

# Marijuana edible products need stronger regulation, experts say

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States that have legalized marijuana need to put strong restrictions on the drug's edible products, according to two Stanford law professors.

In a new article in the *New England Journal of Medicine*, Robert MacCoun and Michelle Mello of Stanford Law School wrote that one of the most notable features of the rollout of state-legalized retail sales of [marijuana](#) has been the tremendous popularity of edible products.

The problem is that marijuana edibles – which often look like candy or cookies and are frequently potent – increase the chances that children will overdose, they wrote in the article. MacCoun studies social psychology, and Mello, health policy.

"As legalization of marijuana spreads, new adopters (states) should ensure that their regulatory scheme for marijuana edibles is fully baked," wrote MacCoun and Mello.

Marijuana use for adults over 21 is fully legal in Colorado, Washington and Alaska. Oregon passed a similar law that will take effect in July. Several other states have legalized marijuana for medicinal use or have decriminalized it. A notable feature of state-legalized retail sales of marijuana has been the popularity of edibles.

## Attractive nuisance

In an interview, MacCoun explained that the original marijuana laws were based on ballot initiatives, without legislative give-and-take processes. "As a result, they were not rigorous and detailed in their approach to issues like edibles," he said

Colorado and Washington put extremely modest rules on edibles, therefore making it easy to sell and market edible products, he said.

"Both states require child-resistant packaging, a warning to 'keep out of the reach of children,' and labeling describing a standard serving size. Neither requires warnings that ingested marijuana can have different effects from smoked marijuana," wrote MacCoun and Mello.

While both Colorado and Washington generally prohibit packaging and advertising that targets children, neither state requires packaging that would clearly distinguish edibles from ordinary food products, MacCoun said. Some of the edibles look like Hershey or KitKat bars, and the drinks resemble the major brands of non-marijuana colas.

Mello said the issue brings to mind the tort-law concept of an "attractive nuisance," which describes a hazardous condition that is likely to attract children who are unable to appreciate the risk involved.

"It also evokes tobacco companies' use of advertising campaigns with youth appeal," MacCoun and Mello wrote.

They acknowledge that marijuana is associated with a long history of "public misinformation" about the effects of the drug. But the scientific record is clear on the documented risk of edibles, especially for children. "Some of these products contain four or more times the level of tetrahydrocannabinol (THC) that is considered to be a safe dose," they noted.

Taken in large doses, THC can produce serious anxiety attacks and psychotic-like symptoms, according to MacCoun and Mello. Strong differences exist in the pharmacokinetic and metabolic effects of marijuana when it is ingested rather than smoked.

Case reports document respiratory insufficiency in young children who have ingested marijuana through edibles, MacCoun said. A recent study showed that the proportion of ingestion-related emergency department visits by children in Colorado associated with marijuana ingestion increased after legal restrictions were eased. The majority of identified sources in those cases were marijuana edibles.

Other factors are important to consider as well. "The availability of child-friendly edibles could increase the probability of initiation to marijuana use, reduce the average age of initiation, and increase the frequency and intensity of use among users of all ages," according to MacCoun and Mello.

## **States, not feds, have the power**

States have created a wide berth for marketing of marijuana edibles that federal agencies are unwilling or unable to narrow, MacCoun and Mello said. That is why they can enact stronger, more effective regulations on the formulation, packaging and marketing of edible marijuana products. And it is best to do this when those laws are being written, either at the ballot or in legislative chambers – not later on.

"We're advocating some fairly modest regulations that would not restrict the ability of adults to use marijuana," MacCoun said.

MacCoun and Mello wrote that child-resistant packaging is necessary but not sufficient – "Older children can easily defeat it." They suggested the following measures:

Clear labeling and standardization of THC doses and recommended serving sizes

Warning labels about the risks that edible marijuana poses for overintoxication

Regulations to ensure that edibles do not look like familiar non-marijuana sweets

Also, the courts may serve as another avenue of regulation, as well as food companies that perceive trademark infringement issues with the edibles. The authors know of at least one such lawsuit already under way, with additional ones on the way.

The federal government does not regulate marijuana edibles, or marijuana at all, they wrote. As a Schedule I controlled substance – which means it has a high potential for abuse – marijuana is not recognized by the federal government for sales or usage.

This is why it is up to the states. "Once you legalize it, you can regulate it," MacCoun said.

**More information:** "Half-Baked—The Retail Promotion of Marijuana Edibles." *N Engl J Med* 2015; 372:989-991 March 12, 2015 DOI: 10.1056/NEJMp1416014

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