was booked into Fresno County Jail for two felony counts of selling cannabis to children under 18. The California Penal Code section indicates that the crime is punishable by a prison term of three to five years. Bail for Dominguez was \$10,000 for each of the cannabis counts. He was also booked on a felony warrant for evading a police officer.

The investigation was advanced by a tobacco grant from the state Department of Justice. The Fresno County Sheriff's Office won a three-year grant of \$552,000 to combat sales of cigarettes, vaping material and other tobacco products to minors.

In California, a person must be 21 or older to legally buy tobacco products; only licensed cannabis businesses are allowed to sell products containing THC, the active ingredient in marijuana that produces a high for users.



**APPENDIX D:  
Observations Made by Pseudo-Underage Patrons in  
Recreational Retail Outlets In California**

**Types of ID checking methods used at outlets**

Camera (photo of ID)	4
ID scanner	15
ID copied	7
Person checking ID	39
Other	2

**Signs observed at the door of outlets**

No one under age 21 allowed inside	10
No sales to persons under age 21	4
Did not observe any of these signs	34

**Signs observed inside outlets**

No sales to persons under age 21	11
No sales to persons obviously intoxicated	0
Limits on amount one can purchase	6
Bans against using product at business	16
Did not observe any of these signs	26

**Signs, brochures, or pamphlets pertaining to the following topics observed inside outlets**

Health benefits	14
Health warnings	14
Warnings about driving under the influence	0
Warnings against public use	5
Did not observe any of these materials	20

**Did you see any customers using products inside the store?\***

Yes	2
No	45

**Did you see any staff using products inside the store?\***

Yes	0
No	47

**Number of stores selling each type of product**

Candy bars	35
Bite-sized candy	44
Beverages	35
Baked goods	43
Pre-rolled flower/bud products	45
Flower/bud products by weight or bulk	39
Concentrates	44
Vapes	46
Tinctures	35
Topicals	40
Other	3

**Location of cannabis baked goods inside stores**

Behind the counter	27
By the check out	12
By the door	12
In the back of the store	5

**Products promoted in stores**

Candy	12
Baked goods	5
Pre-rolled flower/bud products	16
Flower/bud products by weight or bulk	16
Concentrates	1
Vapes	5
Tinctures	0
Topicals	1
Other	11

**Number of staff working at the store\***

1 staff member	1
2 staff members	11
3 staff members	12
4 staff members	7
5 or more staff members	16

**Number of customers at the store\***

No other customers	4
1-3 other customers	17
More than 3 other customers	26

**Did there appear to be any security personnel at the store (i.e. someone wearing a uniform or badge)?\***

Yes, at the door	21
Yes, inside the store	16
No	10

**Were security personnel in uniform or were they in plain clothes?\***

In uniform	31
Plain clothes	6

**Did security personnel appear to be private security or local police?\***

Private security	37
Local police	0

**Are customers escorted by an employee to/through the sales area?\***

Yes, to the sales area	1
Yes, through the sales area	9
No, customers can look around on their own	37

**Where were you or other customers asked to show ID?\***

Before entering store	25
As entered store	31
Before purchasing product (observed other customers)	4
Other	0
No ID was asked for	0

**Did you see anyone using product immediately outside of the store?\***

Yes	1
No	45
Unsure	1

**Area where store is located\***

Mostly commercial	22
Primarily residential neighborhood	7
Rural area	3
Primarily industrial	9
Mall/strip mall	2
Other	4

**Description of the store\***

Classy or upscale	6
Hipster or trendy	13
General (anyone could fit in)	22
Downscale (dirty, unsafe, sketchy)	6
Rastafarian (Jamaican religion)	0