

STATE OF CALIFORNIA
TOBACCO EDUCATION AND RESEARCH OVERSIGHT COMMITTEE

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2022 Youth Advocate of the
Year and Health Visionary

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Dr. Tomás Aragón, Director
California Department of Public Health
1615 Capitol Avenue
PO Box 997377, MS 0500
Sacramento, CA 95899

Dear Dr. Aragón:

INTOXICATING HEMP PRODUCTS

The Tobacco Education and Research Oversight Committee (TEROC) is a legislatively mandated oversight committee that monitors the use of Proposition 99 (Prop 99) and Proposition 56 (Prop 56) tobacco tax revenues for tobacco control, prevention education, and tobacco-related research in California.^{1,2} TEROC advises the California Department of Public Health; the University of California; and the California Department of Education with respect to policy development, integration, and evaluation of tobacco education programs funded by Prop 99 and Prop 56. TEROC is also responsible for the development of a biannual strategic plan that outlines best practices in tobacco control policy and research and makes recommendations to the State Legislature. As a tobacco prevention advisory committee, TEROC often provides commentary and makes recommendations around products that overlap with tobacco, including cannabis and hemp.

TEROC is concerned about the rise in the availability of intoxicating hemp products in California. Since 2018 when the federal Farm Bill legalized production of industrial hemp products with less than 0.3 percent of Delta-9 tetrahydrocannabinol (THC) by dry weight, hemp manufacturers have exploited a loophole in this law that allows the manufacture and sale of intoxicating products derived from hemp. Hemp manufacturers have taken advantage of the loophole in the law by producing and selling intoxicating hemp in the form of edibles, beverages, and inhalables that can be far more intoxicating than legal and regulated cannabis.

In 2021, Governor Newsom signed Assembly Bill (AB) 45 into law which authorized the use of industrial hemp, including CBD, to be to be legally added to foods, beverages, cosmetics, dietary supplements, and pet food in California.³ This law prohibited the sale of inhalable hemp products until the legislature enacts a tax on these products, but still allows for the manufacture of these products in California for sale in other states. Despite this law's intent to allow for the sale of only non-intoxicating hemp-derived CBD products, California has seen a rise of intoxicating hemp products being sold in tobacco retail stores, gas stations, convenience stores and pharmacies. Many of these products are marketed for their intoxicating properties. AB 45 did not place age limits for purchasing legal forms of

these products and illegal intoxicating hemp vapes and other intoxicating inhalables continue to be sold throughout the state. Hemp manufacturers are exploiting the law to produce and market hemp products that contain THC without the safeguards in place for other cannabis products.

In an effort to attract the attention of young people and children, manufacturers often develop these products to resemble candy and advertise them in ways that specifically appeal to youth. This is similar to tactics that the tobacco industry uses to market e-cigarettes and other tobacco products to youth. A growing number of children are requiring emergency care and even intensive care due to accidental ingestion of THC-containing edibles, many from intoxicating hemp.⁴ Intoxicating hemp products have become an important route to cannabis initiation for teens, with 11.4% of 12th graders nationally reporting having used Delta-8-THC products in the past 12 months.⁵

TEROC commends and supports Governor Newsom's recent decision to enact [emergency regulations](#) prohibiting hemp-derived food, beverages, or dietary products intended for human consumption if there is any detectable THC or other intoxicating cannabinoids per serving; prohibiting sales to people under the age of 21; and limiting servings to five per package. The availability of intoxicating hemp is a true public health emergency that merits immediate action on behalf of the Governor and the Department of Public Health.

To continue to protect children and ensure that intoxicating hemp products remain off store shelves and out of the hands of children and young adults, TEROC recommends:

- 1. Expanding California's emergency regulations to apply to inhalable compounds being legally manufactured in the state or sold in this state if a companion tax on these products is passed.**
- 2. Limiting where CBD industrial hemp products may be sold, including in pharmacies.**
- 3. Prohibiting inhalable hemp compounds.**
- 4. Defining "inhalable" to include, but not be limited to, hemp flower, vaping liquids, vaping cartridges, wax, resin, "budder", and shatter.**

TEROC believes that these measures will further reduce the availability of illegal intoxicating hemp products in California by restricting where these products can be sold, ensuring that there are age limits and limits on THC or other intoxicating cannabinoids in all products (including inhalables), and reminding manufacturers and retailers that inhalable hemp products are currently illegal for sale in the state. These additional measures will also protect youth from initiating and becoming addicted to these products, reduce poisonings from accidental ingestion, and protect the health of all Californians.

These measures are consistent with TEROC's 2023-2024 Master Plan, *Achieving Health Equity: Breaking the Commercial Tobacco Industry's Cycle of Addiction, Death, and Environmental*

Degradation, Objective 3: “Broaden the Public Health Framework for Tobacco to Address the Intersection of Tobacco, Cannabis, and Other Emerging Products”. In the Plan, TEROC calls for efforts to prevent the normalization of cannabis and other emerging products. This includes intoxicating hemp products which pose a threat to public health and encourage youth initiation of dangerous products. For these reasons, **TEROC strongly supports the Governor’s emergency regulations around industrial hemp and recommends measures to strengthen its public health impact.** TEROC has also provided these recommendations to Governor Newsom.

Sincerely,



Michael K. Ong, M.D., Ph.D.
Chairperson

References

1. Health & Safety Code Sections 104365-104370.
2. Revenue and Taxation Code Section 30130.56(e).
3. Assembly Bill 45 (Aguiar-Curry, Chapter 576, Statutes of 2021).
4. America’s Poison Center. *Delta-8 THC*. National Poison Data System Tracking Emerging Hazards. <https://poisoncenters.org/track/delta-8-THC#:~:text=As%20of%20September%2030%2C%202024,8%20THC%20related%20exposure%20cases>.
5. Harlow AF, Miech RA, Leventhal AM. Adolescent Δ^8 -THC and Marijuana Use in the US. *JAMA*. 2024;331(10):861–865. doi:10.1001/jama.2024.0865.