

# Marijuana & Smoke-free Laws

Prohibiting marijuana use in public places



## What is Marijuana?

Marijuana is the dried leaves and flowers of the hemp plant and is the most commonly used illicit drug in the U.S. Marijuana can be consumed a variety of ways, including smoked (as a joint or in a pipe), heated or aerosolized (as with an e-cigarette), or eaten (mixed with foods or beverages).<sup>i</sup> Marijuana produces a psychoactive effect from the chemical delta-9-tetrahydrocannabinol (THC) and contains more than 500 other chemicals.

There has been interest in the use of marijuana to treat cancer-related symptoms, including chemotherapy-induced nausea, vomiting and pain. To date, two synthetic THC-based drugs, dronabinol and nabilone, have been approved by the U.S. Food and Drug Administration (FDA) for the treatment of nausea, and several other similar drugs are being tested in clinical trials.

Marijuana and THC are classified as a schedule I controlled substance under the federal Controlled Substances Act (CSA). The manufacture, distribution, and possession of marijuana are strictly prohibited under federal law, except for federally-authorized research. Any researcher interested in studying marijuana or THC must register with and receive approval from the federal government. Schedule I controlled substances are the most restricted and defined as “(a) the drug or other substance has a high potential for abuse, (b) the drug or other substance has no currently accepted medical use in treatment in the United States, and (c) there is a lack of accepted safety for use of the drug or other substance under medical supervision.”<sup>iii</sup>

## The Health Effects of Exposure to Marijuana Smoke

Smoking marijuana poses significant risks to users and to those in close proximity to use. Factors including the illegal status of marijuana under federal law and co-occurring behaviors such as cigarette smoking have made research on the health effects of exposure to marijuana smoke challenging. What is known is:

- The most common way marijuana is used is through inhalation.<sup>iii</sup>
- Marijuana smoking affects lung function including inflammation of the large airways, increased airway resistance, and lung hyperinflation.<sup>iv</sup>
- Marijuana smoke contains the same fine particulate matter found in tobacco smoke that can cause heart attacks.<sup>v</sup>
- Marijuana smoke contains many of the cancer-causing substances found in tobacco smoke. This raises the potential for marijuana smoke to potentially cause cancer, but few studies have been done to determine a link.<sup>vi</sup>

### The American Society of Heating, Refrigeration, and Air-Conditioning Engineers <sup>xii</sup>:

- Includes marijuana smoke in the definition of environmental tobacco smoke (also called secondhand smoke)
- Concludes that the only way to eliminate the health risks of secondhand smoke exposure is to prohibit the smoking behavior
- Furthermore, no engineering approaches, including ventilation and air cleaning technologies, can eliminate the health risk.

Marijuana users may also experience other adverse effects, such as anxiety and impaired cognitive and motor functions in the short-term; to potential for addiction and risk of other drug or alcohol use in the long-term.

## Regulation of Marijuana

In the past several decades, with activity heightened in the last several years, states have enacted laws to decriminalize marijuana by reducing or removing criminal penalties for possession of specified amounts, provide an exception for medical use, and legalize recreational use for adults.<sup>vii</sup> Provisions related to medical use can include a requirement for a doctor’s recommendation (not prescription), patient or caregiver registration, the use of dispensaries versus home cultivation, and required medical conditions to receive a doctor’s recommendation. More than half of states have laws pertaining to marijuana.<sup>viii</sup>

**Alaska, California, Colorado, Delaware, Maine, Massachusetts, Michigan, Nevada, Oregon, and Washington** have protected nonsmokers by prohibiting marijuana smoke in public places in their new laws regulating marijuana.<sup>i</sup>

Whether these state laws are preempted by the CSA is currently being decided in the courts.<sup>ix</sup> Additionally, the previous Administration chose to use “prosecutorial discretion” to not prosecute actions that are compliant with state marijuana laws.<sup>x</sup> It is within the authority of the current Administration to change its guidance on “prosecutorial discretion.”

## Marijuana use in public places put nonusers at risk and can undermine the public health benefits of smoke-free laws.

The use of marijuana in public places unnecessarily exposes nonusers to marijuana smoke posing potential health risks. Furthermore, permitting the use of marijuana in public could compromise highly effective smoke-free laws. Comprehensive smoke-free laws are effective at protecting nonusers from exposure to secondhand smoke, reducing initiation, especially among youth, and increasing quit attempts by smokers.<sup>xi</sup> These laws have led to lower smoking rates and improved health status, including fewer heart attacks and cancers. Prohibiting marijuana use should be a part of a comprehensive smoke-free law.

## ACS CAN’s Position

ACS CAN supports the prohibition of the smoking or aerosolizing of marijuana and other cannabinoids in public places because the carcinogens in marijuana smoke pose numerous health hazards to the user and others in the user’s presence. Furthermore, ACS CAN does not have a position on the legalization of marijuana for medical purposes and supports the need for more scientific research on the use of cannabinoids by cancer patients, and on better and more effective therapies that can overcome the often debilitating side effects of cancer and its treatment.

<sup>i</sup> National Institute on Drug Abuse; National Institutes of Health; U.S. Department of Health and Human Services.

<sup>ii</sup> 21 U.S.C. § 812

<sup>iii</sup> Volkow, ND et al. Adverse Health Effects of Marijuana Use. *The New England Journal of Medicine* 370 (23); June 5, 2014.

<sup>iv</sup> Volkow, ND et al. Adverse Health Effects of Marijuana Use. *The New England Journal of Medicine* 370 (23); June 5, 2014.

<sup>v</sup> Brook, R.D., Rajagopalan, S., Pope, C.A., 3rd, Brook, J.R., Bhatnagar, A., Diez-Roux, A.V., Holguin, F., Hong, Y., Luepker, R.V., Mittleman, M.A., Peters, A., Siscovick, D., Smith, S.C., Jr., Whitsel, L., and Kaufman, J.D. (2010). Particulate matter air pollution and cardiovascular disease: An update to the scientific statement from the American Heart Association. *Circulation* 121: 2331-78.

- <sup>vi</sup> National Institute on Drug Abuse; National Institutes of Health; U.S. Department of Health and Human Services.
- <sup>vii</sup> Congressional Research Service. State Marijuana Legalization Initiatives: Implications for Federal Law Enforcement (R43164), September 9, 2013), by Lisa N. Sacco and Kirstin Finkea.
- <sup>viii</sup> National Conference of State Legislatures accessed March 20<sup>th</sup>, 2017.
- <sup>ix</sup> U.S. Constitution, Article VI, cl. 2
- <sup>x</sup> Memorandum for selected U.S. Attorneys from David W. Ogden, Deputy Attorney General, *Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana*, October 19, 2009. Available at <http://www.justice.gov/opa/blog/memorandum-selected-united-state-attorneys-investigations-and-prosecutions-states>. <sup>x</sup> Memorandum for U.S. Attorneys from James M. Cole, Deputy Attorney General, *Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use*, June 29, 2011. Available at <http://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/dag-guidance-2011-for-medical-marijuana-use.pdf>. Memorandum for U.S. Attorneys from James M. Cole, Deputy Attorney General, *Guidance Regarding Marijuana Enforcement*, August 29, 2013. Available at <http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>. Memorandum for U.S. Attorneys from James M. Cole, Deputy Attorney General, *Guidance Regarding Marijuana Related Financial Crimes*, February 14, 2014. Available at [http://www.justice.gov/usao/waw/press/newsblog%20pdfs/DAG%20Memo%20-%20Guidance%20Regarding%20Marijuana%20Related%20Financial%20Crimes%202%2014%2014%20\(2\).pdf](http://www.justice.gov/usao/waw/press/newsblog%20pdfs/DAG%20Memo%20-%20Guidance%20Regarding%20Marijuana%20Related%20Financial%20Crimes%202%2014%2014%20(2).pdf). Department of Treasury, *Financial Crimes Enforcement Network BSA Expectations Regarding Marijuana-Related Business*, FIN-2014-G001 (Feb. 14, 2014), available at [http://www.fincen.gov/statutes\\_regs/guidance/pdf/FIN-2014-G001.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2014-G001.pdf).
- <sup>xi</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.
- <sup>xii</sup> ASHRAE. Position Document on Secondhand Smoke, reaffirmed by ASHRAE Technology Council June 29, 2016. ASHRAE. Ventilation for Acceptable Indoor Air Quality, 2015 Supplement