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Department of Cannabis Control

Unclear Rules and Insufficient Enforcement Hamper Its Ability to Identify Packaging That Is Attractive to Children

Background

In 2016, California voters legalized the use, sale, and cultivation of cannabis in California for adults aged 21 and older. The Department of Cannabis Control (DCC) was created in 2021 to regulate cannabis activity in California. The department regulates the legal cannabis market (market) in California by inspecting and licensing cannabis businesses (licensees), tracking the transportation of goods, monitoring both the cultivation of cannabis plants and the manufacturing of cannabis products, and testing the resulting products.

Since 2016, there has been a 469 percent increase in the total number of calls to the California Poison Control System related to cannabis ingestion by children five years old and younger—such calls have increased from 148 in 2016 to 842 calls in 2023. Studies suggest that edible cannabis products are particularly appealing to youth because of product shape, color, and taste. Colorful branding and advertising fruit or candy flavors on product packaging also make products more appealing to adolescents.

Key Findings

- » We found numerous products with packaging that we consider attractive to children.
 - 14 of 40 cannabis products we reviewed had images of food or candy on the packaging.
 - State law prohibits certain design elements on cannabis product packaging, but regulations are unspecific and can lead to subjective determinations. For example, DCC reviewed three similar cannabis crispy rice treat packages and found that only one was attractive to children.
- » DCC has taken minimal action against licensees who use packaging that is attractive to children and does not adequately track repeat offenders.
 - DCC reports that it only has the resources to inspect about half of licensees per year but would ideally inspect every licensee annually.
 - DCC neither adequately tracks nor escalates penalties for repeat violators. For example, one licensee violated regulations that prohibit packaging that is attractive to children four times, yet DCC did not increase penalties.
- » DCC's regulations do not adequately prohibit flavors in cannabis inhalants.
 - Although DCC's guidance lists specific prohibited flavors, state law does not prohibit specific flavors in cannabis inhalants.
 - DCC does not regulate the use of cannabis strain names on product packaging that suggest flavors attractive to children.

Key Recommendations

To the Legislature

- » To increase the likelihood that DCC identifies cannabis packages that may be attractive to children, the Legislature should consider increasing the specificity of prohibited design elements.
- » To reduce the risk of cannabis appealing to minors by using flavors that mask the natural flavor and aroma of cannabis, the Legislature should consider banning specific flavors—and the advertising of such flavors—that are attractive to children in inhaled cannabis products.
- » To ensure that cannabis packaging does not include strain names that are attractive to children, the Legislature should consider prohibiting advertising of cannabis strain names that could be attractive to children.

To DCC

- » To prevent repeat licensees' offenses, DCC should specify guidelines regarding escalation of compliance actions and should ensure that all inspections and complaints include a review of previous actions issued.